John B. Hall
John E. Hall
Robert J. Halliday
James C. Hardee
Robert R. Hare III
Gregory Harrison
Robert L. Hart
Guy B. Harwood
James E. Haskins
Michael J. Havrilla
Edward G. Hayden II
James L. Hayes
Askold T. Haywas
Homer L. Hazel
Dennis J. Hellman
David H. Henderson, Jr.
Michael W. Henig
Leon F. Henley, Jr.
Roger D. Herring
Bruce A. Henry
John P. Hertel
Stephen M. Hill
William H. Hill III
Timothy J. Himes
Kingsley E. Hoemann
William D. Holcomb
John R. Hollcraft
Louis S. Hollier IV
William D. Hollister
James E. Hollopeter
Jack W. Holt, Jr.
Richard A. Houston, Jr.
Sylvester Howard
Vance B. Howerton, Jr.
Thomas W. Hoysa
Thomas P. Hudson, Jr.
Jan C. Huly
Jerry D. Humble
Dennis B. Ioerger
Timothy J. Ireland
Gordon R. Jackson
Robin S. Jackson
Joseph D. Jeffares
Siguard L. Jensen III
Eddie E. Johansson III
Thomas S. Jones
Timothy J. Joyce
Larry J. Jurica
Kenneth M. Jurjevich
Robert L. Jones
Michael R. Kain
Terry R. Kane
Raymond J. Kaufman
Robert J. Keller
Michael M. Kephart
Joe Killebrew
Robert J. Kimble, Jr.
David L. King
Robert C. King
Bruce J. Kirry
Ray E. Kittilstved
Clifford H. Kittle, Jr.
Herbert W. Klein, Jr.
William L. Kleinpeter
Joseph Kochuba
Clifford J. Kolson II
Gregory C. Koons
Raymond M. Kruse
Walter M. Kubiak
Gregg C. Kubu
Mitchell A. Kudla
William P. Kyle
Paul A. Lambert
Roland L. Lambert, Jr.
Harry J. Landau
Charles E. Landry, Jr.
John Langdon II
Charles R. Larkin, Jr.
Michael W. Leach
David J. Lee
Dean J. Legidakes
Gregory G. Lemmer
James F. Leonard
Richard C. Lepley
Timothy B. Levan
Terry N. Lewis
Robert J. Livingston
Carl J. Loguidice
Herbert B. Long II
Leonard A. Long
Michael E. Lowe
John F. Lucas
Edmund A. Lucke
John K. Lynn
John M. Machen
James W. MacMurray Jr.
Don B. MacNamee
Thomas A. Manfredi
Edwin C. Mann
William T. Manning
Esmond W. Marks
Gary W. Marshall
George L. Marshall, Jr.
Thomas M. Marsilio
Terry L. Martin
Harold Mashburn, Jr.
Danny C. Masters
Robert A. Matthews
Aove E. Mattox
Roger J. Mauer
William L. Maxey
Jerry C. McAbee
Robert P. McCaleer
Robert F. McCarthy
John I. McClurkin
Larry H. McCollum
Richard M. McCool III
Boyd S. McCord
John J. McDermott
Ian D. McDonough
Bryan M. McGill
Terry W. McKinsey
James F. McLean
Billy D. McMillin
Gene S. Mead
Kenneth H. Medeiros
William J. P. Melby
David L. Mellott
Joseph A. Menart
Richard D. Metcalf
Francis J. Meyer
Robert D. Michael
Gene A. Milleson
Thomas P. Milne
Alex G. Mitkevich
Charles G. Mittnacht
Robert J. Moberg II
Robert A. Mohlin
Donald J. Monroe
Samuel Moore Jr.
William M. Moore
Richard C. Morgan
Terrence C. Morgan
Robert V. Morris
Louis R. Moyzan
John C. Mullane, Jr.
Robert S. Mutcher
John W. Muth III
William N. Myers
Gerald N. Nance
James M. Naylor
Lannie D. Neal
John G. Nemec, Jr.
Paul S. Nickolaus
Miken J. Nielsen
Raymond K. Noll
William R. Norton III
Jerry R. Oberg
Gerald B. Ogden
Ward C. Ogle
Gregory C. Okelly
Steven E. Olmstead
Thomas F. Oreilly
Michael C. Osajda
Paul R. Ottinger
Joseph J. Pantalone
Frederick D. Parker
Charles A. Parlier II
James W. Parrish
Clarence F. Patten III
Christopher R. Pastel
William W. Pattison II
Ralph E. Pearcy III
Wiley H. Pearson
Frederick C. Peck
Hugh F. Phillips
Henry N. Pilger
John W. Pitz
Carl O. Plath, Jr.
Allan J. Polachowski
Raymond L. Polak
Christopher C. Polson
James J. Porter, Jr.
Gregory M. Potter
Ronald G. Powell
Andrew N. Pratt
Francis J. Priest
Kenneth L. Priestley
Bernard C. Proctor
David A. Proffitt
Randall B. Pyles
Henry A. Pyzdrowski, Jr.
Leamond C. Ramsey
Garrett V. Randfl, Jr.
Robert W. Rathbun
Brett D. Rayman
Edward J. Reardon, Jr.
Peter J. Reding
James L. Reid
Steven S. Reinemund
John H. Reynolds
Larry J. Richardson
Dwight G. Rickman
David W. Riggle
James W. Rinschler
Richard H. Roamer
Edward J. Robeson IV
Robert S. Robichaud
Edmond L. Robin
James R. Robinson II
Earl W. Rogers
Jeffrey A. Rogers
Winston E. Rorabaugh
Wiley J. Rosemond
James M. Rosen
Alfred G. Roth
Robert M. Rudolf
Jeffrey C. Rupp
Robert A. Rys
Robert J. Saffer
Roger A. Sager
James E. Sall, Jr.
David W. Sanasack
Lewis M. Sanders
Edward J. Sandrick
David A. Sannes
Ervin W. Scarlett, Jr.
Jeffrey E. Scheferman
Raymond W. S. Schellinger
David K. Scmmidt
Robert D. Schow
James R. Schwenk
Roland R. Seaman
James E. L. Seay
William J. Seemeyer
Gary C. Seiser
Ellsworth A. Shaw
Michael J. Shaw
Anthony P. Shepard
Stevan A. Shepherd
John E. Sherbin
Jimmy R. Shideler
James D. Shimp
Mitchell E. Shivers
James G. Shockley
Thomas J. Short
Ronnie E. Sirmans
Joel M. Skousen
James L. Smee
Arthur M. Smith, Jr.
Charles L. Smith
Delmer Smith
Dennis R. Smith
Edward D. Smith, Jr.
Lyle W. Smith
Terry A. Smith
William G. Smith
Jon W. Smythe
Leslie Solymossy
Robert E. Sonnenberg, Jr.
Douglas K. Spaulding
Jerry L. Spencer
Sidney L. Spurgeon
Joseph F. Startari
Richard M. Stearns
Robert E. Steinhorst, Jr.
Stephen K. Steinmeyer
Thorys J. Stensrud
Bruce M. Stevens
Ronald L. Stevens
Henri P. Stewart
David A. Stockwell
John D. Stokes
Timothy F. Stoufer
Robert L. Strawser
Andre D. Summers
Larry A. Sunn
Leonard M. Supko
Donald F. Swanda, Jr.
John R. Switzer
Aloysius Sypniewski
Alfred J. Talevi
James M. Tarkington
Rex N. Taylor
Jon D. Terry
Paul W. Thomas
Jimmie R. Thompson
John L. Thompson
Wayne P. Thompson
Joseph Thorpe
Erik B. Thueson
Joseph Thurmond
Theodore K. Tolle
James F. Trahern
Dennis E. Tripp
Robert F. Turbyfill
Craig J. Turner
Conrad B. Turney
Douglas D. Tyler
Larry F. Vance
Martin R. Vanderbrook
Neal W. Vanhouten, Jr.
John A. Vansteenberg
Lowell F. Vanwagenen
Robert J. Varley
Gerald A. Vianello
Bruce R. Wahlsten
William W. Walker
Lawrence C. Walt
Clark L. Waters
Larry D. Walters
James G. Ware
Merrill C. Waters
David M. Webster
Michael J. Weiss
Charles N. Wells
Steven G. Western
Robert H. Whitlock
Paul A. Whitham
Gene W. Whitten
Leo V. Williams III
Nicholas J. Williams, Jr.
Norris E. Williams
Clarence E. Willie, Sr.
Douglas G. Wilson
Thomas E. Wilson
Richard P. Wolfe
Thomas S. Wolfe
James E. Woodruff, Jr.
Donald W. Workman
Gary J. Wright
James L. Young III
George E. Zakielarz
William E. Zales, Jr.

## WITHDRAWAL

Executive nomination withdrawn from the Senate March 28, 1972:

IN THE COAST GUARD

Capt. William H. Brinkmeyer, U.S. Coast Guard, from further consideration for appointment to the grade of rear admiral, U.S. Coast Guard. His name was submitted together with that of one other nominee for appointment to the grade of rear admiral in the Coast Guard on March 20, 1972.

# HOUSE OF REPRESENTATIVES—*Tuesday, March 28, 1972*

The House met at 12 o'clock noon.

Rev. Bob W. Parrott, Seabrook United Methodist Church, Seabrook, Tex., offered the following prayer:

Let us pray.

Almighty God, we have desired position more than wisdom to handle the responsibility. And we have paid for it, not in loss of office, but in loss of confidence that we are doing our best.

Help us regain integrity, which comes by being truthful. The truth is, before we vote, we need to listen—to those who put us in office and to You who put us in the world.

You have programed us with a curiosity to fly to the moon, and beyond; with a desire to help the underdog; with the potential to be truthful. O God, electrify this Chamber with truth in order that our words and actions will declare, "Not my will but Thy will be done."

In Jesus' name. 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.

## REV. BOB PARROTT, PASTOR, SEABROOK UNITED METHODIST CHURCH

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

Mr. CASEY of Texas. Mr. Speaker, it has indeed been our honor to have our invocation given by the Reverend Bob Parrott, pastor of the Seabrook United Methodist Church, which is part of my congressional district.

Reverend Parrott is truly a "space-age parson," as his church is located near the Manned Spacecraft Center, and he has astronauts and NASA personnel as most of his congregation. He is an instrument-rated pilot, flies his own Beechcraft Bonanza, and has authored two space-oriented books, "A Man Talks With God," and "Earth, Moon, and Beyond." He has a third book scheduled to be published late this year.

Rev. Bob Parrott's real pride and ac-



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complishment has been the leadership he gave his 1,200 members in establishing the Edward H. White II Memorial Youth Center, in memory of America's first man to walk in space. He and the members of his church were successful in persuading Bob Hope and other prominent entertainers to perform a benefit at the Dome Stadium in Houston in May of 1970, which resulted in raising $300,000 for the building of this great center and memorial. The Seabrook United Methodist Church owns and operates this center, and it is indeed a great source of inspiration and guidance to the youth of their community.

Reverend Parrott, a graduate of the Perkins School of Theology, Southern Methodist University, is married to Doris Ann Melton of Tyler, Tex., and they have one daughter, Deborah Ann. I hope that many of my colleagues will have the opportunity to meet and talk personally with Reverend Parrott on the occasion of his visit to our Chamber.

## ADJOURNMENT FROM MARCH 29 TO APRIL 10, 1972

Mr. BOGGS. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 571) and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 571

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on Wednesday, March 29, 1972, it stand adjourned until 12 o'clock meridian, Monday, April 10, 1972.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON FRIDAY, APRIL 28, 1972, TO RECEIVE FORMER MEMBERS OF THE HOUSE OF REPRESENTATIVES

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that it shall be in order for the Speaker to declare a recess on Friday, April 28, 1972, subject to the call of the Chair, for the purpose of receiving in this Chamber former Members of the House of Representatives.

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

There was no objection.

## CALL OF THE HOUSE

Mr. CEDERBERG. 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. 91]

| | | |
|---|---|---|
| Abernethy | Fish | Pryor, Ark. |
| Abourezk | Fisher | Quillen |
| Badillo | Gallagher | Rarick |
| Baring | Gaydos | Rees |
| Blanton | Gettys | Reid |
| Bow | Goldwater | Rooney, N.Y. |
| Chisholm | Gray | Rostenkowski |
| Clark | Green, Pa. | Roy |
| Clawson, Del | Hébert | Scherle |
| Clay | Hosmer | Scheuer |
| Collins, Ill. | Hull | Teague, Calif. |
| Corman | McKinney | Teague, Tex. |
| de la Garza | Madden | Thompson, N.J. |
| Dellums | Mann | Tiernan |
| Diggs | Mitchell | Van Deerlin |
| Dowdy | O'Konski | Whitten |
| Dwyer | Patman | Yates |
| Edwards, La. | Pelly | |

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 THE COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

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

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

There was no objection.

## THE DOORMEN'S SECURITY CLASS

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

Mr. SIKES. Mr. Speaker, a series of classes are in progress designed to improve the efficiency of the House doormen. The schedule calls for 2 weeks of classroom activity which all doormen must attend. Classes are for a 2-hour period, and are held in the Capitol Police training room in the Rayburn Building. Subsequent courses will be conducted annually. Capt. William Garner, of the Metropolitan Police, has been assigned to the Capitol to conduct the course. The courses consist of a variety of topics, including duties of doormen, introductions, courtesy, methods of dealing with mentally disturbed or suspicious persons, first aid, identification of suspicious packages. Captain Garner will be assisted by instructors from the Washington area bomb squad. Personnel in the office of the Capitol physician will assist in first aid classes. Films and other classroom aids will be used.

The security classes were initiated by the House Doorkeeper with the cooperation and assistance of the Sergeant at Arms and the Capitol physician.

## THE 92D CONGRESS DEMOCRATIC CLUB

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

Mr. McCORMACK. Mr. Speaker, the 92d Congress Democratic Club, made up of Freshman Democrats, recently elected new officers for 1972.

As fate would have it, a tie occurred between the two candidates running for President: RON MAZZOLI of Kentucky, and Congressman LES ASPIN of Wisconsin. Congressman ASPIN and Congressman MAZZOLI have agreed to share the office of president of the freshman Democrats, dividing the responsibility so that Congressman MAZZOLI would be President until June 15, and Congressman ASPIN will serve from June 15 until new officers are elected in January 1973. Other officers elected are: BOB BERGLAND of Minnesota, vice president; JOHN SEIBERLING of Ohio, secretary; DAWSON MATHIS of Georgia, treasurer.

It has been a great honor for me to serve as President for the first year of the 92d Congress Democratic Club, and to have the support of Congressman GUNN MCKAY of Utah, retiring vice president; Congresswoman LOUISE DAY HICKS of Massachusetts, retiring secretary; and Congressman NICK BEGICH of Alaska, retiring treasurer.

I know they will join me in extending appreciation to all the other Members of Congress for the support you have given us during our first year on the Hill, and in encouraging all the other Members of Congress to continue this sort of enthusiastic support for our new officers.

## SPRING CONFERENCE OF THE INTERPARLIAMENTARY UNION

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

Mr. DERWINSKI. Mr. Speaker, as president of the U.S. Group to the Interparliamentary Union for the 92d Congress, I wish to report on the House Members who will participate in the spring conference of the IPU, which will be held from April 3 through April 9, 1972, at Yaounde, Cameroon.

The Honorable ALEXANDER PIRNIE, of New York, and the Honorable LEE HAMILTON, of Indiana, will serve on the council of the IPU.

Other House Members who will serve on various committees of the IPU are: JOHN JARMAN, of Oklahoma; PAUL ROGERS, of Florida; EDWARD PATTEN, of New Jersey; ROBERT MCCLORY, of Illinois and myself.

Senators serving on the delegation, by appointment of their respective party leaders, are ERNEST HOLLINGS, of North Carolina; BIRCH BAYH, of Indiana; and WILLIAM SAXBE, of Ohio.

We will make a full report to the House on the conference.

## UPLAND GAME CONSERVATION ACT

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

Mr. ZWACH. Mr. Speaker, the upland game bird population in our agricultural areas has declined almost to the point of

extinction. Wildlife is a part of our heritage which is important to urban and rural residents alike, whether or not they hunt. In Minnesota alone, the popular ring-necked pheasant is now present at about 20 percent of its numbers just 10 years ago. Population of other farm wildlife has declined by a somewhat lesser degree.

This alarming decrease in the upland game population is largely due to today's farming practices of eliminating fence rows and clear cultivation and annual rotation of crops. There is a definite need to provide a permanent section-by-section system of game shelters.

In an effort to remedy this situation, I introduced the Water Bank Act which preserves wetlands for water fowl and other wildlife. This was enacted in the last Congress and is now in the process of being implemented. As a companion measure, I, along with other Members here, am now introducing an upland game act which would provide cover, nesting habitat and feeding areas for pheasants, grouse, and partridge, as well as preserve some of our natural beauty areas.

The Upland Game Conservation Act would provide that landowners enter into agreements with the Secretary of Agriculture for a period of not more than 10 years or not to exceed 10 acres per farm. While requiring a cover crop, the landowner would not harvest any crop from nor graze the acreage during the agreement period.

We owe it to the generations after us to rebuild our wildlife population and I hope this measure will receive the consideration and implementation it deserves.

## BEEF CARCASS PRICES BELOW COST OF 20 YEARS AGO

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

Mr. ANDREWS. Mr. Speaker, the propaganda which has been floating around recently concerning the price of beef has been far more confusing than honest. I think it is important to get some honesty in the discussion about the prices of beef and I would hope that our metropolitan newspapers will take note of what the farmer is really getting for his choice beef.

On August 13, 1971, the President imposed the economic freeze. That date, choice beef carcasses at Omaha were selling for $54 per hundred pounds. Last Friday, March 24, 1972, choice beef carcasses at Omaha brought $53.25, below the August 13, 1971, figure and, probably more important, below what beef carcasses were 20 years ago.

I wonder if my colleagues realize that during the past 20 years, Government employees salaries have increased 430 percent, wages for off-farm labor have gone up 340 percent, and business and professional income has increased 200 percent. Yet, during that same period, the 70 major farm commodities have increased in price by only 7 percent. We have seen editorial cartoons in a Washington paper indicating the consumer is being forced to pay outrageous prices for beef and that the farmer should get less for his product. I would like to point out that 20 years ago, the Sunday edition of this newspaper was selling for 10 cents. Today it costs the consumer 40 cents, an increase of 400 percent.

Perhaps if the Price Commission is concerning itself with a product whose cost is below what it was 20 years ago, I think it is only equitable that it should review a product whose price has gone up fourfold.

Think about it.

## FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Mr. BLATNIK. 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. 11896) to amend the Federal Water Pollution Control Act.

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

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. 11896, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the Clerk had read the first section of the committee amendment in the nature of a substitute, ending on page 198, line 6. If there are no amendments to be proposed to this section, the Clerk will read.

The Clerk read as follows:

SEC. 2. The Federal Water Pollution Control Act is amended to read as follows:

"TITLE I—RESEARCH AND RELATED PROGRAMS

"DECLARATION OF GOALS AND POLICY

"SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

"(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

"(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by 1981;

"(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

"(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

"(5) it is the national policy that area-wide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State; and

"(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.

"(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent and abate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is further the policy of the Congress to support and aid research relating to the prevention and abatement of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention and abatement of pollution.

"(c) It is further the policy of Congress that the President, acting through the Secretary of State and such national and international organizations as he determines appropriate, shall take such action as may be necessary to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, control, and abatement of pollution in their waters and in international waters and for the achievement of goals regarding the elimination of discharge of pollutants and the improvement of water quality to at least the same extent as the United States does under its laws.

"(d) Except as otherwise expressly provided in this Act, the Administrator of the Environmental Protection Agency (hereinafter in this Act called 'Administrator') shall administer this Act.

"(e) Public partipication in the development, revision, and enforcement of any regulation, standard, or effluent limitation established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

"(f) It is the national policy that to the maximum extent possible the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays of all levels of government.

"(g) In the implementation of this Act, agencies responsible therefor shall consider all potential impacts relating to the water, land, and air to insure that other significant environmental degradation and damage to the health and welfare of man does not result.

"COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

"SEC. 102. (a) The Administrator shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs for abating or reducing the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. For the purpose of this section, the Administrator is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial

wastes, or substance which may adversely affect such waters.

"(b)(1) In the survey or planning of any reservoir by the Corps of Engineers, Bureau of Reclamation, or other Federal agency, consideration shall be given to inclusion of storage for regulation of streamflow for the purpose of water quality control, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source.

"(2) The need for and the value of storage for this purpose shall be determined by these agencies, with the advice of the Administrator, and his views on these matters shall be set forth in any report or presentation to the Congress proposing authorization or construction of any reservoir including such storage.

"(3) The value of such storage shall be taken into account in determining the economic value of the entire project of which it is a part, and costs shall be allocated to the purpose of water quality control in a manner which will insure that all project purposes share equitably in the benefits of multiple-purpose construction.

"(4) Costs of water quality control features incorporated in any Federal reservoir or other impoundment under the provisions of this Act shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the costs of such features shall be nonreimbursable.

"(5) No license granted by the Federal Power Commission for a hydroelectric power project shall include storage for regulation of streamflow for the purpose of water quality control unless the Administrator shall recommend its inclusion and such reservoir storage capacity shall not exceed such proportion of the total storage required for the water quality control plan as the drainage area of such reservoir bears to the drainage area of the river basin or basins involved in such water quality control plan.

"(c)(1) The Administrator shall, at the request of the Governor of a State, or a majority of the Governors when more than one State is involved, make a grant to pay not to exceed 50 per centum of the administrative expenses of a planning agency for a period not to exceed three years, which period shall begin after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if such agency provides for adequate representation of appropriate State, interstate, local, or (when appropriate) international interests in the basin or portion thereof involved and is capable of developing an effective, comprehensive water quality control and abatement plan for a basin or portion thereof.

"(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control and abatement plan for the basin or portion thereof which—

"(A) is consistent with any applicable water quality standards, effluent and other limitations, and thermal discharge regulations established pursuant to current law within the basin;

"(B) recommends such treatment works as will provide the most effective and economical means of collection, storage, treatment, and elimination of pollutants and recommends means to encourage both municipal and industrial use of such works;

"(C) recommends maintenance and improvement of water quality within the basin or portion thereof and recommends methods of adequately financing those facilities as may be necessary to implement the plan; and

"(D) as appropriate, is developed in cooperation with, and is consistent with any comprehensive plan prepared by the Water Resources Council any areawide waste management plans developed pursuant to section 208 of this Act, and any State plan developed pursuant to section 303(e) of this Act.

"(3) For the purposes of this subsection the term 'basin' includes, but is not limited to, rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby.

"INTERSTATE COOPERATION AND UNIFORM LAWS

"SEC. 103. (a) The Administrator shall encourage cooperative activities by the States for the prevention and abatement of pollution, encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and abatement of pollution; and encourage compacts between States for the prevention and control of pollution.

"(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the Congress.

"RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

"SEC. 104. (a) The Administrator shall establish national programs for the prevention and abatement of pollution and as part of such programs shall—

"(1) in cooperation with other Federal, State, and local agencies, conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and abatement of pollution.

"(2) encourage, cooperate with, and render technical services to pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals, including the general public, in the conduct of activities referred to in paragraph (1) of this subsection;

"(3) conduct, in cooperation with State water pollution control agencies and other interested agencies, organizations and persons, public investigations concerning the pollution of any navigable waters, and report on the results of such investigations;

"(4) establish advisory committees composed of recognized experts in various aspects of pollution and representatives of the public to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research;

"(5) in cooperation with the States, and their political subdivisions, and other Federal agencies establish, equip, and maintain a water quality surveillance system for the purpose of monitoring the quality of the navigable waters and ground waters and the contiguous zone and the oceans and the Administrator shall, to the extent practicable, conduct such surveillance by utilizing the resources of the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and the Coast Guard, and shall report on such quality in the report required under subsection (a) of section 516; and

"(6) initiate, and promote the coordination and acceleration of research designed to develop the most effective practicable tools and techniques for measuring the social and economic costs and benefits of activities which are subject to regulation under this Act; and shall transmit a report on the results of such research to the Congress not later than July 1, 1973.

"(b) In carrying out the provisions of subsection (a) of this section the Administrator is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities referred to in paragraph (1) of subsection (a);

"(2) cooperate with other Federal departments and agencies, State water pollution control agencies, interstate agencies, other public and private agencies, institutions, organizations, industries involved, and individuals, in the preparation and conduct of such research and other activities referred to in paragraph (1) of subsection (a);

"(3) make grants to State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals, for purposes stated in paragraph (1) of subsection (a) of this section;

"(4) contract with public or private agencies, institutions, organizations, and individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5), referred to in paragraph (1) of subsection (a);

"(5) establish and maintain research fellowships at public or nonprofit private educational institutions or research organizations;

"(6) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying water quality and other information pertaining to pollution and the prevention and abatement thereof; and

"(7) develop effective and practical processes, methods, and prototype devices for the prevention or abatement of pollution.

"(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons caused by pollutants. In order to avoid duplication of effort, the Administrator shall, to the extent practicable, conduct such research in cooperation with and through the facilities of the Secretary of Health, Education, and Welfare.

"(d) In carrying out the provisions of this section the Administrator shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

"(1) Practicable means of treating municipal sewage and other waterborne wastes to remove the maximum possible amounts of pollutants in order to restore and maintain the maximum amount of the Nation's water at a quality suitable for repeated reuse;

"(2) Improved methods and procedures to identify and measure the effects of pollutants on water uses, including those pollutants created by new technological developments; and

"(3) Methods and procedures for evaluating the effects on water quality and water uses of augmented streamflows to control pollution not susceptible to other means of abatement.

"(e) The Administrator shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and

training relating to the prevention and control of pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out.

"(f) The Administrator shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices with respect to such waters, and a study of alternate means of solving pollution problems (including additional waste treatment measures) with respect to such waters.

"(g) (1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities; and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Administrator shall finance pilot programs, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, on entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, not supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Administrator is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

"(2) The Administrator is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, control, and abatement of pollution in each region, State, or area of the United States and, from time to time, to publish the results of such forecasts.

"(3) In furtherance of the purposes of this Act, the Administrator is authorized to—

"(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

"B) establish and maintain research fellowships in the Environmental Protection Agency with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellowships; and

"(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, and control of pollution for personnel of public agencies and other persons with suitable qualifications.

"(4) The Administrator shall submit, through the President, a report to the Congress not later than December 31, 1973, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in this field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.

"(h) The Administrator is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, and abatement of pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

"(i) The Administrator, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall—

"(1) engage in research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention, control, and elimination of oil and hazardous substances pollution;

"(2) publish from time to time the results of such activities; and

"(3) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used in the control of oil and hazardous substances spills.

In carrying out this subsection, the Administrator may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

"(j) The Secretary of the department in which the Coast Guard is operating shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Secretary of the department in which the Coast Guard is operating shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any regulations established under section 312 of this Act. In carrying out this subsection the Secretary of the department in which the Coast Guard is operating may enter into contracts with, or make grants to, public or private organizations and individuals.

"(k) In carrying out the provisions of this section relating to the conduct by the Administrator of demonstration projects and the development of field laboratories and research facilities, the Administrator may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Administrator as the circumstances require.

"(l) (1) The Administrator shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than October 3, 1972, develop and issue to the States for the purpose of carrying out this Act the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such information whenever necessary to reflect developing scientific knowledge.

"(2) The President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct studies and investigations of methods to control the release of pesticides into the environment which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall submit reports, from time to time, on such investigations to Congress together with his recommendations for any necessary legislation.

"(m) (1) The Administration shall, in an effort to prevent degradation of the environment from the disposal of waste oil, conduct a study of (A) the generation of used engine, machine, cooling, and similar waste oil, including quantities generated, the nature and quality of such oil, present collecting methods and disposal practices, and alternate uses of such oil; (B) the long-term, chronic biological effects of the disposal of such waste oil; and (C) the potential market for such oils, including the economic and legal factors relating to the sale of products made from such oils, the level of subsidy, if any, needed to encourage the purchase by public and private nonprofit agencies of products from such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other persons.

"(2) The Administrator shall report the results of such study to the Congress within 18 months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

"(n) (1) The Administrator shall, in cooperation with the Secretary of the Army, the Secretary of Agriculture, the Water Resources Council, and with other appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote, and encourage contributions to, continuing comprehensive studies of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on fish and wildlife, on sport and commercial fishing, on recreation, on water supply and water power, and on other beneficial purposes. Such studies shall also consider the effect of demographic trends, the exploitation of mineral resources and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

"(2) In conducting such studies, the Administrator shall assemble, coordinate, and organize all existing pertinent information on the Nation's estuaries and estuarine zones; carry out a program of investigations and surveys to supplement existing information in representative estuaries and estuarine zones; and identify the problems and areas where further research and study are required.

"(3) The Administrator shall submit to Congress, from time to time, reports of the studies authorized by this subsection but at least one such report during any three year period. Copies of each such report shall be made available to all interested parties, public and private.

"(4) For the purpose of this subsection, the term 'estuarine zones' means an environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term 'estuary' means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

"(o)(1) The Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other methods of reducing the total flow of sewage, including, but not limited to, unnecessary water consumption in order to reduce the requirements for, and the costs of, sewage and waste treatment services. Such research and investigations shall be directed to develop devices, systems, policies, and methods capable of achieving the maximum reduction of unnecessary water consumption.

"(2) The Administrator shall report the preliminary results of such studies and investigations to the Congress within one year after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and annually thereafter in the report required under subsection (a) of section 516. Such report shall include recommendations for any legislation that may be required to provide for the adoption and use of devices, systems, policies, or other methods of reducing water consumption and reducing the total flow of sewage. Such report shall include an estimate of the benefits to be derived from adoption and use of such devices, systems, policies, or other methods and also shall reflect estimates of any increase in private, public, or other cost that would be occasioned thereby.

"(p) In carrying out the provisions of subsection (a) of this section the Administrator shall, in cooperation with the Secretary of Agriculture, other Federal agencies, and the States, carry out a comprehensive study and research program to determine new and impoved methods and the better application of existing methods of preventing and abating pollution from agriculture, including the legal, economic, and other implications of the use of such methods.

"(q)(1) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods of preventing, abating, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems.

"(2) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods for the collection and treatment of sewage and other liquid wastes combined with the treatment and disposal of solid wastes.

"(r) The Administrator is authorized to make grants to colleges and universities to conduct basic research into the structure and function of fresh water aquatic ecosystems, and to improve understanding of the ecological characteristics necessary to the maintenance of the chemical, physical, and biological integrity of freshwater aquatic ecosystems.

"(s) The Administrator is authorized to make grants to one or more institutions of higher education (regionally located and to be designated as 'River Study Centers') for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationship between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water development activities. No such grant in any fiscal year shall exceed $1,000,000.

"(t) The Administrator shall, in cooperation with State and Federal agencies and public and private organizations, conduct continuing comprehensive studies of the effects and methods of control of thermal discharges. In evaluating alternative methods of control the studies shall consider (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, and (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources. Such studies shall consider methods of minimizing adverse effects and maximizing beneficial effects of thermal discharges. The results of these studies shall be reported by the Administrator as soon as practicable, but not later than one year after enactment of this subsection, and shall be made available to the public and the States, and utilized by the Administrator in proposing regulations with respect to thermal discharges under section 316 of this Act.

"(u) There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, for carrying out the provisions of this section other than subsections (g), (p), and (r); (2) not to exceed $7,500,000 for fiscal year 1973 for carrying out the provisions of subsection (g)(1); (3) not to exceed $2,500,000 for fiscal year 1973 for carrying out the provisions of subsection (g)(2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out the provisions of subsection (p); and not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out the provisions of subsection (r).

"GRANTS FOR RESEARCH AND DEVELOPMENT

"SEC. 105. (a) The Administrator is authorized to conduct in the Environmental Protection Agency, and to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of—

"(1) any project which will demonstrate a new or improved method of preventing and abating the discharge into any waters of pollutants from sewers which carry storm water or both storm water and pollutants; or

"(2) any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvement to existing treatment processes), or new or improved methods of joint treatment systems for municipal and industrial wastes;

and to include in such grants such amounts as are necessary for the purpose of reports, plans, and specifications in connection therewith.

"(b) The Administrator is authorized to make grants to any State or States or interstate agency to demonstrate, in river basins or portions thereof, advanced pollution treatment and environmental enhancement techniques to control pollution from all sources, within such basins or portions thereof, including nonpoint sources, together with in-stream water quality improvement techniques.

"(c) The Administrator is authorized to conduct in the Environmental Protection Agency, to make grants to, and to enter into contracts with, persons for research and demonstration projects for prevention of pollution by industry including, but not limited to, treatment of industrial waste. No grant shall be made for any project under this subsection unless the Administrator determines that such project will develop or demonstrate a new or improved method of treating industrial wastes or otherwise prevent pollution by industry, which method shall have industrywide application.

"(d) In carrying out the provisions of this section, the Administrator shall conduct, on a priority basis, an accelerated effort to develop, refine, and achieve practical application of:

"(1) waste management methods applicable to point and nonpoint sources of pollutants to eliminate the discharge of pollutants, including, but not limited to, elimination of runoff of pollutants and the effects of pollutants from inplace or accumulated sources;

"(2) advanced waste treatment methods applicable to point and nonpoint sources, including inplace or accumulated sources of pollutants, and methods for reclaiming and recycling water and confining and containing pollutants so they will not migrate to cause water or other environmental pollution; and

"(3) improved methods and procedures to identify and measure the effects of pollutants on the chemical, physical, and biological integrity of water, including those pollutants created by new technological developments.

"(e)(1) The Administrator is authorized to (A) make, in consultation with the Secretary of Agriculture, grants to persons for research and demonstration projects with respect to new and improved methods of preventing and abating pollution from agriculture, and (B) disseminate, in cooperation with the Secretary of Agriculture, such information obtained under this subsection, section 104(p), and section 304 as will encourage and enable the adoption of such methods in the agricultural industry.

"(2) The Administrator is authorized, (A) in consultation with other interested Federal agencies, to make grants for demonstration projects with respect to new and improved methods of preventing, abating, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems, and (B) in cooperation with other interested Federal and State agencies, to disseminate such information obtained under this subsection as will encourage and enable the adoption of new and improved methods developed pursuant to this subsection.

"(f) Federal grants under subsection (a) of this section shall be subject to the following limitations:

"(1) No grant shall be made for any project unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator;

"(2) No grant shall be made for any project in an amount exceeding 75 per centum of the cost thereof as determined by the Administrator; and

"(3) No grant shall be made for any project unless the Administrator determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) or (2) of subsection (a).

"(g) Federal grants under subsections (c) and (d) of this section shall not exceed 75 per centum of the cost of the project.

"(h) For the purpose of this section there is authorized to be appropriated $70,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, and from such appropriations at least 10 per centum of the funds actually appproppriated in each fiscal year shall be available only for the purposes of subsection (e).

"GRANTS FOR POLLUTION CONTROL PROGRAMS

"SEC. 106. (a) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section—

"(1) $60,000,000 for the fiscal year ending June 30, 1973; and

"(2) $75,000,000 for the fiscal year ending June 30, 1974;

for grants to States and to interstate agencies to assist them in carrying out programs for the prevention and abatement of pollution.

"(b) From the sums appropriated in any fiscal year, the Administrator shall make allotments to the several States and interstate agencies in accordance with regulations promulgated by him on the basis of the extent of the pollution problem in the respective States.

"(c) The Administrator is authorized to pay to each State and interstate agency each fiscal year either—

"(1) the allotment of such State or agency for such fiscal year under subsection (b), or

"(2) the reasonable costs as determined by the Administrator of developing and carrying out a pollution program by such State or agency during such fiscal year,

whichever amount is the lesser.

"(d) No grant shall be made under this section to any State or interstate agency for any fiscal year when the expenditure of non-Federal funds by such State or interstate agency during such fiscal year for the recurrent expenses of carrying out its pollution control program are less than the expenditure by such State or interstate agency of non-Federal funds for such recurrent program expenses during the fiscal year ending June 30, 1971.

"(e) Grants shall be made under this section on condition that—

"(1) Such State (or interstate agency) files with the Administrator within one hundred and twenty days after the date of enactment of this section:

"(A) a summary report of the current status of the State pollution control program, including the criteria used by the State in determining priority of treatment works; and

"(B) such additional information, data, and reports as the Administrator may require.

"(2) No federally assumed enforcement as defined in section 309(a)(2) is in effect with respect to such State or interstate agency.

"(3) Such State (or interstate agency) submits within one hundred and twenty days after the date of enactment of this section and before July 1 of each year thereafter for the Administrator's approval its program for the prevention and abatement of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

"(f) Any sums allotted under subsection (b) in any fiscal year which are not paid shall be reallotted by the Administrator in accordance with regulations promulgated by him.

"AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

"SEC. 107. (a) The Administrator in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State or interstate agency to carry out one or more projects to demonstrate methods for the elimination or control, within all or part of a watershed, of acid or other mine water pollution resulting from active or abandoned mines. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control, including techniques that demonstrate the engineering and economic feasibility and practicality of using sewage sludge materials and other municipal wastes to diminish or prevent pollution from acid, sedimentation, or other water pollutants and to restore the lands on which such projects are located to usefulness for forestry, agriculture, recreation, or other beneficial uses.

"(b) The Administrator, in selecting watersheds for the purposes of this section, shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas which have the greatest present or potential value for public use for recreation, fish and wildlife, water supply, and other public uses, and (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

"(c) Federal participation in such projects shall be subject to the conditions—

"(1) that the State or interstate agency shall pay not less than 25 per centum of the actual project costs which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, or personal property or services, the value of which shall be determined by the Administrator; and

"(2) that the State or interstate agency shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

"(d) There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended. No more than 25 per centum of the total funds available under this section in any one year shall be granted to any one State.

"POLLUTION CONTROL IN GREAT LAKES

"SEC. 108. (a) The Administrator, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State, political subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any polluting matter from entering into the Great Lakes in the future and other abatement and remedial techniques which will contribute substantially to effective and practical methods of pollution elimination or control.

"(b) Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Administrator.

"(c) There is authorized to be appropriated $20,000,000 to carry out the provisions of subsections (a) and (b) of this section, which sum shall be available until expended.

"(d)(1) In recognition of the serious conditions which exist in Lake Erie, the Secretary of the Army, acting through the Chief of Engineers, is directed to design and develop a demonstration waste water management program for the rehabilitation and environmental repair of Lake Erie. Prior to the initiation of detailed engineering and design, the program, along with the specific recommendations of the Chief of Engineers, and recommendations for its financing, shall be submitted to the Congress for statutory approval. This authority is in addition to, and not in lieu of, other waste water studies aimed at eliminating pollution emanating from select sources around Lake Erie.

"(2) This program is to be developed in cooperation with the Environmental Protection Agency, other interested departments, agencies, and instrumentalities of the Federal Government, and the States and their political subdivisions. This program shall set forth alternative systems for managing waste water on a regional basis and shall provide local and State governments with a range of choice as to the type of system to be used for the treatment of waste water. These alternative systems shall include both advanced waste treatment technology and land disposal systems including aerated treatment-spray irrigation technology and will also include provisions for the disposal of solid wastes, including sludge. Such program should include measures to control point sources of pollution, area sources of pollution, including acid-mine drainage, urban runoff and rural runoff, and sources of in-place pollutants, including bottom loads, sludge banks, and polluted harbor dredgings.

"(e) There is authorized to be appropriated $5,000,000 to carry out the provisions of subsection (d) of this section, which sum shall be available until expended.

"TRAINING GRANTS AND CONTRACTS

"SEC. 109. The Administrator is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as—

"(A) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works;

"(B) training and retraining of faculty members;

"(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

"(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

"(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

"APPLICATION FOR TRAINING GRANT OR CONTRACT; ALLOCATION OF GRANTS OR CONTRACTS

"SEC. 110. (1) A grant or contract authorized by section 109 may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

"(A) sets forth programs, activities, research, or development for which a grant is authorized under section 109 and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 111;

"(B) provides such fiscal control and fund accounting procedures as may be necessry to assure proper disbursement of and accounting for Federal funds paid to the applianct under this section; and

"(C) provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"(2) The Administrator shall allocate

grants or contracts under section 109 in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purpose of this section.

"(3)(A) Payment under this section may be used in accordance with regulations of the Administrator, and subject to the terms and conditions set forth in an application approved under subsection (a), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

"(B) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the full-time, part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under subsection (a).

"AWARD OF SCHOLARSHIPS

"SEC. 111. (1) The Administrator is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Administrator may determine but not to exceed four academic years.

"(2) The Administrator shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable—

"(A) provide an equitable distribution of such scholarships throughout the United States; and

"(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

"(3) The Administrator shall approve a program of any institution of higher education for the purposes of this section only upon application by the institution and only upon his finding—

"(A) that such program has as a principal objective the education and training of persons in the operation and maintenance of treatment works;

"(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

"(C) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 110 of this Act; and

"(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Administrator for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

"(4)(A) The Administrator shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(B) The Administrator shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Administrator finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Administrator by or pursuant to regulation.

"(6) The Administrator shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of his course of studies as the Administrator determines appropriate.

"DEFINITIONS AND AUTHORIZATIONS

"SEC. 112. (a) As used in sections 109 through 112 of this Act—

"(1) The term 'institution of higher education' means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency or association approved by the Administrator for this purpose. For purposes of this subsection, the Administrator shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(2) The term 'academic year' means an academic year or its equivalent, as determined by the Administrator.

"(b) The Administrator shall annually report his activities under sections 109 through 112 of this Act, including recommendations for needed revisions in the provisions thereof.

"(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out sections 109 through 112 of this Act.

"ALASKA VILLAGE DEMONSTRATION PROJECTS

"SEC. 113. (a) The Administrator is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and elimination or control of pollution in those native villages of Alaska without such facilities. Such project shall include provisions for community safe water supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing such safe water and such elimination or control of pollution for all native villages in such State.

"(b) In carrying out this section the Administrator shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

"(c) The Administrator shall report to Congress not later than January 31, 1974, the results of the demonstration projects authorized by this section together with his recommendations, including any necessary legislation, relating to the establishment of a statewide program.

"(d) There is authorized to be apropriated not to exceed $2,000,000 to carry out this section

"ECONOMIC GROWTH CENTERS

"SEC. 114. In the case of any economic growth center designated under section 143 of title 23, United States Code, the Administrator is authorized to make a supplemental grant to such center in any case where such center receives a grant for construction of treatment works under this Act. Such supplemental grant shall be for such percentage of the costs of such works as the Administrator determines. There is authorized to be appropriated to carry out this section not to exceed $5,000,000.

"TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

"PURPOSE

"SEC. 201. (a) It is the purpose of this title to require, and to assist the development and implementation of, waste treatment management plans and practices.

"(b) Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recyclying of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment technology and aerated treatment-spray-irrigation technology.

"(c) To the extent practicable, waste treatment management shall be on an areawide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

"(d)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works.

"(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that—

"(A) alternative waste management techniques have been studied and evaluated and the works proposed for grant assistance will provide for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this title; and

"(B) as appropriate, the works proposed for grant assistance will take into account and allow to the extent practicable the application of technology at a later date which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants.

"(3) The Administrator shall not approve any grant after July 1, 1973, for treatment works under this section unless the applicant shows to the satisfaction of the Administrator that each sewer collection system discharging into such treatment works is not subject to excessive infiltration.

"(4) The Administrator is authorized to make grants to applicants for treatment works grants under this section for such sewer system evaluation studies as may be necessary to carry out the requirements of paragraph (3) of this subsection. Such grants shall be made in accordance with rules and

regulations promulgated by the Administrator. Initial rules and regulations shall be promulgated under this paragraph not later than 120 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

"FEDERAL SHARE

"SEC. 202. (a) The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1971, shall be 60 per centum of the cost of construction thereof (as approved by the Administrator); except that the amount of such grant shall be increased to 75 per centum of such cost if the State agrees to pay at least 15 per centum of the cost of construction of each treatment works for which Federal grants are to be made from funds allocated to such State for such fiscal year. Any grant (other than for reimbursement) made prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section.

"(b) The amount of the grant for any project approved by the Administrator after January 1, 1971, and before July 1, 1971, for the construction of treatment works, the actual erection, building or acquisition of which was not commenced prior to July 1, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under subsection (a) of this section for grants for treatment works from funds for fiscal years beginning after June 30, 1971, with respect to the cost of such actual erection, building, or acquisition. Such increased amount shall be paid from any funds allocated to the State in which the treatment works is located without regard to the fiscal year for which such funds were authorized. Such increased amount shall be paid for such project only if—

"(1) a sewage collection system that is a part of the same total waste treatment system as the treatment works for which such grant was approved is under construction or is to be constructed for use in conjunction with such treatment works, and if the cost of such sewage collection system exceeds the cost of such treatment works, and

"(2) the State water pollution control agency certifies that the quantity of available ground water will be insufficent to meet the future requirements for public water supply, unless effluents from publicly owned treatment works, after adequate treatment are injected into the ground to replenish the supply of ground water.

"PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

"SEC. 203. (a) Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 201(d)(1) from funds allotted to the State under section 205 and which otherwise meets the requirements of this Act. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project.

"(b) The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant for costs of construction incurred on a project. These payments shall at no time exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

"(c) After completion of a project and approval of the final voucher by the Administrator, he shall pay out of the appropriate sums the unpaid balance of the Federal share payable on account of such project.

"LIMITATIONS AND CONDITIONS

"SEC. 204. (a) Before approving grants for any project for any treatment works under section 201(d)(1) the Administrator shall determine—

"(1) that such works are included in any applicable areawide waste treatment management plan developed under section 208 of this Act;

"(2) that such works are in conformity with any applicable State plan under section 303(e) of this Act;

"(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 303(e) of this Act;

"(4) that the applicant proposing to construct such works agrees to pay the non-Federal costs of such works and has made adequate provisions satisfactory to the Administrator for assuring proper and efficient operation, including the employment of trained management and operations personnel, and the maintenance of such works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency, after construction thereof;

"(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required;

"(6) that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal'.

"(b)(1) Notwithstanding any other provision of this title, the Administrator shall not approve any grant for any treatment works under section 201(d)(1) after June 30, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share of the costs of operation, maintenance (including replacement), and expansion of any waste treatment services provided by the applicant; (B) has made provision for the payment to such applicant by the industrial users of the treatment works, of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of such industrial wastes to the extent attributable to the Federal share of the cost of construction; and (C) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, maintenance, and expansion of treatment works throughout the applicant's jurisdiction, as determined by the Administrator.

"(2) The Administrator shall, within one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and after consultation with appropriate State, interstate, municipal, and intermunicipal agencies, issue guidelines applicable to payment of waste treatment costs by industrial and nonindustrial recipients of waste treatment services which shall establish (A) classes of users of such services, including categories of industrial users; (B) criteria against which to determine the adequacy of charges imposed on classes and categories of users reflecting all factors that influence the cost of waste treatment, including strength, volume, and delivery flow rate characteristics of waste; and (C) model systems and rates of user charges typical of various treatment works serving municipal-industrial communities.

"(3) Revenues derived from the payment of costs by industrial users of waste treatment services, to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to this title, as determined by the Administrator, shall be retained by the grantee for use solely for the operation, maintenance, expansion, and construction of treatment works which are publicly owned, in accordance with regulations promulgated by the Administrator.

"(4) Approval by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

"ALLOTMENT

"SEC. 205. (a) All sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after June 30, 1972, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than 30 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of the table on page 18 of volume I of Senate Document 92–23 entitled 'The Cost of Clean Water'. Allotments for fiscal years which begin after the fiscal year ending June 30, 1974, shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 516(b) of this Act and only after such revised cost estimate shall have been approved by law specifically enacted hereafter.

"(b)(1) Any sums allotted to a State under subsection (a) shall be available for obligation under section 203 on and after the date of such allotment. Such sums shall continue available for obligation in such State for a period of one year after the close of the fiscal year for which such sums are authorized. Any amounts so allotted which are not obligated by the end of such one-year period shall be immediately reallotted by the Administrator, in accordance with regulations promulgated by him, generally on the basis of the ratio used in making the last allotment of sums under this section. Such reallotted sums shall be added to the last allotments made to the States. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

"(2) Any sums which have been obligated under section 203 and which are released by the payment of the final voucher for the project shall be immediately credited to the State to which such sums were last

allotted. Such released sums shall be added to the amounts last allotted to such State and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

"REIMBURSEMENT AND ADVANCED CONSTRUCTION

"SEC. 206. (a) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1966, but before July 1, 1971, which was approved by the appropriate State water pollution control agency and which the Administrator finds an application was made prior to initiation of construction for financial assistance under this Act and which the Administrator finds meets the requirements of section 8 of this Act in effect at the time of the initiation of construction but which was constructed (1) without financial assistance authorized by such section 8 solely because of the lack of Federal funds or (2) with financial assistance authorized by section 8 but in a lesser percentage of the cost of construction than authorized by such section 8 shall qualify for payment and reimbursement of State or local funds used or committed (including retroactive use or commitment of State funds) for such project prior to July 1, 1974, from sums allocated to such State under this section for any fiscal year ending prior to July 1, 1974, to the maximum extent that assistance could have been provided under such section 8 and for which it would have qualified if such project had been approved thereunder and adequate funds had been available (including retroactive State participation).

"(b) Any publicly owned treatment works constructed with or eligible for Federal financial assistance under this Act in a State between June 30, 1956, and June 30, 1966, which was approved by the State water pollution control agency and which the Administrator finds meets the requirements of section 8 of this Act immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 but which was constructed without assistance under such section 8 or which received such assistance in an amount less than 30 per centum of the cost of such project shall qualify for payments and reimbursements of State or local funds used for such project from sums allocated to such State under this section in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the cost of such project.

"(c) There is authorized to be appropriated to carry out subsection (a) of this section not to exceed $2,000,000,000 and, to carry out subsection (b) of this section, not to exceed $750,000,000. The authorizations contained in this subsection shall be the sole source of funds for reimbursements authorized by this section.

"(d)(1) In any case where all funds allotted to a State under this title have been obligated under section 203 of this Act, and there is construction of any treatment works project without the aid of Federal funds and in accordance with all procedures and all requirements applicable to treatment works projects, except those procedures and requirements which limit construction of projects to those constructed with the aid of previously allotted Federal funds, the Administrator, upon his approval of an application made under this subsection therefor, is authorized to pay the Federal share of the cost of construction of such project when additional funds are allotted to the State under this title if prior to the construction of the project the Administrator approves plans, specifications, and estimates therefor in the same manner as other treatment works projects. The Administrator may not approve an application under this subsection unless an authorization is in effect for the future fiscal year for which the application requests payment, which authorization will insure such payment without exceeding the State's expected allotment from such authorization.

"(2) In determining the allotment for any fiscal year under this title, any treatment works project constructed in accordance with this section and without the aid of Federal funds shall not be considered completed until an application under the provisions of this subsection with respect to such project has been approved by the Administrator, or the availability of funds from which this project is eligible for reimbursement has expired, whichever first occurs.

"AUTHORIZATION

"SEC. 207. There is authorized to be appropriated to carry out this title, other than sections 208 and 209, for the fiscal year ending June 30, 1973, $5,000,000,000, for the fiscal year ending June 30, 1974, $6,000,000,000, and for the fiscal year ending June 30, 1975, $7,000,000,000.

"AREAWIDE WASTE TREATMENT MANAGEMENT

"SEC. 208. (a) For the purpose of encouraging and facilitating the development and implementation of areawide waste treatment management plans—

"(1) The Administrator, within ninety days after the date of enactment of this Act and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems.

"(2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to paragraph (1) of this subsection, shall identify each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred and twenty days following such identification and after appropriate consultation with the officials of all local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization capable of developing effective areawide waste treatment management plans for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing effective areawide waste treatment management plans for such area.

"(3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which areawide waste treatment management plans would be most effective, and toward designating, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization of developing effective areawide waste treatment management plans for such area.

"(4) Existing regional agencies may be designated under paragraphs (2) and (3) of this subsection.

"(5) Designations under this subsection shall be subject to the approval of the Administrator.

"(b)(1) Not later than two years after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 201 of this Act. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved.

"(2) Any plan prepared under such process shall include, but not be limited to—

"(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works;

"(B) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;

"(C) the establishment of a regulatory program to—

"(i) implement the waste treatment management requirements of section 201(c),

"(ii) regulate the location, modification, and construction of any facilities within such area which may result in any discharge in such area, and

"(iii) assure that any industrial or commercial wastes discharged into any treatment works in such area meet applicable pretreatment requirements;

"(D) the identification of those agencies necessary to construct, operate, and maintain all facilities required by the plan and otherwise to carry out the plan;

"(E) the identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carry out the plan, the costs of carrying out the plan within such time, and the economic, social, and environmental impact of carrying out the plan within such time;

"(F) a process to (i) identify, if appropriate, agriculturally related nonpoint sources of pollution, including runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

"(G) a process to (i) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

"(H) a process to (i) identify construction activity related sources of pollution, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources; and

"(I) a process to (i) identify, if appropriate, salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (ii) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan.

"(3) Areawide waste treatment management plans shall be certified annually by the Governor or his designee (or Governors or their designees, where more than one State is involved) as being consistent with applicable basin plans and such areawide waste treatment management plans shall be submitted to the Administrator for his approval.

"(c)(1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, may designate one or more waste treatment management agencies for each area designated under subsection (a) of this

section and submit a list of such designations to the Administrator.

"(2) The Administrator shall approve any such designation, within ninety days of designation, only if he finds that the designated management agency (or agencies) is authorized—

"(A) to carry out appropriate portions of an areawide waste treatment management plan developed under subsection (b) of this section;

"(B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;

"(C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

"(D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;

"(E) to raise revenues, including the assessment of waste treatment charges;

"(F) to incure short- and long-term indebtedness;

"(G) to assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;

"(H) to refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and

"(I) to accept for treatment industrial wastes.

"(d) After a waste treatment management agency has been designated under this subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 201(d)(1) within such area except to such designated agency and for works in conformity with such plan.

"(e) No permit under section 402 of this Act shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.

"(f)(1) The Administrator shall make grants to any agency designated under subsection (a) of this section for payment of the reasonable costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

"(2) The amount granted to any agency under paragraph (1) of this subsection shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section for each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, and shall not exceed 75 per centum of such costs in each succeeding fiscal year.

"(3) There is authorized to be appropriated to the Administrator to carry out this subsection not to exceed $100,000,000 for the fiscal year ending June 30, 1973, and not to exceed $150,000,000 for the fiscal year ending June 30, 1974.

"(g) The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of areawide waste treatment management plans under subsection (b) of this section.

"(h)(1) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Administrator is authorized and directed, upon request of the Governor or the designated planning organization, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

"(2) There is authorized to be appropriated to the Secretary of the Army, to carry out this subsection, not to exceed $50,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974.

"BASIN PLANNING

"SEC. 209. (a) The President, acting through the Water Resources Council, shall, as soon as practicable, prepare a Level B plan under the Water Resources Planning Act for all basins in the United States. All such plans shall be completed not later than January 1, 1980, except that priority in the preparation of such plans shall be given to those basins and portions thereof which are within those areas designated by a Governor or Governors under paragraphs (2) and (3) of subsection (a) of section 208 of this Act.

"(b) The President, acting through the Water Resources Council, shall report annually to Congress on progress being made in carrying out this section. The first such report shall be submittted not later than January 31, 1973.

"(c) There is authorized to be appropriated to carry out this section not to exceed $200,000,000.

"ANNUAL SURVEY

"SEC. 210. The Administrator shall annually make a survey to determine the efficiency of the operation and maintenance of treatment works constructed with grants made under this Act, as compared to the efficiency planned at the time the grant was made. The results of such annual survey shall be included in the report required under section 516(a) of this Act.

"SEWAGE COLLECTION SYSTEMS

"SEC. 211. No grant shall be made under this title for a sewage collection system unless such system is for an existing community and is necessary to the integrity of a total waste treatment works system.

"DEFINITIONS

"SEC. 212. As used in this title—

"(1) The term 'construction' means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

"(2)(A) The term 'treatment works' means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

"(B) In addition to the definition contained in subparagraph (A) of this paragraph, 'treatment works' means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Any application for construction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to subparagraph (C) of this paragraph, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with sections 301 or 302 of this Act, or the requirements of section 201 of this Act.

"(C) For the purposes of subparagraph (B) of this paragraph, the Administrator shall, within one hundred and eighty days after the date of enactment of this title, publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost-effective analysis, described in subparagraph (B) of this paragraph.

"(3) The term 'replacement' as used in this title means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

"(4) The term 'industrial user' means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category 'Division D—Manufacturing' and such other classes of significant waste producers as, by regulation the Administrator deems appropriate under this title.

"TITLE III—STANDARDS AND ENFORCEMENT

"EFFLUENT LIMITATIONS

"SEC. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

"(b) In order to carry out the objective of this Act there shall be achieved—

"(1)(A) not later than January 1, 1976, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of this Act, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 307 of this Act; and

"(B) for publicly owned treatment works in existence on January 1, 1976, or approved pursuant to section 203 of this Act prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 304(d)(1) of this Act; or

"(C) not later than January 1, 1976, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, establish pursuant to any other State or Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act.

"(2)(A) except as provided in section 315, not later than January 1, 1981, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the elimination of the discharge of pollutants, unless on the basis of facts presented by the owner or operator of any such sources, among other information, the State under a program approved pursuant to section 402 of this Act (or, where no such program is approved, the Administrator) finds, that compliance is not attainable at a reasonable cost, in which event there shall be applied an effluent limitation based on that degree of effluent control achievable through the application of the best available demonstrated technology, taking into account the

cost of such controls, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of this Act, and the environmental impact, or (ii) in the case of a discharge of a pollutant into a publicly owned treatment works which meets the requirement of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirement under section 307 of this Act; and

"(B) not later than January 1, 1981, compliance by all publicly owned treatment works with the requirements set forth in section 201(d)(2)(A) of this Act.

"(3) The Administrator may extend for any point source the dates prescribed in subparagraphs (A) and (B) of paragraph (1) of this subsection. No extension or extensions of such date shall exceed a total of two years from the date prescribed in such subparagraph. Public hearings must be held by the Administrator in connection with any such extension prior to granting such extension. No extension shall be granted unless the Administrator determines (i) that it is not possible either physically or legally to complete the necessary construction within the statutory time limit, or (ii) that a longer time period is provided in the plan of implementation for the applicable water quality standard. An extension of dates under this authority may also include a waiver for the same period of any applicable water quality standard.

"(c) Any effluent limitation required by paragraph (2) of subsection (b) of this section shall be reviewed at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

"(d) Effluent limitations established pursuant to this section or section 302 of this Act shall be applied to all point sources of discharge of pollutants in accordance with the provisions of this Act.

"(e) Notwithstanding any other provisions of this Act it shall be unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

"(f) Notwithstanding any other provision of this Act, any point source the construction or modification of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and before the expiration of the one-year period which begins on the date of submission of the report required by section 315 of this Act, and which is so constructed or modified as to meet affluent limitations based upon the best available technology at the time of such construction or modification, shall not be subject to any more stringent effluent limitations with respect to such effluents during a 12 year period beginning on the date of completion of such construction or modification or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever periods ends first.

"WATER QUALITY RELATED EFFLUENT LIMITATIONS

"SEC. 302. (a) Whenever, in the judgment of a State or the Administrator, discharges of pollutants from a point source or group of point sources, with the application of effluent limitations required under section 301(b)(2) of this Act, would interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, effluent limitations (including alternative effluent control strategies) for such point source or sources shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

"(b)(1) Before establishing any effluent limitation under subsection (a) of this section, the Administrator shall issue a notice of intent to establish such limitation to the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality, and the Director of the Office of Science and Technology. Each person so notified shall have a ninety-day period to submit to the Administrator written comments and recommendations which shall be made part of the public record with respect to the establishment of such limitation. If any part of such written recommendations are not accepted by the Administrator, then the Administrator shall notify, in writing, the person submitting such recommendation, of his failure to so accept such recommendations together with his reasons for so doing. Thereafter, the Administrator shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental benefits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

"(2) Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the State shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental benefits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

"(3) If a person affected by such limitation demonstrates at such hearing that (whether or not such technology or other alternative control strategies are available) there is no reasonable relationship between the economic, social, and environmental costs and the benefits to be obtained (including attainment of the objective of this Act), such limitation shall not become effective and the State or the Administrator shall adjust such limitation as it applies to such person. Whenever the Administrator adjusts or refuses to adjust any limitation as it applies to any person under this paragraph he shall, prior to the time such limitation takes effect, set forth in writing his reasons for such action, and such reasons shall be part of the public record with respect to such limitation.

"(c) The establishment of effluent limitations under this section shall not operate to delay the application of any effluent limitation established under section 301 of this Act.

"WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

"SEC. 303. (a)(1) In order to carry out the purpose of this Act, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

"(2) Any State which, before the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, has adopted, pursuant to its own law, water quality standards applicable to intrastate waters shall submit such standards to the Administrator within thirty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Each such standard shall remain in effect, in the same manner and to the same extent as any other water quality standard established under this Act unless the Administrator determines that such standard is inconsistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall not later than the one hundred and twentieth day after the date of submission of such standards, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

"(3)(A) Any State which prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 has not adopted pursuant to its own laws water quality standards applicable to intrastate waters shall, not later than one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, adopt and submit such standards to the Administrator.

"(B) If the Administrator determines that any such standards are consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall approve such standards.

"(C) If the Administrator determines that any such standards are not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall, not later than the ninetieth day after the date of submission of such standards, notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standards pursuant to subsection (b) of this section.

"(b)(1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if—

"(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section,

"(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

"(2) The Administrator shall promulgate any water quality standard published in a

proposed regulation not later than one hundred and ninety days after the date he publishes any such proposed standard, unless prior to such promulgation, such State has adopted a water quality standard which the Administrator determines to be in accordance with subsection (a) of this section.

"(c)(1) The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with the date of enactment of the Federal Water Pollution Control Act Amendments of 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Results of such review shall be made available to the Administrator.

"(2) Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses, and also taking into consideration their use and value for navigation.

"(3) If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this Act, such standard shall thereafter be the water quality standard for the applicable waters of that State. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of this Act, he shall not later than the ninetieth day after the date of submission of such standard notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standard pursuant to paragraph (4) of this subsection.

"(4) The Administrator shall promptly prepare and publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved—

"(A) if a revised or new water quality standard submitted by such State under paragraph (3) of this subsection for such waters is determined by the Administrator not to be consistent with the applicable requirements of this Act, or

"(B) in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of this Act.

The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this Act.

"(5) No revised or new standard under this subsection shall have any application to thermal discharges in accordance with regulations issued pursuant to section 316 of this Act.

"(d)(1) Each State shall identify those waters within its boundaries for which the effluent limitations required by section 301(b)(1)(A) and section 301(b)(1)(B) are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters. Each State shall establish for the waters so identified, and in accordance with the priority ranking, the total maximum daily load, with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

"(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hundred eighty days after the date of publication of the first identification of pollutants under section 304(a)(2)(D), for his approval the waters identified and the load established under paragraph (1) of this subsection. The Administrator shall either approve or disapprove such identification and load not later than thirty days after the date of submission. If the Administrator approves such identification and load such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State shall incorporate them into its current plan under subsection (e) of this section.

"(3) For the purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1) of this subsection and establish for such waters the total maximum daily load, with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation, at a level that would implement the water quality standards.

"(e)(1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this Act.

"(2) Each State shall submit not later than 120 days after the date of the enactment of the Water Pollution Control Amendments of 1972 to the Administrator for his approval a proposed continuing planning process which is consistent with this Act. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this Act. The Administrator shall not approve any State permit program under title IV of this Act for any State which does not have an approved continuing planning process under this section.

"(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

"(A) effluent limitations and schedules of compliance at least as stringent as those required by section 301(b)(1), section 301(b)(2)(B), section 306, and section 307, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;

"(B) the incorporation of all elements of any applicable areawide waste management plans under section 208, and applicable basin plans under section 209 of this Act;

"(C) total maximum daily load for pollutants in accordance with subsection (d) of this section;

"(D) procedures for revision;

"(E) adequate authority for intergovernmental cooperation;

"(F) adequate implementation, including schedules of compliance, for revised or new water quality standards under subsection (c) of this section;

"(G) controls over the disposition of all residual waste from any water treatment processing;

"(H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works required to meet the applicable requirements of sections 301 and 302.

"(f) Nothing in this section shall be construed to affect any effluent limitation, or schedule of compliance required by any State to be implemented prior to the dates set forth in sections 301(b)(1) and 301(b)(2) nor to preclude any State from requiring compliance with any effluent limitation or schedule of compliance at dates earlier than such dates.

"INFORMATION AND GUIDELINES

"SEC. 304. (a)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

"(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the natural chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives.

"(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the public.

"(b) For the purpose of adopting or revising effluent limitations under this Act the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of enactment of this title, regulations, providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

"(1)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources

(other than publicly owned treatment works); and

"(B) specify factors to be taken into account in determining the control measures and practices to be applicable to any point sources (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best practicable control technology currently available to comply with subsection (b)(1) of section 301 of this Act, shall take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate;

"(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best available demonstrated control measures and practices including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

"(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b)(2) of section 301 of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available demonstrated technology shall take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate; and

"(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants.

"(c) The Administrator, after consultation, with appropriate Federal and State agencies and other interested persons, shall issue to the States and appropriate water pollution control agencies within one year after enactment of this title (and from time to time thereafter) information on the processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of this Act. Such information shall include technical and other data, including costs, as are available on alternative methods of elimination or reduction of the discharge of pollutants. Such information, and revisions thereof, shall be published in the Federal Register and otherwise shall be made available to the public.

"(d)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within sixty days after enactment of this title (and from time to time thereafter) information, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction attainable through the application of secondary treatment.

"(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within nine months after the date of enactment of this title (and from time to time thereafter) information on alternative waste treatment management techniques and systems available to implement section 201 of this Act.

"(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 208 of this Act, within one year after the effective date of this subsection (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

"(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

"(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

"(C) all construction activity, including runoff from the facilities resulting from such construction;

"(D) the disposal of pollutants in wells or in subsurface excavations;

"(E) salt water intrusion resulting from reduction of fresh water flow from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

"(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

"(f)(1) For the purpose of assisting States in carrying out programs under section 402 of this Act, the Administrator shall publish, within one hundred and twenty days after the date of enactment of this title, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

"(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

"(g) The Administrator shall, within one hundred and eighty days from the date of enactment of this title, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit application pursuant to section 402 of this Act.

"(h) The Administrator shall (1) within ninety days after the enactment of this title promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point sources of discharge subject to any State program under section 402 of this Act, and (2) within ninety days from the date of enactment of this title promulgate guidelines establishing the minimum procedural and other elements of any State program under section 402 of this Act which shall include:

"(A) monitoring requirements;

"(B) reporting requirements (including procedures to make information available to the public);

"(C) enforcement provisions; and

"(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

"(i)(1) The Administrator shall, within one year after the effective date of this subsection (and from time to time thereafter), issue such information on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned fresh water lakes.

"(j)(1) The Administrator shall, within six months from the date of enactment of this title, enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior to provide for the maximum utilization of the appropriate programs authorized under other Federal law to be carried out by such Secretaries for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this Act.

"(2) The Administrator, pursuant to any agreement under paragraph (1) of this subsection is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, or the Secretary of the Interior any funds appropriated under paragraph (3) of this subsection to supplement any funds otherwise appropriated to carry out appropriate programs authorized to be carried out by such Secretaries.

"(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974. Sums so appropriated shall remain available until expended.

"WATER QUALITY INVENTORY

"SEC. 305. (a) The Administrator, in cooperation with the States and with the assistance of appropriate Federal agencies, shall prepare a report to be submitted to the Congress on or before July 1, 1973, which shall—

"(1) describe the specific quality, during 1972, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, of all navigable waters and the waters of the contiguous zone;

"(2) include an inventory of all point sources of discharge (based on a qualitative and quantitative analysis of discharges) of pollutants into all navigable waters and the waters of the contiguous zone; and

"(3) identify specifically those navigable waters, the quality of which

"(A) is adequate to provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

"(B) can reasonably be expected to attain such level by 1976 or 1981; and

"(C) can reasonably be expected to attain such level by any later date.

"(b)(1) Each State shall prepare and submit to the Administrator by July 1, 1974, and shall bring up to date each year thereafter, a report which shall include—

"(A) a description of the water quality of all navigable waters in such State during the preceding year, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, correlated with the quality of water required by the objective of this Act (as identified by the Administrator pursuant to criteria published under section 304(a) of this Act) and the water quality described in subparagraph (B) of this paragraph;

"(B) an analysis of the extent to which all navigable waters of such State provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

"(C) an analysis of the extent to which the elimination of the discharge of pollutants and a level of water quality which provides for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allows recreational activities in and on the water, have been or will be achieved by the requirements of this Act, together with recommendations as to additional action necessary to achieve such objectives and for what waters such additional action is necessary;

"(D) an estimate of (i) the economic, social, and environmental costs necessary to achieve the objectives of this Act in such State; (ii) the economic, social, and environmental benefits of such achievement; and (iii) an estimate of the date of such achievement; and

"(E) a description of the nature and extent of non-point source of pollutants, and recommendations as to the programs which must be undertaken to control each category of such sources, including an estimate of the costs of implementing such programs.

"(2) The Administrator shall transmit such State reports, together with an analysis thereof, to Congress on or before April 1, 1975, and annually thereafter.

"NATIONAL STANDARDS OF PERFORMANCE

"SEC. 306. (a) For purposes of this section:

"(1) The term 'standard of performance' means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

"(2) The term 'new source' means any source, the construction or modification of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section.

"(3) The term 'source' means any building, structure, facility, or installation from which there is or may be the discharge of pollutants.

"(4) The term 'owner or operator' means any person who owns, leases, operates, controls, or supervises a source.

"(5) The term 'modification' means any construction (other than construction of pollution abatement facilities as determined by the Administrator or appropriate State agency) which may alter the nature or may increase the amounts of pollutants, or combinations of such pollutants, discharged by a source.

"(6) The term 'construction' means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at time the premises where such equipment will be used, including preparation work at such premises.

"(b)(1)(A) The Administrator shall, within ninety days after the date of enactment of this title publish (and from time to time thereafter shall revise) a list of categories of sources, which shall at the minimum, include:

"pulp and paper mills;

"paperboard, builders paper and board mills;

"meat product and rendering processing;

"dairy product processing;

"grain mills;

"canned and preserved fruits and vegetables processing;

"canned and preserved seafood processing;

"sugar processing;

"textile mills;

"cement manufacturing;

"feedlots;

"electroplating;

"organic chemicals manufacturing;

"inorganic chemicals manufacturing;

"plastic and synthetic materials manufacturing;

"soap and detergent manufacturing;

"fertilizer manufacturing;

"petroleum refining;

"iron and steel manufacturing;

"ironferrous metals manufacturing;

"phosphate manufacturing;

"steam electric powerplants;

"ferroalloy manufacturing;

"leather tanning and finishing;

"glass and asbestos manufacturing;

"rubber processing; and

"timber products processing.

"(B) As soon as practicable, but in no case more than one year, after a category of sources is included in a list under subparagraph (A) of this paragraph, the Administrator shall propose and publish regulations establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, such standards with such adjustments as he deems appropriate. The Administrator shall, from time to time, as technology and alternatives change, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance, or revisions thereof, shall become effective upon promulgation. In establishing or revising Federal standards of performance for new sources under this section, the Administrator shall take into consideration factors relating to the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost of and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as he determines appropriate.

"(C) Such standards of performance shall apply to all sources within such category, unless, upon application from an owner or operator of any source which as a result of modification is subject to this section, the Administrator determines, after public hearing, that the economic, social, and environmental costs of implementing such standard bear no reasonable relationship to the economic, social, and environmental benefits (including water quality objectives) to be obtained. Any such determination shall be accompanied by an appropriate adjustment of such standard for such source, which shall reflect the greatest degree of effluent reduction which the Administrator determines can reasonably be achieved by such source.

"(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards and shall consider the type of process employed (including whether batch or continuous).

"(3) The provisions of this section shall apply to any new source owned or operated by the United States.

"(c) After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

"TOXIC AND PRETREATMENT EFFLUENT STANDARDS

"SEC. 307. (a)(1) The Administrator shall, within ninety days after the date of enactment of this title, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section. The Administrator in publishing such list shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in the receiving waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms.

"(2) Within one hundred and eighty days after the date of publication of any list, or revision thereof, containing toxic pollutants or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants which shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in the receiving waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and he shall publish a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated.

"(3) If after a public hearing the Administrator finds that a modification of such proposed standard (or prohibition) is justified, a revised effluent standard (or prohibition) for such pollutant or combination of pollutants shall be promulgated immediately. Such standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

"(4) Any effluent standard promulgated under this section shall be at that level which the Administrator determines provides an ample margin of safety.

"(5) When proposing or promulgating any effluent standard (or prohibition) under this section, the Administrator shall designate the category or categories of sources to which the effluent standard (or prohibition) shall apply.

"(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case more than one year from the date of such promulgation.

"(7) Prior to publishing any regulations pursuant to this section the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, States, independent experts, and Federal departments and agencies.

"(8) After the effective date of any effluent standard or prohibition promulgated under this subsection, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition.

"(b)(1) The Administrator shall, within one hundred and eighty days after the date of enactment of this title and from time to time thereafter, publish proposed regulations establishing pretreatment standards

for introduction of pollutants into treatment works (as defined in section 212 of this Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 212 of this Act) which are publicly owned, which pollutant interferes with, passes through, or otherwise is incompatible with such works.

"(2) The Administrator shall from time to time, as control technology, processes, operating methods, or other alternatives change, revise such standards following the procedure establish by this subsection for promulgation of such standards.

"(3) When proposing or promulgating any pretreatment standard under this section, the Administrator shall designate the category or categories of sources to which such standards shall apply.

"(4) Nothing in this subsection shall affect any pretreatment requirement established by any State or local law not in conflict with any pretreatment standard established under this subsection.

"INSPECTIONS, MONITORING, AND ENTRY

"SEC. 308. (a) Whenever required to carry out the objective of this Act, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 305, 311, 402, and 504 of this Act—

"(A) the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records; (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require; and

"(B) the Administrator or his authorized representative, upon presentation of his credentials—

"(i) shall have a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under clause (A) of this subsection are located, and

"(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (A), and sample any effluents which the owner or operator of such source is required to sample under such clause.

"(b) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"FEDERAL ENFORCEMENT

"SEC. 309. (a) (1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 301, 302, 306, 307, 308, or 316 of this Act in a permit issued by a State under an approved permit program under section 402 of this Act, he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

"(2) Whenever, on the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of 'federally assumed enforcement'), the Administrator shall enforce any permit condition or limitation with respect to any person—

"(A) by issuing an order to comply with such condition or limitation, or

"(B) by bringing a civil action under subsection (b) of this section.

"(3) Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 301, 302, 306, 307, 308, or 316 of this Act, or is in violation of any permit condition or limitation implementing any of such sections, in a permit issued under section 402 of this Act by him or by a State, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

"(4) A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, a copy of such order (or notice) shall be served on any appropriate corporate officers. An order issued under this subsection relating to a violation of section 308 of this Act shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation.

"(b) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection (a) of this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

"(c) (1) Any person who willfully or negligently violates section 301, 302, 306, 307, 308, or 316 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"(3) For the purposes of this subsection, the term 'person' shall mean, in addition to the definition contained in section 505(5) of this Act, any responsible corporate officer.

"(d) Any person who violates section 301, 302, 306, 307, 308, or 316 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator, or by a State, and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

"(e) Whenever a municipality is a party to a civil action brought by the United States under this section, the State in which such municipality is located shall be joined as a party. Such State shall be liable for payment of any judgment, or any expenses incurred as a result of complying with any judgment, entered against the municipality in such action to the extent that the laws of that State prevent the municipality from raising revenues needed to comply with such judgment.

"INTERNATIONAL POLLUTION ABATEMENT

"SEC. 310. (a) Whenever the Administrator, upon receipts of reports, surveys, or studies from any duly constituted international agency, has reason to believe that pollution is occurring which endangers the health or welfare of persons in a foreign country, and the Secretary of State requests him to abate such pollution, he shall give formal notification thereof to the State water pollution control agency of the State or States in which such discharge or discharges originate and to the appropriate interstate agency, if any. He shall also promptly call such a hearing, if he believes that such pollution is occurring in sufficient quantity to warrant such action, and if such foreign country has given the United States essentially the same rights with respect to the prevention and control of pollution occurring in that country as is given that country by this subsection. The Administrator, through the Secretary of State, shall invite the foreign country which

may be adversely affected by the pollution to attend and participate in the hearing, and the representative of such country shall, for the purpose of the hearing and any further proceeding resulting from such hearing, have all the rights of a State water pollution control agency. Nothing in this subsection shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1909 Boundary Waters Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of pollution in waters covered by those treaties.

"(b) The calling of a hearing under this section shall not be construed by the courts, the Administrator, or any person as limiting, modifying, or otherwise affecting the functions and responsibilities of the Administrator under this section to establish and enforce water quality requirements under this Act.

"(c) The Administrator shall publish in the Federal Register a notice of a public hearing before a hearing board of five or more persons appointed by the Administrator. A majority of the members of the board and the chairman who shall be designated by the Administrator shall not be officers or employees of Federal, State, or local governments. On the basis of the evidence presented at such hearing, the board shall within sixty days after completion of the hearing make findings of fact as to whether or not such pollution is occurring and shall thereupon by decision, incorporating its findings therein, make such recommendations to abate the pollution as may be appropriate and shall transmit such decision and the record of the hearings to the Administrator. All such decisions shall be public. Upon receipt of such decision, the Administrator shall promptly implement the board's decision in accordance with the provisions of this Act.

"(d) In connection with any hearing called under this subsection, the board is authorized to require any person whose alleged activities result in discharges causing or contributing to pollution to file with it in such forms as it may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the board may prescribe, and shall be filed with the board within such reasonable period as it may prescribe, unless additional time is granted by it. Upon a showing satisfactory to the board by the person filing such report that such report or portion thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge trade secrets or secret processes of such person, the board shall consider such report or portion thereof confidential for the purposes of section 1905 of title 18 of the United States Code. If any person required to file any report under this paragraph shall fail to do so within the time fixed by the board for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $1,000 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States in the district court of the United States where such person has his principal office or in any district in which he does business. The Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection.

"(e) Board members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing board business, entitled to receive compensation at a rate fixed by the Administrator but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

"(f) When any such recommendation adopted by the Administrator involves the institution of enforcement proceedings against any person to obtain the abatement of pollution subject to such recommendation, the Administrator shall institute such proceedings if he believes that the evidence warrants such proceedings. The district court of the United States shall consider and determine de novo all relevant issues, but shall receive in evidence the record of the proceedings before the conference or hearing board. The court shall have jurisdiction to enter such judgment and orders enforcing such judgment as it deems appropriate or to remand such proceedings to the Administrator for such further action as it may direct.

"OIL AND HAZARDOUS SUBSTANCE LIABILITY

"SEC. 311. (a) For the purpose of this section, the term—

"(1) 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

"(2) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

"(3) 'vessel' means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

"(4) 'public vessel' means a vessel owned or bare-boat-chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(5) 'United States' means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(6) 'owner or operator' means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an on-shore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

"(7) 'person' includes an individual, firm, corporation, association, and a partnership;

"(8) 'remove' or 'removal' refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

"(9) 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

"(10) 'onshore facility' means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land within the United States other than submerged land;

"(11) 'offshore facility' means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

"(12) 'act of God' means an act occasioned by an unanticipated grave natural disaster;

"(13) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit;

"(14) 'hazardous substance' means any substance designated pursuant to subsection (b)(2) of this section.

"(b)(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

"(2)(A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines and beaches.

"(B)(i) The Administrator shall include in any designation under subparagraph (A) of this subsection a determination whether any such designated hazardous substance is itself actually removable.

"(ii) The owner or operator of any vessel, onshore facility, or offshore facility from which there is discharged any hazardous substance determined not removable under clause (i) of this subparagraph shall be liable, subject to the defenses to liability provided under subsection (f) of this section, as appropriate to the United States for a civil penalty per discharge established by the Administrator based on toxicity, degradability, and disposal characteristics of such substance, in an amount not to exceed $50,000, except that where the United States can show that such discharge was a result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States for a civil penalty in such amount as the Administrator shall establish, based upon the toxicity, degradability, and disposal characteristics of such substance.

"(3) The discharge of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in harmful quantities as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharge of oil into the waters of the contiguous zone, where permitted under article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

"(4) The President shall by regulation, to be issued as soon as possible after the date of enactment of this paragraph, determine for the purposes of this section, those quantities of oil and any hazardous substance the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property shorelines, and beaches except that in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threaten the fishery resources of the contiguous zone or threaten to pollute or contribute to the pollution of the territory or the territorial sea of the United States may be determined to be harmful.

"(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (2) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

"(6) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (2) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

"(c)(1) Whenever any oil or a hazardous substance is discharged, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

"(2) Within sixty days after the effective date of this section, the President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances, pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to—

"(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

"(B) identification, procurement, maintenance, and storage of equipment and supplies;

"(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil and hazardous substance pollution control equipment and material, and a detailed oil and hazardous substance pollution prevention and removal plan;

"(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances to the appropriate Federal agency;

"(E) establishment of a national center to provide coordination and direction for operations in carrying out the Plan;

"(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances; and

"(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters.

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

"(d) Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil, or of a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil or hazardous substance.

"(e) In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and public and private property, shorelines, and beaches within the United States, because of an actual or threatened discharge of oil or hazardous substance into or upon the navigable waters of the United States from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

"(f)(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $100 per gross ton of such vessel or $14,000,000, whichever is lesser, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

"(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Secretary is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

"(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

"(g) In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is dischargd in violation of subsection (b)(2) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section, the liability of such third party under this subsection shall not exceed $100 per gross ton of such vessel or $14,000,000, whichever is the lesser. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

"(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) the United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

"(i)(1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Court of Claims, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing causes.

"(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act.

"(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the fund established pursuant to subsection (k).

"(j)(1) Consistent with the National Contingency Plan required by subsection (c)(2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil and hazardous substances, (B) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshores facilities, and to contain such discharges and (D) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

"(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulation, shall be liable to a civil penalty of not more than $5,000 for each such violation. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

"(k) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $35,000,000 to carry out the provisions of subsections (c), (d), (i), and (l) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

"(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and instrumentalities to carry out the provisions of subsections (c) and (i) of this section. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

"(m) Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i)(1), arising under this section. In the case of Guam and the Trust Territory of the Pacific Islands, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

"(o)(1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

"(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State.

"(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

"(p)(1) Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of $100 per gross ton, or $14,000,000 whichever is the lesser, to meet the liability to the United States which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility.

Any bond filed shall be issued by a bonding company authorized to do business in the United States.

"(2) The provisions of paragraph (1) of this subsection shall be effective April 3, 1971, with respect to oil and one year after the date of enactment of this section with respect to hazardous substances. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency head within sixty days after the date of enactment of this section. Regulations necessary to implement this subsection shall be issued within six months after the date of enactment of this section.

"(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

"MARINE SANITATION DEVICES

"SEC. 312. (a) For the purpose of this section, the term—

"(1) 'new vessel' includes every description of watercraft or other artificial contrivance

used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulations under this section;

"(2) 'existing vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;

"(3) 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(4) 'United States' includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

"(5) 'marine sanitation device' includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

"(6) 'sewage' means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

"(7) 'manufacturer' means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

"(8) 'person' means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

"(9) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"(b)(1) As soon as possible, after the enactment of this section and subject to the provisions of section 104(j) of this Act, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as 'standards') which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

"(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

"(c)(1) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

"(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, type, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessel (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

"(d) The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b)(1) of this section and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense.

"(e) Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

"(f)(1) After the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section.

"(2) If, after promulgation of the initial standards and regulations and prior to their effective date, a vessel is equipped with a marine sanitation device in compliance with such standards and regulations and the installation and operation of such device is in accordance with such standards and regulations, such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such vessel on the date of such compliance.

"(3) If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

"(g)(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

"(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

"(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by the Administrator or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

"(h) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

"(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

"(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

"(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

"(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

"(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g)(1) of this section and subsection (h)(1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and

give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(j) Any person who violates subsection (g)(1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

"(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section.

"(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(m) In the case of Guam and the Trust Territory of the Pacific Islands, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

"FEDERAL FACILITIES POLLUTION CONTROL

"SEC. 313. Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants shall comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with only such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

"CLEAN LAKES

"SEC. 314. (a) Each State shall prepare or establish, and submit to the Administrator for his approval—

"(1) an identification and classification according to eutrophic condition of all publicly owned fresh water lakes in such State;

"(2) procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes; and

"(3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes.

"(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section.

"(c)(1) The amount granted to any State for any fiscal year under this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

"(2) There is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973; and $150,000,000 for the fiscal year 1974 for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

"NATIONAL ACADEMIES STUDY

"SEC. 315. (a) The National Academy of Sciences and the National Academy of Engineering, acting through the National Research Council, shall make a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals set forth for 1981 in section 301(b)(2) of this title. A report shall be submitted to Congress of the results of such investigation and study, together with recommendations, not later than two years after the date of enactment of this title. Notwithstanding the provisions of section 301(b)(2) of this title or any other provision of this Act to the contrary, effluent limitations, goals, and policies established for 1981 for point and nonpoint sources (other than publicly owned treatment works) and later years for point and nonpoint sources, by this Act shall not take effect until such time as Congress shall, by statute enacted after the submission of the report required by this subsection, specifically so provide.

"(b) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Academies in carrying out the requirements of subsection (a) of this section, and shall furnish to such Academies such information as the Academies deem necessary to carry out this section.

"(c) There is authorized to be appropriated to the President, for use in carrying out this section, not to exceed $15,000,000.

"REGULATION OF THERMAL DISCHARGES

"SEC. 316. (a) As soon as practicable, but not later than one year after enactment of this section, the Administrator shall issue proposed regulations with respect to control of thermal discharges.

"(b) Such proposed regulations shall recognize that the optimum method of control of any thermal discharge may depend upon local conditions, including the type and size of the receiving body of water. The regulations shall require any person proposing to make such a discharge to consider all alternative methods for controlling such a discharge, including, but not limited to (1) utilization of available water bodies or cooling devices, including once-through cooling, mixing zones, cooling ponds, spray ponds, evaporative or nonevaporative cooling towers, (2) dilution of heated waters with cooler waters, and (3) an alteration of the outlet configuration. In evaluating such alternative methods of control consideration shall be given to (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources, and (4) methods of minimizing adverse effects and maximizing beneficial effects of such discharges.

"(c) The Administrator shall afford interested persons an opportunity, not to exceed sixty days, for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, final regulations. The Administrator shall, from time to time, as technology and alternatives change, revise such regulations.

"(d) Such regulations shall apply to thermal discharges from all sources, unless the Administrator determines, after a public hearing requested by the owner or operator of a point source, that the economic and social costs of implementing the regulations at a point source bear no reasonable relationship to the economic and social benefits (including water quality objectives) to be attained. Any such determination shall be accompanied by an appropriate adjustment of such regulations for such source, which shall reflect the greatest degree of control which the Administrator determines can reasonably be achieved at such source.

"(e) The provisions of this section shall apply to point sources owned or operated by the United States or instrumentalities thereof.

"FINANCING STUDY

"SEC. 317. (a) The Administrator shall continue to investigate and study the feasibility of alternate methods of financing the cost of preventing, controlling and abating pollution as directed in the Water Quality Improvement Act of 1970 (Public Law 91-224), including, but not limited to, the feasibility of establishing a pollution abatement trust fund. The results of such investigation and study shall be reported to the Congress not later than two years after enactment of this title, together with recommendations of the Administrator for financing the programs for preventing, controlling and abating pollution for the fiscal years beginning after fiscal year 1976, including any necessary legislation.

"(b) There is authorized to be appropriated for use in carrying out this section, not to exceed $1,000,000.

"AQUACULTURE

"SEC. 318. (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision.

"(b) The Administrator shall by regulation, not later than January 1, 1974, establish any procedures and guidelines he deems necessary to carry out this section.

"TITLE IV—PERMITS AND LICENSES

"CERTIFICATION

"SEC. 401. (a)(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will

originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 306, 307, and 316 of this Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302, and there is not an applicable standard under sections 306 and 307, and there is not an applicable regulation under section 316, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(d) of this Act. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

"(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirement in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

"(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 301, 302, 306, 307, and 316 of this Act because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 301, 302, 306, 307, or 316 of this Act.

"(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations of other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 301, 302, 306, 307, or 316 of this Act.

"(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act that such facility or activity has been operated in violation of the applicable provisions of section 301, 302, 306, 307, or 316 of this Act.

"(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

"(7) In any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or a certification and otherwise meets the requirements of this section.

"(b) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

"(c) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

"(d) Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, or any regulation under section 316 of this Act, and shall become a condition on any Federal license or permit subject to the provisions of this section.

"NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

"SEC. 402. (a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants or any thermal discharge, notwithstanding section 301(a), upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, 316, and 403 of this Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

"(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

"(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

"(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

"(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator may authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins

on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 304(h)(2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

"(b) At any time after the promulgation of the guidelines required by subsection (h)(2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

"(1) To issue permits which—

"(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

"(B) are for fixed terms not exceeding five years; and

"(C) can be terminated or modified for cause including, but not limited to, the following:

"(i) violation of any condition of the permit;

"(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

"(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

"(D) control the disposal of pollutants into wells;

"(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

"(B) Except with respect to sources owned or operated by the United States, to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

"(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

"(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

"(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

"(6)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 316 of this Act; or

"(B) Except with respect to sources owned or operated by the United States, to apply and enforce control of thermal discharges from point sources located in such State to at least the same extent as is provided in section 316 of this Act;

"(7) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby; and

"(8) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

"(c)(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those navigable waters subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(h)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

"(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(h)(2) of this Act.

"(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have made public, in writing, the reasons for such withdrawal.

"(d)(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

"(2) No permit shall issue if the Administrator within sixty days of the date of his notification under subsection(b)(5) of this section objects in writing to the issuance of such permit.

"(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

"(e) In accordance with guidelines promulgated pursuant to subsection (h)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this subsection at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

"(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

"(g) The Administrator or any State shall not issue a permit under this section for any point source unless such permit shall assure the maintenance or enhancement of the quality of any affected waters.

"(h) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

"(i) In the event any condition of a permit for discharges from a treatment works (as defined in section 210 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

"(j) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of his Act.

"(k) A copy of each permit application and each permit issued under this section shall be available to the public, in an appropriate place (1) in each State; (2) in a regional office of the Environmental Protection Agency; or (3) with the Administrator, whichever is appropriate. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

"(l) Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, 316, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until January 1, 1976, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, and such discharge is not in violation of any applicable water quality standard under subsections (a) and (b) of section 303 of this Act, and is not in violation of any applicable regulation under section 316 of this Act, such discharge shall not be a violation of (1) this Act (other than an order under section 504), or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

"OCEAN DISCHARGE CRITERIA

"SEC. 403. (a) No permit under section 402 of this Act for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established under subsection (c) of this section, except in compliance with such guidelines.

"(b) The requirements of subsection (d) of section 402 of this Act may not be waived in the case of permits for discharges into the territorial sea.

"(c)(1) The Administrator shall, within one hundred and eighty days after enactment of this Act (and from time to time thereafter), promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans, which shall include:

"(A) the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

"(B) the effect of disposal of pollutants on marine life including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes; changes in marine ecosystem diversity, productivity, and stability; and species and community population changes;

"(C) the effect of disposal, of pollutants on esthetic, recreation, and economic values;

"(D) the persistence and permanence of the effects of disposal of pollutants;

"(E) the effect of the disposal at varying rates, of particular volumes and concentrations of pollutants;

"(F) other possible locations and methods of disposal or recycling of pollutants including land-based alternatives; and

"(G) the effect on alternate uses of the oceans, such as mineral exploitation and scientific study.

"(2) In any event where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines established pursuant to this subsection no permit shall be issued under section 402 of this Act.

"PERMITS FOR DREDGED OR FILL MATERIAL

"SEC. 404. (a) The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearing, for the discharge of dredged or fill material into the navigable waters, where the Secretary determines that such discharge will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

"(b) In making the determination required by subsection (a) of this section as to whether a permit may be issued, the Secretary shall apply any guidelines which have been promulgated by the Administrator pursuant to section 403(c)(1), together with an evaluation by the Secretary of the effect on navigation, economic and industrial development, and foreign and domestic commerce of the United States. In applying the guidelines established by the Administrator, the Secretary shall consult with the Administrator and shall give due consideration to the views and recommendations of the Administrator in that regard and also in regard to the designations of the Administrator of recommended sites for disposal. The Secretary may issue no permit for discharge of dredged or fill material which would violate the designation of the Administrator, found necessary to protect critical areas, of a site within which certain material may not be discharged. In regard to the designation of recommended sites or sites where certain material may not be discharged, the Secretary after consultation with the Administrator, need not follow the designation of the Administrator where the Secretary certifies that there is no economically feasible alternative reasonably available.

"(c) In connection with Federal projects involving dredged or fill material the Secretary may, in lieu of the permit procedure, issue regulations to govern the discharge of dredged or fill material into the navigable waters which shall require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirement which are made applicable to the issuance of permits under subsections (a) and (b) of this section.

"TITLE V—GENERAL PROVISIONS

"ADMINISTRATION

"SEC. 501. (a) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

"(c) Each recipient of financial assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(d) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act.

"(e)(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Administrator shall, in consultation with the appropriate State water pollution control agencies, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality requirements under this Act, or otherwise does not have a satisfactory record with respect to environmental quality.

"(2) The Administrator shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established under this subsection.

"(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Administrator and the awarding of such recognition shall be published in the Federal Register.

"(f) Upon the request of a State water pollution control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

"GENERAL DEFINITIONS

"SEC. 502. Except as otherwise specifically provided, when used in this Act:

"(1) The term 'State water pollution control agency' means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

"(2) The term 'interstate agency' means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

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

"(4) The term 'municipality' means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of this Act.

"(5) The term 'person' means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

"(6) The term 'pollutant' means, but is not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, agricultural, and other waste discharged into water. This term does not mean (A) 'sewage from vessels' within the meaning of section 312 of this Act; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines the injection or disposal of such water, gas, or other material will not result in the degradation of ground or surface water resources; or (C) thermal discharges in accordance with regulations issued pursuant to section 316 of this Act; or (D) organic fish wastes.

"(7) The term 'pollution' means the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

"(8) The term 'navigable waters' means the navigable waters of the United States, including the territorial seas.

"(9) The term 'territorial seas' means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

"(10) The term 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

"(11) The term 'ocean' means any portion of the high seas beyond the contiguous zone.

"(12) The term 'effluent limitation' means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents (other than thermal discharges) which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules and timetables for compliance.

"(13) The term 'discharge of a pollutant' and the term 'discharge of pollutants' each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

"(14) The term 'toxic pollutant' means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) and physical deformations, in such organisms or their offspring.

"(15) The term 'point source' means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, or from which there is or may be a thermal discharge.

"(16) The term 'biological monitoring' shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain, appropriate to the volume and the physical, chemical, and bio-

logical characteristics of the effluent, and (B) at appropriate frequencies and locations.

"(17) The term 'thermal discharge' means the introduction of water into the navigable waters or the waters of the continguous zone from a point source at a temperature different from the ambient temperature of the receiving waters.

"(18) The term 'discharge' when used without qualification includes a discharge of a pollutant, a discharge of pollutants, and a thermal discharge.

"WATER POLLUTION CONTROL ADVISORY BOARD

"SEC. 503. (a)(1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of pollution prevention and control, as well as other individuals who are expert in this field.

"(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding them.

"(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

"(b) The Board shall advise, consult with, and make recommendations to the Administrator on matters of policy relating to the activities and functions of the Administrator under this Act.

"(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Environmental Protection Agency.

"EMERGENCY POWERS

SEC. 504. Notwithstanding any other provision of this Act, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

"CITIZEN SUITS

"SEC. 505. (a) Except as provided in subsection (b) of this section, any citizen may commence a civil action on his own behalf—

"(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (A) an effluent standard or limitation under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, and to apply any appropriate civil penalties under section 309(d) of this Act.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

"(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any citizen may intervene as a matter of right.

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of sections 301, 302, 306, and 307 of this Act, or in violation of a permit, or conditions thereunder, issued by the Administrator under section 402 of this Act, or in violation of an order issued by the Administrator pursuant to section 309 of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c)(1) Any action respecting a violation by a discharge source of an effluent standard or limitation or an order respecting such standard or limitation may be brought under this section only in the judicial district in which such source is located.

"(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any effluent standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

"(f) For purposes of this section, the term 'effluent standard or limitation under this Act' means (1) effective July 1, 1973, an unlawful act under subsection (a) of section 301 of this Act; (2) an effluent limitation or other limitation under section 301 or 302 of this Act; (3) standard of performance under section 306 of this Act; (4) prohibition, effluent standard or pretreatment standard under section 307 of this Act; (5) certification under section 401 of this Act; or (6) a permit or condition thereof issued under section 402 of this Act, which is in effect under this Act (including a requirement applicable by reason of section 313 of this Act).

"(g) For the purposes of this section the term 'citizen' means (1) a citizen (A) of the geographic area and (B) having a direct interest which is or may be affected, and (2) any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy.

"(h) A Governor of a State may commence a civil action under subsection (a), without regard to the limitations of subsection (b) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce an effluent standard or limitation under this Act the violation of which is occurring in another State and is causing an adverse effect on the public health or welfare in his State, or is causing a violation of any water quality requirement in his State.

"APPEARANCE

"SEC. 506. The Administrator shall request the Attorney General to appear and represent the United States in any civil or criminal action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator within a reasonable time, that he will appear in a civil action, attorneys who are officers or employees of the Environmental Protection Agency shall appear and represent the United States in such action.

"EMPLOYEE PROTECTION

"SEC. 507. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

"(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secreatry of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was

no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

"(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

"(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition of effluent limitation or other limitation under section 301 or 302 of this Act, standards of performance under section 306 of this Act, effluent standard, prohibition or pretreatment standard under section 307 of this Act, thermal discharge regulation under section 316 of this Act, or any other prohibition or limitation established under this Act.

"FEDERAL PROCUREMENT

"SEC. 508. (a) No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 309(c) of this Act, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than one hundred and eighty days after enactment of this Act, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

"(e) The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

"ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

"SEC. 509. (a) In connection with any determination under section 301(b)(3) of this Act, or for purposes of obtaining information under section 305 of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b) Review of the Administrator's action (1) in promulgating any standard of performance under section 306, (2) in making any determination pursuant to section 306(b)(1)(C), (3) in promulating any effluent standard, prohibition, or treatment standard under section 307, (4) in making any determination as to a State permit program submitted under section 402(b), (5) in approving or promulgating any effluent limitation or other limitation under section 301, 302, or 306, and (6) in issuing or denying any permit under section 402, may be had by any interested persons in the district court of the United States for the district in which such person resides or transacts such business upon application by such person. Any such application shall be made within thirty days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such thirtieth day.

"(c) In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms, and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"STATE AUTHORITY

"SEC. 510. Except as expressly provided in this Act, nothing in this Act shall (1) preclude or deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce (A) any standard or limitation respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution; except that if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation is in effect under this Act, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation under this Act; or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

"OTHER AFFECTED AUTHORITY

"SEC. 511. (a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899 (30 Stat. 1112); except that any permit issued under section 404 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Act of March 3, 1899, or (3) affecting or impairing the provisions of any treaty of the United States.

"(b) The consultation and coordination requirements of the Act of March 10 1934, as amended (16 U.S.C. 661, et seq.), shall apply under this Act only to the provisions of (1) section 306 of this Act; (2) the publication of information under section 304 of this Act; and (3) the establishment of guidelines under section 403 of this Act.

"(c) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441–451b) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

"(d) The requirements of the National Environmental Policy Act of 1969 (83 Stat. 852) as to water quality considerations shall be deemed to be satisfied—

"(1) by certification pursuant to section 401 of this Act with respect to any Federal license or permit for the construction of any activity; and

"(2) by certification pursuant to section 401 of this Act and the issuance of a permit pursuant to section 13 of the Act of March 3, 1899, or section 402 of this Act with respect to any Federal license or permit for the operation of any activity.

"SEPARABILITY

"SEC. 512. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

"LABOR STANDARDS

"SEC. 513. The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this Act shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., sec. 276a through 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

"AGRICULTURAL FACILITIES

"SEC. 514. In the case of any water pollution control facility required to be constructed for any property used for any agricultural purpose, no owner or operator of any such property shall be required to expend any funds for the construction of any such facility (A) until a plan for such facility and its operation shall have been approved by the Administrator; and (B) until a certification by the Administrator that such plan, and the construction and operation of any facility in accordance with such plan, will not result in a violation of the laws or regulations of any local, State, or Federal health agency or other governmental agency.

"EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

"SEC. 515. (a)(1) There is established an Effluent Standards and Water Quality Information Advisory Committee, which shall be composed of a Chairman and eight members who shall be appointed by the Administrator within sixty days after the date of enactment of this Act.

"(2) All members of the Committee shall be selected from the scientific community, qualified by education, training, and experience to provide, assess, and evaluate scientific and technical information on effluent standards and limitations.

"(3) Members of the Committee shall serve for a term of four years, and may be reappointed.

"(b)(1) No later than one hundred and eighty days prior to the date on which the Administrator is required to publish any proposed regulations required by section 304 (b) of this Act, any proposed standard of performance for new sources required by section 306 of this Act, or any proposed toxic effluent standard required by section 307 of this Act, he shall transmit to the Committee a notice of intent to propose such regulations. The Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee, to be held within thirty days.

"(2) No later than one hundred and twenty days after receipt of such notice, the Committee shall trasnmit to the Administrator such scientific and technical information as is in its possession, including that presented at any public hearing, related to the subject matter contained in such notice.

"(3) Information so transmitted to the Administrator shall constitute a part of the administrative record and comments on any proposed regulations or standards as information to be considered with other comments and information in making any final determinations.

"(4) In preparing information for transmittal, the Committee shall avail itself of the technical and scientific services of any Federal agency, including the United States Geological Survey and any national environmental laboratories which may be established.

"(c)(1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary. The Committee shall appoint such other employees as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title V of the United States Code.

"(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GSX18, as provided in the General Schedule under section 5332 of title V of the United States Code.

"(d) Five members of the Committee shall constitute a quorum, and official actions of the Committee shall be taken only on the affirmative vote of at least five members. A special panel composed of one or more members upon order of the Committee shall conduct any hearing authorized by this section and submit the transcript of such hearing to the entire Committee for its action thereon.

"(e) The Committee is authorized to make such rules as are necessary for the orderly transaction of its business.

"REPORTS TO CONGRESS

"SEC. 516. (a) Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report, in addition to any other report required by this Act, on measures taken toward implementing the objective of this Act, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 102 of this Act, areawide plans under section 208 of this Act, basin plans under section 209 of this Act, and plans under section 303(e) of this Act; (2) a summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under such Act during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this Act; (7) a summary of the results of the survey required to be taken under section 210 of this Act; (8) his activities including recommendations under sections 109 through 111 of this Act; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

"(b) The Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, shall make (1) a detailed estimate of the cost of carrying out the provisions of this Act; (2) a detailed estimate, biennially revised, of the cost of construction of all needed publicly owned treatment works in all of the States and of the cost of construction of all needed publicly owned treatment works in each of the States; (3) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (4) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as established by this Act or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the Administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

"GENERAL AUTHORIZATION

"SEC. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 206, 207 208 (f) and (h) 209, 304, 311 (c), (d), (l), (l), and (k), 314, 315, and 317, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, and $350,000,000 for the fiscal year ending June 30, 1975.

"SHORT TITLE

"SEC. 518. This Act may be cited as the 'Federal Water Pollution Control Act'."

Mr. BLATNIK (during the reading). 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 Minnesota?

Mr. DINGELL. Mr. Chairman, reserving the right to object, I know my good friend and colleague from Minnesota is always agreeable, and I ask the gentleman if he will agree that we will not find ourselves faced with an undue limitation on time.

Mr. BLATNIK. We certainly hope not. Our only purpose in doing this is because of the nature of the section, which encompasses all five titles. Several amendments will touch some two or perhaps three of the titles simultaneously, so they would be rather small amendments which would be confusing in a technical sense. This will expedite matters and make much clearer the intent, if we do as I have requested unanimous consent to do, and it certainly will not restrict us. It should not. I certainly shall see that we give the fullest consideration to these important amendments.

Mr. DINGELL. Mr. Chairman, I am well satisfied, and I thank my good friend for his gracious assurance. I withdraw my reservation.

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

There was no objection.

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

Mr. McCLORY. Mr. Chairman, I wish first of all to commend the committee on producing a comprehensive measure designed to reduce water pollution throughout the Nation and to authorize funding which can lead toward reduction and eventual elimination of municipal wastes and other resources of contamination of our waterways.

Mr. Chairman, there is a broad area of distinction between this bill and the measure passed earlier in the other body (S. 2770). Many persons have the feeling that S. 2770 is the panacea for all our water pollution woes—and are recommending to the Members of this House that we amend the pending bill to make it identical with the Senate version.

Mr. Chairman, it seems to me that by establishing a target date of 1976 for the initial cleanup goals of the major sources of water pollution, we will be meeting the standard established in the other body. In addition, insofar as the 1981 and 1986 goals for the intended elimination of all pollution are concerned, we should be better informed as to precisely where we are going.

The provision in the pending bill which would require a study by the National Academy of Science upon which the 1981 and 1985 target dates would be established is, in my opinion, quite valid and

responsible. To establish a final "no discharge" target at this time—without clear evidence that such a goal is possible—and with virtually no reliable estimate as to cost—if funds alone can accomplish such a result—would seem most inadvisable.

Mr. Chairman, in expressing myself in this way on behalf of the House bill, I do not want to indicate that I will not be supporting various amendments which may be proposed in the course of the debates. Indeed, it is my intention to vote in favor of various amendments which I expect will be offered. In that connection, I will comment on the amendments at that time and will endeavor to vote consistently with a long-range and meaningful program to reduce sources of pollution wherever they exist throughout the Nation. Again, let me commend the committee for producing a strong and comprehensive bill which should be most encouraging to the American public, one that demonstrates that the Congress is determined to take necessary legislative action to improve the waters of our Nation.

AMENDMENT OFFERED BY MR. REUSS

Mr. REUSS. Mr. Chairman, I offer an amendment, known as the title III, section 301 and section 315 Reuss-Dingell-Saylor package amendment.

The Clerk read as follows:

Amendment offered by Mr. REUSS: Page 267, line 19, strike the words "except as provided in section 315,"; and

Page 346, strike the sentence beginning on line 19 and ending on line 2, page 347.

Mr. REUSS. Mr. Chairman, section 301 of the reported bill provides that all polluters shall install by 1981 the best available technology, taking into consideration cost factors related to such technology. This same provision is found in the bill S. 2770, passed by the Senate last November 86 to 0.

It is a most reasonable provision. We should insist that within the next decade polluters must move toward establishment of the best available technology to treat their wastes before discharging them, or to avoid discharging them, into the waters of our country.

We find, however, that section 301 (b) (2) of the bill contains a clause that refers to another section of the bill, namely section 315. In that section we find that the reported bill provides for a study to be conducted by the National Academy of Sciences and the National Academy of Engineering concerning the soundness of this requirement for 1981.

We, of course, do not object to such study. But what we do object to is the fact that the bill delays the effectiveness of the 1981 requirement until: First, the study is completed; second, a report is submitted to Congress some time in 1974; and third, the 94th Congress, or some later Congress, passes a new law establishing the 1981 limitation that we are considering today.

Even with this requirement there are several factors that must be applied in assessing the best available technology. For example, there are such factors as the age of equipment and the facilities involved, the process employed, the cost and the economic, social, and environmental impact of achieving this degree of effluent reduction. Foreign competition also will be considered.

In addition, the bill provides a means for extending the 1981 deadline an additional 2 years where it is not physically or legally possible to complete the necessary changes by 1981.

Let me emphasize at this point that the 1981 limitation does not mandate a no-discharge requirement. The no-discharge goal which is set forth earlier in the bill is for 1985, and it is merely a goal, not a requirement. Our amendment does not affect that goal in any way.

Our amendment would delete the provision in section 315 which delays the 1981 requirement until some future act of Congress. Our amendment would not affect the study by the National Academies. That study would, of course, be made and the results of the studies made available to Congress. The Congress will then have ample opportunity to consider the results of the study. If we find that we need legislation to modify the 1981 requirement, we can act then.

But we think that we have enough information today to establish this requirement for 1981 now. We think it is misleading to the public to state in one portion of the bill that a goal of "best available technology" for 1981 is sound, but then refuse to establish it as a requirement until such time as a future Congress passes a new law.

We think it is time we establish a mechanism by which we can insure long range planning for industry and avoid the countless changes that have occurred for industry over the last several years.

If we allow further delay, we will find that the cost of pollution control will increase. Polluters will be forced to install minimal treatment which may not be compatible with the future systems that may be necessary for 1981. Establishment of the 1981 requirement today will influence and encourage the use of greater technology at reasonable costs.

Mr. Chairman, this is the amendment which would make the bill mean what it seems to mean about making the year 1981—that is 10 years from now—a year in which the best available technology, taking into consideration costs, should be the rule of the road for water pollution. Our amendment would, as I say, make the bill mean what it seems to mean.

The bill before us now says just what I have said, but then it goes on to say that it does not really mean it, that there will have to be a study taking several years by the National Academy of Sciences and the National Academy of Engineering and then, after these august bodies have submitted their report, a future Congress will have to enact the standard.

Well, this is just saying that H.R. 11896 hath given, H.R. 11896 hath taken away, and the public is not going to regard H.R. 11896 as very blessed in this particular, because we do shirk what seems to me our obligation to set up a standard.

The 1981 standard in the bill, if it were not repealed by a later section of the bill, is an excellent standard. It requires all sorts of factors to be taken into account, such as the age of the equipment, the process employed, the costs, the economic, social, and environmental impact, and the impact of foreign competition.

Let me emphasize that the 1981 limitation I am talking about does not mandate a no-discharge requirement. That is done by the 1985 sweet by-and-by goal, which is not a statutory requirement at all and which this amendment would in no way affect. Our amendment would simply delete the provision in section 315 which delays the 1981 requirement until some future act of Congress.

Our amendment would not affect the study by the national academies. That would go on just as in the case of the air pollution law now on the statute books. Congress would have ample opportunity to study these reports and, if it sees fit, alter the 1981 standard. But what is important is that industry and the States know now what the standards are. Otherwise industry, with the best of good faith, is going to start on a career of water pollution control which later law may change.

So, I would hope that this amendment No. 1 in the clean water package, supported by some 30 organizations, would be adopted. This would conform it in general with the bill unanimously passed by the other body, and I believe it is the right thing to do.

Mr. GROSS. Will the gentleman yield?

Mr. REUSS. I am glad to yield to my friend from Iowa.

Mr. GROSS. The gentleman keeps reverting to his amendment as "our amendment." Would he say what "our" in this case means?

Mr. REUSS. Yes. I certainly will. "Our" is a group which started with 11 and then became 30 and 40 and 70 and 140, and I hope that the word "our" will refer to a majority of this body when the teller vote with clerks procedure is undertaken in just a few minutes. I suppose the possessive pronoun "our" also refers to the whole series of organizations, the League of Women Voters and some of our great labor union organizations and a dozen or more conservation organizations, a total of some 30 of them, which believe that this bill can be substantially improved by adding to it the six principal amendments that we are offering here today, of which this is No. 1.

Mr. GROSS. In other words, it takes in all outdoors as well as indoors. Is that correct?

Mr. REUSS. The gentleman, as usual, has said it all, and I thank him.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment. It is not pleasant for me to be in the posture of opposing an amendment offered by my distinguished colleague from Wisconsin and my very good friend HENRY REUSS. Perhaps it is not pleasant for any of us to be in the posture of opposing an amendment that comes to us under the well-intentioned aegis of any environmental organization. I honor the credentials of the gentleman from Wisconsin; I honor his dedication to the ideals of a clean environment.

But what he would do in this amendment would remove from the bill the very critical triggering factors that leave it

to the Congress of the United States to determine, after a thorough study by the National Academy of Sciences and the National Academy of Engineers, just what the cost environmentally, sociologically, and economically will be of achieving these ambitious goals that are contained in the House and Senate bills.

Now, Mr. Chairman, admittedly, the Senate bill is more ambitious in its concepts. It holds out the total expectation of no discharge of any kind into any stream in the United States by 1975 as a policy of the United States.

We, in our bill, hold this out as a goal. Certainly, everyone wants to achieve that goal. Certainly, everyone would like to see marihuana stopped in the next 5 years for example. But we cannot simply set a goal and say there will be no more marihuana in use in the United States in the next 5 years and have any realistic expectation that our promise will come true.

Surely, we would like to pass a law and say that there will be no more poverty in the United States in the next 5 years. However, saying it and doing it are two different things.

The House bill promises performance and in my judgment it will produce performance. But it promises no more than we honestly believe it will perform.

Mr. Chairman, Larry O'Brien said something the other day which I feel is worth repeating here. He said that public officials have gained the reputation, unfortunately, among much of the electorate of being big promisers and cruel deceivers. So I think the choice confronts us here as to whether we shall promise big and perform relatively less, or perform more and promise no more than we know we can perform.

The House bill authorizes, a thorough, comprehensive study by the National Academy of Sciences to determine the feasibility and costs of achieving these laudible, ambitious goals.

Let me recite to you the words of Senator MUSKIE, the sponsor of the bill in the other body, when commenting upon this question. He said:

> The committe realizes that there is insufficient evidence to implement the policies and objectives of this Act without additional information.

He said further:

> Consequently, the 1985 deadline for achieving no discharge of pollutants is a policy objective. It is not locked in concrete. It is not enforceable. It simply establishes what the committee thinks ought to be done on the basis of present knowledge.

Then later on in the debate Senator PEARSON asked this perceptive question:

> The other question I wish to ask the Senator is whether some estimate or judgment has been made as to the cost of achieving zero pollution by 1985, both as to capital cost and operative cost.

Now, listen to the answer which was given by Senator MUSKIE:

> There are no estimates of that kind that, in my judgment, have any validity.

He later states:

> But the 1985 target has not been related to cost. The bill does provide for water quality inventories which by the mid-seventies are designed to give us some hard estimates as to the cost of achieving no pollution discharge by 1985. When we have that information, then it will be for Congress to decide whether achieving no discharge by 1985 is within the ability of the American people to absorb the cost.

So, Mr. Chairman, this is what we provide for in this bill. When this learned academy reports to us after 2 years we shall sit down and see what the costs of achieving the 1981 and 1985 goals will be. Then we shall be in a position to act knowledgeably and responsibly.

Some of the most knowledgeable people in the field have represented to the committee in lengthy testimony the probability that removing the last 3 percentage points of pollution based upon our present knowledge and our projected technology may cost as much as the total cost—and, I am not speaking in terms of billions, I am speaking in terms of hundreds of billions of dollars—for removing the first 97 percent.

Mr. Chairman, Governor Rockefeller testified that in order to achieve no discharge in his State, the State of New York alone, it would cost something like $275 billion. We need to know the costs before we make irrevocable promises. Therefore, I urge that the amendment be rejected.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent (at the request of Mr. GROSS) Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course I yield to the gentleman from Iowa.

Mr. GROSS. In view of the statement by Mr. MUSKIE, what does the Senate bill provide? Does it provide for 1985 and no study?

Mr. WRIGHT. The Senate bill does not provide for any study whatever.

Mr. GROSS. Although the target date is 1985 or 1981?

Mr. WRIGHT. The Senate bill provides a 1981 requirement of best available technology and a policy of no discharge by 1981. The best available technology, regardless of the cost or the demonstrated capability within American industry and American research to achieve that goal and the author of the Senate bill admits that we do not know what the cost is going to be.

That is a fine objective, and we are for it, but we want to know what the cost is going to be.

Mr. GROSS. I assume from what the gentleman has said, and despite what he read from the statement of Senator MUSKIE, that the Senator then went right ahead and voted for the bill?

Mr. WRIGHT. Of course he did. Every Member of the Senate present at the time voted for the bill, I will say to the distinguished gentleman from Iowa. But I want to say further that what we provide in the House bill is what the majority of the people in the Senate thought they were providing for in the Senate bill.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(On request of Mr. HORTON, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. Mr. Chairman, I thank the gentleman for the additional time.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course I will yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I appreciate the gentleman from Texas yielding to me. I have great respect for the gentleman from Wisconsin (Mr. REUSS) and the position that he takes, as I am sure the gentleman in the well also has. I am concerned about the statement that the gentleman from Wisconsin made with regard to the uncertainty that business would have if the committee bill was adopted. I would wish that the gentleman in the well would make some comment with regard to the cost problem.

Mr. WRIGHT. Numerous representatives of industry are fearful that, if we require these objectives that we have set forth without a study of what they will cost, it might conceivably put them at a competitive disadvantage with foreign competitors to the extent that they would have to move to other lands to conduct their business, rather than to comply with these objectives which might be prohibitively costly. I do not know what they will cost. I do not believe anybody knows what they will cost. I do not believe the gentleman from Wisconsin knows what they will cost.

I think the Congress should know what they will cost, what the alternatives are, what is the best available and what is the next best available, and some relation of benefit to cost in achieving the objectives we seek to achieve. It is for this purpose that the House bill creates the study to which this debate refers.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Mr. Chairman, I will first yield to the gentleman from Maryland (Mr. LONG) and then if I have sufficient time to do so I will again yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. I thank the gentleman.

Mr. WRIGHT. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I want to start cleaning up our waters, and I want to do so without delay. Will the House bill as it stands start us right now on the road toward cleaning up our water, and greatly cutting down on undesirable discharges?

Mr. WRIGHT. Absolutely, beyond any question or doubt, the House bill represents the most significant advance in pollution abatement in this country that has ever been undertaken. It is stronger than the Senate bill in the amount of help it provides to assist municipalities and the States to achieve these objectives.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ZION. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I think all of us on the committee share a sincere desire to clean up our water. There is little question about that. But the question of cost is something that we are unable to answer.

The gentleman from Texas (Mr. WRIGHT) said it would cost somewhere in excess of $2.3 billion to put this into effect in the State of New York. Extrapolating that figure, we find that we are talking of something in the nature of $2.5 trillion insofar as it affects this country, which is considerably more than the gross national product of the world.

There is also this question concerning unemployment. We had but one industry testify before our committee, and that was the paper industry. They said that if they could have considerably more electric power than they are getting—and we all know that there is a very dim future for increases in electric power—the production of increased electric power often causes pollution itself—that they might be able to comply with this legislation. But it would result in a price increase of between 50 and 60 percent. They then testified that this would wind up the paper industry in this country, and we would forfeit the papermaking industry to Canada and Sweden.

So we are concerned about unemployment. When this bill came before us I sought some help from the AFL–CIO. I talked to their chief economist. They were going to send somebody over to talk to me about it. Several times I tried to get a little more attention from them, to see if they were interested in this problem, but they never did contact me.

Then on the day the bill was written up we received a new section 6, which was going to be presented from the AFL–CIO, which not only anticipates massive unemployment, but which would give them the opportunity to create the largest new welfare bill in the history of this country.

Let me read part of what they were proposing here under a new section 6:

Declaration of Policy. The Congress hereby finds and declares that closure and/or reduction of employment in workplaces subject to provisions of the Act are matters of serious national concern. Therefore, in order to prevent and relieve such adverse consequences to employees, employers and communities which otherwise may result from strong environmental control standards and their vigorous enforcement a program of federal regulation and assistance is hereby created.

Look at what they want to do. They want to maintain a continuous evaluation of all private industry as to potential employment loss within a community or facility which he has reason to believe or it is alleged will result from a standard or an order issued under this act.

That is rather extensive. They recognize that the possibility of loss of employment may well go up into the millions.

According to their proposed amendment—

Where the Administrator has found and determined that unemployment loss of 15 or more jobs from a facility or a single community has resulted from a standard or enforcement order issued under this Act, he may provide economic assistance to such individuals.

In other words, this is creating a brand new welfare program for the hundreds of thousands or millions of people who might be unemployed under this act.

Look at what else is included:

Where such job loss has been alleged by the owner or operator of a facility as stemming from a standard or enforcement order under this Act, * * *

If a man loses his job and it is alleged that he lost his job because of this strong pollution bill—

Such owner or operator shall reimburse the United States Government for all sums expended for assistance under this Title.

My colleagues, if there are serious questions about the cost of this bill and certainly there are if some people think it is going to cost over $2 trillion—if there are serious questions about the unemployment effect of this bill, as the AFL–CIO anticipates massive unemployment and wants to convert this to a massive welfare bill—I think this is something that should be looked at.

Mr. Chairman, I do not think we can disregard the need for future congressional action after the National Academy studies to do so would simply emasculate this legislation of its commonsense approach to cleaning up our environment.

Our prescribed obligations in all matters of public concern is to legislate responsibility. We must recognize that effluent limitations, goals, and policies set forth in this bill will have major impacts upon all elements of our modern society.

Until we know more precisely what effect this bill will have on costs and employment, we have no right to commit future generations to its provisions.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment, and all amendments thereto, close in 10 minutes.

Mr. DINGELL. Mr. Chairman, I object.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment, and all amendments thereto, close in 20 minutes.

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

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. GUBSER) is recognized.

Mr. GUBSER. Mr. Chairman, I take this time in order to ask a question of the gentleman from Wisconsin (Mr. REUSS).

I do not know how it started—I presume some Washington organization notified a number of my constituents regarding this bill but I received numerous identical telegrams, all of which asked me to support the "Tingell-Reuss" substitute.

I wonder if the gentleman from Wisconsin could inform me as to who "Mr. Tingell" is.

Mr. REUSS. He is "tingling" with emotion right now.

Mr. GUBSER. I thank the gentleman.

(By unanimous consent, Mr. GUBSER yielded his remaining time to Mr. HARSHA.)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, it pains me to be on the other side from my good friends on the committee, but I must observe regretfully that they are talking about an amendment other than that which is offered to the House today.

The amendment offered by my good friend from Wisconsin (Mr. REUSS) is very simple. It is a part of the clean-water package, and what it says is that, very simply, by 1981, the Federal law would require, without study or previous congressional action, that the industries of this Nation go to the best available technology. The amendment does not affect the 1985 requirement study before in abating water pollution and in treating our wastes. The requirement is imposed for zero discharge at all. It makes the requirement that polluters go to the best available technology subject to the reasonableness of the cost of the requirement that has to be met.

Let me just recap that very briefly, because this point is important: All that is required by this amendment is that industry by 1981 go to the best available technology, and that such requirement is subject to reasonableness of cost.

Now I yield to my good friend, the gentleman from Alabama (Mr. JONES) to state whether or not I have been telling the truth.

Mr. JONES of Alabama. Of course the gentleman has been telling the truth——

Mr. DINGELL. I thank the gentleman.

Mr. JONES of Alabama. The bill so provides.

Mr. DINGELL. The bill does not so provide. The bill requires a study before that takes place. The bill gives with the right hand and then takes away with the left by saying that is subject to section 315. Section 315 says but no one really need not do it until after legislation and study. There has to be a study first. This is a giving with the right hand and a taking away with the left. If the committee had wanted congressional action to take place before we go to the highest available technology, they should have just simply deferred the whole question, and we could then come back and consider this question again in 1979 or thereabouts. What we do here essentially to engage in what is really an unfair practice with our constituents by giving with the right hand and taking away with the left. The amendment offered by the gentleman from Wisconsin (Mr. REUSS) provides that what we are giving with the right. We will not take with the left. All you have to do is to go up to 1981 with the best technology, and that is subject to reasonableness of cost.

I yield back the balance of my time.

Mr. HARRINGTON. Mr. Chairman, yesterday, I discussed some of the good points of the water pollution bill before us.

Today, I would like to direct my remarks toward the bill's weaknesses. Congressmen DINGELL, REUSS, RANGEL, and Congresswoman ABZUG have done an excellent job of pointing out these defects and have prepared the "clean water amendments" package to overcome the faults. I wish to commend my colleagues for the fine job they have done. I fully support and will vote for each of these amendments. Let me explain why.

The Congress, particularly the House, often displays the skill of a magician. The sleight-of-hand that takes place here on the floor and in committee is astounding. The object of the exercise is often to legislate without legislating—to pass a law with no teeth so that the status quo remains unchanged. The water pollution bill we are amending today is a fine example of congressional magic.

We say we are going to set goals for the elimination of pollution, and there they are in section 101 of the bill. This section states that—

> It is the National goal that the discharge of pollutants into the navigable waters be eliminated by 1985.

And that—

> It is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved in 1981.

These are only goals—not a legislative mandate—but they are dates which give us a framework for our efforts. Section 301 of the bill further strengthens these goals by making them "statutory limitations." But looking further on in the legislation we come across a beautifully contrived disappearing act. Suddenly we find that before these dates become either statutory mandates or even goals, we must have a study by the National Academy of Sciences and the National Academy of Engineering "of the technological aspects of achieving, and all aspects of the total economic, social and environmental effects of achieving or not achieving the effluent limitations and goals" for 1981.

The study will be sent to Congress 2 years after enactment of this bill. On the surface, no one could possibly object to such a study, and I certainly have no objections. The impact of pollution on our society has not really been studied in depth. But, the hooker in this bill is that none of the goals or the legislative mandates for 1981 and 1985 can go into effect until the report has been received by the Congress and the Congress votes to put those dates into effect. There is no cleanup requirement beyond 1976 in this bill. Thus, by voting on the bill with this provision in it today, we are voting to delay the 1981 and 1985 effective dates and are destroying the goals the Senate and many Members of the House have tried so hard to achieve. The Senate bill requires "zero discharge" and "best available technology" only when it can be done at a "reasonable cost." In addition, the 1985 date is merely a target date for planning purposes—not a rigid legislatively enforceable mandate.

I support the amendment requiring that we vote today on establishing these goals and require that the study be made for our future knowledge. We cannot wait for the results of the study before we establish goals for clean water and rational planning for industry. Congress can always amend these goals in the future if necessary.

This bill attempts to change our previous method of controlling pollution by shifting the primary focus of water pollution control from water quality standards to effluent limitations. The change is effected by the establishment of a permit program for effluent discharges. Under the Senate bill, the EPA would have the final say about the issuance of permits. Under H.R. 11896 the permit program must be put solely in the hands of the States if they meet certain loose Federal guidelines. And, once this grant of power is complete, EPA is not required to initiate proceedings to take back the State program if the State is not complying with the Federal guidelines in administering the program. Finally, the power of the EPA to review and when appropriate to veto individual permits for industries issued by the States—who may be unduly influenced by local and powerful industry groups or not have adequately trained personnel—is removed.

We can have no coherent, realistic and fair water pollution standards unless EPA has the final veto power over permits. The system established under H.R. 11896 would lead to competition between States for industry which will locate in the States with the lowest standards to comply with. What about States with tough standards now? They will lose businesses to States with more relaxed standards. We cannot hope to make the permit system work without strong enforcement. The House bill dissolves that enforcement authority—leaving the shell of a good idea gutted by impractical and unreasonable restrictions.

I support the amendment to give final veto power to the Federal EPA.

One of the most critical problems inherent in legislating water pollution controls is that the standards will be so haphazard that workers will be pushed out of jobs by industries moving from State to State in search of less strict pollution standards. The House bill in not allowing the EPA a veto over individual permits establishes dangerous policies for the industrial workers. We must establish national effluent limitations to prevent industrial "shopping" and we must establish an equitable system of assistance to those workers and communities affected by plant closures due to environmental regulations.

The present amendment offers workers the right to ask for both a study and a hearing of their allegations that their company is either closing or laying off employees because it is unable to operate as a result of the new regulations.

Although I do not believe the amendment goes far enough, I will support it at this time. It is my understanding that hearings will be held later this year by the Public Works Committee or EDA and that direct economic assistance to workers out of jobs as a result of stringent, but necessary, pollution standards will be considered at that time. Such assistance is essential.

I also support amendments to retain the integrity of the Fish and Wildlife Coordination Act. Under this act State fish and game agencies and the Fish and Wildlife Service of the Interior Department may comment on all discharge permits to insure both fish and wildlife resources protection. This comment procedure should be a part of the current law and I will vote to reinsert the provision.

Finally, I support the amendment to retain the public's procedural rights and consideration of water quality problems by agencies granting Federal licenses and permits under the National Environmental Policy Act. As H.R. 11896 is presently written these rights would be seriously weakened.

All of these amendments are important for strong legislation. We only hurt ourselves by passing a weak bill. Antipollution costs are skyrocketing. There is a definite danger to health. If we are so shortsighted that we crumble in the face of a real commitment to ending pollution now, we will pay the price later and wonder at our own stupidity. The time for magic tricks is over. We have been long overdue in seeing the reality of the crisis facing us.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. GUDE).

(By unanimous consent, Mr. HECHLER of West Virginia yielded his time to Mr. GUDE.)

Mr. GUDE. Mr. Chairman, I would like to commend the committee for the time and effort which it has put into developing this legislation. H.R. 11896 is unquestionably a great improvement over the law presently on the books.

The bill, for example, goes far toward aiding municipalities in constructing treatment facilities. It provides money on a contract basis thus giving the local officials the kind of assurance they need to make wise, long-range plans.

The bill when fully funded taking into consideration updated needs would provide the necessary funds to continue the upgrading and expansion of the Blue Plains treatment plant in the Washington metropolitan area. This plant, with its high level tertiary treatment, will serve as a model for communities around the Nation which are considering going the route of regional cooperation.

As one of the supporters of the clean water package of amendments, I recognize and applaud the committee's efforts. The amendments we are offering today are designed to round out and better implement the basic framework already well developed by the committee.

The amendment to H.R. 11896 proposed by my colleague Mr. REUSS is, I believe, necessary and vital, if this legislation is going to fulfill its promise.

In the policy section of the bill it is held to be a national goal that the discharge of pollutants into the navigable waters be eliminated by 1985. It is also stated that, as an interim goal, we achieve water quality sufficient to allow recreation and the protection and propagation of fish, shellfish, and wildlife by 1981.

Having stated these admirable goals this legislation then removes them in section 315 of the bill by calling for a study by the National Academy of Science and the National Academy of Engineering of the potential effects of their achievement. Thus the 1981 and 1985 standards are made dependent on future legislation.

If H.R. 11896 passes in its present form the polluters of the Nation will be on notice that Congress has failed to bite the bullet and write a water pollution law that will bring results within the foreseeable future. These polluters will be on notice that delay, and obfuscation are still available to them as they use our Nation's waterways as open sewers.

The heart of the amendment offered by the gentleman from Wisconsin is to the question of why the crippling language of section 315 is necessary? The main criticism has been that these provisions will entail exorbitant costs which will close down industries and lay off workers in large numbers.[1] This is the kind of scare tactic which is regularly employed whenever the House takes up pollution control legislation. It is, however, highly misleading, based on several faulty premises, and destined to lead to even higher costs in the future.

First of all, the 1981 requirements only take effect when they can be applied at a "reasonable cost." If they cannot be accomplished at a reasonable cost, the requirement of "best available technology" will be applied, but here again there is a caveat—"taking into account the cost of such controls." In addition, the 1985 no discharge goal is merely a target date for planning purposes. It is not a rigid legislative deadline which can be enforced, but is something to aim for.

Now, those of us who are familiar with how pollution control legislation has fared in the past realize that these loopholes are already potentially damaging. It will depend on how the administration interprets the will of Congress and the public as to how strictly they will be enforced.

Another reason why the cost argument is overblown is that the figures being thrown about—such as the $316.5 billion cost of the zero discharge goal—are not based on reality. It is absurd to suggest that the zero discharge goal would be achieved solely by advanced removal techniques. The zero discharge goal is designed to move industry toward closed-loop recycling systems, and where it is practical, toward land disposal systems.

This alternative was practically ignored in the cost estimate. In fact, many industries have reported that the costs of pollution controls can be substantially recovered when recycling systems are used.[2]

[1] Environmental and Economic Benefits and Costs Related to Various Water Pollution Abatement Strategies (administration report).

[2] See Business Week, Feb. 5, 1972, p. 70–71, "The Stormy Debate Over Zero Discharge."

Even where the cost estimates are applicable; namely, those situations where treatment, rather than recycling, is employed, it is foolish to assume, as the cost estimate did that the treatment will consist of the distillation of waste water, a process nearly twice as expensive as the most advanced forms of tertiary treatment.

Instead of being economical by delaying the effective date of these deadlines, we are in fact being extravagant since we are discouraging industries from going ahead with plans for recycling. We are putting the burden on the public to prove the feasibility of the goals rather than on industry to prove that the costs are reasonable.

The committee, as I mentioned, has done a good job with this bill and has taken an important step forward in tightening up our water pollution laws. But the American people deserve a commitment on the part of Congress that the polluters will not be able to drag their feet, and degrade our resources with impunity in the future as they have in the past. Let us put the burden of proof on the polluters, not the citizens. Let us preserve the 1981 and 1985 requirements intact so that we will not not have to meet again here in 3 or 4 years to make up for the time that has been lost.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, do I understand the gentleman does concede the House bill, as it stands, is a very significant improvement on the existing legislation and would result in a very great improvement in control of pollution?

Mr. GUDE. It is a significant advance, and it would be a much more significant advance if we could adopt the amendment of the gentleman from Wisconsin. The committee, as I mentioned, has done a good job in this bill and has taken an important step toward tightening up our antipollution laws, but the American people deserve a commitment from Congress that polluters will not be able to drag their feet with impunity in the future as they have in the past.

As I previously stated let us put the burden of proof on the polluters, not on the citizens. Let us preserve the 1981 and 1985 requirements intact so that we will not have to meet again here in 3 or 4 years to make up for the time that has been lost.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, as a member of the Public Works Committee, I support this amendment. I hope that we can all agree to it, for it will strengthen our bill significantly.

Both this bill and the bill which passed the other body last year require the use of the "best practicable" technology by 1976; both bills contain language requiring use of the "best available" technology by 1981, but our bill renders this requirement meaningless by providing that it will not take effect until a National Academy of Sciences study is completed and Congress enacts legislation to make it effective.

It is important—and perhaps unfortunate—to note that "best available," as defined in our bill, does not mean "best available at any price." Section 301(b)(2) speaks of controls achievable through the best available demonstrated technology, "taking into account the cost of such controls," and section 304 (b)(2) requires that the assessment of what constitutes the best available demonstrated technology shall take into account, among other things, the cost, and the economic, social and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate.

It is apparent that the "best available" requirement has enough fudge factors in it to allow for almost any difficulty which may arise. To remove it altogether, as the bill proposes, would clearly allow industry to take its good time about getting about the job of abating water pollution; in addition, because no one will know just what to expect after 1976 and the leadtime on treatment facilities is considerable, it will end up costing industry—and the consumer—far more in the long run.

I note in this connection that there was testimony before the Public Works Committee to the effect that retention of the "best available" requirement in the bill would cost more than anyone could afford. In point of fact, questioning by members of the committee including myself demonstrated that many of these figures were made up out of whole cloth, and were no more than a smokescreen to delay the earliest possible attainment of clean water in this country.

To restore the 1981 target date, as this amendment would do, would be to make a resounding statement that we really do intend to make our waters clean again. It would afford industry and State and local authorities plenty of time to plan for their future needs. With all the "ifs, ands and buts" in the definition of "best available" no one will be compelled to do anything which is at all unreasonable. Furthermore, if for some reason we have not built enough leeway into the definition, and it develops that industries and localities which are really doing their best cannot meet the deadline, I am certain that we in the Congress would be willing to reconsider it.

We must make it clear that we mean business, and we must give the Nation sufficient notice of exactly what will be required in terms of the task of cleaning up our waters. I urge the adoption of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

(By unanimous consent, Mr. FRENZEL yielded his time to Mr. HARSHA.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Ohio (Mr. HARSHA), the ranking minority member of the Committee on Public Works in his introductory remarks yesterday commented upon the National Academy of Sciences and the National Academy of Engineering Studies.

As he pointed out, the procedure to implement the 1981 requirement could have such tremendous economic and social impact it should be made only on the basis of thorough study and evaluation in line with competing priorities, potential costs, and benefits of these requirements.

During the hearings on this bill the committee heard evidence that the proposed water quality goals might be undesirably strict from an overall environmental point of view. Recycling and land disposal, for example, might be environmentally less desirable than controlled discharge to water.

Increased energy needs or solid waste disposal problems could be created. The purpose of the study is to determine the best balance, based on better information and experience than is presently available to us, and to avoid setting goals prematurely, which may turn out to be quite undesirable in ways which we are not well enough informed to foreseee.

The amendment implies that time would be lost in moving toward the 1981 and 1985 goals.

I submit that this is not necessarily the case. The two goals will serve as a focal point for research, development and demonstration efforts.

Such development of technology will be required in any event. The technology to meet these goals is not sufficient at this time.

Many of the plants and factories in the United States are less modern than their European and Japanese counterparts. It is estimated that U.S. industries must invest $26 billion to meet secondary treatment requirements.

Recognizing that the time period from project evaluation to actual plant startup can easily be 10 years, it is easy to see that if this amendment were passed we would create a 2-year delay because managers will not authorize new construction knowing that there were existing laws which could make their proposed plant useless in 1981. It is conceivable to advance the 1981 requirement based on the academy's study.

We must modernize both for economic competitiveness and environmental control. This amendment could slow or stop such needed modernization for up to 2 years.

We cannot afford in an uninformed manner to let this happen.

Heed what my friend from Ohio said:

> The magnitude of the effects of this amendment could require an immediate major national program with immediate and major effects on all aspects of the life of this Nation, a program with unknown costs, without the assurances that this major potential disruption to the life of our Nation will ultimately be required or can be afforded.

Congress needs a definition of "best available" technology. It is conceivable that a city could have built a modern plant and, because of discretionary power of the Administrator of EPA, that plant would not meet the "best available" criteria.

We cannot reverse the key triggering device of the national academy study. We must reject this amendment.

(By unanimous consent, Mr. DON H. CLAUSEN yielded the remainder of his time to Mr. HARSHA).

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I shall not take my 2 minutes. I want to make the point that my amendment is not unfriendly or disrespectful to the great Committee on Public Works.

The Committee on Public Works, right at the start of the committee amendment, on page 268, set forth a very reasonable and sensible standard for 1981. I am reading starting on line 3, page 268:

> There shall be applied an effluent limitation based on that degree of effluent control achievable through the application of the best available demonstrated technology, taking into account the cost of such controls,

That is an entirely sensible standard. The only trouble is that 78 pages later, on page 346, it is all taken back, when it says that at some future date, after years of uncertainty, a future Congress shall vote on this.

I say, vote for the clean water amendment, and in so doing you are not just backing the committee's opposition, but also reinforcing the Public Works Committee in its first good instinct, which is a splendid expression of what we ought to have by 1981, at the end of the environmental decade.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, after a period of several months of consideration of the provisions of the Senate bill and this bill, I have decided to oppose this amendment. I see no point in quibbling over whether Congress considers its 1981 and 1985 deadlines for effluent cleanup to be a policy or a goal, for there is probably not a single Member in either body who is not firmly committed to the elimination of water pollution as both a policy and a goal.

It seems that this amendment seeks to strengthen the resolve behind the policy by eliminating the provision for a comprehensive study by the National Academy of Sciences to determine the estimated costs and alternatives available to achieve the eradication of water pollution by the next decade.

For several reasons, which to me seem perfectly clear, I think that Congress and the Nation could benefit from such a study, conducted at a high level, and with adequate financial support.

We have seen in the literature that has been sent to our offices regarding the costs of cleaning up our waterways by the 1980's that "authoritative" cost estimates for completing the task range everywhere from $55 billion to close to half a trillion dollars. Without agreement on more precise cost estimates, how can the Appropriations Committees of Congress and the budgeting agencies of the administration possibly come up with realistic and effective tax dollar allocations to fund the antipollution effort?

The NAS study could well determine that the amounts authorized in both the House and Senate bills for the Federal share of these programs is woefully inadequate to assure that the job of cleaning up our waters can and will be done. Should we not seek and have this information at a time soon enough to intelligently plan and commit the proper resources to doing the job?

The prime sponsor and supporter of the Senate bill, the distinguished Senator from Maine, stated himself that further information on costs and technological alternatives would be needed before the policy or goal of zero effluent could be planned and implemented. What better way to obtain reliable estimates and reliable scientific information than for Congress to make the gathering of this data a central and intrinsic part of its strong legislative commitment to clean water.

I feel the funds for the NAS study will not be wasted. On the contrary, the study could save us countless millions of dollars in misallocated projects, and it could even provide technological data which may shorten the time between now and the day when our Nation can enjoy pollution-free waters.

Mr. HARSHA. Mr. Chairman, we have heard here a back-and-forth discussion of a variety of costs for this program. I believe this is very indicative of the fact that no one really knows what this program is going to cost. That is why it is so important to get this study completed before we get on the path of an irretrievable position on this; before we lose more than we actually gain.

While we are talking about studies, I want to call the attention of Members to a report by the Environmental Protection Agency, the Council on Environmental Quality, and the Department of Commerce. This involves a study contracted out to private persons to determine the effect of air and water pollution on some 14 industries.

This study concluded that there would be an estimated loss of 50,000 to 125,000 jobs simply because of the 1976 date, not the 1981 date, to which this amendment addresses itself. So obviously there are going to be many jobs lost in this pro-

gram if we do not know where we are going and how we are going to go about it.

The gentleman from Wisconsin and the gentleman from Michigan indicated that this was not a no-discharge requirement. I would refer them to the language of the bill, which says that the 1981 date is a no-discharge requirement, that it is a no-discharge mandate, unless, if we cannot attain that at a reasonable cost, we have to fall back on the best available technology.

I should also like to raise the point that if this study is knocked out, if the triggering mechanism of this study is knocked out, conceivably the National Academy of Sciences could come back to say that this goal can be reached prior to 1981. If we take out the triggering mechanism we are locking in on the best available technology by 1981, unless Congress comes back to enact subsequent legislation. Let us not block ourselves from moving up this 1981 date if that is feasible under the circumstances.

I would like to point out, also, that nobody, not industry or anyone else, is going to know what is required of them until 1 year after the publication of the rules and regulations and guidelines setting up how the factors are to be determined and what is to go into the decision of the judgment of what is the best available or best practicable technology. So it will be at least a year from the enactment of this bill before the guidelines are ready.

We are talking about a study that will be ready and before the Congress only a year hence, and it seems to me to be a lot more reasonable and prudent to wait until we can act in an informed manner.

I would also like to point out that while we require all industry to use the best practicable technology available by January 1, 1976, that that is only a floor; it is not a maximum. It is a floor, and we fully intend that that floor shall be attained before January 1, 1976. So there will be a continuing process from now on up until that date to achieve the best practicable technology available.

In addition to that, we require water quality standards on all intrastate waters. Heretofore it has not been required of the legislation. This feature is not in the Senate bill. They do not require water quality standards on intrastate waters.

In addition to water quality standards, Mr. Chairman, we require load limits on all of the waters within a State and require a continual upgrading of these load limits which are based upon water quality standards. Thus no industry can say that it is going to meet the 1976 requirement of the best practicable technology, and that is all it must do. We require in this bill, if the best available or best practicable control technology does not meet the water quality standards or does not coincide with the load limits on the streams, that they must upgrade it.

So we are providing in this legislation a much more stringent requirement for effluent limitations and water quality standards and load limits than the other body did. Therefore industry will be on notice now that they are to meet at the very minimum no later than January 1, 1976, this very desirable goal of using the best practicable technology, but they have to go beyond that and assure that the best practicable technology will meet the water quality standards and the load limits and they are put on notice that they are going to be continually revised so that they cannot sit on their laurels but must continue to upgrade the process.

We have one more control in this bill. I refer to new source performance standards. Most industries will, by 1981, be modernizing their facilities. Thus, they will have to meet new source standards. These standards consist of best available technology. Thus, new sources must meet the 1981 standards.

Until we have adequate information by the National Academy of Sciences and the National Academy of Engineers, we cannot proceed in an informed manner.

Mr. Chairman, the Honorable Russell E. Train, of the Council on Environmental Quality testified before our committee. His statement was clear and to the point. I would like to insert portions of it at this time.

H.R. 11895 would require no discharges or best available technology by 1981 with a goal of no discharges by 1985. This sounds like a simple, straightforward, and laudatory goal. But in practice, I believe it would either be very costly compared to the benefits or would, in fact, be ineffective.

As you are doubtless aware, the marginal costs of abatements increase greatly as higher levels of reductions are required. For example, the EPA estimates that as a general proposition 85 percent reduction costs only 20 percent as much as 100-percent reduction.

To go from 95-percent treatment to 98-percent treatment costs the same amount as going from 85- to 95-percent treatment. And to reduce another percentage of wastes costs the same amount. The last percent of reduction often costs as much as the first 99 percent.

If we insist that the public pay—through tax revenues and increased prices for manufactured goods—many billions of dollars for water cleanup beyond the point where added benefits can be demonstrated or even assumed, I believe we will hurt the environmental cause in two ways: First, the public legitimately will question our wisdom on this and other environmental matters and perhaps feel that the measures needed to deal with environmental problems are being exaggerated.

Second, the imposition of enormous incremental costs unsupported by water quality benefits attained will divert an inordinate amount of our resources from other environmental priorities, where they could be much more effectively utilized.

In addition, since wastes will not simply disappear and must be disposed or recycled in some way, a no-discharge requirement presupposes that it is uniformly preferable to dispose of all waterborne waste on the soil or in the air rather than in the water except where some type of reuse is possible.

It is true that the land should be considered and quite possibly used to a much greater extent as an alternative to water or water for waste disposal, particularly for wastes that are composed of usable nutrients.

However, I am aware of no evidence that land can be regarded as the best or even a viable solution for all or most waste disposal requirements. There are practical limits on land availability; there is potential for contamination of soil and ground waters by heavy metals and other materials.

I urge defeat of this amendment.

Mr. RUPPE. Mr. Chairman, I rise in support of the amendment. In all candor, I have grave reservations about the zero-discharge provision. None of us can be certain that this goal can be attained. The question, therefore, is not whether this goal is realistic at this time. The question is whether setting such a goal will actually help us to solve one of the most pressing issues of our time.

I have reached the conclusion that setting a target date for zero discharge will, even though we may never be able to attain that goal, draw attention to the incalculable value of our fresh water. By encouraging the maximum use of recycling, and by striving toward the elimination of all discharge of pollutants, the Nation will become aware that our supplies of fresh water are finite and extremely valuable.

Mr. Chairman, I represent a district that is almost surrounded by the three largest bodies of fresh water in the world: Lake Superior and Lake Michigan, and Lake Huron. When you add to that the heavy precipitation—I might point out to my colleagues that the snow is still falling in northern Michigan—you would think that my constituents would not be too concerned about the supplies of fresh water. However, the contrary is true. They are deeply concerned. In northern Michigan we have grown up knowing what crystal clear water looks like. Now, we are beginning to see the signs of change in water quality, and my constituents want to reverse the trend before it becomes irreversible.

It is not enough to merely say, "it can't be done," and lower our sights accordingly. The mere fact that our present capabilities seem to render those goals unattainable is no excuse, in my mind, to eliminate those goals. How many times in history has the impossible been reached? And how many times would it have been reached if the impossible were not sought after?

I suggest that we set the goals for zero discharge, that we get to work to achieve those goals, and if, after we have made the effort to develop the technology, that goal is deemed to be unattainable, then and only then, should we lower our sights. Those on both sides of this issue must plead ignorance about our chances of winning the battle against pollution, but the issue is important enough to warrant the utmost effort.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Wisconsin (Mr. REUSS).

The question was taken; and the Chair announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. REUSS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. REUSS. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers: Messrs. REUSS, WRIGHT, ZION, and DINGELL.

The Committee divided, and the tellers reported that there were—ayes 140, noes 249, not voting 43, as follows:

[Roll No. 92]

[Recorded Teller Vote]

AYES—140

| | | |
|---|---|---|
| Abourezk | Fraser | Pike |
| Abzug | Frenzel | Podell |
| Adams | Frey | Preyer, N.C. |
| Addabbo | Gibbons | Price, Ill. |
| Anderson, Calif. | Grasso | Pucinski |
| | Green, Pa. | Rangel |
| Anderson, Tenn. | Griffiths | Rees |
| | Gude | Reuss |
| Annunzio | Halpern | Riegle |
| Aspin | Hamilton | Rodino |
| Badillo | Hanley | Rogers |
| Bell | Harrington | Rooney, N.Y. |
| Bergland | Hays | Rooney, Pa. |
| Biaggi | Hechler, W. Va. | Rosenthal |
| Biester | Heckler, Mass. | Roush |
| Bingham | Heinz | Roybal |
| Brademas | Helstoski | Ruppe |
| Brasco | Hicks, Wash. | Ryan |
| Brinkley | Hillis | St Germain |
| Broomfield | Jacobs | Sarbanes |
| Burke, Mass. | Karth | Saylor |
| Burlison, Mo. | Kastenmeier | Seiberling |
| Burton | Kemp | Smith, N.Y. |
| Byrne, Pa. | Koch | Steele |
| Carney | Leggett | Stokes |
| Celler | Lujan | Stratton |
| Clay | McCloskey | Sullivan |
| Conte | Macdonald, Mass. | Symington |
| Corman | | Taylor |
| Cotter | Madden | Tiernan |
| Coughlin | Mailliard | Udall |
| Culver | Melcher | Vander Jagt |
| Daniels, N.J. | Mikva | Vanik |
| Dellums | Minish | Waldie |
| Denholm | Mink | Whalen |
| Dent | Minshall | Whitehurst |
| Diggs | Moorhead | Wilson, Charles H. |
| Dingell | Morgan | |
| Donohue | Morse | Wolff |
| Drinan | Moss | Wydler |
| Dulski | Murphy, Ill. | Wylie |
| du Pont | Nedzi | Yatron |
| Eckhardt | Nix | Young, Fla. |
| Edwards, Calif. | Obey | Zablocki |
| Eilberg | O'Hara | Zwach |
| Fascell | O'Neill | |
| Fish | Patten | |
| Foley | Pelly | |
| Ford, William D. | Pepper | |
| | Peyser | |

NOES—249

| | | |
|---|---|---|
| Abbitt | Burleson, Tex. | Derwinski |
| Albert | Byrnes, Wis. | Dickinson |
| Alexander | Byron | Dorn |
| Anderson, Ill. | Cabell | Downing |
| Andrews | Caffery | Duncan |
| Archer | Camp | Edmondson |
| Arends | Carey, N.Y. | Edwards, Ala. |
| Ashbrook | Carter | Erlenborn |
| Ashley | Casey, Tex. | Esch |
| Aspinall | Cederberg | Eshleman |
| Baker | Chamberlain | Evans, Colo. |
| Barrett | Chappell | Findley |
| Begich | Clark | Fisher |
| Belcher | Clausen, Don H. | Flood |
| Bennett | | Flowers |
| Betts | Cleveland | Flynt |
| Bevill | Collier | Ford, Gerald R. |
| Blackburn | Collins, Ill. | Forsythe |
| Blatnik | Collins, Tex. | Fountain |
| Boggs | Colmer | Frelinghuysen |
| Boland | Conable | Fuqua |
| Bolling | Crane | Galifianakis |
| Bray | Curlin | Garmatz |
| Brooks | Daniel, Va. | Giaimo |
| Brotzman | Danielson | Gonzalez |
| Brown, Mich. | Davis, Ga. | Goodling |
| Brown, Ohio | Davis, S.C. | Green, Oreg. |
| Broyhill, N.C. | Davis, Wis. | Griffin |
| Broyhill, Va. | Delaney | Gross |
| Buchanan | Dellenback | Grover |
| Burke, Fla. | Dennis | Gubser |
| Hagan | McDade | Runnels |
| Haley | McDonald, Mich. | Ruth |
| Hall | | Sandman |
| Hammer-schmidt | McEwen | Satterfield |
| | McFall | Schmitz |
| Hanna | McKay | Schneebeli |
| Hansen, Idaho | McKevitt | Schwengel |
| Hansen, Wash. | McKinney | Scott |
| Harsha | McMillan | Sebelius |
| Harvey | Mahon | Shipley |
| Hastings | Mallary | Shoup |
| Hathaway | Mann | Shriver |
| Hébert | Martin | Sikes |
| Henderson | Mathias, Calif. | Sisk |
| Hicks, Mass. | Mathis, Ga. | Skubitz |
| Hogan | Matsunaga | Slack |
| Holifield | Mayne | Smith, Iowa |
| Horton | Mazzoli | Snyder |
| Hosmer | Meeds | Spence |
| Howard | Metcalfe | Springer |
| Hungate | Michel | Stanton, J. William |
| Hunt | Miller, Calif. | |
| Hutchinson | Miller, Ohio | Stanton, James V. |
| Ichord | Mills, Ark. | |
| Jarman | Mills, Md. | Steiger, Ariz. |
| Johnson, Calif. | Mizell | Steiger, Wis. |
| Johnson, Pa. | Mollohan | Stephens |
| Jonas | Monagan | Stubblefield |
| Jones, Ala. | Montgomery | Talcott |
| Jones, N.C. | Mosher | Teague, Calif. |
| Jones, Tenn. | Murphy, N.Y. | Teague, Tex. |
| Kazen | Myers | Terry |
| Keating | Natcher | Thompson, Ga. |
| Kee | Nelsen | Thompson, N.J. |
| Keith | Nichols | Thomson, Wis. |
| King | Passman | Thone |
| Kluczynski | Perkins | Veysey |
| Kuykendall | Pickle | Vigorito |
| Kyl | Pirnie | Waggonner |
| Kyros | Poage | Wampler |
| Landgrebe | Poff | Ware |
| Landrum | Powell | Whalley |
| Latta | Price, Tex. | White |
| Lennon | Purcell | Whitten |
| Lent | Quie | Widnall |
| Link | Randall | Williams |
| Lloyd | Rhodes | Wilson, Bob |
| Long, La. | Roberts | Winn |
| Long, Md. | Robinson, Va. | Wright |
| McClory | Robison, N.Y. | Wyatt |
| McClure | Roe | Wyman |
| McCollister | Roncalio | Young, Tex. |
| McCormack | Rousselot | Zion |
| McCulloch | Roy | |

NOT VOTING—43

| | | |
|---|---|---|
| Abernethy | Fulton | Rarick |
| Baring | Gallagher | Reid |
| Blanton | Gaydos | Rostenkowski |
| Bow | Gettys | Scherle |
| Chisholm | Goldwater | Scheuer |
| Clancy | Gray | Smith, Calif. |
| Clawson, Del | Hawkins | Staggers |
| Conyers | Hull | Steed |
| de la Garza | Mitchell | Stuckey |
| Devine | O'Konski | Ullman |
| Dow | Patman | Van Deerlin |
| Dowdy | Pettis | Wiggins |
| Dwyer | Pryor, Ark. | Yates |
| Edwards, La. | Quillen | |
| Evins, Tenn. | Railsback | |

Mr. CARNEY and Mr. DENT changed their votes from "no" to "aye."

So the amendment was rejected.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: Page 306, line 25, before the words "any permit" insert the following: "any order issued by the Administrator under subsection (a) of this section, or".

Mr. VANIK. Mr. Chairman, I want to compliment our committee for its fine work on this bill. I concur in thousands of the words that have been written, and I simply offer an amendment to add 12 words to the bill.

Mr. Chairman, the amendment I am offering is not a controversial one. It makes a small change in the language providing for the Federal enforcement of this act and the penalties for violating this act—a change which makes the enforcement provisions of the House bill comparable to the bill passed by the other Chamber.

The amendment provides that anyone who "willfully or negligently" violates an order issued by the Administrator, shall be subject to criminal penalties, just as he would be if he violated a permit condition or the other major provisions of the act—such as the control of discharges of toxic wastes.

Everyone knows that the enforcement and penalty provisions provided in previous pollution control laws have been so cumbersome as to be unworkable. Under the 1948 abatement procedure, only one case has reached the courts in more than two decades. The 1899 Refuse Act has been a useful new enforcement tool, but it has weaknesses: it applies only to industrial polluters and it is under the divided jurisdiction of two different Federal agencies.

A strong new enforcement tool is needed.

The enforcement provisions in the committee bill and in S. 2770 are almost identical to the enforcement powers provided by the landmark 1970 Clean Air Act. And it should be noted that the Clean Air Act—Public Law 91–604, section 113(c)(1)(B)—provides that a person who "knowingly" "violates or fails or refuses to comply with any order issued by the Administrator" is subject to criminal penalties of up to $25,000 or 1 year in jail.

The intentional violation of a clean air order can result in a criminal penalty—surely the same provision should apply to the willful violation of clean water orders.

An administrative order, issued through procedures in accordance with a law passed by Congress and signed by the President should have force behind it. When such an order is "willfully or negligently" violated, the public should have recourse to criminal prosecution.

In additional views made by two members of the committee and included in the committee's report, it is suggested that the failure to provide for criminal penalties for anyone who willfully or negligently violates an order may just be a drafting defect.

I urge that this amendment be accepted so that this defect may be corrected and the enforcement provision be brought into line with that worked out by the other Chamber, and with the provisions of other major pollution control laws.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

This is not a weak bill. As it comes to the House, it is a very tough bill. I would like for Members to listen to this section as it appears in the bill. The bill provides that—

Any person who willfully or negligently violates—

The requirements of this act—

shall be punished by a fine of not less than $2,500 nor more than $25,000 per day—

And that is per day—

of violation, or by imprisonment for not more than one year, or by both.

For any subsequent convictions, a violation committed after first conviction shall be punishable—

by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

That is already in the bill. What the gentleman from Ohio would add to that is not only that a person who violates the law or a person who violates the requirements of the law would be subject to these penalties, but also that a person who violates any order of the Administrator would be subject to these penalties.

Now, normally we would assume that an order of the Administrator would be issued in conformity with the law. Normally we would assume that the Administrator would be judicious and wise in his issuance of orders. But, Mr. Chairman, I have seen illustrations to the contrary on occasion—and there is one extant right now, in which an Administrator for the Department of Transportation is issuing certain orders to States in violation of the clear language of the enacting statute.

What defense would there be for an individual in case of an arbitrary order, if this amendment were adopted? No defense whatever, so long as he had violated the order, notwithstanding the fact that he might make a case that he was, indeed, abiding by the law.

What defense would there be against an ill-advised or uninformed order or an order based upon a legitimately controversial interpretation of what the law requires? As I read the amendment, there would be more.

We believe the committee has done a thorough job. We believe we have done a hard, tough job in requiring compliance with this act, but we do not believe it would be wise to place the Administrator in the ultimate position of power in which, simply by the issuance of an order, he could place someone subject to this kind of fine, and/or imprisonment.

For that reason, I ask that the Members stay with the committee bill. It is a good bill. It is an effective bill. It provides effective enforcement for those who violate the law. Let us not encumber it by placing an administrator in the position of putting a man in jeopardy of imprisonment, based upon a controversial order. I urge the Members to vote "no" on the amendment.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to call to the attention of my colleagues the fact that in this legislation we already can charge a man for simple negligence, we can charge him with a criminal violation under this bill for simple negligence. When a violation occurs, the Administrator or the State or the interstate agency, whoever may be involved, can either file a criminal charge under this law if there is negligence or if there is a willful violation of the law.

Assuming there was some discharge of pollutants contrary to this act and the Administrator notified the violating party as he is required under this act and told him what he was doing wrong and told him where it was happening, and ordered the violator to stop, and if the polluter did not obey that order, then the polluter becomes a willful violator and can be charged under this section as a willful violator.

Thus the amendment of the gentleman from Ohio is not needed. It is superfluous. The violator can be proceeded against both civilly and criminally under this law. I urge the Committee to reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: Page 291, between lines 11 and 12, insert the following:

"(k) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within six months after the date of enactment of this title (and from time to time thereafter) regulations for the effective treatment, including, where appropriate, the safe storage for treatment purposes of mine water wastes resulting from new or currently operating surface and underground coal mines. Effluent limitations for point sources established by this title shall, where applicable, be in accord with such regulations. Upon promulgation such regulations would be subject to the enforcement provisions of section 309 (a) of this title."

Mr. HECHLER of West Virginia. Mr. Chairman, each of us has read or seen or heard of the Buffalo Creek tragedy in the State of West Virginia, the effects of which caused the death of more than 120 persons. Possibly as many as 150 are dead and missing.

At 8 a.m. on February 26, a wall of greasy, grimy water and sludge thundered down the Buffalo Creek Valley in Logan County, W. Va. My amendment is a direct outgrowth of the Buffalo Creek disaster.

These retaining dams, which are frequently formed in the first instance by excavation of the mine and the large amount of rock or soil or slag which is separated from the coal, not only hold back rainwater but also are utilized in the coal cleaning and preparation process.

In many instances, with the present coal cleaning facilities, the acid, sludge, and other polluted mine waste water will either be diverted into a sludge pond or retaining dam or else dumped directly into the streams.

My amendment directs the Environmental Protection Agency to publish enforceable regulations for the treatment of mine waste water. This can be done.

As a matter of fact, it is now being done in many mines in West Virginia and Kentucky. For example, the Eastern Associated Coal Co., to its great credit, has installed closed circuit coal preparation facilities at its mines located in Herndon, Stotesbury, Granttown, and Affinity, W. Va. The Pikeville Coal Co., in Kentucky, is another example of a company which has made progressive efforts to install such a system.

Several companies build these systems, such as the Roberts & Schafer Manufacturing Co. in Chicago and the J. O. Lively Co. in Beckley, W. Va.

These systems, Mr. Chairman, recycle and reuse the waste mine water, so that it is not discharged into a waterway or an impoundment.

Mr. Chairman, many other coal companies have not followed this example of the companies I have just mentioned, because to construct a dam out of mine refuse is much cheaper. But, at the same time, it creates a hazard to people who live below these unsafe dams and also to our waterways.

Mr. Chairman, the people of West Virginia are fed up with living and dying with these repeated tragedies. We are tired of building monuments to people who were killed in air crashes or mine disasters or in the collapse of a bridge like the Silver Bridge.

We want to do what is necessary to protect the living instead of building monuments for the dead.

Mr. Chairman, I ask for support of this amendment, which will truly indicate our determination to protect human beings instead of profits and production alone.

Mr. JAMES V. STANTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, no one can do anything but sympathize with my colleague from West Virginia regarding the plight of the people in Logan County, W. Va., in the tragedy which struck that county. However, nobody, has more concern for the problems of West Virginia than our Committee on Public Works of the House.

The reason for our opposition to the gentleman's amendment is that the existing water pollution control law already provides for a program of demonstration projects to develop methods for the elimination or control within all or part of a watershed of acid or other mine water pollutants emanating from active or abandoned mines. This bill continues this demonstration program and authorizes $15 million for this purpose.

In addition to that, there are provisions in this legislation controlling discharges from point sources as well as numerous other requirements which cover the matter presented in this amendment.

Accordingly, I believe the amendment would duplicate provisions contained in this bill and therefore we oppose the amendment.

Mr. HECHLER of West Virginia. Will the gentleman yield?

Mr. JAMES V. STANTON. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I appreciate the comments of my good friend from Ohio, but what we need are not demonstration projects but action. My amendment provides for immediate action instead of further demonstration projects.

Mr. JAMES V. STANTON. What this committee cannot control are the illegal dams. It is my understanding that the dam in Logan County was an illegal dam. No one can control that. This committee can only act within the purview of the law.

Mr. DON H. CLAUSEN. Will the gentleman yield?

Mr. JAMES V. STANTON. I yield to my colleague from California.

Mr. DON H. CLAUSEN. I want to state, as a member of the Flood Control and Internal Development Subcommittee of the Committee on Public Works, that we just recently visited the area of Buffalo Creek. As far as action is concerned, it is my understanding that the Governor of that State, Arch Moore, did take some action wherein he demanded that they drain all of these slag piles, which are not dams. They are not dams; they are just refuse from the mines.

In addition to this, the Watershed Subcommittee of the Committee on Public Works, chaired by Mr. KEE, of West Virginia, has a committee evaluation and inspection program underway in addition to what we are advancing in this legislation, in the form of pilot projects.

So there is a definite program of action, and you, Mr. STANTON, are absolutely correct in your response.

Mr. KEE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the Committee on Public Works is keenly aware of the flood dangers which the gentleman's amendment seeks to deal with. As you know, the collapse of an earthen dam in Logan County, W. Va., last month cost the lives of many men, women, and children in my own district and brought untold misery to their survivors.

With other members of the committee and staff experts, I have made on-the-spot inspections of the disaster area with a view to developing comprehensive measures that will prevent a recurrence of such disasters.

My colleague's proposed amendment has merit, but frankly it does not get to the heart of the problem, and I feel strongly that this problem touches too closely on the lives of our fellow citizens to be dealt with in hasty fashion.

The chairman of the Public Works Committee has authorized a special subcommittee, which I have the honor to chair, to go thoroughly into this matter and develop realistic, effective answers to this terrible problem. We want the most effective action we can get. Half way measures would not do.

For that reason, Mr. Chairman, I oppose the amendment. Our committee, Mr. Chairman, is going back down there as we have before.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. KEE. I yield to the gentleman.

Mr. HECHLER of West Virginia. Is it not true that there are many companies operating in West Virginia like the Eastern Associated Coal Co., that have been able through closed circuit systems to recycle these mine wastes in such a way as not to pollute our waterways? We have been too easy on those coal companies that find it is cheaper to keep their mine wastes behind a retaining dam without treating the wastes.

Unless we can support the more progressive efforts of those coal companies, we would be penalizing the better coal companies and also threatening the people who are living below these areas with both pollution and danger to their safety; is that not true?

Mr. KEE. We have no idea of penalizing innocent coal companies that do the job. Our purpose is to get down there and get the facts and find out just what the situation is. You cannot tell me or anyone else—including our committee—why that dam broke. We are going to do this right after the primary and work on it until every single one of them is inspected and we will make an onsite investigation and come up with a watershed on this. I can assure the gentleman of that.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield further?

Mr. KEE. Yes; I yield further to my colleague.

Mr. HECHLER of West Virginia. I would hope we could take early and decisive action instead of all of this investigating. All of us know what the problem is. The Department of the Interior and the Bureau of Mines came out with a full-blown report which was presented to the gentleman's committee, and it seems to me that now we ought to take action.

Mr. KEE. That is exactly what we are going to do but we have to have the facts so we will know exactly what to do and so we can do it in a logical fashion.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. KEE. Yes; I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I want to reiterate again that these are not structured dams. They are nothing more than a piling up of waste from the mines and mining operations.

I would simply state to the gentleman that I am sympathetic to the problem because I have seen disasters of this type all over this Nation. However, immediate action has been taken to avoid a recurrence of this by Gov. Arch Moore when he ordered that all these areas be drained.

Once we move in the direction that this legislation provides, we will then come up with a permanent and comprehensive solution, and if there is any additional requirement, then our subcommittees that have jurisdiction over flood control, watersheds, and conservation will also be looking into the matter. In addition to the Oversight and Investigation Subcommittee of which I am a member.

Mr. Chairman, I oppose the amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, I do not think the amendment is really needed at this point.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield further so that I may ask a question of the gentleman from California?

Mr. KEE. Yes.

Mr. HECHLER of West Virginia. I would like to ask the gentleman from California, through the kindness of the gentleman from West Virginia in yielding further to me, whether the drainage of these dams——

Mr. DON H. CLAUSEN. They are not dams. By describing them as dams, it tends to mislead people into believing that an engineered structure broke or gave way—causing this horrible disaster. This is not the case.

Mr. HECHLER of West Virginia. If the gentleman cares to call these garbage piles, that contain water——

Mr. DON H. CLAUSEN. That is more appropriate.

Mr. HECHLER of West Virginia. Whatever you want to call them, when you drain them, they pour polluted water and sludge into our streams, when this could be recycled before it is dumped into our waterways. Once they are drained, they will refill again with the wastes from the coal preparation plants, and all I am trying to do is to insure that these coal mine wastes are treated before they cause hazards and are polluting our waterways.

Mr. DON H. CLAUSEN. My response to that was, if the gentleman will recall, I said, however, that if I had my choice between people and fish, I will protect the people. As I understand the situation, this is the reason Governor Moore ordered the immediate drainage of water behind these slag piles in order to prevent any future disasters of a similar nature, until such time as a comprehensive and coordinated program can be advanced to a point of implementation.

I certainly understand the motivation behind Mr. HECHLER's amendment. The West Virginia disaster should have been avoided.

The tragedy was needless and it is certainly recognized that the potential for repetition exists and legislative actions must be taken promptly.

Unfortunately, I do not believe that Mr. HECHLER's amendment will do what is required.

Problems of this magnitude require more comprehensive legislation.

Therefore, I suggest to the Congress that this amendment be rejected and that the committee and particularly the special subcommittee headed by Mr. KEE to study this problem be charged with developing comprehensive legislation at the earliest possible time.

A start toward the development of this legislation was made when Mr. KEE and myself made an investigation trip to West Virginia to evaluate the immediate problem and to make a determination as to what steps the committee should take.

I know that Mr. KEE has been most concerned and most involved in the preliminary steps toward the development of this legislation.

He is chairman of the appropriate subcommittee and the full talents of the professional staff will be available to accomplish the task in the comprehensive and yet detailed manner that is required.

Rejection of this amendment is not turning our back on the problem. I assure you that legislation will be forthcoming. Mr. KEE and the subcommittee are committed to the development of comprehensive legislation.

Reject this amendment because I can assure you our committee will do what is necessary to eliminate the types of con-

ditions which resulted in the West Virginia tragedy.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

I would like to call the attention of the members of the Committee to the remarks which were made by the distinguished gentleman from Ohio (Mr. JAMES V. STANTON). He pointed out that the problem is adequately covered in our demonstration projects provision in this bill. It is also dealt with in the Appalachian program. We have means and methods by which we can cure this problem.

Certainly, I am wholeheartedly sympathetic with the distinguished gentleman from West Virginia with reference to this problem. However, I am also aware that this amendment is not needed because there are other provisions in this bill in addition to the demonstration projects.

We have in this bill a provision providing for areawide waste water management procedures. These are for areas of urban and industrial development, or other areas where there are water quality problems. Obviously this part of West Virginia has such a water quality problem. Thus, the State in implementing an areawide water quality management plan must consider this problem.

Also let me point out to my good friend, the gentleman from West Virginia (Mr. HECHLER), that under that requirement for areawide waste water management plans there must be a process to identify, if appropriate, mine-related sources of pollution, including new, current, and abandoned surface and underground mine runoff. There must be set forth procedures, processes, and methods—including land use requirements—to control such sources to the extent feasible.

We have built into this legislation a means whereby we can deal with this problem and a means whereby the States can deal with it. So I really do not think the amendment offered by the gentleman from West Virginia (Mr. HECHLER) serves any purpose, but simply reiterates something which is already in the bill.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. It was under the very State regulations for the protection of the waterways by the State of West Virginia that caused the Pittston Coal Co. to create this garbage pile which backed up the water, and the collapse of which caused this horrible disaster which many people called an act of God. But it was a terrible act of man which caused the tragedy at Buffalo Creek.

Mr. HARSHA. That may well be, but what we are providing for in this bill is areawide waste water management procedures and programs. We require the States to develop the plans. They can secure a grant from the Federal Government for developing such a program in conformance with the Federal guidelines and regulations. The State of West Virginia will certainly have to do this for the specific situation that you have described. I am sincere, and I am telling my good friend, the gentleman from West Virginia, that I think his situation is amply covered under the legislation we have here.

Therefore, Mr. Chairman, I urge the defeat of the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was rejected.

AMENDMENT OFFERED BY MRS. ABZUG

Mrs. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. ABZUG: on page 390, strike lines 6 through 16 inclusive.

Mrs. ABZUG. Mr. Chairman, I rise to offer an amendment which was printed in the CONGRESSIONAL RECORD on March 22, on page 9690.

The amendment reads as follows:

On page 390, strike lines 6 through 16 inclusive.

Mr. Chairman, section 511(d) of the bill before us, to which this amendment refers, strikes at the heart of the National Environmental Policy Act of 1969. This amendment, one of the clean water package amendments, was referred to by Mr. RANGEL and myself in our separate views in the committee report and is supported by many of my colleagues and by numerous conservation groups throughout the country. It would delete section 511(d), thus leaving the National Environmental Policy Act intact.

The National Environmental Policy Act requires every agency to consider the total impact of its work on the environment before embarking on any project which may have a significant impact on the environment. Every agency must now examine not merely its narrow mission, such as building a dam, a road, or a sewer outfall, but also the unavoidable adverse effects of its action, the alternatives, and the resources which would be irretrievably committed by the action. The National Environmental Policy Act also requires the agency to prepare an environmental impact statement after consultation with other agencies, and to receive the views of the public.

Section 511(d) of the reported bill provides that the "requirements of the National Environmental Policy Act of 1969" "as to water quality considerations shall be deemed to be satisfied" by a certification issued by a State with respect to Federal licenses or permits for the construction or operation of "any activity."

The language of the bill does not specify just what those "requirements" are. Thus, the committee bill leaves it to the courts to try to determine what requirements in the law are, in fact, satisfied by this certification.

The committee, in its report—page 137—states that the differences in language between this section in the House bill and a similar one in the Senate bill are "editorial." Yet a careful review of these differences shows that the Senate provisions apply only to waste "discharges," whereas the House bill applies to "any activity" which has a Federal license or permit. This would include not only waste discharges but also such matters as dams licensed by the Federal Power Commission and permits to mine coal on Federal lands issued by the Interior Department.

Under the House bill, the States will be handling almost all of the certifications and permits under sections 401 and 402. Hence, section 511(d) would mean that all kinds of activities having "Federal" permits or certifications will be deemed to have complied with NEPA without ever having to be considered by any Federal official. Furthermore, many sources of water pollution will not have to file environmental impact statements, even though they are being constructed with Federal grants, so long as they have a certification or a permit under the bill.

The National Environmental Policy Act has been one of the significant statutes enacted in our time. It requires a full airing of governmental decisionmaking where the environment is invloved. Informal administrative procedures which were once closed are now open to full public view and participation, and agencies are forced to articulate the rationale behind actions which might affect our precious environment.

Most Federal agencies have learned to live with NEPA in the 2 years since its enactment. They have learned to look at their responsibilities in a new, broader light, and all the people are profiting as a result.

The argument has been advanced that the requirements of NEPA cause delays in projects and place undue administrative burdens on Federal agencies. However, according to Russell Train, Chairman of the Council on Environmental Quality:

Of all the suits filed under [NEPA], only a small proportion (less than 15 percent) have resulted in Government actions being held up in whole or in part. Even in these instances, the court has ordered only a temporary halt—pending either trial, preparation of a 102 [environmental impact] statement, or revision of agency NEPA procedures.

The committee says that section 511 (d) is necessary to reverse the effect of Federal District Judge Robinson's decision in *Kalur* v. *Resor*, 3 ERC 1458, which held that the Corps of Engineers must make environmental impact statements before issuing Refuse Act permits. But the committee report admits—page 139—that section 511(d) may be wholly ineffective to accomplish this objective. The report states——

The CHAIRMAN. The time of the gentlewoman from New York has expired.

(Mrs. ABZUG asked and was given permission to proceed for 2 additional minutes.)

Mrs. ABZUG. Mr. Chairman, the report states:

If it is determined after enactment of this legislation that section 102 of NEPA is applicable to Section 402 permits, the Administrator may be required to prepare environmental impact statements prior to his issuing such a permit.

Indeed, the Kalur decision would not have occurred if the Corps of Engineers, the Council on Environmental Quality, and the Environmental Protection Agency had listened to the advice which many of the Members of the Congress repeatedly gave to them before they issued their Refuse Act regulations.

I think the Corps' regulation waiving all environmental impact statements in connection with the Refuse Act was a violation of law. In short, if you will excuse the expression, I think the arguments for section 511(d) just do not hold any water. The only activities which have have been delayed or stopped are those which failed to comply with NEPA, a law designed to protect our environment.

It is interesting to note that just a few weeks ago, Interior Secretary Rogers Morton, a respected former Member of this body, testifying that he did not "think NEPA needs changing. We have got to learn to administer it. I think that we haven't given it a fair chance."

I think so, too, Mr. Chairman.

My amendment would simply strike paragraph (d) of section 511 from the bill. Whatever problems there may be with NEPA ought to be considered in connection with the bills concerning it that are now being considered by the committee which has legislative jurisdiction over NEPA.

As a matter of fact, I read a bill in today's CONGRESSIONAL RECORD—at page 10299—which would meet the specific problems raised by the 20,000 applications for Corps of Engineer permits now pending, which require environmental impact statements under the Kalur decision. I believe this bill, proposed by Mr. DINGELL, would provide some relief for these 20,000 cases. I see no reason, therefore, to sweep away the requirement of the environmental impact statement in so wide a variety of cases as section 511(d) does.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment. The amendment has primary application to the Atomic Energy Commission. This language was deliberately inserted in the bill in the other body upon the motion of Senator BAKER, the Senator from Tennessee. It was suggested by the Joint Committee on Atomic Energy. That committee of the House and of the Senate recommended that this language be included.

The language which would be stricken by the amendment offered by the gentleman from New York merely states:

The requirements of the National Environmental Policy Act of 1969 as to water quality shall be deemed to be satisfied by the certifications pursuant to section 401.

Section 401 sets forth an elaborate procedure whereby the States would have to certify, in the first place, that any such discharge would comply with the applicable provisions of the 1976, 1981 and other goals of this act, including the "no discharge" and point limitations, and that would have to be agreed to by the EPA, the Environmental Protection Agency. This is already required in section 401. It seems illogical to require that, after that has already been done by people who presumably know what it is all about, they would have to come and get still another determination as to environmental impact. What we are trying to do in all of this is to reduce pollution in streams in the first place. Therefore, I urge defeat of the amendment.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, yesterday in the RECORD my good friend and colleague, the Senator from Washington (Mr. PELLY), and I announced the introduction of legislation to afford reasonable relief both as to time and as to quantity with regard to the Kalur decision. That legislation would afford a reasonable opportunity to EPA to issue discharge permits, without filing environmental impact statements on each discharge permit. Our bill, H.R. 14103 would exempt effluent permits from the requirements of an environmental impact statement under section 102(2)(c) of the National Environmental Policy Act for approximately 5 years. It is our intention to afford reasonable relief to EPA and to allow them to move rapidly forward in issuing permits without having to file an environmental impact statement on each and every one of the thousands of permits which they would propose to issue. But I think we have to see what the committee bill does. This committee bill does more than to give relief from environmental impact statements. It says that for all intents and purposes, once a State has certified a water quality standard, all of the requirements of the National Environmental Policy have been met. What does this say? This says they no longer have to consider the cost-benefit requirements that are included in the National Environmental Policy Act. It says they no longer have to consider all the other questions relating to the wholesomeness of environment. They no longer have to consider the question of permit on the basis of systematized interdisciplinary approach to achieve a quality environment.

I do not know who suggested this language to the Committee on Public Works, but I will tell the gentlemen of the Committee on Public Works it was never cleared with the subcommittee of which I am chairman, which authored the National Environmental Policy Act. It was never cleared with the Committee on Merchant Marine and Fisheries, which wrote the National Environmental Policy Act.

It was never cleared with the Senate Interior Committee, which participated with me jointly in the writing of the National Environmental Policy Act.

What this provision of the bill does is to make a clear attempt, not to give the limited relief which is necessary, but rather to see to it that there is a total exemption from the requirements of the National Environmental Policy Act with coordination with EPA, or by the Council on Environmental Quality, or by any other Federal agencies. As a result, the language of the committee bill is very bad.The language of the amendment offered by the gentlewoman from New York is an extremely valuable attempt to preserve an important measure of environmental protection. She and her colleague, the gentleman from New York (Mr. RANGEL) have provided both valuable leadership to this body and to the conservationists in a move forward with the very valuable report which they submitted to this body, setting forth for the first time to this body the clean water package which we offer today, of which this amendment is an extremely important part.

Just to recap briefly, there will be relief given from the question of the Kalur decision. My subcommittee is working very closely with the Council on Environmental Quality and with the Environmental Protection Agency to afford this opportunity. I anticipate within the very near future my subcommittee will be legislation on H.R. 14103 to afford the appropriate measure of relief without gutting the National Environmental Policy Act.

Mr. Chairman, I urge my colleagues, if they are interested in good environment legislation, if they are interested in a good, wholesome, systematized approach that deals with all aspects of the environmental problem, to support the amendment offered by the gentlewoman from New York, and thereby change the committee bill significantly for the better.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. ABZUG).

TELLER VOTE WITH CLERKS

Mr. DINGELL. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. DINGELL. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Mrs. ABZUG and Messrs. WRIGHT, DINGELL, and HARSHA.

The Committee divided, and the tellers reported that there were—ayes 125, noes 268, not voting 39, as follows:

[Roll No. 93]

[Recorded Teller Vote]

AYES—125

| | | |
|---|---|---|
| Abourezk | Burke, Mass. | Fascell |
| Abzug | Burlison, Mo. | Fish |
| Adams | Burton | Foley |
| Addabbo | Carney | Ford, |
| Anderson, Calif. | Conyers | William D. |
| | Corman | Forsythe |
| Anderson, Ill. | Coughlin | Fraser |
| Anderson, Tenn. | Culver | Frenzel |
| | Dellenback | Fulton |
| Ashley | Dellums | Gallagher |
| Aspin | Dennis | Gibbons |
| Badillo | Dingell | Grasso |
| Bell | Dow | Green, Pa. |
| Bergland | Drinan | Griffiths |
| Biester | Dulski | Gubser |
| Bingham | du Pont | Gude |
| Brademas | Eckhardt | Halpern |
| Brasco | Edwards, Calif. | Hamilton |
| Brotzman | Esch | Harrington |

| | | |
|---|---|---|
| Hathaway | Mallary | Rosenthal |
| Hechler, W. Va. | Mazzoli | Roush |
| Heckler, Mass. | Meeds | Roy |
| Heinz | Melcher | Roybal |
| Helstoski | Mikva | Ruppe |
| Hicks, Mass. | Mink | Ryan |
| Hillis | Minshall | Sarbanes |
| Howard | Mitchell | Saylor |
| Jacobs | Mosher | Scheuer |
| Karth | Moss | Seiberling |
| Kastenmeier | Nedzi | Skubitz |
| Keating | Nix | Smith, Iowa |
| Kemp | Obey | Smith, N.Y. |
| Koch | O'Hara | Stanton, |
| Leggett | Pelly | J. William |
| Link | Pepper | Udall |
| Long, Md. | Peyser | Veysey |
| Lujan | Pike | Waldie |
| McClory | Podell | Whalen |
| McCloskey | Pucinski | Wilson, |
| McClure | Quie | Charles H. |
| McKinney | Rangel | Wolff |
| Macdonald, | Reuss | Yatron |
| Mass. | Roe | Zwach |
| Madden | Rogers | |

NOES—268

| | | |
|---|---|---|
| Abbitt | Eilberg | McMillan |
| Albert | Erlenborn | Mahon |
| Alexander | Eshleman | Mailliard |
| Andrews | Evins, Tenn. | Mann |
| Annunzio | Findley | Martin |
| Archer | Fisher | Mathias, Calif. |
| Arends | Flood | Mathis, Ga. |
| Ashbrook | Flowers | Matsunaga |
| Aspinall | Flynt | Mayne |
| Baker | Ford, Gerald R. | Metcalfe |
| Barrett | Fountain | Michel |
| Begich | Frelinghuysen | Miller, Calif. |
| Belcher | Frey | Miller, Ohio |
| Bennett | Fuqua | Mills, Ark. |
| Betts | Galifianakis | Mills, Md. |
| Bevill | Garmatz | Minish |
| Biaggi | Gettys | Mizell |
| Blackburn | Giaimo | Monagan |
| Blatnik | Gonzalez | Montgomery |
| Boggs | Goodling | Moorhead |
| Boland | Gray | Morgan |
| Bolling | Green, Oreg. | Murphy, Ill. |
| Bray | Griffin | Murphy, N.Y. |
| Brinkley | Gross | Myers |
| Brooks | Grover | Natcher |
| Broomfield | Hagan | Nelsen |
| Brown, Mich. | Haley | Nichols |
| Brown, Ohio | Hall | O'Neill |
| Broyhill, N.C. | Hammer- | Passman |
| Buchanan | schmidt | Patten |
| Burke, Fla. | Hanley | Perkins |
| Burleson, Tex. | Hanna | Pettis |
| Byrne, Pa. | Hansen, Idaho | Pickle |
| Byrnes, Wis. | Harsha | Pirnie |
| Byron | Harvey | Poage |
| Cabell | Hays | Poff |
| Caffery | Hébert | Powell |
| Camp | Henderson | Preyer, N.C. |
| Carey, N.Y. | Hicks, Wash. | Price, Ill. |
| Carter | Hogan | Price, Tex. |
| Casey, Tex. | Holifield | Railsback |
| Cederberg | Horton | Randall |
| Celler | Hosmer | Rees |
| Chamberlain | Hungate | Rhodes |
| Chappell | Hunt | Roberts |
| Clancy | Hutchinson | Robinson, Va. |
| Clark | Ichord | Robison, N.Y. |
| Clausen, | Jarman | Rodino |
| Don H. | Johnson, Calif. | Roncalio |
| Cleveland | Johnson, Pa. | Rooney, N.Y. |
| Collier | Jonas | Rooney, Pa. |
| Collins, Ill. | Jones, Ala. | Rousselot |
| Collins, Tex. | Jones, N.C. | Runnels |
| Colmer | Jones, Tenn. | Ruth |
| Conable | Kazen | St Germain |
| Conte | Kee | Sandman |
| Cotter | Keith | Satterfield |
| Crane | King | Schmitz |
| Curlin | Kluczynski | Schneebeli |
| Daniel, Va. | Kuykendall | Schwengel |
| Daniels, N.J. | Kyl | Scott |
| Danielson | Kyros | Sebelius |
| Davis, Ga. | Landgrebe | Shipley |
| Davis, S.C. | Latta | Shoup |
| Davis, Wis. | Lennon | Shriver |
| Delaney | Lent | Sikes |
| Denholm | Lloyd | Sisk |
| Dent | Long, La. | Slack |
| Derwinski | McCollister | Smith, Calif. |
| Devine | McCormack | Snyder |
| Dickinson | McCulloch | Spence |
| Donohue | McDade | Springer |
| Dorn | McDonald, | Staggers |
| Dowdy | Mich. | Steed |
| Downing | McEwen | Steele |
| Duncan | McFall | Steiger, Ariz. |
| Edmondson | McKay | Steiger, Wis. |
| Edwards, Ala. | McKevitt | Stephens |
| Stratton | Thone | Williams |
| Stubblefield | Tiernan | Wilson, Bob |
| Stuckey | Ullman | Winn |
| Sullivan | Vigorito | Wright |
| Symington | Waggonner | Wyatt |
| Talcott | Wampler | Wylie |
| Taylor | Ware | Wyman |
| Teague, Calif. | Whalley | Young, Fla. |
| Teague, Tex. | White | Young, Tex. |
| Terry | Whitehurst | Zablocki |
| Thompson, Ga. | Whitten | Zion |
| Thompson, N.J. | Widnall | |
| Thomson, Wis. | Wiggins | |

NOT VOTING—39

| | | |
|---|---|---|
| Abernethy | Goldwater | Reid |
| Baring | Hansen, Wash. | Riegle |
| Blanton | Hastings | Rostenkowski |
| Bow | Hawkins | Scherle |
| Broyhill, Va. | Hull | Stanton, |
| Chisholm | Landrum | James V. |
| Clawson, Del | Mollohan | Stokes |
| Clay | Morse | Van Deerlin |
| de la Garza | O'Konski | Vander Jagt |
| Diggs | Patman | Vanik |
| Dwyer | Pryor, Ark. | Wydler |
| Edwards, La. | Purcell | Yates |
| Evans, Colo. | Quillen | |
| Gaydos | Rarick | |

So the amendment was rejected.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 388, line 10, after "Sec. 510." insert "(a)". Page 389, after line 4, insert the following:

"(b) Nothing shall preclude or deny the right of any State or political subdivision thereof or interstate agency, with respect to radioactive materials and thermal discharges, to adopt or enforce any standard or limitation respecting the release of radioactive materials and thermal discharges into water, or any requirement respecting control or abatement of pollution from such radioactive materials and thermal discharges; except that if an effluent limitation or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or regulation relating to radioactive materials or thermal discharges is in effect under this Act, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or regulation relating to such radioactive materials or thermal discharges which is less stringent than the effluent limitation or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or regulation under this Act.

POINT OF ORDER

Mr. PRICE of Illinois. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PRICE of Illinois. Mr. Chairman, the proposed amendment is directed to "any other law" which the Congress after due deliberation has passed relative to radioactive materials and thermal discharges. It does not seek to improve upon or clarify the bill before us. As to radioactive materials, the target of the amendment is clearly the Atomic Energy Act of 1954 which is the only "other law" providing for the regulation of such materials. The reason it is the only other law is that Congress intended by that law to fully occupy that field and preempt that authority to the Federal Government to be exercised by the Atomic Energy Commission. A Federal district court in Minnesota so held and the U.S. Court of Appeals for the Eighth Judicial Circuit affirmed that decision. This proposed amendment seeks to reverse the decision of the courts and seeks to reverse the clear intention of the Congress when it adopted the Atomic Energy Act of 1954.

As to the matter of thermal discharges, I must confess that I know of no "other law" under which such discharges are regulated other than the Federal Water Pollution Control Act now being considered. The provisions of the amendment as to such discharges are already provided in section 510 of the bill as reported by the committee. It appears, therefore, that in this respect the amendment is redundant.

Mr. Chairman, I therefore raise a point of order that the proposed amendment is not germane to the bill since it is directed only at "other law" and not toward any provision of the bill before this Committee.

The CHAIRMAN. Does the gentleman from New York desire to be heard on the point of order?

Mr. WOLFF. I do so desire, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, for the information of the gentleman from Illinois (Mr. PRICE) who raised the point of order, the amendment, when originally conceived of, had reference to "any other law." The amendment as it was offered here did not mention "any other law," and stated specifically that nothing shall preclude or deny the right of any State. That language was originally in the amendment, but was excluded from the amendment before it was offered. Therefore the amendment is germane to the question of effluents of radioactive waste material, and related pollutions, as it refers to this matter.

There is nothing in here that refers to "any other law," but merely amends the legislation that we have before us today.

The CHAIRMAN. Does the gentleman from Minnesota (Mr. FRENZEL) seek recognition?

Mr. FRENZEL. Mr. Chairman, I do. As the coauthor of the amendment I would like to speak to the point of order raised against the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota for that purpose.

Mr. FRENZEL. Mr. Chairman, H.R. 11896, in sections 1, 3, and 5, touches on control and regulation of both radioactive wastes and thermal discharge.

In section 502(6), page 372, radioactive materials are defined as pollutants, or rather, the definition of pollutants includes radioactive material.

In section 104(T), page 221, the Administrator is charged with conducting studies in cooperation with State and Federal agencies on the effects and control of thermal discharges.

In section 301(E), page 269, radiological warfare agents and high-level radiological wastes are included. In section 316(A), page 347, the Administrator is charged with issuing regulations with respect to control of thermal discharges.

In section 316(E) on page 349, the Administrator's regulations are made to apply at point sources owned or operated

by the United States or an instrumentality thereof.

In paragraph (D) on page 346, the regulations apply to thermal discharges from all sources.

In section 510, on page 388, the section to which the Wolff-Frenzel amendment applies, thermal discharges are included.

Mr. Chairman, the entire bill is shot full of references to thermal discharges and radioactive wastes. Clearly it was the intent of the committee and the bill's authors to provide for control of these types of pollution. An amendment which merely specifies a type of control is surely germane to this bill.

The CHAIRMAN. For what purpose does the gentleman from Ohio (Mr. HARSHA) rise?

Mr. HARSHA. Mr. Chairman, I rise in support of the point of order.

The CHAIRMAN. The gentleman from Ohio is recognized for that purpose.

Mr. HARSHA. Mr. Chairman, I simply wish to say that the amendment attempts by reference to amend a separate statute already on the law books, and as such is not germane, and subject to a point of order. And, insofar as the amendment treats with thermal discharges, whether or not there is jurisdiction in this particular bill to require that kind of amendment or the portions of it concerned with thermal discharges with the portions concerned with amending the Atomic Energy Act, the two cannot be separated, and therefore the point of order must lie.

The CHAIRMAN (Mr. SMITH of Iowa). The Chair is prepared to rule on the point of order.

The amendment of the gentleman from New York (Mr. WOLFF) to which a point of order has been raised by the gentleman from Illinois (Mr. PRICE) reads that "nothing shall preclude or deny the right of any State or political subdivision thereof or interstate agency," and then it addresses itself to the definitions of the term "pollutants" on page 372 in which radioactive materials are referred to.

In view of these circumstances, the Chair holds that the amendment is germane and overrules the point of order.

The gentleman from New York (Mr. WOLFF) is recognized for 5 minutes in support of his amendment.

Mr. WOLFF. Mr. Chairman, there is an urgent open item of legislative policy that prompts me to propose, with my respected colleagues, the gentleman from Minnesota (Mr. FRENZEL), an amendment to H.R. 11896, and this is the need to reaffirm the right of the States to set standards for the discharge of radioactive materials and waste heat into the Nation's waters, standards that are more stringent than those of Federal agencies.

Our amendment would do this by adding a new paragraph to section 510 of the Federal Water Pollution Control Act amendments which would specifically prevent anything in any other law from precluding or denying the right of any State or political subdivision thereof, or interstate agency, to adopt or enforce any standard or limitation respecting the release of radioactive materials and thermal discharges into water, or any requirement respecting control or abatement or pollution from such radioactive materials and discharges; except, that these standards, and so forth, could not be less stringent than those set under the Water Pollution Control Act Amendments of 1972.

This amendment is germane to the legislation before us, for in title III, section 301(e), the bill makes it unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters, and in section 316 provides for regulation of thermal discharges. It does seem strange to me, though, that the bill fails to prohibit the routine discharge of radioactive wastes from nuclear powerplants into the water. Our amendment will give the States a voice in deciding what kinds and amounts of such radioactive wastes may be discharged into their waters.

If there ever was a case for States' rights, this is it.

The States that have already petitioned to do this on their own are the States of Minnesota, Michigan, Illinois, Vermont, Wisconsin, Hawaii, Kentucky, Maine, North Dakota, Pennsylvania, Utah, and Virginia.

The primary reason for this amendment is to give the States a long delayed voice in dealing with the public health and environmental effects of the mammoth nuclear powerplants that are starting to litter the landscape. These plants routinely emit radioactive gases into the air and other radioactive wastes into the waters. They also discharge enormous amounts of waste heat, and, I submit, no State should be expected to accept the risks of these plants to the public health and to the quality of the environment without the option of being able to set standards more restrictive than those set on the Federal level.

Today, a quarter century after the Atomic Energy Commission was established, and some 17 years after the Atomic Energy Act was revised to open the way to commercial nuclear power, we still find nuclear powerplants being designed, built and operated to routinely emit radioactive wastes into the air and water surrounding a powerplant. When we consider that the Federal Power Commission forecasts that within 20 years virtually half of the electricity generated will come from nuclear powerplants, and when we further consider that this span of years barely encompasses three generations of nuclear powerplants, it seems abundantly evident to me that now is the time to seriously consider standards more stringent than those promulgated by the AEC.

If a State government anticipates having a dozen or so huge new nuclear powerplants built within its borders during the next two decades and wishes to impose stringent standards for emission of radioactive and thermal wastes, standards more strict than Federal ones, who are we to second-guess the responsibility exercised by State officials and say "nay"?

I would like to recall that on September 2, 1969, the National Governor's Conference adopted a policy statement on natural resources which bears upon the radioactive waste issue. The conference resolved that—

> While we fully recognize the problems of environmental abuse such as pollution respect no governmental boundaries and that, therefore, leadership in setting minimum standards of environmental quality can be a proper concern of the Federal Government, it is the position of the Governors that the States have and must retain the authority to establish additional environmental controls as required by special conditions.

The Republican Governors followed suit by adopting a similar position on December 12, 1969.

The heart of opposition to reasserting the right of the States to control discharges of radioactive and thermal wastes within their boundaries lies in the fear by proponents of nuclear power that a State might impose such unduly restrictive requirements as are tantamount to the exclusion of nuclear facilities within their borders. However, the fact of the matter is that there are many other ways in which a State government, if it wished, could curtail expansion of nuclear power generating capacity. States clearly have the power presently to do this by refusing to issue certificates of convenience and necessity for construction and operation of new powerplants; State Public Utility Commissions could forbid use of expensive nuclear power by their rate determinations. So our amendment would not give any special, unique power to the States. It would simply reassert the full range of their present authority in our federal system.

In conclusion, I urge support for this amendment because the perils of nuclear power are too grave, too fearsome to exclude a voice for the States. The government that is closest to the people who will be personally affected should be able to set stricter standards if in its balancing of economic costs and social benefits, such standards are indicated.

Mr. Chairman, I urge my colleagues to join with me and with my distinguished colleague from Minnesota (Mr. FRENZEL) in support of this amendment. We have before us today the opportunity to reaffirm the rights of the States to set stricter standards for emission of radioactive and thermal wastes from nuclear powerplants; these rights must be carefully guarded and vigorously reasserted in accordance with the best interests of every American citizen.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California is recognized.

(Mr. HOLIFIELD asked and was given permission to speak for an additional 3 minutes and to revise and extend his remarks.)

Mr. HOLIFIELD. Mr. Chairman, we have before us an old problem. This is not a new problem. It is a problem which has been considered now for about 25 years by the committee that the House formed to consider this problem, the whole problem of atomic energy, the use and application of atomic energy with safety to the American people. This complex problem should not be legislated on the floor today under advocacy of people who have no real expertise in the subject, and

I say that with due respect to every one of my colleagues. At this time let me point to a pile of volumes of hearings that have been held over the years, over 15 volumes on the operation of atomic reactors with safety to the people of the United States. The bulk of that testimony reveals what has happened since the first reactor was built which made the bomb that destroyed Hiroshima, and that is a record of no fail, no damage to the people of this country.

I want you to listen to what I am about to say very carefully. In 1958, because we wanted the States to participate in this development, we passed a law permitting the States to participate in it. I hold the text of that law in my hands. I do not have the time to read it. That was contingent upon the States' first wanting to do the job and, second, showing that they had the people with the expertise to do the job—not the birdwatchers, not the people who are emotionally disturbed about pollution in our environment, but the physicists, the scientists, and the engineers who have built 100 submarines in each of which more than 100 men live within a few feet of the reactors for many months, and there has not been one case of radioactive damage to our personnel in those submarines. We are not even talking about close proximity like that. We are talking about reactor plants with concrete and steel insulation, from 5 to 7 feet thick, and around that a big steel vessel to prevent any kind of gas or any radioactive material from escaping which would be noxious or harmful to the people of the United States.

This issue has been put to test in the State of Minnesota in the courts, and the lower Federal court found that the Federal Government, under the act of Congress, had preempted, in this very narrow field, this subject and, as I said before, we provided in a law that States could participate in this development, but only 23 out of the 50 States have shown a desire to do so. Now many of those States have a petition before the Joint Committee for Federal funding to help them do what they are supposed to do. That is the situation that exists. Those are the facts of life. We are dealing with something here that can be tremendously dangerous, or it can be handled safely. The record of the last 30 years shows it has been handled safely. Now comes forth these new-found proponents of environment and ecology who say, "We are afraid that something will happen, and because we are afraid, turn this matter over to the States to perform this highly complex job."

The States have in the past 15 years shown an incapacity or an unwillingness to build on the State level the expertise required.

Here is one place, I can tell Members, where if they vote for States rights in this instance, they are voting to endanger the people of their States, because the States do not know how to do this job. The States do not know how to do this job. If they learn how to do the job, under the 1958 law, I am sure that they will be given enlarged fields of control of radiation.

The case in Minnesota was taken, not only to the lower Federal courts, but also to the court of appeals, and the court of appeals upheld the lower court's decision that the Federal Government had preempted this narrow but very important field of safety to the people of the United States.

The court of appeals upheld the lower court. The case went to the Supreme Court. It has not yet been heard, but the Supreme Court has asked the Solicitor General to prepare a brief before the Supreme Court on this matter, and that brief sustains the actions of the other two courts. It says that Congress has preempted this right for the Federal Government and that the Federal Government is disposing of it in a careful way.

If the Members want to gamble—and I am not just talking to the 23 States that are already learning how to do this job of radiation monitoring and control, but I am also talking about the 27 States that have not even a vestige of control apparatus in them—I would point out many reactors are being built in these States. I do not want to go into the subject of the need for electricity from these nuclear reactors. I am telling the Members this, and the testimony is ample, that before the end of this century most of the fossil fuels are going to be depleted, and if we are going to have energy in this Nation of ours to meet the energy needs, we are going to have to have it from nuclear energy. Long after I am gone from the Congress the Congress is going to have to watch this and guard it because this is the only source of heat and energy that will provide for the Nation in the next thousand years the energy needs of the people of this Nation.

I am saying this. We are not fooling with dynamite. We are fooling with the state of the Nation. There are certain areas where protection has to be extended across State boundaries, and this is one of those instances, because if we have a State in one place that is enforcing the law, and if we have a State next to it that is not enforcing the law and does not know how to enforce the law, it can damage all the States around it. This is not anything to consider lightly or to fool with.

I say to the Members this is a dangerous amendment and ought to be voted down.

Mr. FRENZEL. Mr. Chairman, I rise in favor of the amendment.

Mr. Chairman, along with the distinguished gentleman from New York (Mr. WOLFF) I am a sponsor of the pending amendment to give States the right to set more restrictive standards for radioactive and thermal pollution than the Federal Government. I urge you to adopt it.

The distinguished gentleman from New York and I mean no disrespect for the committee. They have done a first-rate, workmanlike job. We believe that we are simply clarifying the intent of section 510 which extends to States the right to set stricter standards. We want to make sure this policy is broad enough.

I am a proud sponsor—proud because my State of Minnesota has taken the lead in the fight to establish any State's right to protect its citizens in a reasonable method of its own choice.

My State's proud story is also a sad one. In 1969 we tried to establish standards stricter than the AEC for a nuclear powerplant. We lost in district court in 1970. We lost, on a split decision in the Eighth Circuit Court of Appeals in 1971. Now we are on our way to the Supreme Court.

Today you can save us the trouble of begging the Supreme Court for our State's rights. You can also stand up for the rights of all our States by adopting our amendment.

In 1970, our then Gov. Harold LeVander told the Joint Committee on Atomic Energy:

> We hold that the State has an obligation to protect its citizens against environmental pollution. We are not willing to abdicate this obligation.

The Governor said he could not sort out the conflicting opinions of distinguished scientists:

> I do not know who is correct. I do know I have a duty to protect the health and welfare of the citizens of my State.

Minnesota has been critical of AEC standards from the beginning. The standards which our State has set are far stricter than the AEC standards. Since 1969, we have not had any reason to suspect that our standards are not far better for our citizens. The AEC is a marvelous and effective institution. Its scientists are brilliant and distinguished. But the AEC has a dual mission—that of promotion as well as safety. In Minnesota we worry more about the health and welfare of our citizens than about the promotion of nuclear power.

Like Governor LeVander, I do not know who is correct. I do feel that the State has the responsibility to err on the side of safety in the standards that it sets. If its standards are more strict than those of the promotional agency, the AEC, it should have the opportunity to operate under its stricter standards and to prove that they are superior for the protection of its citizens.

LeVander, a Republican, was speaking for Minnesota and for all States. His successor, Democrat Wendell Anderson, has spoken and acted with equal vigor in pursuit of the right of States to protect their own citizens.

The present Federal preemption tells us how closely the Congress and the AEC cling to the concept that "The King can do no wrong." Washington centralists seem to be telling the States and local governments that only Federal big shots can be trusted with this important business.

Most of us have believed in the ability of local governments to solve local problems where they have sufficient authority. In this case, my State, and, perhaps someday your State, felt that stricter standards were a local solution to a local problem. Proponents of nuclear promotion and AEC will say that local standards will restrict the growth of nuclear power. If such restrictions occur in the name of the public safety, then they are worth while. However, it is more than likely that whatever restrictions the

various States set will not be bad enough, nor so nonuniform, as to restrict unduly the growth of nuclear power. Before the States are accused of being crazy, they ought to have a chance to prove that they can react reasonably.

Like my two Governors, I believe that my State, and yours, has the responsibility, and should have the authority, to protect its citizens no matter what Federal big shot, or what appointed bureaucrat, may say to the contrary. If the States do wrong, let AEC take them to court, not vice versa.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

In the previous statement made by the gentleman from California he questioned whether or not the States would jeopardize the lives of the people by setting standards that were perhaps below the standards set by the AEC today. That is not the case. Our amendment specifically states that no standards could be set below the AEC standards. In fact, the standards would be higher more restrictive standards.

Mr. FRENZEL. I thank the gentleman for his contribution. That is exactly correct.

This Congress gave the States the right to set stricter limits under the Air Pollution Control Act. This body voted the States that right in the Ocean Dumping Act. Let us not give up on State government in this important pollution bill.

For over 30 years we have watched an acquisitive central government gather unto itself and its agencies all manner of powers formerly belonging to the States. For over 30 years we have witnessed Federal failure after Federal failure in countless areas where States and local governments could have done the job.

I believe in a Federal standard as a floor under State efforts. But I do not condone a Federal floor, Federal ceiling and four Federal walls to form a Federal coffin, boxing State authorities and stifling State initiatives.

Some of us may be attracted to the "papa knows best" theory. Centralism always dies hard, I suppose But if enough of us still believe in State and local governments—in their ability to solve local problems—we can, by passing this amendment, give our States the authority to exercise their rightful responsibilities.

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the gentleman from New York (Mr. WOLFF) and the gentleman from Minnesota (Mr. FRENZEL) would allow any State or any political subdivision of any State to totally preempt the regulatory authority of the Atomic Energy Commission with respect to the discharge of radioactive materials.

I know this amendment is well intentioned. I know the appeal to States' rights sounds attractive, but in my considered opinion, gentlemen, nothing could be more dangerous to this Nation than to adopt the amendment.

Mr. Chairman, I am the chairman of the Science and Astronautics Committee's Task Force on Energy Research and Development. During the past 6 months we have conducted more than 2 dozen briefings and information collecting sessions on our Nation's energy crisis.

Let me assure the Members that this crisis is real and very dangerous to this Nation. It will affect our gross national product, our national defense, our level of employment, and the protection of our environment.

We have no alternative but to proceed with all haste, consistent with maximum safety, to consider all forms of energy conversion: coal, oil, gas, nuclear, geothermal, hydro, and some time in the future, solar and fusion.

During the next 50 years our Nation must depend on nuclear fission as a major source of power.

We cannot afford delay. Every area of this Nation is in imminent danger of brownouts and blackouts during peakload periods.

The Wolff-Frenzel amendment would submit the life and death of any nuclear powerplant to the whim of any person, qualified or unqualified, representing any political subdivision of any State.

Ladies and gentlemen, I have worked for 20 years as a nuclear research scientist at the Hanford atomic energy plant. The fact is that the Atomic Energy Commission reactor safeguards program has the best safety record of any industrial activity in history. I believe it can be shown that more detailed research has been conducted by the Atomic Energy Commission on nuclear safety and safety with regard to radioactive materials than on any other subject of any kind in history.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. No.

Thousands of man-years of highly qualified work have gone into a study of each radioisotope, its half-life, its disintegration energy levels, its daughters, its biological paths and its biological concentrations and their effects. Nothing exists outside of this meticulous work which remotely compares to it in quality, accuracy or thoroughness with regard to safety considerations. Nothing in any State remotely compares to the work of the Atomic Energy Commission. AEC safety standards are totally consistent in detail with the safety standards for the International Agency for Atomic Energy.

To accept the Wolff-Frenzel amendment would amount to throwing away all of this rational work and substituting for it what is at best semi-informed opinion, and what is many times nothing more than hysteria.

I would like to point out to you that I live on the Columbia River. It is my home. This is the river that is supposed to be "the most radioactively polluted river in America," if I may quote some persons. Hundreds of outstanding scientists live alongside me on this river—physicists, chemists, and biologists. We and our children and our wives spend all of our summer days swimimng, fishing, scuba diving, water skiing, sailing, and drifting on rafts on this river. We have a "whole-body counter" at Hanford with which the level of radioactivity in human beings may be measured.

A person is isolated from all outside radiation, and a large radiation detector is placed against the chest and stomach, and another near the head. All the radioactivity in a body is counted. Every employee at Hanford is "counted," as are most children in the area's schools.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. EDMONDSON, Mr. McCORMACK was allowed to proceed for 3 additional minutes.)

Mr. McCORMACK. I thank the gentleman. I will finish and then I will yield to the gentleman from Oklahoma.

This whole body count was made on me on my last day of work, as it had been each year. As the tape comes out of the computer one can tell what radioactive materials, and how much a person has in his body. The cesium 137, which everybody carries from weapons tests, shows up. So does the potassium 40 that every human being has in his body, and has had from the beginning of time. In spite of my work activity and my recreation on the river, nothing has ever shown up in me that is not also present in every person in this room.

Mr. EDMONDSON. Will the gentleman yield?

Mr. McCORMACK. I am glad to yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I thank the gentleman for yielding and for giving the Committee of the Whole the informed judgment which he has given with regard to this particular amendment, which itself on its face does have considerable appeal. What the gentleman is saying when you boil it down to the final meat of the coconut is that we have an assured expert surveillance of this system at the present time with know-how built into the system, and there is great danger under the proposed amendment of some well-intentioned amateurs writing some strong legal language which might preempt the inspection field and eliminate existing expertise and know-how from the safety operation. Is that correct?

Mr. McCORMACK. I thank the gentleman from Oklahoma. I agree with his statement, and express my respect for his knowledge in this subject, since he serves on the Joint Committee on Atomic Energy, as well as the Public Works Committee.

I would like to conclude by saying that it is obvious from the report by the House Committee on Public Works for this bill, and from the committee report from the other body that this bill does not impact directly upon the Atomic Energy Act of 1954. This bill applies only to radioactive materials not covered by the Atomic Energy Act of 1954 and, as such, the amendment is not relevant to this bill at all.

I suggest for these reasons that the amendment should be rejected.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude in 5 minutes.

The CHAIRMAN. Is there objection to

the request of the gentleman from Alabama?

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. JONES OF ALABAMA

Mr. JONES of Alabama. Mr. Chairman, I move that all debate on this amendment and all amendments thereto conclude in 7 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Alabama (Mr. JONES).

The question was taken; and on a division (demanded by Mr. WOLFF) there were—ayes 56, noes 46.

So the motion was agreed to.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on section 2 and all amendments thereto be concluded within 30 minutes after the consideration of the pending amendment.

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

Mr. REUSS. Mr. Chairman, I object.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on section 2 and all amendments thereto be concluded in 1 hour.

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HARSHA. Does that include all amendments to the rest of the bill?

Mr. JONES of Alabama. All amendments to section 2.

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

Mr. DINGELL. Mr. Chairman, I object.

MOTION OFFERED BY MR. JONES OF ALABAMA

Mr. JONES of Alabama. Mr. Chairman, I move that all debate on section 2 and all amendments thereto be concluded within 1 hour.

Mr. DINGELL. Mr. Chairman, I think under the rules of the House I am entitled to be heard on this point.

Mr. JONES of Alabama. Mr. Chairman, the earlier request was a unanimous-consent request.

Mr. DINGELL. Mr. Chairman, as I understand the rules of the House, I am entitled to be heard on this motion.

The CHAIRMAN. The gentleman from Alabama made a motion.

The question is on motion offered by the gentleman from Alabama (Mr. JONES).

The motion was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman who most deserves the right to speak on water pollution, the gentleman from Pennsylvania (Mr. FLOOD).

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

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Chairman, the gentleman from Indiana is quite right. I do have an inherent right to be heard on water pollution, being that my name is FLOOD. But I am speaking on behalf of the Governor of the Commonwealth of Pennsylvania, and the attorney general of that great State, and to say that we want to hold hands with our friends from the State of Minnesota on the question of the rights of the States.

Can you imagine Pennsylvania taking the lead with our friends on the question of States' rights? Pennsylvania is the Keystone State—never forget that—who has a better right?

The levels of pollution of atomic wastes and safety levels have never been set by anyone, especially with reference to nuclear fallout pollution. The Federal Government has set its own standards and has preempted the rights of the States—Pennsylvania insists on its right to set standards above those set by the Federal Government.

Mr. Chairman, I rise in support of this amendment to permit State and local agencies to adopt regulations restricting radiological or thermal discharges more stringent than those prescribed by the Federal Government—it is germane to the legislation at hand and is not only desired by the States, who have been traditionally charged with the responsibility for the health and safety of its citizens; but is critically needed to insure maximum abatement and control of such water pollution.

The attorney general of the State of Pennsylvania has expressed his opinion to me concerning the amendment: "It is a good idea, an excellent amendment, and I strongly urge its adoption," said Attorney General Cramer, and for good reasons. The States have set radiological standards since the discovery of the potential danger of the X-ray. This is nothing new. Control of radiation has been in the hands of the States dealing with their regulation over dental, medical, industrial, and recently laser emissions. It is perfectly consistent that they be granted the opportunity, which has been their right previously, to regulate radiation passing into their streams and waterways.

Concern to protect the public safety does not exist solely in the Federal Government. Surely the States have the right to protect their citizens which reside within their borders. The State governments are much closer to the citizens affected by radioactive waste; and furthermore, have a direct physical threat to them. The nuclear "sword of Damocles" hangs over their heads and for this primary reason I support the amendment to give the States a large voice in dealing with the public health and environmental dangers which the multiplying nuclear plants represent to them.

It is a routine matter for nuclear powerplants to discharge radioactive wastes into the water and vast amounts of waste heat which constitutes thermal pollution. It is a commonly known fact amongst outdoorsmen that in the critical summer months a rise in stream temperature of 1 or 2 degrees can cause a massive fish kill and promote the oxygen depleting growth of algae. Should a State government such as Pennsylvania, which leads the Nation in fish licenses issued and invests a substantial amount of money into fish culture and hatchery programs; and whose citizens themselves invest money in such sport, should such a government have no say in the regulation of powerplants which have the real potential to despoil all of the above investment. This, Mr. Chairman, is to say nothing of the harm to nature herself, to generations unborn who may be deprived of the opportunity to see a clean stream in any form.

It is apparent also that special conditions exist within each State—varying conditions of climate, topography, degree of urbanization, and so forth; and for this reason I would again urge adoption of this amendment. Each State must have the right to decide what suits the special conditions within its borders that may require additional and more stringent regulation of radioactive and thermal waste.

In conclusion, Mr. Chairman, I would state that the Constitution recognized the need for concurrent powers and that need should be met by this body today. This is merely to say that the perils of nuclear power are so threatening; that no one knows what is indeed a safe level of radiation; that levels of radiation will indeed be apparent in waterways adjacent to and downstream from nuclear powerplants; and that the States, while meeting minimum levels, should not be denied their right to go beyond the concept of minimum safety into the higher order of maximum safety.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. WOLFF). This amendment would permit State and local agencies to adopt regulations restricting radiological or thermal discharges more stringent than those prescribed by the Federal Government.

It is consistent with the bill's intent to place the primary responsibility for pollution control in the States. States should not be subject to the preemptive action exercised by the Atomic Energy Commission regarding such discharges.

I am neither a bird watcher nor an atomic expert, but we have one of these situations in my district, and I can tell you that they cannot clean it up. I do not know what they are going to do with it, and nobody else does, either. The university wanted it, AVCOM wanted it. Contractors wanted $170,000 to clean it up, and then spent $3 million before deciding that they could not decontaminate it. I think it is certainly proper that we let the States work on this important problem.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. HOSMER).

Mr. HOSMER. Mr. Chairman, radioactive emission standards are either safe or unsafe. They are either unsafe or safe all over the United States, and if you try

to segment this and let 50 different States set 50 different standards, and 50 different ways of handling radioactive emissions, you will ruin the nuclear industry in this country, and you still will not make anyone any more safe, that being an absolute matter of immutable physical laws and by no means an accident of a State regulator's opinion. By fractionating controls you will make it possible to impose additional requirements, above and beyond those required for public health and safety. This is unnecessary. It is uneconomic. It is xenophobic. It can impose operating conditions on reactors which are over stringent and a detriment rather than a contribution to safe operation.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. ANDERSON of Illinois yielded his time to Mr. HOSMER).

Mr. HOSMER. Mr. Chairman, I merely ask the Members that we observe the immutable laws of safety which cannot be amended by this body as to nuclear reactors any more than this body can, by statute, repeal the law of gravity. I urge the defeat of this amendment, which is totally mischievous and nonproductive.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, addressing first the question of thermal wastes, let me say that I believe section 316 is quite clear in its requirements that while thermal discharges may be permitted, they must be consistent with regulations to be promulgated by the Administrator.

These would apply to any source of a thermal discharge. On the question of control of radioactive wastes, it seems to me that the gentleman's amendment is clearly an attempt to modify the Atomic Energy Act. This is not in the jurisdiction of this committee.

There is a serious energy crisis developing in this Nation. It is far greater than the average person is aware of. The Interior Committee of which I am a member, is planning to hold indepth hearings on the energy crisis.

Normally, I would be in favor of the principle of this amendment but as stated before, I believe the section 316 and the bill itself provides sufficient latitude for the States and political subdivisions as well as interested persons, who have the opportunity to provide written comment to the Administrator, on proposed regulations.

I will read the section 316 on regulation of thermal discharges in full into the RECORD in further substantiation of the earlier point I made. It states as follows:

"SEC. 316. (a) As soon as practicable, but not later than one year after enactment of this section, the Administrator shall issue proposed regulations with respect to control of thermal discharges.

"(b) Such proposed regulations shall recognize that the optimum method of control of any thermal discharge may depend upon local conditions, including the type and size of the receiving body of water. The regulations shall require any person proposing to make such a discharge to consider all alternative methods for controlling such a discharge, including, but not limited to (1) utilization of available water bodies or cooling devices, including once-through cooling, mixing zones, cooling ponds, spray ponds, evaporative or non-evaporative cooling towers, (2) dilution of heated waters with cooler waters, and (3) an alteration of the outlet configuration. In evaluating such alternative methods of control consideration shall be given to (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources, and (4) methods of minimizing adverse effects and maximizing beneficial effects of such discharges.

"(c) The Administrator shall afford interested persons an opportunity, not to exceed sixty days, for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, final regulations. The Administrator shall, from time to time, as technology and alternative change, revise such regulations.

"(d) Such regulations shall apply to thermal discharges from all sources, unless the Administrator determines, after a public hearing requested by the owner or operator of a point source, that the economic and social costs of implementing the regulations at a point source bear no reasonable relationship to the economic and social benefits (including water quality objectives) to be attained. Any such determination shall be accompanied by an appropriate adjustment of such regulations for such source, which shall reflect the greatest degree of control which the Administrator determines can reasonably be achieved at such source.

"(e) The provisions of this section shall apply to point sources owned or operated by the United States or instrumentalities thereof.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. ZWACH).

Mr. ZWACH. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York (Mr. WOLFF) and the gentleman from Minnesota (Mr. FRENZEL) and I am sure that if adopted it will accomplish the necessary purpose in this legislation, because if there is any area where the Federal Government has failed to keep on top of a situation and to modernize it, it is in this area.

We have a peculiar situation in our State of Minnesota, and I believe that we ought to have the right to deal with it ourselves.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Fraser).

Mr. FRASER. Mr. Chairman, our State Pollution Control Agency hired an expert, knowledgeable in the field of radioactive emissions, to establish standards for our State of Minnesota with respect to nuclear reactors, and he set standards higher than those of the AEC in the belief that this would better protect the health and welfare of the people of the State of Minnesota.

I think that the right of a State to establish higher standards ought to be sustained.

Mr. FRENZEL. Mr. Chairman, the gentleman from California (Mr. HOLIFIELD), said that AEC preempts a narrow band, but I would state that the general health and welfare of the people of our country is not a narrow band. The States do have a responsibility here, and the way to give it to them is through this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. JAMES V. STANTON).

Mr. JAMES V. STANTON. Mr. Chairman, I rise in opposition to the amendment offered by my colleague, the gentleman from New York (Mr. WOLFF).

The amendment presents the House with a very complex and difficult proposition. It proposes to take authority for the setting of pollution control standards from the AEC and places it in the hands of EPA. For normal operations involving pollution, that control properly belongs under EPA. But atomic energy is a peculiar field. To date, the operation of the atomic energy program has been under the control of the Commission itself. Eventually, such control will be delegated to the States as more and more knowledgable people at the State level become involved in the atomic energy program. That time, however, has not yet arrived. Until we reach that stage it is obvious that the control of which we speak should remain with the Atomic Energy Commission itself, as the committee points out on page 131 of House Report 92–911 which accompanies this bill. For this reason, I would oppose the amendment offered by my distinguished colleague.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, I have a large nuclear reactor in my congressional district constructed by Commonwealth Edison Co. At the time the permit was granted, I communicated with the Atomic Energy Commission and in my opinion they did a totally inadequate job with respect to a consideration of the subject of thermal pollution.

Mr. Chairman, at the time the application for a permit was addressed to the Atomic Energy Commission, I presented a statement to the Commission, as follows:

[United States Atomic Energy Commission, Dockets Nos. 50–295 and 50–304]

(In the Matter of Commonwealth Edison Company (Zion Station Units 1 and 2), Hearing on Application for Provisional Construction Permits)

STATEMENT OF ROBERT MCCLORY, MEMBER OF CONGRESS

It is my opinion that the two-unit nuclear generating station which Commonwealth Edison Company proposes to construct at Zion, Illinois, is essential to meet adequately the power needs of the area of Northeastern Illinois which applicant intends to serve, and to prepare for the community growth that is anticipated.

The Commonwealth Edison Company has an excellent reputation for responsible management, financial stability, and efficient and economical service to the public. It can be expected to take all reasonable and necessary steps to protect the public interest while utilizing the advantages of atomic energy in generating the much needed additional power.

Special attention should be given to the subject of possible thermal pollution of the waters of lake Michigan from the operation of such facilities. Although I am not acquainted with the details involved in the

plans for these atomic energy generator units, I am confident that the Commission will give full and adequate consideration to this subject, to the end that marine life in the immediate area will not be affected adversely.

In conclusion, I want to express emphatically my support in behalf of the application of Commonwealth Edison Company.

Respectfully yours,

ROBERT MCCLORY,
*Member of Congress.*

August 30, 1968.

Unfortunately, Mr. Chairman, when the Atomic Energy Commission rendered its decision in December 1968, it was stated:

The Commission view is that it does not have jurisdiction over reactor caused thermal effects on liquids used for cooling, and that another administrative agency has control of thermal levels in lakes, for instance, pursuant to a divided regulatory program.

Mr. Chairman, the position which I am representing appears to be supported by the U.S. Court of Appeals in the case of Calvert Cliff's Coordinating against U.S. Atomic Energy Commission, decided last July. Perhaps the holding in that case—and subsequent amendments passed by the Congress will impress upon the AEC that it must secure assurances that thermal effects will be nonpolluting before it grants permits to construct nuclear-powered generating plants.

Mr. Chairman, in order to make eminently clear that we are controlling nuclear and thermal pollution in this bill, we should adopt the amendment offered by my colleagues from New York (Mr. WOLFF), and Minnesota (Mr. FRENZEL).

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE of Illinois. Mr. Chairman, the proposed amendment to section 510 of the bill would extend the effect of this legislation well beyond that intended by the committee. This bill takes the form of a major amendment—in fact a rewriting—of the current Federal Water Pollution Control Act. It is far reaching and pervasive in its effect on water quality, but it was not intended to amend other basic enabling statutes. The proposed amendment is directed solely at other statutes, since its provisions relative to this basic bill are already contained in the language of section 510 as reported by the committee.

The bill as reported establishes a program of effluent limitations and standards, and section 510 clearly provides that the States may set more restrictive standards should they so desire. The proposed amendment is aimed at two so-called pollutants—radioactive materials and thermal discharges—and seeks to collaterally amend any statute enacted by the Congress relative to them without any specific reference to the statutes that might be affected. As to radioactive materials, the target of the amendment is obvious. It seeks to reverse the decisions of the courts which have held that the Atomic Energy Act of 1954 preempted to the Federal Government, acting through the Atomic Energy Commission, the exclusive jurisdiction to regulate most radioactive materials. Clearly, if such is the will of the House, it should be undertaken only after a thorough examination of the impact of such a decision and it should be done directly by amending the statute involved—the Atomic Energy Act—not collaterally through this legislation. If this amendment had been proposed as a piece of original legislation, it would have been referred to the appropriate committee for hearings and evaluation of all the pertinent factors involved in such a decision. I could go on with the explanation of those factors, but this is not the time nor the place for such a consideration in the first instance. This bill is not the appropriate vehicle for amending a major piece of legislation, thoroughly considered in committee and by the Congress, which established at the direction of the Congress a thorough and pervasive regulatory program relative to radioactive materials.

As to thermal discharges, I must confess that I know of no other law under which regulations governing thermal discharges are promulgated. Therefore, that portion of this proposed amendment appears to be surplusage. Section 316 of this bill provide for the establishment of regulations with respect to control of thermal discharges which are to be established by the Administrator of EPA. Section 510 as reported by the committee reserves the right of the States to set more restrictive standards than those promulgated by EPA should the States so desire. I could only ask the sponsors of the proposed amendment to identify the legislation which they seek to amend indirectly on this point.

Mr. Chairman, I urge rejection of the proposed amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, actually science agrees there is no safe level of radiation.

The gentleman from California says that Congress has preempted the rights of the States. That is exactly what this amendment tries to do—to upset the preemption by the Congress and give the right to protect its citizens back to the States to set their own standards, higher than the AEC standards, not lower.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I would just like to put this debate in perspective.

This amendment purports to deal not only with radioactive material under the jurisdiction of the Atomic Energy Commission, but also thermal discharges. This bill specifically provides that any State can issue a regulation or a permit or control of thermal discharges that can be as stringent as it wants it to be. Thus, the question is moot in this amendment.

The only thing we are talking about is radioactive material which should be left up to the agency that has the expertise.

Mr. Chairman, I urge the defeat of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. JONES).

Mr. JONES of Alabama. Mr. Chairman, I do not ever recall hearing so many contradictions as I have seen here this afternoon.

We have one group up here that says that we must have the Federal Government to do everything under this bill. Yet, the same advocates come back and say that the States have to do it.

We have to rationalize under our bill, we have brought in the Federal Government and the States to work together on this program. This is exactly what the gentleman from Ohio has pointed out.

Mr. Chairman, I hope the amendment is defeated.

The CHAIRMAN. The time for debate on the pending amendment has expired.

The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The question was taken; and on a division (demanded by Mr. WOLFF), there were—ayes 36, noes 106.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. M'DONALD OF MICHIGAN

Mr. McDONALD of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCDONALD of Michigan: Page 248, line 5, strike out "(B)" and all that follows down through and including "(C)" on line 11 and insert in lieu thereof "(B)".

Page 249, strike out lines 6 through 13, inclusive.

Page 249, line 14, strike out "(4)" and insert in lieu thereof "(3)".

Change any references to such provisions accordingly.

Mr. McDONALD of Michigan. Mr. Chairman, my amendment would delete from H.R. 11896, the Water Quality Bill, title II, section 204 (b) (1) (B) and (b) (3) or, in other words, those provisions requiring industrial users of municipal treatment works to pay, in addition to user charges for the maintenance and operation of the plant, a portion of the initial Federal capital investment.

Studying the problems of water pollution and finding solutions to those problems is a long and arduous task. The Public Works Committee has done a most commendable job on the Water Control Act, and as a member of that committee, I am proud to have taken part in the deliberations which went into this bill.

I would, however, like to draw your attention to that section of the bill which I wish to amend. While I am a firm believer in the concept of user charges for the purpose of maintenance and operation, I feel it is a grave inequity for the bill to single out industry as the one user also responsible for capital costs. This inequity will surely be destructive as far as development of hoped for regional concepts in water pollution control is concerned.

Revenue must be generated from users on a proportionate basis that will take care of the maintenance, operation, and expansion. To charge industry a fee

beyond that of user charges, however, is unfair. Businesses, like individuals, are taxpayers and deserve the benefit from Federal grant programs as do other taxpayers. It is clearly unjust and inequitable to require reimbursement from industry while not requiring reimbursement from other users.

What is necessary today to correct our water pollution problem is a massive, cooperative effort on the part of every individual and corporate entity. And any legislation which has as its intent a solution to this highly complex problem must assign the responsibility equally between those who are creating the problem.

If this bill is to be just, either we make all users pay part of the investment costs, or we release all users from such charges.

Now the general intent of this legislation is to eradicate pollution by fostering joint and regional approaches to water control projects, and to provide Federal tax dollars to help achieve this objective. The section which I propose to amend assesses a penalty to industry which may lead to the bill's intent being thwarted. Should this amendment fail, there are two ramifications which should be considered:

First, industry, basing their action on the cost factors of paying user charges in addition to investment costs, could well decide to find it more economical to build its own plant rather than participate with municipalities or regional authorities in developing a comprehensive water pollution control project. This means that the charges of constructing, maintaining and operating the water facility will not be based on the most possible number of users.

Second, the user would have to pay a premium price for clean water simply because industry, using its own facilities, would not be sharing in the maintenance and operations costs.

What those two ramifications bring, then, is a fragmented approach to solving water pollution problems. I do not think I oversimplify when I say that the increased costs of a piecemeal water pollution control program are going to end up coming out of the taxpayer's pocket.

Another facet of the bill which disturbs me is the lack of direction regarding the amount of the investment capital to be paid back, how to pay it back, and when to pay it back. Those decisions are left up to the local municipality, the regional commission, or whomever the original applicant for the grant happens to be. The problem of additional industrial users coming into the region as new customers also will pose a problem. Under the language of the Senate version of this bill, the definition of industrial users would include many commercial entities other than manufacturing, thereby increasing the problems of regional authorities.

In a large region we can expect continuous growth. This means that each time a hotel, apartment building, restaurant, car wash, or some other commercial user joins the region, it could necessitate a recomputation of the capital investment charge, which could become a daily occurrence. I feel that the looseness and ambiguity of this section must be stricken from the legislation.

My amendment would curb the double taxation, it would foster a unified attack on the problems of water pollution, and would keep user taxes down. Industry can be—in fact must be—a willing ally in our quest for a cleaner environment. I feel this amendment will do much toward achieving that objective.

Mr. EDMONDSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the committee felt that the allocation system that was developed in this bill in section 204 was one that dealt fairly with both the general user and the industrial user, and one that assured that fee revenues paid in by the industrial users would remain in the community for the development and construction and operation and maintenance of treatment works which are publicly owned. We felt it was a method by which we could accomplish a quantum step forward in connection with much needed treatment work in the various communities of the country.

The gentleman has said we are going to create problems about allocation and reallocation of cost. Well, we are going to have a continual addition of new users of this system outside the case of the industrial user, but the gentleman does not endeavor to eliminate from this bill the provision that other users must continue to contribute and pay a portion of the costs. He is concerned solely with the problem of the industrial user, and if we are going to have a recomputation problem with the industrial uses, we will have the same problem with the addition of new residents that are not industrial users. I feel the gentleman's point does not have substance.

We have devised here a system that will assure strong new effort in the community to assess user charges fairly and to plow the income from those user charges back into the system. We are trying to the limit of our ability to encourage local effort and local initiative in this very important field.

The gentleman's amendment would just cut the heart out of the revenue portion of this system by eliminating from it the user fees that would be allocable to the industrial users under this system, to recover part of the Federal investment and to use it for the purpose of additional improvement and development in the communities.

Mr. Chairman, I think the amendment should be defeated. Certainly if we want to write a bill that indicates a real bias in favor of industry, the Members will adopt the gentleman's amendment.

Mr. McDONALD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. McDONALD of Michigan. Mr. Chairman, I would have to disagree with the gentleman, because there is a user charge for every user in the bill, including industrial users. The point I was making in my amendment was to eliminate the added user charge to industry. We do not know how this will be computed. Let me point out to the gentleman, user charges to all users under an earlier section of the bill will be computed on the cost of maintenance and use of the plant. Under section 204 of the bill, which we attempt to amend, the portion of the Federal grants that the user would have to pay would have to be recomputed each time a new user would come into the system, because each user is required to pay his proportionate share of that Federal outlay. So if we add a new user, perhaps daily, the shares of all the other users would have to change, and it would mean daily in large areas we would have to compute their user fee, whereas the flat rate user fee would not have to be recomputed, because it would be on each individual user.

Mr. EDMONDSON. Is the gentleman contending the industrial polluter-user should not be considered a more substantial and dangerous polluter?

Mr. McDONALD of Michigan. No. The industrial polluter will pay his proportionate user fee share.

Mr. EDMONDSON. The committee did not feel he would be paying his proportionate share without the provision included in the bill.

Mrs. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentlewoman from New York.

Mrs. ABZUG. Mr. Chairman, as I understand it, the gentleman objects to the industrial user being charged their fair portion of construction costs. I oppose the amendment because the fact is in a large Federal grant program which has a high percentage of construction funds, that it would be unfair to expect the taxpayer to subsidize the industrial user. I am quite surprised at the gentleman's amendment, because the fact is the industrial user is being given the opportunity to participate in a municipal plant based on a user charge schedule and of the users proportional share of financing construction costs without interest rates. If the industrial user would have to construct his own plant he would have to find the money and then pay interest, and large interest rates, and he would find it could not be done on an economic scale that would make it cheaper.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mrs. ABZUG. Mr. Chairman, I rise in opposition to the amendment.

As a member of the committee I can tell you that I thought we should include interest charges to industrial users, but the committee in its wisdom overruled me.

What this means is that the industrial user is actually getting the capacity to participate in the use of the municipal plant without paying as much as it would cost if, being free he built his own plant of the burden of interest rates.

I believe we recognized in the committee that there may be administrative difficulties in establishing various classes of industrial users. It is left to the local system to set up a fair and equitable

system, subject to the approval of the Administrator.

Any other provision would actually place an onerous burden on the taxpayer, to subsidize the industrial user, and also make it impossible for a municipality to conduct an effective system. I oppose the amendment.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the amendment.

I must say when I read the gentleman's "colleague" letter on this it had a certain appeal, because it implied industrial users were going to be charged twice. However, when one analyzes the effect of his amendment, it would have the result that industrial users would be charged for maintenance and operation of treatment facilities but not for amortization of capital cost. This strikes me as being an unsound principle. Industrial polluters should not be placed in a position to require that local taxpayers subsidize a part of the capital cost of eliminating the pollution generated by industry as the price for obtaining Federal assistance under this section.

Mr. CLEVELAND. Mr. Chairman, I rise in support of the amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in support of the amendment offered by my colleague from Michigan (Mr. McDONALD).

This amendment will correct a large inequity in both the bill before us and the version passed by the other body—an inequity that has been largely overlooked in the flood of proposed amendments and "Dear Colleague" letters that have been circulating for the past week.

The inequity stems from title II section 204(b)(1)(B). This section requires that industry, unlike other users of facilities, must reimburse the Federal Government for a portion of the initial capital investment. This reimbursement is in addition to the user charges industry must pay for the maintenance and operation of the facilities.

Mr. Chairman, if there is one concept that must prevail in the final version of this bill, it is the concept that industry must be a participant in, not the victim of, the fight against pollution. This holds true not only for industry but for the thousands of employees dependent on industry for their livelihood.

Section 204(b)(1)(B) is contrary to this concept. My colleague from Michigan has estimated that the section will result in an additional charge to industry of some $7 billion over the next 4 years. That figure is probably conservative. More important than the cost in dollars, however, is the cost in jobs.

I represent a district that has several small paper mills located within it. These industries are not rich, they are fighting for their very survival. For many of them, the reimbursement of the initial capital investment is simply beyond their capacity. It will force them to close their doors. Hundreds of jobs will be lost. I am sure that the situation in my district is representative of that in many other parts of the country.

The amendment proposed by the gentleman from Michigan (Mr. McDONALD) is not a so-called weakening amendment. It does not change the goals or basic mandates of the bill. It merely provides for a rearrangement of the burdens of costs for what we all desire. As a person who has supported virtually every sound conservation and pollution-abatement measure that has come before this body in my 14 years in Congress, I would not be supporting this amendment if I were not convinced that it is consistent with a sincere concern for the protection of our environment.

By deleting section 204(b)(1)(B), we can make industry and its employees participants in this struggle. We can clean up our waters without destroying jobs. I, therefore, urge passage of this amendment.

Thank you.

Mr. CLEVELAND. Mr. Chairman, there has been a good deal of misunderstanding about this amendment.

I am addressing myself now to the members of the committee at the desk, and particularly the gentleman from Oklahoma who rose in opposition to this amendment, and particularly the members of the staff who wrote this section of the bill.

In fairness to the gentleman from Michigan, he has raised a valid point. In fairness to the gentleman from Michigan, the Public Works Committee overlooked a real problem in drafting this section of the legislation.

I received a letter from the New Hampshire Water Supply and Pollution Control Commission after they had an opportunity to review this matter. This involves one of their chief objections to the legislation as written.

This is from the water quality people. It is not from industry. Any attempt to suggest that the gentleman from Michigan is offering a proindustry antipublic amendment is not only totally unfair but is totally untrue on the record.

This is the criticism of the New Hampshire water quality people. If the New York people, the Texas people, and the California people had been given an opportunity to read this bill, they might have joined in objecting to this section of the bill.

This is why, and I quote from the letter:

> The arrangement with regard to industry bearing not only its share of operating costs, but also capital construction costs, will certainly serve to discourage joint projects. Industry will soon decide to go it alone because it will be easier, and, in many instances, more economical to do so.

Do not forget that the Ways and Means Committee has given industry a 60-month writeoff privilege. Do not forget that many States, like New Hampshire, totally remove any pollution abatement properties from the property tax.

Do not forget that industry using their own labor and not having to go through the layer after layer after layer after layer of Federal requirements and redtape may find it cheaper, as we have already found in Turnkey projects, to build their own sewage treatment plants. And that is where the gentleman from Michigan comes in, because, when they go their own way and build their own plants, it may leave John Q. Public having to build an uneconomic plant. That is what the gentleman from Michigan is trying to point out.

The committee made a mistake when they wrote this portion of the bill, and they will not admit it or do anything about it. That is the unfortunate thing about what we are doing here today. The very least we should do is permit the Administrator to waive this provision to prevent undue economic hardship.

Now, let me continue with a quote from the New Hampshire Pollution Control Commission:

> The main underlying objective which the bill seeks to promote; namely, regional solutions, areawide treatment concepts, and so forth, will be frustrated.

The full text of the letter appear in yesterday's RECORD, page 10245.

I can point to situations in my district where it will totally frustrate the objectives of this legislation.

It is a shame that the committee closed their eyes in this area of joint projects which are permitted now. They are trying to say the gentleman from Michigan is trying to give special privilege to industry. What he is trying to do here is encourage cooperative effort undertaken between industry and the local districts.

Mr. EDMONDSON. Will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman.

Mr. EDMONDSON. Will the gentleman explain to me how in the gentleman's view the cost of building their own plant would be less than the cost would be of participation in a municipal plant with Federal grants participating in the cost of the municipal plant that was jointly used? Will you explain to me how industry would have a cheaper operation for industry to go its own way and build its own plant? I would like to hear that explanation.

Mr. CLEVELAND. The explanation is clear. First of all they get the fast writeoff if they spend it themselves, a privilege the Committee on Ways and Means has already given them. Second, if they build it themselves, they have none of the requirements of the Davis-Bacon Act or any of the other legislative acts and countless rules, regulations, and requirements that we have put on top of them. We have some towns in my district that are building without Federal participation because, under the so-called Turnkey approach, they can do it cheaper than with Government aid. We are living in a dream world if we do not realize such facts and others which I cannot detail as my time has expired.

Mr. ROE. Mr. Chairman, I rise in opposition to the amendment.

Mr. EDMONDSON. Will the gentleman yield?

Mr. ROE. I yield to the gentleman.

Mr. EDMONDSON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes after the time now being taken by the gentleman from New Jersey.

Mr. BYRNES of Wisconsin. Mr. Chair-

man, I must object. Give us some more time. Give us 15 minutes.

Mr. EDMONDSON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes after the presentation being made by the gentleman from New Jersey.

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

There was no objection.

Mr. ROE. Mr. Chairman, I subscribe to the point of view that the committee in no way made any mistake whatever on the intent of the user charge section of this legislation as it relates to industry.

The committee was adroit. They listened to the testimony and thoroughly understand this issue. It ought to be called to the attention of the House that the statement was made that it would be cheaper for industry to go it alone rather than joining in with the municipalities in the overall program because they were paying twice. Well, they are not paying twice. The purpose of the user charges would be that those funds would in part go to the municipalities to help not only the maintenance of the program but in turn help to amortize part of the capital expenditures granted by the Federal Government.

It would be fundamentally wrong for the Federal Government to provide funding directly to industry in order to build their sewage disposal plants and, in fact, under existing law this has happened. What has happened is that industry has gone into towns where there were small populations and they did not have a sewage disposal system and they have gone to the governing bodies of those towns and said:

> We want to locate a plant here and we want you, the small town, to create a sewage disposal authority and apply for Federal grants.

This was part of the testimony in dozens of cases in dozens of States where representatives testified before us and, in effect, will be—and I do not mean this unkindly—the utilization of the last Federal law or the present Federal law which would have the effect of milking the public to build the plant so that they did not have to pay the bill.

All we are saying here, in effect, is that this insures two things. It insures the capability of the municipality to provide the revenues to pay this amortization on local bonds and the proper taxes on equipment which would be equipment designed to handle exotic chemicals in wastes which are not provided for normally by a municipality.

Second, it simply says that industry pays its fair share.

Further, let this House understand one thing and the important point is that the provision of the bill setting the date of 1985 that there will be no discharge unless it is economically or physically impossible to do so, the point remains that this applies to municipal and governmental sewage disposal systems also. So, it means before this House, that come 1985 the "no discharge" provision still prevails, it means at that point the municipalities have to come to grips with this situation and they have got to pay their fair share.

I think this bill as it was meant to be written, and in only one instance, in the words of my colleague from New York (Mrs. ABZUG), that industry is being required to pay its fair share and no more.

The CHAIRMAN. Under the time limitation, the Chair recognizes the gentleman from Michigan (Mr. MCDONALD).

Mr. MCDONALD of Michigan. Thank you, Mr. Chairman.

I have just received today a telegram from the director of one of the largest waste treatment area facilities in the United States, and I quote, in part, from the telegram.

> Pay back by industry should be opposed. Otherwise industry will build their own pollution facilities rather than join the regional system. It is a form of paying twice, once to pay for public system and again to pay back or build their own; impossible to administrate . . .

The telegram is signed by Gerald Remus, director of an area-wide sewage disposal system in the Detroit area which encompasses the area of Detroit and 72 other cities.

Mr. Chairman, this is a backup to the statement of the gentleman from New Hampshire (Mr. CLEVELAND) as to how the people in New Hampshire feel, those people who are actively and daily engaged in the business. Grants are to be made at 60 percent if there is not some kind of a State program, but if there is a State program, grants will be made up to 75 percent.

I can foresee industry being opposed to seeing a State program come about so that they would not have to pay that extra 15 percent of the Federal share of cost of construction.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Thank you very much, Mr. Chairman.

We are concerned here today with costs. We are concerned with the cost to industry and the possibility of plants closing, as well as the cost to the Federal Treasury.

I would like to ask the gentleman from Michigan (Mr. MCDONALD) if he could tell us if we removed this industrial repayment, what the cost will be to the Federal Treasury?

Mr. MCDONALD of Michigan. Mr. Chairman, if the gentleman will yield, there will not be any cost to the Federal Treasury because under the House bill the funds would be recovered in the double payment that industry would have to make that would go directly to the municipality. They would be used for the same purposes as the original user charge, that which the industry would pay anyway along with all other users of the system.

Mr. VANDER JAGT. If this amendment is adopted, industries in the regional systems will be paying the full user charge that everybody else is paying in that area, is that correct?

Mr. MCDONALD of Michigan. They will be paying that but in addition they would be paying what could amount to an extra $7 billion in the next 4 years for the same purpose for maintenance and operation of plants.

Mr. VANDER JAGT. Mr. Chairman, I think in terms of economy to industry and also as long as this provision remains in the bill, the bill would cause industry to keep from participating in the local system, thereby driving the cost up to the housewife, I strongly support the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. ZION).

Mr. ZION. Mr. Chairman, I rise in support of the amendment. We talk about the flight of business and jobs overseas. Many companies in this country are voluntarily including very expensive air and water pollution control devices in construction of their plants.

For example, in Indiana the Bethlehem Steel Co. is spending over $43 million on air and water pollution control devices, while their competitors in Japan, with twice the capacity, is spending $7 million.

Eli Lilly Co. spends 20 percent of the construction costs of its new plants for new air and water pollution control devices. If we are going to double tax the industries in addition to the cost they now pass on to their customers, the problem will become more compounded, and we will lose more business to our competitors overseas. When we create more unemployment we lessen the tax moneys we would otherwise be collecting from those businesses and their employees. We thus have less tax money with which to support and broaden this vital program.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I do not believe we are looking at the other side of the coin. The first fact being that the real estate tax would not be borne by the corporation; the system would be a part of the municipal system. Second, eminent domain is available to the municipality or other governmental operator.

The responsibility for correction of a construction defect would rest with the governmental operator. Thus, the private industries using the municipal system would be relieved of the responsibility which would be corrected by the area-wide municipal operator.

Therefore I oppose the amendment.

The gentleman from New Hampshire (Mr. CLEVELAND) stated that some of the States may not have gone over this as closely as did the State of New Hampshire. I would like to advise my distinguished colleague that the State of New York has displayed the utmost care in the examination of this measure. The State representatives have been in the Nation's Capitol continuously reviewing this complex measure and have expressed no objection to the provisions which the gentleman from Michigan (Mr. MCDONALD) seeks to amend.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GROVER).

(By unanimous consent, Mr. HARSHA yielded his time to Mr. GROVER.)

Mr. GROVER. Mr. Chairman, I rise in opposition to the amendment.

The provision that industrial users of publicly owned systems be required to pay charges for their fair portion of the costs of a treatment facility attributable to use by industrial sources is a controversial feature of this bill. This proposal was originally made by the administration, with such charges being repaid into the Treasury. The Senate bill likewise contains such a provision.

Under our bill, however, revenues derived from the payment of costs by industrial users of waste treatment facilities would be retained by the applicant for use in the operation, maintenance, expansion, and construction of treatment works. Such uses could include the repayment of principal and interest on indebtedness incurred by the applicant in constructing such facilities. Our committee report also enumerates other possible uses for revenues received under this provision.

In establishing this user charge system, our desire is that industrial users pay a fair portion of costs, including capital costs, attributable to their use of waste treatment facilities. This is a Federal grant program. The Federal Government is providing a major percentage of construction costs. It is certainly not intended that a construction subsidy by the taxpayers be made to industrial users.

The requirement that industries repay their fair share of construction costs is a reasonable one. Although payments would be phased over the lifespan of the facility, no interest would be charged to industrial users. No doubt there will be some difficulties in establishing an equitable system of charges, but we do not believe that this is an insurmountable obstacle.

I might also point out one fact which seems to be overlooked by opponents of industrial user charges. They complain that the definition of section 212(4) restricts repayment of a proportionate share of construction costs to industrial user only. As a matter of fact, the definition is broader than this. While "industrial user" includes all industries classified under "Division D—Manufacturing" of the Standard Industrial Classification prepared by the Bureau of the Budget in 1967, other classes of significant waste producers are also included. Let me read the entire definition:

> The term "industrial user" means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented under the category "Division D—Manufacturing" and such other classes of significant waste producers as, by regulation the Administrator deems appropriate under this title.

Clearly, the Administrator of the Environmental Protection Agency is given wide latitude in this regard. He may include other classes of significant waste producers through the publication of regulations relating to them. The Senate Report on S. 2770 (92–414) makes this clear. According to it:

> This definition permits the Administrator to designate as an "industrial user" any commercial or business enterprise which, as a class, or as a single installation, discharges significant wastes to a municipal system, under the intent of the Act.

Thus, any businesses which pollute to a significant degree may be classified as an industrial user so as to require repayment.

Another factor alleged by proponents of this amendment is the so-called discriminatory nature of the repayment requirement. A covered manufacturing enterprise, to be sure, would have to pay a regular user charge as well as paying its proportionate share for the cost of constructing the treatment work facility.

But there is another side to the coin. Failure to provide recovery of the Federal share of capital costs allocable to industrial users would constitute a Federal subsidy for those particular businesses so benefited. In other words, those industries which were fortunate enough to be situated so as to be able to make use of public facility would receive what amounts to a Federal water pollution abatement subsidy. Other businesses, however, which were not so favorably located, would have to foot the costs on their own. Under the circumstances, I am very much afraid that the competitive advantage afforded by such a quasi-subsidy would tend to promote further concentration of industry at a time when national policy should be seeking to disperse it.

As to the assertion that requiring industrial users to pay their fair share of construction costs will discourage their participation in the cost of constructing municipal facilities, I suggest that the economies of scale and other benefits of public treatment works would still permit a net capital saving to business. By that I mean that on balance industrial users would still, except in rare instances, opt for participation in a municipal program.

Now it is true that in some cases the requirement to repay could pose an undue hardship on some industrial users. In such cases, provision has been made for special small business loans to cover up to 100 percent of the cost of pollution abatement facilities.

Self-sufficiency is a primary aim of the program. In the case of industrial users, the only way it can be attained is through user charges of this type. Of the types of payments sought to be eliminated by this amendment, to my knowledge, industry as a whole has offered no strenuous objections to this provision.

I, therefore, urge rejection of the amendment of the honorable gentleman from Michigan.

Certainly a majority of us here do feel that if this McDonald amendment were honored by passage it would indeed amount to a subsidy of industry, and I am not persuaded that industry is going to run away and build its own plants, and not contribute in any way to assist us because of this so-called double taxation provision because, as has been pointed out, they can get away with one great big break, and that is that they pay no real estate tax. They must fund the money from the outset, and they have millions of dollars of capital costs from the outset. By participating as required in this bill they do not have to raise the cost at once, and they can spread it through the lifespan of the system.

Also, they pay no interest charges on the money that they would normally have to pay if they were building their own plants. Participation, also, reduces their potential liability. Since we are continuing to develop technological improvements, and there is often doubt whether the present technology is going to work, where the liability is imposed upon the municipal waste facilities administrators, the industry which is participating with a municipality is relieved of that liability, and secure from it.

So, in short, Mr. Chairman, they do not have to develop their own capital, they pay no interest, the community has the right of eminent domain for getting easements across privately owned property for outfall, and other facilities, and there are a good many other advantages to their participating in the municipal system.

Another factor is that in the payment, if they had to build their own, they had to give 100 percent of the money at the outset—or the bonds from the outset.

In this case, they are only charged up to 75 percent of the total capital cost because they are only reimbursing for the Federal share.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. GROVER. I yield to the gentleman.

Mr. EDMONDSON. I thank the gentleman for pointing out that the administration is in support of the user charge provisions in this bill. I think the gentleman is correct in stating that the bill provides a balanced operation that is fair to industry when you look at the whole picture.

Mr. GROVER. I thank the gentleman.

May I point this out, too. I am sympathetic with the position of the gentleman from New Hampshire. He has a very serious local problem. I think this committee should continue oversight to get relief in areas where these situations do continue to exist.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I can both appreciate and understand the apprehensions expressed by the sponsors of this amendment. We have to strike a balance between the demands of ecology and the demands of the economy. But I really believe the provisions contained in the House bill would not do the violence that they fear.

It seems clear to me that we provide only that which the majority of the people desire, and that is if an industrial polluter imposes by reason of his discharge a certain burden upon the municipal treatment plant that he pay a fair share of the cost, a share that would have some

relation to the volume of discharge that he puts into that plant.

He can charge that off for tax purposes as a cost of doing business. The user fee is deductible just as a tax is deductible. I do not see that this places any undue burden upon him.

The bill requires that the Administrator come up with guidelines that are equitable and fair with regard to such charges and that they be based upon the elements of volume and delivery flow of waste that goes into the system.

That money would stay in the municipality. It would not be recoverable by the Federal Government. It would stay right there and be used by the municipality in the operation, maintenance, expansion, and construction of treatment works.

It seems to me that it is a fair provision.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. EDMONDSON).

Mr. EDMONDSON. Mr. Chairman, I think the point has been well covered.

I have sympathy for the position of the sponsors of this amendment, but I believe the merits have been fairly considered by the committee and the committee's position is to deal fairly with all users in this bill.

The position of an industrial user is different basically from the position of the residential user. For one thing, he is in a position to offset his cost through tax deductions that the average individual residential user cannot charge off for his water bill and his sewage bill in his tax return.

Mr. GROVER. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentleman from New York.

Mr. GROVER. I might point this out. The gentleman from Wisconsin said that this is too narrow, that it is for the manufacturer only to be subject to the user charge. I might point out that in Senate Report 92–14 it is made clear that the administrator has wide latitude to promulgate regulations to include other industrial users such as large laundries or other business facilities omitting large quantities of effluent.

Mr. BYRNES of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentleman from Wisconsin.

Mr. BYRNES of Wisconsin. I thought we were debating the House bill, not the Senate bill. The House bill defines industrial users as those classified in this volume here of several hundred pages as manufacturers. The rest of them are those performing services or something else. They were not covered in the House bill.

Mr. GROVER. I point out to the gentleman that the identical provision is in both the House and the Senate bills.

Mr. EDMONDSON. Mr. Chairman, we ask for defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. McDONALD).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. McDONALD of Michigan. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. McDONALD of Michigan. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. McDONALD of Michigan, EDMONDSON, CLEVELAND, and Mrs. ABZUG.

The Committee divided, and the tellers reported that there were—ayes 66, noes 337, not voting 29, as follows:

[Roll No. 94]

[Recorded Teller Vote]

AYES—66

| | | |
|---|---|---|
| Abbitt | Esch | Price, Tex. |
| Archer | Eshleman | Quillen |
| Ashbrook | Fish | Robinson, Va. |
| Betts | Forsythe | Rousselot |
| Bray | Goodling | Ruppe |
| Broomfield | Gross | Satterfield |
| Brown, Mich. | Hall | Saylor |
| Burke, Fla. | Harvey | Schmitz |
| Byrnes, Wis. | Heckler, Mass. | Scott |
| Camp | Hicks, Wash. | Sebelius |
| Cederberg | Hunt | Shriver |
| Chamberlain | Johnson, Pa. | Steiger, Ariz. |
| Clancy | Jonas | Talcott |
| Cleveland | Landgrebe | Thompson, Ga. |
| Collier | Lujan | Vander Jagt |
| Conte | McClure | Ware |
| Crane | McDonald, Mich. | Whalley |
| Davis, Wis. | Martin | Whitehurst |
| Dennis | Mills, Md. | Williams |
| Devine | Montgomery | Wyman |
| Downing | Peyser | Zion |
| Dulski | Powell | |
| Erlenborn | | |

NOES—337

| | | |
|---|---|---|
| Abourezk | Caffery | Flood |
| Abzug | Carey, N.Y. | Flowers |
| Adams | Carney | Flynt |
| Addabbo | Carter | Foley |
| Albert | Casey, Tex. | Ford, Gerald R. |
| Alexander | Celler | Ford, William D. |
| Anderson, Calif. | Clark | Fountain |
| Anderson, Ill. | Clausen, Don H. | Fraser |
| Anderson, Tenn. | Clay | Frelinghuysen |
| Andrews | Collins, Ill. | Frenzel |
| Annunzio | Collins, Tex. | Frey |
| Arends | Colmer | Fulton |
| Ashley | Conable | Fuqua |
| Aspin | Conyers | Galifianakis |
| Aspinall | Corman | Gallagher |
| Badillo | Cotter | Gettys |
| Baker | Coughlin | Giaimo |
| Barrett | Culver | Gibbons |
| Begich | Curlin | Gonzalez |
| Belcher | Daniel, Va. | Grasso |
| Bell | Daniels, N.J. | Gray |
| Bennett | Danielson | Green, Oreg. |
| Bergland | Davis, Ga. | Green, Pa. |
| Bevill | Davis, S.C. | Griffin |
| Biaggi | Delaney | Griffiths |
| Biester | Dellenback | Grover |
| Bingham | Dellums | Gubser |
| Blackburn | Denholm | Gude |
| Blatnik | Dent | Hagan |
| Boggs | Derwinski | Haley |
| Boland | Dickinson | Halpern |
| Bolling | Diggs | Hamilton |
| Brademas | Dingell | Hammer-schmidt |
| Brasco | Donohue | Hanley |
| Brinkley | Dorn | Hansen, Idaho |
| Brooks | Dow | Hansen, Wash. |
| Brotzman | Drinan | Harrington |
| Brown, Ohio | Duncan | Harsha |
| Broyhill, N.C. | du Pont | Hastings |
| Broyhill, Va. | Eckhardt | Hathaway |
| Buchanan | Edmondson | Hawkins |
| Burke, Mass. | Edwards, Ala. | Hays |
| Burleson, Tex. | Edwards, Calif. | Hébert |
| Burlison, Mo. | Eilberg | Hechler, W. Va. |
| Burton | Evans, Colo. | Heinz |
| Byrne, Pa. | Evins, Tenn. | Helstoski |
| Byron | Fascell | Henderson |
| Cabell | Findley | Hicks, Mass. |
| | Fisher | |
| Hillis | Minish | Schwengel |
| Hogan | Mink | Seiberling |
| Holifield | Minshall | Shipley |
| Horton | Mizell | Shoup |
| Hosmer | Mollohan | Sikes |
| Howard | Monagan | Sisk |
| Hungate | Moorhead | Skubitz |
| Hutchinson | Morgan | Slack |
| Ichord | Morse | Smith, Calif. |
| Jacobs | Mosher | Smith, Iowa |
| Jarman | Moss | Smith, N.Y. |
| Johnson, Calif. | Murphy, Ill. | Snyder |
| Jones, Ala. | Murphy, N.Y. | Spence |
| Jones, N.C. | Myers | Springer |
| Jones, Tenn. | Natcher | Staggers |
| Karth | Nedzi | Stanton, J. William |
| Kastenmeier | Nelsen | Stanton, James V. |
| Kazen | Nichols | Steed |
| Keating | Nix | Steele |
| Kee | Obey | Steiger, Wis. |
| Keith | O'Hara | Stephens |
| Kemp | Passman | Stokes |
| King | Patten | Stratton |
| Kluczynski | Pelly | Stubblefield |
| Koch | Pepper | Stuckey |
| Kyl | Perkins | Sullivan |
| Kyros | Pettis | Symington |
| Latta | Pickle | Taylor |
| Leggett | Pike | Teague, Calif. |
| Lennon | Pirnie | Teague, Tex. |
| Lent | Poage | Terry |
| Link | Podell | Thompson, N.J. |
| Lloyd | Poff | Thomson, Wis. |
| Long, La. | Preyer, N.C. | Thone |
| Long, Md. | Price, Ill. | Tiernan |
| McClory | Pryor, Ark. | Udall |
| McCloskey | Pucinski | Ullman |
| McCollister | Purcell | Vanik |
| McCormack | Quie | Veysey |
| McCulloch | Railsback | Vigorito |
| McDade | Randall | Waggonner |
| McEwen | Rangel | Waldie |
| McFall | Rees | Wampler |
| McKay | Reuss | Whalen |
| McKevitt | Rhodes | White |
| McKinney | Riegle | Whitten |
| McMillan | Roberts | Widnall |
| Macdonald, Mass. | Robison, N.Y. | Wiggins |
| Madden | Rodino | Wilson, Bob |
| Mahon | Roe | Wilson, Charles H. |
| Mailliard | Rogers | Winn |
| Mallary | Roncalio | Wolff |
| Mann | Rooney, N.Y. | Wright |
| Mathias, Calif. | Rooney, Pa. | Wyatt |
| Mathis, Ga. | Rosenthal | Wydler |
| Matsunaga | Roush | Wylie |
| Mazzoli | Roy | Yatron |
| Meeds | Roybal | Young, Fla. |
| Melcher | Runnels | Young, Tex. |
| Metcalfe | Ruth | Zablocki |
| Michel | Ryan | Zwach |
| Mikva | St Germain | |
| Miller, Calif. | Sandman | |
| Miller, Ohio | Sarbanes | |
| Mills, Ark. | Scheuer | |
| | Schneebeli | |

NOT VOTING—29

| | | |
|---|---|---|
| Abernethy | Edwards, La. | O'Konski |
| Baring | Garmatz | O'Neill |
| Blanton | Gaydos | Patman |
| Bow | Goldwater | Rarick |
| Chappell | Hanna | Reid |
| Chisholm | Hull | Rostenkowski |
| Clawson, Del | Kuykendall | Scherle |
| de la Garza | Landrum | Van Deerlin |
| Dowdy | Mayne | Yates |
| Dwyer | Mitchell | |

So the amendment was rejected.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. GERALD R. FORD. Mr. Chairman, late in 1971 the EPA submitted to the Office of Management and Budget a proposal for accelerating the fight against water pollution in the Great Lakes. The cost figure for this accelerated program ranged from $133 million to $141 million. The Office of Management and Budget did not approve these budget items for submission to the Congress in 1972.

EPA's plan includes $100 million for the treatment of sanitary sewerage and

storm water involving the Great Lakes, a $25 million proposal for setting up a Great Lakes soil conservation program, a special $5 million program that calls for EPA to work with State and local communities on the cleanup of a selected river basin such as the Maumee River, and a $5 million accelerated research program in Great Lakes water pollution problems. It also provided for an additional 100 personnel positions in EPA's organizational structure.

I have done some investigating to determine whether this Great Lakes accelerated clean water program is authorized under current law or prospective legislation, including this bill. I have discussed the matter with the gentleman from Alabama and the gentleman from Ohio. I have worked with EPA, and I would like to have the assurance of the two gentlemen handling this bill that this program is authorized under existing law or prospective legislation. If it is not, I am prepared to offer an amendment to this bill which would provide such an authorization.

Can the gentleman from Alabama respond to my inquiry?

Mr. JONES of Alabama. Yes, if the gentleman from Michigan will yield to me.

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. JONES of Alabama. The amendment that you propose to offer would be merely repetitious of existing law. Therefore, it would not require a new authorization under this bill. Consequently, the only problem that would be involved is the appropriation of the necessary funds to carry out the project.

Mr. GERALD R. FORD. I thank the gentleman from Alabama.

Would the gentleman from Ohio give me the benefit of his views?

Mr. HARSHA. If the gentleman will yield to me, I will be glad to respond to him.

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. HARSHA. It is my understanding and I am of the opinion, I may say to my good friend the distinguished minority leader, that under existing law, under research investigations and demonstration programs already written into the law such as those of sections 108, 104(h) and 105(a)(1), I also say that parts of the subject project could be constructed using grants from the treatment works construction grant program of title II. There is ample authority for the construction of a demonstration project of the nature that the minority leader speaks about.

I also note that we have written into this new law a new definition of treatment works which would include storm sewers or combination storm and sanitary sewers under the grant program where we provide over a period of 3 years the sum of $18 billion.

It is my understanding and I think it is quite clear from a reading of the report and the bill itself that the intent is that a project of the nature that the minority leader speaks could be funded under the grant section in the new definition of treatment works. I refer to title II. We did not intend to exclude projects of this type.

I think a combination of States or an interstate agency could join together in this effort and each with a proportionate share of their allocation can fund this type of project, particularly where it will benefit a multiplicity of States and such a large number of citizens.

Mr. GERALD R. FORD. I thank the gentleman from Ohio.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I am glad to yield to the chairman of the committee.

Mr. BLATNIK. I want to thank the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD) for yielding and I want to congratulate the gentleman for his consistent concern over many years and for his bipartisan effort to get long delayed assistance to all of the five Great Lakes.

I wish to associate myself with the remarks of the gentleman from Alabama (Mr. JONES) as well as the explanation which was made by the gentleman from Ohio (Mr. HARSHA).

Under this bill you will have eight of the nine States participating, the eight States that border the Great Lakes.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent (at the request of Mr. BLATNIK) Mr. GERALD R. FORD was allowed to proceed for 3 additional minutes.)

Mr. BLATNIK. Mr. Chairman, if the gentleman will yield further, there will be authorized approximately $4.8 billion to accomplish the purpose which the gentleman seeks.

Mr. GERALD R. FORD. I thank the gentleman very much.

I think we now have on the record ample indication of the legislative authority for the accelerated Great Lakes pollution control program. All we need is the appropriation, and we are going to work on that.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Chairman, I wish to associate myself with the efforts of the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD), and the very serious concern that all of us have in the Great Lakes States in trying to save our lakes.

I wish to congratulate the gentleman on the fact that this does authorize the appropriate agencies to do what is necessary. I want to assure the gentleman from Michigan that I will bend every effort to try to get the very necessary money with which to carry out this most necessary program.

AMENDMENT OFFERED BY MR. PODELL

Mr. PODELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PODELL: Page 221, after line 20 insert the following:

"(u) The Administrator shall, in cooperation with the appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote continuing comprehensive studies of the effects of pollution on the shorelines and beaches on their ecosystems, on fishing, on recreation in and on the water and on other beneficial purposes. Such studies shall also consider the effects of demographic trends, exploitation of mineral resources and fossil fuels, land and industrial development and hurricanes upon the pollution of beaches and shorelines."

Page 221, line 21, strike out "(u)" and insert "(v)"

Mr. PODELL. Mr. Chairman, title I, section 104 of the bill before us, the Federal Water Pollution Control Act Amendments of 1972, is remarkable in its scope and foresight, authorizing the Administrator to establish a wide range of research and development programs in fundamental areas of water ecosystems and pollution abatement.

The act authorizes the Administrator of Environmental Protection Agency to enlist the services and expertise of State and local governments, universities, public and private agencies, and organizations in the investigation of water pollution and its effects on the health and welfare of our citizens.

The legislation provides funds for coordinated research and development of accurate measurements of social, economic and environmental costs of pollution and pollution abatement, for researching the prevention and control of pollution, as well as specific problem areas like pesticide residues, waste oil disposal, and thermal discharge.

In addition, the act designates funds for special research into the ecology of river basins, river systems, fresh water lakes, the great lakes, and estuaries and estuarine zones.

But the act, in defining an estuary as a mouth of a river or stream with unimpaired natural connection with the natural sea and within which the sea water is measurably diluted with fresh water from land drainage, while encompassing many of the areas effected, does not specify clearly enough an area that has born the brunt of extensive water pollution—our beaches and shorelines.

Unless a generous administrator expands the definition of estuaries and estuarial zones, many of our beaches and shorelines will not be eligible for research assistance, and some importanct pollution problems related to beaches and shoreline will go unstudied. Rather than this, I propose adding a provision to the act which would specify beaches and shoreline as eligible for funds under title I and would instruct the Administrator to study the effects of pollution on beach and shoreline ecosystems.

The beaches and shoreline of our country suffer from all types of pollution—sewage, garbage, thermal discharge, oil wastes and spills, and more—leading to their closing to recreation in and out of the water. The Environmental Protection Agency estimated last year that 91 beaches were closed due to pollution. In addition to those, 13 were labeled "unsatisfactory" and another 10 were called "not recommended for use." And this survey did not include all beaches.

The survey pointed to another drastic consequence of water pollution: few new beaches have been opened, although increasing population and leisure time have made the growing need for new facilities all the more plain.

Still, the number of beaches declines and demands rise. Rare these days is the quiet, clean shore that affords a moment's reflection and escape from the pace of our mechanized lives. And these rare spots all too often succumb to development plans and new land uses, new economic opportunities, and pollution from nearby such "progress."

But, although we have some conception of the problem, we need comprehensive studies and reseach before we can understand or cope with it and its implications.

To assure that such research will be undertaken to help us clean up our beaches and shorelines, this additional subsection must be added to section 104 of title I.

Mr. PODELL. In a discussion with the chairman of the committee, I had been told that even though the bill does not refer to beaches and shorelines specifically, it is the legislative intent of the bill before us, particularly section 104, to include beaches and shorelines so that the thrust of my amendment would be included in the bill.

Mr. ROBERTS. The gentleman is correct; it would be included. And I would like to compliment the gentleman because the first section of his amendment, the first half of it, is word for word almost the language of the bill providing for research and development, and his proposal would be covered, the Administrator would have the authority to do exactly as the gentleman suggests.

Mr. PODELL. If the gentleman will yield further, so therefore it is my understanding that, despite the fact that the words "beaches and shorelines" are not included, nevertheless it is the legislative intent that beaches and shorelines will be included under the language of this bill.

Mr. ROBERTS. The committee intended that it should, and the answer is "Yes."

Mr. PODELL. I thank the gentleman for his statement.

Mr. ROBERTS. I again commend the gentleman.

Mr. PODELL. Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my amendment.

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

There was no objection.

AMENDMENT OFFERED BY MR. PODELL

Mr. PODELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PODELL: Page 359 amend line 15 to read as follows: "approve each such submitted program if it is as or more stringent than the permit program of the Administrator under paragraph (1) of this subsection unless he determines".

Mr. PODELL. Mr. Chairman, title IV, section 402 of the bill we have before us, the Federal Water Pollution Act Amendments of 1972, provides for the establishment of State and Federal permit programs to allow the discharge of pollutants into the navigable waters.

The rationale for permitting exceptions to the general requirements of this act is sound—indeed, in some instances, it is either technologically or economically not feasible to enforce the provisions as such. State administration of permit programs would draw on the States' expert professional staffs in these areas whose close contact with the parties and issues involved put them in the optimal position to weight the public interest and all the other complex factors. However, this close contact, while one of the strengths of State administration of permit programs, is also one of its most dangerous weaknesses.

It is difficult to put a market price on environmental balance and clean water—it is by far easier to attach a dollar and cents figure to economic benefits of industrial expansion. Interstate competition for this industrial investment, with its emphasis on noninterference, low tax rates, tax discounts and incentives, and hints and illusions to flexible environmental policies and languid enforcement, is well known and needs no exposition.

These combined pressures may be too strong for economically conscious State officials to resist, unless this act develops a baseline which will insure that the quality of our waterways and their environs will not be sacrificed to industrial development.

But establishing minimum guidelines for the components of a State permit program is not enough: Intensive industrial lobbying combined with the sort of pressures I cited earlier, can make too many individual cases the exception to the rule.

In order to minimize interstate competition and safeguard our water from the hazards of leniency, we must require that State permit programs be as, or more stringent than the Federal one. That is, rather than only establishing minimum guidelines in accordance with section 304(h)2 as the legislation presently instructs, the Federal permit program itself would serve as a minimum standard.

If my amendment is adopted, State-suggested permit programs, whose administrators serve in the direct line of economic fire, would be acceptable only if they are more stringent than the Federal one.

Using the Federal program as a minimum standard, as my amendment requires, rather than only issuing minimum guidelines as outlined in the legislation has other advantages as well: It encourages equality and uniformity in standards; it makes the program easier to administer and enforce; it gives personnel a wider base of experience on which to draw.

But most important, it insulates State officials to some extent from the severest economic pressures, thus eliminating one of the key hazards of State administration of permit programs while retaining State flexibility.

Mr. ROE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment deals specifically with the permit section of the legislation. Section 402, title IV, establishes a national discharge elimination system.

The gentleman's amendment would in essence require that any State desiring to administer its own permit program under the Federal guidelines must first prove that its program is stronger and more stringent than the Federal guidelines would require.

The gentleman's logic in a way escapes me. If any State wishes to establish a program stronger than the Federal criteria, there is nothing in this legislation that will prevent the State from doing so.

The gentleman's amendment seems to be based on the completely unfounded assumption that the Federal guidelines would be too weak and ineffective and that the State would automatically have to go beyond that.

I think it is important to note that the responsibility of the EPA Administrator is to establish minimum Federal standards which all States that want to participate in the program must at least adopt those minimum standards.

There is nothing to say, however, in the law that if a State chooses because of peculiar environmental characteristics in its State or peculiar types of exotic chemicals involved in the discharge of waste, they can amend and expand as long as it does not denigrate the approved program of the EPA Administrator.

Therefore, the State has the prerogative under the law of expanding the requirements, if they so desire.

Mr. PODELL. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman.

Mr. PODELL. The gentleman will note in the amendment before the House the words used were, "Standards as strong as; if not stronger." So, in no event can the standards be made weaker.

There was no attempt to make them stronger than. It is as strong as or stronger. It is up to the State to provide, if the gentleman will yield further, there should be Federal standards and up to now there are no standards, but merely guidelines and there is a substantial difference.

Mr. ROE. Once EPA establishes the Federal program and establishes the guidelines, the States must live up to a minimum of that program to be eligible to participate. Therefore, the legislation covers it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PODELL).

The amendment was rejected.

AMENDMENT OFFERED BY MR. REUSS

Mr. REUSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REUSS: Page 358, strike all after the period on line 7 through to the end of line 24.

Page 359, lines 15 and 16, strike "unless he determines that adequate authority does not exist:" and insert in lieu thereof the following: "if he determines, and publishes

his determination, that adequate authority does exist:".

Page 359, lines 18 and 19, strike out "any applicable" and insert in lieu thereof: "all".

Page 362, line 25, insert a comma after the word "Administrator"; and on page 363, line 2, strike "(b)(5) of this section" and insert in lieu thereof the following "(d)(1) of this section that such State proposes to issue a permit,".

Page 363, line 13, after the period insert the following: "No waiver shall be made under this subsection unless regulations have been first promulgated under subsection (f) of this section relating to the category of point sources with respect to which each waiver is proposed".

Page 365, line 1, after "a" insert "valid".

Page 365, strike out the sentence beginning on line 5 and ending on line 19.

Mr. REUSS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. It is a legal and technical amendment having to do with the permit program.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. REUSS. Mr. Chairman there are many good provisions in H.R. 11896 and I thoroughly support them.

I commend our distinguished Chairman, Congressman BLATNIK, for his great leadership in improving our Federal laws to combat water pollution.

My amendment is one of the clean water package amendments sponsored by me and more than 40 of our colleagues. It deals with several weaknesses in the permit program which will be established by section 402 of the committee bill.

The Federal permit program which the President established in December 1970 under the Refuse Act of 1899, has proven to be, as the President rightly said, one of the best tools to combat water pollution. It has helped to identify, and to limit, toxic substances in water which were previously uncontrolled by industry. It has helped to create national water standards and has substantially encouraged industries to take more vigorous action to control them.

But section 402 would transfer the permit program to the States, and we shall then have 54 separate programs in the States, Puerto Rico, District of Columbia, Virgin Islands, and Guam, with no meaningful Federal control over the program.

When Governor Anderson of Minnesota testified before the Public Works Committee last December, he pointed out that the greatest political barrier to effective pollution control is the threat by industrial polluters to move their factories out of any State that seriously tries to protect its environment. That threat can be answered only by a review at the Federal level of permits.

It is at this point that the committee bill is weakest.

The committee's bill permits the transfer of the permit program to the States before standards for toxic pollutants and for pretreatment are adopted, and before effluent limitations are established. Our amendments would require that these standards and limitations be established before EPA turns the permit program over to the States.

Under the committee's bill, once the permit program is turned over to the States, EPA would lose all voice over the permits unless it chose to cancel the whole State program. As Governor Anderson said, why should EPA be forced to cancel the State's entire program because it objects to the issuance of a few permits.

Under our amendments, EPA would be allowed 60 days to review and object to the issuance of any State permit. If EPA fails to act within that time, the permit will issue. EPA's veto power would be used only for the more important permits, since EPA would have the right to waive the notice and veto provisions pursuant to regulations concerning the category of point sources with respect to which a waiver is proposed.

The committee bill also gives immunity from prosecution, under the Refuse Act and this bill, until 1976 to all pollutors who apply for discharge permits. We say that there is no justification for granting such immunity. President Nixon granted no such immunity in the Refuse Act permit regulations for the mere filing of a permit application. We should do likewise.

EPA review of individual permits is essential to protect against the unfair competition which will result when some States weaken their pollution controls to lure industries from those States which have effective pollution control regulations. Such competition will harm not only the environment but also the industries of our country and the workers of our Nation. Without Federal review of the waste discharge program, the economic and political pressures generated by such unfair competition will undercut the effectiveness of pollution controls in many States.

I urge the adoption of my amendment.

Mr. ROE. Mr. Chairman, I rise in opposition to the amendment.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be concluded in 5 minutes.

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

There was no objection.

Mr. ROE. Mr. Chairman, the tone of the debate and the amendments we are hearing at this point really come to grips with the situation of the partnership between the States and the Federal Government. I am one who believes that, as this legislation evolves into a determination by this body, it should not be a piece of legislation that has established the Federal Government in competition with the States. I believe that the common effort of the Federal Government and the State governments, in protection of our natural resources in the States of the people, is the job we are all about.

Mr. Chairman, I rise in opposition to the amendments.

Time and time again we hear of the need to strengthen the role of the States in our Federal-State relationship. And yet over and over again when legislation comes to the floor the trend is in the opposition direction.

Mr. Chairman, simply put, the amendment which we have just heard declares in loud, shrill tones that the States cannot be trusted. The gist of the amendment is that only the Administrator of the Environmental Protection Agency in Washington, D.C., can prevent environmental nightmare and economic chaos—and that if we rely on the States to carry out anything but the most mechanical and menial acts, our waters will be forever ruined.

In my humble judgment, this is nonsense—simple, pure unadulterated nonsense.

The States with appropriate cooperation by the Federal Government are capable of insuring that the quality of our waters will be preserved and enhanced. To believe otherwise is sheer folly. A successful program of this kind requires the total efforts at all levels of government. It requires the assistance of the general public and of industry. A successful program cannot be established on the basis of mistrust or on the belief that the Federal Government and only the Federal Government is endowed with honesty and integrity.

I have had considerable experience working on this program at the State level as a cabinet officer in New Jersey, and I can attest to the fact that State officials are as capable as their counterparts in EPA. And they enjoy an advantage not shared by those who work in our Nation's Capital in that they are closer to the problems and, in many cases, have a better understanding of what has to be done.

I think that just about everybody now agrees that in order to have an effective water pollution control program we need a permit program to regulate the effluent discharges entering our waters. The question then becomes what is the best approach. In my judgment, the approach in H.R. 11896 is sound and workable.

Much has been said about the Refuse Act of 1899 and the permit program initiated in December 1970. It should be noted that after 15 months only 21 permits have been granted under that program. The committee's long and extensive hearings revealed several very important defects in the Refuse Act. The overall direction of the program was in the Corps of Engineers and not EPA. The Refuse Act permit program is a totally Federal program and as such usurps the enforcement of water quality control from the States. The program also duplicates the efforts of the States in administering a system of permits and thus destroys the initiative of the States and local government.

H.R. 11896 declares to be unlawful the discharge of any pollutant by any person except as specifically authorized in the bill. The bill establishes in section 402 a new Federal-State discharge permit program. All permits issued under this program must be consistent with the specific requirements of the bill, including effluent limitations, national standards of performance, toxic and pretreatment standards, and ocean discharge.

Section 402 provides that upon enactment of this bill, no new permits will be issued under the 1899 Refuse Act. Per-

mits previously issued under that act will be considered to be permits under this new program. Pending applications under the Refuse Act program would be transferred from the Corps of Engineers to the Administrator of the Environmental Protection Agency who would be initially responsible for the administration of the new program.

The Refuse Act is continued without modification as a valuable enforcement tool.

The Administrator would have 90 days to issue guidelines as to what constitutes an acceptable State permit program. In this interim period, he would be solely responsible for administering the permit program. If, however, he determined that a State had a satisfactory program, he could, during this interim period, transfer authority to the State to issue permits. The Administrator would retain the right to review and veto any of these proposed permits during that period.

After the guidelines are issued, if the State submits an acceptable program, the Administrator would approve it and the State would take over administration of the permit program in that State. In States which fail to meet the guidelines, the Administrator would carry on the program.

The committee considered extensively the proposition that all the permits issued by the States ought to be subject to review and possible veto by the Administrator. During the hearings, the Governors and other representatives of the States, almost unanimously, stressed the need to put the maximum responsibility for the permit program in the States. They deplored the duplication and second guessing that could go on if the Administrator could unilaterally veto the State decisions. In our judgment, the States ought to have the opportunity to assume the responsibilities that they have requested. If, however, a State fails to carry out its obligations and misuses the permit program, the Administrator is fully authorized under subsection (c)(3) of this section to withdraw his approval of a State program—after public hearing.

H.R. 11896 includes a provision that any permit program administered by the State must insure that any other state whose waters may be affected by the issuance of a permit have an opportunity to submit written recommendations with respect to the permit application. If any part of the recommendations are not accepted by the permitting State, the affected State and the Administrator must be notified in writing of its failure to accept such recommendations together with its reasons for so doing. Subsection (d)(2) provides that no permits shall issue if the Administrator within 60 days of his notification objects to the issuance of such permits. This procedure was included to protect States which might otherwise be affected by the issuance of a permit in a second State.

As the argument that has been made that industry will play one State off against another and go where the water quality requirements are the lowest, stated in the bluntest of language, this just is not so.

Section 306 requires that new sources of water pollution be constructed to meet a standard that reflects the greatest degree of effluent reductions that can be achieved by the use of the best available, demonstrated control technology. If practicable, the standard would permit no discharge of pollutants. Each new plant or modification of an existing plant will be required to follow this standard. In other words, what we are saying is that if an industry threatens to leave an area because of its stringent requirements, it would be confronted with the requirement of meeting the 1981 goal immediately.

One final point I would make is that the purpose of subsection (d) in section 402 which would be deleted by the amendment, is to protect from harassment an applicant for a permit who has done everything he can possibly do, has furnished all the information he has been asked for, and, most importantly, is complying with all the applicable water quality standards.

I ask that the amendment be soundly defeated and that the House support section 402 as it now appears in H.R. 11896.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the gentleman from Wisconsin would, in effect, give the Administrator permit-by-permit review and veto authority over all permits issued under permit programs already approved by the Administrator as meeting his guidelines. It would require a total duplication of the effort required to review permit applications. The amendment, however, apparently recognizes that the States should issue permit.

We have numerous provisions in this bill that are intended to encourage State participation in the water pollution control program. We have numerous provisions to encourage training of environmental control personnel. Now we have a proposed amendment that would exacerbate the manpower problem we are trying to solve and reduce the effectiveness and initiative of State programs.

This amendment would place the State permit personnel in the position of having someone look over their shoulder at each action instead of overlooking the total program. On the one hand we are trying to develop local participation in accordance with the federal system. On the other this amendment would have us say—we are going to duplicate your every move. Scarce, trained personnel, in short supply at both the Federal and State level, would duplicate each other's efforts. This would be unreasonably wasteful.

Section 402(b) of H.R. 11896 requires that the Administrator shall not approve any State permit program unless he determines that adequate authority exists to issue permits which comply with the discharge controls imposed by sections 301, 302, 306, 307, and 403. It also provides that any permit can be terminated for cause.

The system proposed by the current bill language is designed to promote three purposes: First, to assure and encourage full implementation of permit issuing authority to States which are qualified and have approved programs; second, to retain Federal overview authority to the extent actually needed to prevent any abuse by the State of its permit-issuing authority; and, finally, to provide Federal review of all permits which might result in impacts on States other than the issuing State.

If a State is not administering permit programs in accordance with the requirements, the Administrator can withdraw his approval after notice of hearing. The Administrator has a rigid control over permits via this provision.

In addition to the overall program control, any State whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State. If these recommendations are not accepted, the Administrator is notified. Then the Administrator upon receiving such notice can veto the permit in question if he determines that the complaint of the downstream State is reasonable.

Thus, H.R. 11896 provides for a veto on any permit where a downstream State objects and he has a veto over the overall approval of the program. The committee believes these provisions are sufficient to assure proper control over the issuance of permits.

I also call your attention to the provisions for a State permit program during the interim period from the date of enactment to a time 90 days after the promulgation of guidelines for State permit programs. If the Administrator, under the authority that would be available under section 402(a)(5), approves an interim State permit program, he would retain a permit-by-permit veto. Thus, until a State permit program meets the Administrator's guidelines, there would be the veto you suggest.

This system makes wise and efficient use of State and Federal governmental resources and authority and adequately protects Federal interests and the goals of the Federal Water Pollution Control Act. The proposed amendment would create needless, burdensome, and duplicative work at the Federal level and uselessly undercut the powers of the States.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I would like to call the attention of my colleagues to the last part of the amendment the gentleman offered. We are merely trying to prevent a discharger who is meeting the water quality standards and who has made a valid application for a permit from being prosecuted where he is meeting the water quality standards and otherwise not violating the laws. There are 25,000 permits on the books now. Conceivably there will be 30,000 in the future. Time does not permit the handling or processing of those permits im-

mediately. Obviously it will take some time. As long as the applicant has done nothing to delay or impede the issuing of that permit, he should not be prosecuted because the Federal Government or the State is dilatory or cannot get to the job of processing his application.

In addition to the applicant having to comply with the water quality standards, discharges and violations can be enforced by the Administrator who has the fallback of the emergency powers. Also, notwithstanding any other provision of this act, the Administrator, upon receipt of evidence that a pollution source or combination of sources is presenting imminent and substantial and dangerous problems for the health of persons, may bring a suit and bring an end to the discharge of that pollutant.

So there is ample authority on this point to protect the environment and protect the State and Federal Government.

I would also like to address the question of the interim permit program. The Administrator could authorize a State which has the capability of administering a permit program which will carry out the objectives of this act, to issue discharge permits for the period between enactment of this act and a time 90 days after the promulgation of the guidelines for permit programs. He would give this authorization only if he were confident water quality control would not suffer. I also wish to emphasize that the Administrator would maintain a permit-by-permit veto power during the interim period.

On the question of a permit-by-permit veto power for approved State programs which are consistent with the Administrator's guidelines, I wish to associate myself with the excellent remarks offered by the gentleman from New York (Mr. TERRY).

He pointed out that such a veto power would require needless duplication of effort. It would waste valuable, trained manpower. The amendment is unnecessary.

I urge my colleagues to reject this amendment.

The CHAIRMAN. The gentleman from Alabama is recognized.

Mr. JONES of Alabama. Mr. Chairman, the amendment offered by the gentleman from Wisconsin, if adopted, would simply mean the demise of the genesis and theory of this whole bill. It would erase the State-Federal relationship. I hope under the principles we have established in this bill, that have so far received almost universal support, the Federal-State relationship will be continued in this bill and that the amendment will be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. REUSS).

TELLER VOTE WITH CLERKS

Mr. REUSS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. REUSS. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. REUSS, ROE, TERRY, and DINGELL.

The Committee divided, and the tellers reported that there were—ayes 154, noes 251, not voting 27, as follows:

[Roll No. 95]

[Recorded Teller Vote]

AYES—154

| | | |
|---|---|---|
| Abourezk | Ford, William D. | Nix |
| Abzug | Fraser | Obey |
| Adams | Frelinghuysen | O'Hara |
| Addabbo | Fulton | O'Neill |
| Anderson, Calif. | Gallagher | Pelly |
| Anderson, Tenn. | Gibbons | Pepper |
| Annunzio | Grasso | Peyser |
| Ashley | Green, Pa. | Pike |
| Aspin | Gubser | Podell |
| Badillo | Gude | Preyer, N.C. |
| Barrett | Halpern | Price, Ill. |
| Bell | Hamilton | Pryor, Ark. |
| Bergland | Hanley | Pucinski |
| Biaggi | Harrington | Quie |
| Biester | Hays | Rangel |
| Bingham | Hechler, W. Va. | Rees |
| Boland | Heckler, Mass. | Reuss |
| Brademas | Heinz | Riegle |
| Brasco | Hicks, Mass. | Rogers |
| Brown, Mich. | Hicks, Wash. | Rooney, N.Y. |
| Broyhill, Va. | Hillis | Rooney, Pa. |
| Burke, Fla. | Horton | Rosenthal |
| Burke, Mass. | Hungate | Roush |
| Burlison, Mo. | Karth | Roy |
| Burton | Kastenmeier | Roybal |
| Byrne, Pa. | Kemp | Ruppe |
| Carney | Koch | Ryan |
| Clay | Kyros | St Germain |
| Conte | Latta | Sarbanes |
| Conyers | Leggett | Saylor |
| Corman | Lent | Scheuer |
| Cotter | Long, Md. | Seiberling |
| Coughlin | Lujan | Stanton, J. William |
| Culver | McCloskey | Steele |
| Danielson | McKinney | Steiger, Wis. |
| Delaney | Macdonald, Mass. | Stokes |
| Dellenback | Madden | Stratton |
| Dellums | Meeds | Sullivan |
| Dingell | Melcher | Symington |
| Dow | Metcalfe | Tiernan |
| Drinan | Mikva | Udall |
| Dulski | Mink | Vander Jagt |
| du Pont | Minshall | Vanik |
| Eckhardt | Mitchell | Vigorito |
| Edwards, Calif. | Moorhead | Waldie |
| Eilberg | Morgan | Whalen |
| Esch | Morse | Wilson, Charles H. |
| Eshleman | Mosher | Wolff |
| Fascell | Moss | Wylie |
| Fish | Murphy, Ill. | Yatron |
| Foley | Nedzi | Zablocki |
| | | Zwach |

NOES—251

| | | |
|---|---|---|
| Abbitt | Chappell | Flynt |
| Albert | Clancy | Ford, Gerald R. |
| Alexander | Clark | Forsythe |
| Anderson, Ill. | Clausen, Don H. | Fountain |
| Andrews | Cleveland | Frenzel |
| Archer | Collier | Frey |
| Arends | Collins, Ill. | Fuqua |
| Ashbrook | Collins, Tex. | Gettys |
| Aspinall | Colmer | Giaimo |
| Baker | Conable | Gonzalez |
| Begich | Crane | Goodling |
| Belcher | Curlin | Gray |
| Bennett | Daniel, Va. | Green, Oreg. |
| Betts | Daniels, N.J. | Griffin |
| Bevill | Davis, Ga. | Griffiths |
| Blackburn | Davis, S.C. | Gross |
| Blatnik | Davis, Wis. | Grover |
| Boggs | Denholm | Hagan |
| Bolling | Dennis | Haley |
| Bray | Dent | Hall |
| Brinkley | Derwinski | Hammer-schmidt |
| Brooks | Devine | Hanna |
| Broomfield | Dickinson | Hansen, Idaho |
| Brotzman | Diggs | Hansen, Wash. |
| Brown, Ohio | Donohue | Harsha |
| Broyhill, N.C. | Dorn | Harvey |
| Buchanan | Dowdy | Hastings |
| Burleson, Tex. | Downing | Hathaway |
| Byrnes, Wis. | Duncan | Helstoski |
| Byron | Edmondson | Henderson |
| Cabell | Edwards, Ala. | Hogan |
| Caffery | Erlenborn | Holifield |
| Camp | Evans, Colo. | Hosmer |
| Carey, N.Y. | Evins, Tenn. | Howard |
| Carter | Findley | Hunt |
| Casey, Tex. | Fisher | Hutchinson |
| Cederberg | Flood | Ichord |
| Celler | Flowers | Jacobs |
| Chamberlain | Foley | Jarman |
| Clawson, Del | Ford, William D. | Johnson, Calif. |
| Cohelan | Fraser | Johnson, Pa. |
| Collier | Frelinghuysen | Jonas |
| Colmer | Fulton | Jones, Ala. |
| Conable | Gallagher | Jones, N.C. |
| Conte | Gibbons | Jones, Tenn. |
| Corman | Grasso | Kazen |
| Cotter | Green, Pa. | Keating |
| Coughlin | Gubser | Kee |
| Culver | Gude | Keith |
| Daniel, Va. | Halpern | King |
| Daniels, N.J. | Hamilton | Kyl |
| Danielson | Hanley | Landgrebe |
| Davis, Ga. | Harrington | Landrum |
| Davis, S.C. | Hays | Lennon |
| Davis, Wis. | Hechler, W. Va. | Link |
| Delaney | Heckler, Mass. | Lloyd |
| Dellenback | Heinz | Long, La. |
| Dellums | Hicks, Mass. | McClory |
| Denholm | Hicks, Wash. | McClure |
| Dennis | Hillis | McCollister |
| Dent | Horton | McCormack |
| Derwinski | Hungate | McDade |
| Devine | Karth | McDonald, Mich. |
| Dickinson | Kastenmeier | McEwen |
| Diggs | Kemp | McFall |
| Donohue | Koch | McKay |
| Dorn | Kyros | McKevitt |
| Dowdy | Latta | McMillan |
| Downing | Leggett | Mahon |
| Duncan | Lent | Mailliard |
| Edmondson | Long, Md. | Mallary |
| Edwards, Ala. | Lujan | Mann |
| Erlenborn | McCloskey | Martin |
| Evans, Colo. | McKinney | Mathias, Calif. |
| Evins, Tenn. | Macdonald, Mass. | Mathis, Ga. |
| Findley | Madden | Matsunaga |
| Fisher | Meeds | Mayne |
| Flood | Melcher | Mazzoli |
| Flowers | Metcalfe | Michel |
| Flynt | Mikva | Miller, Calif. |
| Ford, Gerald R. | Mink | Miller, Ohio |
| Forsythe | Minshall | Mills, Ark. |
| Fountain | Mitchell | Mills, Md. |
| Frenzel | Moorhead | Minish |
| Frey | Morgan | Mizell |
| Fuqua | Morse | Mollohan |
| Gettys | Mosher | Monagan |
| Giaimo | Moss | Montgomery |
| Gonzalez | Murphy, Ill. | Murphy, N.Y. |
| Goodling | Nedzi | Myers |
| Gray | Nix | Natcher |
| Green, Oreg. | Obey | Nelsen |
| Griffin | O'Hara | Nichols |
| Griffiths | O'Neill | Passman |
| Gross | Pelly | Patten |
| Grover | Pepper | Perkins |
| Hagan | Peyser | Pettis |
| Haley | Pike | Pickle |
| Hall | Podell | Pirnie |
| Hammer-schmidt | Preyer, N.C. | Poage |
| Hanna | Price, Ill. | Poff |
| Hansen, Idaho | Pryor, Ark. | Powell |
| Hansen, Wash. | Pucinski | Price, Tex. |
| Harsha | Quie | Purcell |
| Harvey | Rangel | Quillen |
| Hastings | Rees | Railsback |
| Hathaway | Reuss | Randall |
| Helstoski | Riegle | Rhodes |
| Henderson | Rogers | Roberts |
| Hogan | Rooney, N.Y. | Robinson, Va. |
| Holifield | Rooney, Pa. | Robison, N.Y. |
| Hosmer | Rosenthal | Rodino |
| Howard | Roush | Roe |
| Hunt | Roy | Roncalio |
| Hutchinson | Roybal | Rousselot |
| Ichord | Ruppe | Runnels |
| Jacobs | Ryan | Ruth |
| Jarman | St Germain | Sandman |
| Johnson, Calif. | Sarbanes | Satterfield |
| Johnson, Pa. | Saylor | Schmitz |
| Jonas | Scheuer | Schneebeli |
| Jones, Ala. | Seiberling | Schwengel |
| Jones, N.C. | Stanton, J. William | Scott |
| Jones, Tenn. | Steele | Sebelius |
| Kazen | Steiger, Wis. | Shipley |
| Keating | Stokes | Shoup |
| Kee | Stratton | Shriver |
| Keith | Sullivan | Sikes |
| King | Symington | Sisk |
| Kyl | Tiernan | Skubitz |
| Landgrebe | Udall | Slack |
| Landrum | Vander Jagt | Smith, Calif. |
| Lennon | Vanik | Smith, Iowa |
| Link | Vigorito | Smith, N.Y. |
| Lloyd | Waldie | Snyder |
| Long, La. | Whalen | Spence |
| McClory | Wilson, Charles H. | Springer |
| McClure | Wolff | Staggers |
| McCollister | Wylie | Stanton, James V. |
| McCormack | Yatron | Steed |
| McDade | Zablocki | Steiger, Ariz. |
| McDonald, Mich. | Zwach | Stephens |
| McEwen | | Stubblefield |
| McFall | | Stuckey |
| McKay | | Talcott |
| McKevitt | | Taylor |
| McMillan | | Teague, Calif. |
| Mahon | | Teague, Tex. |
| Mailliard | | Terry |
| Mallary | | Thompson, Ga. |
| Mann | | Thompson, N.J. |
| Martin | | Thomson, Wis. |
| Mathias, Calif. | | Thone |
| Mathis, Ga. | | Ullman |
| Matsunaga | | Veysey |
| Mayne | | Waggonner |
| Mazzoli | | Wampler |
| Michel | | Ware |
| Miller, Calif. | | Whalley |
| Miller, Ohio | | White |
| Mills, Ark. | | Whitehurst |
| Mills, Md. | | Whitten |
| Minish | | Widnall |
| Mizell | | Wiggins |
| Mollohan | | Williams |
| Monagan | | Wilson, Bob |
| Montgomery | | Winn |
| Murphy, N.Y. | | Wright |
| Myers | | Wyatt |
| Natcher | | Wydler |
| Nelsen | | Wyman |
| Nichols | | Young, Fla. |
| Passman | | Young, Tex. |
| Patten | | Zion |
| Perkins | | |
| Pettis | | |
| Pickle | | |
| Pirnie | | |
| Poage | | |
| Poff | | |
| Powell | | |
| Price, Tex. | | |
| Purcell | | |
| Quillen | | |
| Railsback | | |
| Randall | | |
| Rhodes | | |
| Roberts | | |
| Robinson, Va. | | |
| Robison, N.Y. | | |
| Rodino | | |
| Roe | | |
| Roncalio | | |
| Rousselot | | |
| Runnels | | |
| Ruth | | |
| Sandman | | |
| Satterfield | | |
| Schmitz | | |
| Schneebeli | | |
| Schwengel | | |
| Scott | | |
| Sebelius | | |
| Shipley | | |
| Shoup | | |
| Shriver | | |
| Sikes | | |
| Sisk | | |

NOT VOTING—27

| | | |
|---|---|---|
| Abernethy | Galifianakis | McCulloch |
| Baring | Garmatz | O'Konski |
| Blanton | Gaydos | Patman |
| Bow | Goldwater | Rarick |
| Chisholm | Hawkins | Reid |
| Clawson, Del | Hébert | Rostenkowski |
| de la Garza | Hull | Scherle |
| Dwyer | Kluczynski | Van Deerlin |
| Edwards, La. | Kuykendall | Yates |

So the amendment was rejected.

AMENDMENTS OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc because they cover the same subject.

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

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. WILLIAMS: Page 243, after line 10, insert the following:

"(5) Notwithstanding any other provision of this Act, or of any other law, no treatment works, whether publicly or privately owned, shall be constructed unless the Administrator has first approved such construction. This subsection shall apply to all treatment works whether or not such works receive any Federal financial assistance under this Act or under any other provision of law. The requirements of this subsection shall take effect on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

And on page 264, line 2, immediately after "Sec. 211." insert:

(a) Page 264, immediately after line 5, insert:

"(b) Notwithstanding any other provision of this Act, or of any other law, no sewage collection system, whether publicly or privately owned, shall be constructed unless the Administrator has first approved such construction. This subsection shall apply to all sewage collection systems whether or not such systems receive any Federal financial assistance under this Act or under any other

provision of law. The requirements of this subsection shall take effect on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

Mr. WILLIAMS. Mr. Chairman, I have two amendments at the desk and I ask unanimous consent that they be considered en bloc.

Mr. Chairman, these amendments increase the power of the EPA Administrator to control pollution.

We are here today to try to find answers to the ecological problems that we face. The quality of our water has changed so much since we were children that it all but surpasses belief. As a child I recall swimming in Lake Erie and enjoying the experience. Now we are told that Lake Erie is dying or dead. The pollution is so severe that swimming and wading cannot be allowed.

Our rivers have become open sewers and a threat to our very health. We are polluting the oceans to an almost unbelievable degree. Thor Heyerdahl, of Kon Tiki fame, reports that on his recent RA expedition he found petroleum and plastic pollution in the middle of the Atlantic Ocean. I ask you to consider that, gentlemen. Hundreds of miles from the nearest shoreline and Heyerdahl found pollution. We must act now if we are to save our priceless waters.

In this bill we are taking many admirable steps and the committee has done a fine job. However, I fear that we have left a loophole in the final draft. In this bill we charge the Administrator with the duty of approving the plans for those facilities for sewage treatment which are to be constructed using Federal funds. But I ask, why should he not also have approval authority for those facilities constructed without Federal funds?

I am well aware that there are many communities and industries which have thrown up their hands is disgust when they have learned how costly the requirements are for Federal grants. Many have decided not to apply simply because the costs involved have been overwhelming. As a result, they have chosen to build a waste treatment plant that does not meet EPA standards because it is cheaper to do so without a Federal grant and thereby continues pollution.

Today we are not here to debate the need for grants. We are here to attempt to save our priceless water supplies. But if we are serious in our efforts we must apply the same standards to all similar sources of pollution.

I believe that the administrator must be given the power to approve all plants before construction or enlargement. Since all of these plants are similar, and all will be discharging similarly treated sewage into our rivers and streams, and all should comply with the same standards.

We are dealing with two separate constructions in this bill. The first is sewage treatment plants, and the second is sewage collection systems. The basic plans for each combine to determine how effectively the sewage will be treated.

In recent years we have all seen how the growth of our metropolitan areas has created severe overloading of treatment capacity in sewage systems in many areas. We have also seen combined sewage systems which collect sanitary sewage and storm water, repeatedly exceed their capacity following rainstorms and thereby discharge raw, untreated sewage into our waterways. As our population continues to grow, the pollution potential soars. I know of combination systems that have been extended without Federal grants because it was too costly to meet Federal requirements.

We have stated in this act that it is our "national goal that the discharge of pollutants into the navigable waters be eliminated by 1985." If we are to achieve this goal we must act now to give the administrator the authority to place the same requirements on all treatment plants and collection systems, without regards to where the funds to construct them may have originated.

In the past we have not placed this centralized clearance authority with the executive and now we are paying a high price for that failure. If we do not act now we may never reach our goal for 1985.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

Certainly we would honor the motive and the purpose that impels our colleague, the gentleman from Pennsylvania, to offer this kind of an amendment.

I am sure he hopes to improve the quality of the construction of treatment works throughout the country by requiring that every treatment work be approved as a project by the Administrator of EPA.

I think perhaps that what the gentleman may not fully understand is that we have created in this bill a very finely tuned working relationship between the Administrator of EPA and the various States.

Obviously, it definitely is to the benefit the cause of clean water to bring the States with their administrative machinery carefully and energetically and vigorously into the act.

The bill already requires that the Administrator of EPA shall promulgate guidelines and that those guidelines will be adhered to by the States in their permit practices. The bill already requires that by 1976 every industrial discharger of any kind of pollution into streams must apply the best practicable technology.

The bill already requires that by 1981, every industrial discharger into the streams must apply the best available demonstrated technology, and that every municipal sewage treatment work by that year would apply not only secondary treatment, but the best available demonstrated technology.

I do not know that we can require any more than that. Surely we do not want to place upon the Administrator of this nationwide agency the burden of having to look at each individual project—whether it be a small industry or a big industry or a small town or a big town—and approve that construction individually. That is not the work of the EPA's nationwide Administrator—that is the work of the local administrator.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course, I yield to my friend, the gentleman from Pennsylvania.

Mr. WILLIAMS. Let me say this.

First, the first point is that you are going to have a far better protection agency at the Federal level and the only way we are going to achieve the objective for 1976 and 1981 and 1985 is to make absolutely certain that the guidelines are being adhered to.

We have had these guidelines for a matter of years.

Unless we do that, we are not going to achieve our goals.

Mr. WRIGHT. I would say to the gentleman, under the bill the Administrator does have the ultimate authority. The bill confers upon the Administrator the right to bring a civil action or to issue orders if in his judgment someone has not compiled with the requirements of the act. I think that is the only duty we can confer upon the Administrator.

Surely we do not want to make the Administrator look at every single treatment works and say that no treatment works could be built until the Administrator here in Washington has approved the plans and specifications for it.

What we are trying to do is to encourage them to move forward, and to prevent the establishment of an extra layer of bureaucracy with these extra duties which would slow down the program.

While the amendment offered by the gentleman is certainly well intentioned and I have no argument with his goals, I think the result of such an amendment as this would surely be to slow down the program when what we are trying to do is to speed it up. We are trying to bring the States, municipalities, and industries themselves into active compliance. I believe the bill contains adequate safeguards and protections, as well as adequate penalties for those who would fail or who would refuse to abide by this law.

I do not see that we need to create an extra layer of bureaucracy by having every little individual project brought before the Administrator himself for his personal approval.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. We created an additional layer of bureaucracy when we created the EPA. The gentleman and I both know, and so do the members of this committee, that the EPA has a series of regional administrators throughout this country. It is not a question of the Administrator himself. We are not talking about that. When you say "the Administrator," you mean the EPA, and we can rely on his regional administrators to approve plans or disapprove. It is not another layer of bureaucracy at all. It is simply using what we have right now.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania.

The amendments were rejected.

Mr. HOLIFIELD. Mr. Chairman, I take the well at this time to make some legislative history locally, and I would like to have the attention, if I might, of the manager of the bill, Mr. JONES, and the manager, Mr. HARSHA. On page 372 of the bill, section 6, there is a definition of the word "pollutant." On line 10 there occur the words "radioactive materials." Has the gentleman found those words? On page 131 of the report, in the second indented paragraph, the following language appears:

> The term "pollutant" as defined in the bill includes "radioactive materials." These materials are those not encompassed in the definition of source, byproduct, or special nuclear materials as defined by the Atomic Energy Act of 1954, as amended, and regulated pursuant to that Act. "Radioactive materials" encompassed by this bill are those beyond the jurisdiction of the Atomic Energy Commission. Examples of radioactive material not covered by the Atomic Energy Act, and, therefore, included within the term "pollutant," are radium and accelerator produced isotopes.

The question I should like to ask the gentleman from Alabama, the manager of the bill, is this: Is that a true and clear definition of the intent of the committee in the utilization of the words "radioactive materials" on line 10, page 372?

Mr. JONES of Alabama. The gentleman is correct. That was the intent. The gentleman has just read from page 131 of the report, and that is our specific intention, as I understand.

Mr. HOLIFIELD. I thank the gentleman for that response, and I assume it is the intent of the gentleman, if he is one of the managers of the bill in conference, to try to sustain that definition to the best of his ability.

Mr. JONES of Alabama. Certainly I shall be directed by the action of the House on a bill, and will stand as steadfastly for that action as I know how.

Mr. HOLIFIELD. I thank the gentleman from Alabama.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to my colleague from California.

Mr. HOSMER. I should like to address the same question to the gentleman from Ohio and also another question.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

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

Mr. HARSHA. I will respond in the affirmative to that question. That is definitely what we mean. As I said earlier in the debate on the Wolff amendment, we intended to leave the jurisdiction of radioactive material that came within the Atomic Energy Act up to the Atomic Energy Commission. The language applies only to everything outside the jurisdiction of AEC. That is definitely the intent of the wording of the bill and the intent of the committee.

Mr. HOSMER. Mr. Chairman, will the gentleman yield further?

Mr. HOLIFIELD. I yield to the gentleman from California.

Mr. HOSMER. I would like to ask the gentleman from Ohio a further question. Earlier in the afternoon a point of order was made to an amendment offered by the gentleman from New York (Mr. WOLFF). The point of order was decided upon a definition of the words "radioactive material." The same definition is contained in the bill before the House today. There is no distinction raised between the source, byproduct and other nuclear material as defined in the Atomic Energy Act of 1954. I ask the gentleman if it is his intent that the ruling was made in recognition of the distinction between the definitions?

Mr. HARSHA. I do not know that I could answer on what basis the Chairman or the Parliamentarian based their ruling. I felt it was not germane to this act in view of the way we had written the language of the act and the language of the report. We definitely intended to exclude from our jurisdiction of radioactive material that which lies within the jurisdiction of the Atomic Energy Commission under the Atomic Energy Act.

Mr. HOSMER. That is exactly the way I see it. I thank the gentleman.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Chairman, I want to thank the able gentleman from California for helping to clarify the earlier position as included in the earlier ruling. As a member of the Committee on Public Works and also as a member sitting on the Joint Committee on Atomic Energy, it has been enlightening to me. There is no intention on the part of the Committee on Public Works to move into the jurisdiction of the Joint Committee on Atomic Energy, or in any way to disturb the existing responsibilities that are declared under that law.

AMENDMENT OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASPIN: Page 277, line 3, after "navigable waters" insert "and the ground waters".
>
> Page 277, line 4, after "such" insert "navigable and ground".
>
> Page 278, line 3, after "navigable waters" insert "and ground waters".
>
> Page 278, line 6, after "such" insert "navigable or ground".
>
> Page 281, line 8, after "navigable waters" insert "and ground waters".
>
> Page 372, line 14, strike out "water," and all that follows down through and including "(C)" on line 22.
>
> Page 372, line 24, strike out "(D)" and insert "(C)".
>
> Page 373, line 21, after "navigable waters," insert "ground waters,".
>
> Page 374, line 4, strike out the period and insert in lieu thereof a comma and the following: "(C) any addition of any pollutant to ground waters from any point source."

Mr. ASPIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. ASPIN. Mr. Chairman, the amendment which the gentleman from Massachusetts (Mr. CONTE) and I are introducing involves some small but important changes in the bill, concerning one subject: ground water pollution. Ground water is that water which lies below the surface of the earth. It is in reservoirs and pools, it is well water, it is drinking water. In other words, it is subsurface water.

Mr. Chairman, the bill we have before us today deals mostly with navigable water, rivers and streams and lakes and other surface waters but it deals only ambiguously and, in some cases, inconsistently with the subject of ground water. The purpose of our amendment is to eliminate some of these ambiguities and inconsistencies.

The amendment does two things, two very simple things.

First, the amendment brings ground water into the subject of the bill, into the enforcement of the bill. Ground water appears in this bill in every section, in every title except title IV. It is under the title which provides EPA can study ground water. It is under the title dealing with definitions. But when it comes to enforcement, title IV, the section on permits and licenses, then ground water is suddenly missing. That is a glaring inconsistency which has no point. If we do not stop pollution of ground waters through seepage and other means, ground water gets into navigable waters, and to control only the navigable water and not the ground water makes no sense at all.

So our amendment eliminates that inconsistency.

The second thing our amendment does is eliminate the inconsistency between the way we treat oil companies in this bill and the way we treat other companies. Oil companies and other industries can pollute ground water, through the operation of what are called "waste injection wells."

Industry sinks wells into the ground to get rid of waste. The chemical industry sinks wells into the ground to get rid of waste. The steel industry sinks wells into the ground to get rid of waste. The oil industry does it. The danger to the ground water from these waste injection wells is obvious. If the waste injection well is not built properly, if standards are not met, if the waste injection well is not operated properly, the pollution of ground water can result.

What this bill does is cover the waste injection wells of every industry except oil. The waste injection wells of the chemical industry are covered. The waste injection wells of the steel industry are covered. The waste injection wells of every industry except oil are covered. But, Mr. Chairman, 99 percent of all the waste injection wells in this country are oil industry waste injection wells.

Again, this is an inconsistency which should not be allowed to stand. This amendment would eliminate this inconsistency.

Mr. Chairman, the amendment offered by the gentleman from Massachusetts (Mr. CONTE) and I really does not raise the question of strengthening or weakening the bill, but would simply make this important legislation more consistent and rational.

Mr. Chairman, I urge the adoption of this amendment.

Mr. RONCALIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as much as I hate to oppose the amendment offered by the esteemed gentleman from Wisconsin, with whom I have spent a great deal of time since we came to the 92d Congress together, I must oppose him on these basic grounds.

The saline content of water that is seeped into the ground and returns to the aqua turf or streamflow is not a point discharge. This entire bill is applicable to it.

Second, I would like to call your attention to page 131 of the committee's report on H.R. 11896 wherein the committee's intent is clearly and forcibly stated, and I quote:

It is the intent of the Committee that the exclusion from the term "pollutant" relating to the injection of water, gas, or other materials into wells applies only to the properly executed injection of materials into wells to stimulate the primary, secondary, or subsequent production of crude oil or natural gas, and to the properly executed disposal in wells of brines derived in association with the production of crude oil or natural gas, with appropriate precautions taken to assure that such injection or disposal does not lead to, or make substantially more likely, the degradation of usable water resources. *For such exclusion to be effective, the State is required* (1) to approve the well used either to facilitate production or for disposal purposes, and (2) to make a determination, based on sufficient investigation and evidence that such degradation has not taken place and has not been or will not be made substantially more likely as a result of such injection or disposal."

If the State fails to approve the wells or fails to make the required determination, then there is no exclusion from the coverage of the term "pollutant." I believe this is a fair and reasonable approach and strongly urge that the amendment be defeated.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in the early deliberations within the committee which resulted in the introduction of H.R. 11896, a provision for ground waters, similar to that suggested by the gentleman from Wisconsin, was thoroughly reviewed and it was determined by the committee that there was not sufficient information on ground waters to justify the types of controls that are required for navigable waters.

We recognized this lack of information and date and the committee sought to correct it.

I refer the gentleman to the objectives of this act as stated in section 101(a). The objective of this act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

I call your attention to the fact that this does not say the Nation's navigable waters," "interstate waters," or "intrastate waters."

It just says "waters." This includes ground waters.

In section 102 the Administrator in cooperation with other Federal and State agencies is required to prepare and develop comprehensive programs for abating and reducing the pollution of the Nation's waters and ground waters and for improving the sanitary conditions of both surface and underground waters.

In the development of such programs, the Administrator is required to consider those improvements which are necessary to conserve surface and underground waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agriculture, industrial, and other legitimate actions.

We recognized the need for control of the disposal of pollutants into wells in order to protect our ground waters. Therefore, in section 402(b)(1)(D) we provided that the Administrator shall approve a State program unless he determines that authority does not exist to control the disposal of pollutants into wells.

As I stated, the committee recognizes the need for research and development both in determining the effects of underground disposal of pollutants and the migration of such pollutants.

The Administrator under his broad research powers as set out in sections 104, 105, and 106 is expected to concentrate a portion of his research effort on the study of underground disposal in order that the Congress might have a basis for determining the need and appropriately extending the controls of H.R. 11896 as they apply to navigable waters to ground waters if needed.

The gentleman from Wisconsin testified during the committee's hearings that he felt that we should delete item (B) of paragraph (c) of section 502.

While the committee did not delete the provision in question, I call to my colleague's attention lines 20 through 22 of page 372 of H.R. 11896. The committee added language specifying that the exemption is applicable only if the State involved has determined that the injection or disposal of such water, gas or other material will not result in the degradation of ground or surface water resources.

I then call my colleague's attention to page 131 of the committee report. I read from the report:

It is the intent of the Committee that the exclusion from the term "pollutant" relating to the injection of water, gas, or other materials into wells applies only to the property executed injection of materials into wells to stimulate the primary, secondary, or subsequent production of crude oil or natural gas, and to the properly executed disposal in wells of brines derived in association with the production of crude oil or natural gas, with appropriate precautions taken to assure that such injection or disposal does not lead to, or make substantially more likely, the degradation of usable water resources. For such exclusion to be effective, the State is required (1) to approve the well used either to facilitate production or for disposal purposes, and (2) to make determination, based on sufficient investigation and evidence, that such degradation has not taken place and has not been or will not be made substantially more likely as a result of such injection or disposal.

The report language makes it clear that State approval of any disposal will be based upon investigation and evidence.

I believe this committee amendment and the legislative history clarify the intent of the provisions of paragraph (c) of section 502. I do not believe further amendments or deletion is required to protect our waters. I do not agree with the gentleman from Wisconsin. I urge the House to reject the amendment.

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, it seems to me the issue is equal application of Federal standards. If we are going to make these standards apply to the steel companies and the chemical companies and the paper companies who have the least part of this ground water problem, it seems to me that we ought to make it apply equally to oil companies that have the greatest part of the ground water problem.

If injections that affect ground water are properly handled, there need not be any danger, but from what I have heard and understood with respect to the potential of this pollution, and it is very vital in the State of Florida, just as it is all over the country, the contamination would last for centuries because of the fact that there are no living organisms in the water and it is very slow moving. Once that happens I am not sure what it would take to undo it.

It seems to me that we should not have State standards subject to review on the Federal level in one case and in the other case have only Federal standards that everyone will have to live up to. If we are going to be fair, we should do it across the board. We should have Federal standards that everyone will have to live up to.

Mr. HANNA. Will the gentleman yield?

Mr. FASCELL. I yield to the gentleman.

Mr. HANNA. Does the gentleman understand, as I do, that what we are talking about here is the enforcement provisions relating to the standards which this amendment tries to make across the board, including the oil companies?

Mr. FASCELL. That is the way I understand it.

Mr. HANNA. And the testimony of the other gentleman that there is wordage in the bill that includes ground water is true, but we are talking about a specific section of the bill that has to do with enforcement under the standards.

Mr. FASCELL. That is the way I understand it. We are talking about equal application of the enforcement provisions.

Mr. HANNA. I thank the gentleman.

Mr. ROBERTS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am very much appreciative of what the gentleman seeks to do, but he is missing the point a little bit. He is confusing injection with secondary recovery from oil wells. The committee understood it, and I think he has missed the point.

When you bring out a barrel of oil, you bring out from three to five barrels of salt water with it. If you put that salt water back in the same hole that you took it out of—and you have to do that if you are going to keep recovering oil—you are not polluting but, in fact, you are putting it back in the same hole and in the same strata.

There is no industry in the world that is regulated as much as the drilling industry. Every State where they produce oil requires surface casing, which is a big piece of steel pipe that is cemented on all the way through the fresh water stratas. When you pump the water back, it goes into a smaller tube into that same strata, and it mingles with that production.

I agree with the gentleman in his basic statement concerning ground water, but he is talking about two different things here.

Mr. Chairman, I urge that this amendment be rejected.

Mr. ASPIN. Will the gentleman yield?

Mr. ROBERTS. I am happy to.

Mr. ASPIN. I understand what the gentleman is saying about how the oil industry is different in that it uses the pumped waste into the ground to get a secondary recovery.

Mr. ROBERTS. You are confusing waste and pollution because it comes out of one place and goes into the same place.

Mr. ASPIN. Exactly. But as it comes out and then goes back it passes through the ground water.

The effect is going to be no different with pumping oil than pumping paper waste from paper mills or waste from the steel industry.

Mr. ROBERTS. It goes through the casing and down through the casing and it is cemented. We had a scientist to testify to the effect that the casing is solidly cemented. The scientist testified that in 1970, which was the last year we had figures on this matter, there were probably six failures that polluted ground water. Five of those were in a section that had been abandoned some time back in the twenties. Only one well—and we are not sure it was a failure—showed evidence of this. So, there is absolute protection from the secondary recovery of the oil business, whether it is gas or oil or water and there should be. I agree with the gentleman's position that we ought to be sure, but we have more stringent regulations now on the oil industry than we could ever impose through this legislation.

Mr. ASPIN. If the gentleman will yield further, if that is the case and if the oil company is doing such a good job, then why not let it come under the regulations just the same as the chemical companies, the steel companies, and others?

Mr. ROBERTS. Because we have already got them regulated in a similar fashion in which the Atomic Energy Commission, for instance, is regulated as well as others are already regulated.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleague (Mr. ASPIN).

The amendment would delete section 502(b) from the bill before us today. That section presents yet another example of special favorable treatment for oil producers. Its inclusion in the bill demeans the very honest attempt that has been made to produce a progressive, fair, and effective bill to clean up our waters.

Under section 102(a) of the proposed legislation, the Administrator of EPA is authorized to make investigations of any "pollutant." Section 502(b), however, would exclude from such scrutiny the material which oil companies inject into their wells to facilitate production. For some unknown reason we are asked to declare by legislative fiat that such material should not be classified as a pollutant. Considering the threat that such injections pose to our groundwaters, I can only conclude that section 502(b) is based on the financial interests of the oil companies rather than on a concern for clean water.

This is just one more loophole that has been forged by the powerful oil lobby. Are we going to again close our eyes to the interests of the public in order to serve the interest of the oil barons? When will they be satisfied? They are already protected from foreign competition by the oil import quotas which cost our consumers more than $5 billion per year in excess prices. Their special tax breaks result in an annual loss to our Treasury of more than $4 billion. The Justice Department, through inaction, has granted them immunity from antitrust violations in their acquisition of other competitive energy sources, such as coal and uranium.

And now we are asked to grant them immunity from EPA scrutiny of the effects of their drilling practices. Our answer to their latest request for favored treatment must be "no." To give such an answer we must delete section 502(b) by approving the amendment offered by my colleague, Mr. ASPIN.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I am glad to yield to my colleague, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I rise in support of the amendment offered by my colleague from Wisconsin (Mr. ASPIN) and cosponsored by my colleague from Massachusetts (Mr. CONTE) to include ground water within the provisions of the Water Pollution Control Act of 1972.

Mr. Chairman, to consider that we are providing for protection of the surface waters—which we can see—and omitting from the strong provisions of this measure vast ground-water supplies—is to my mind unthinkable.

Mr. Chairman, the extent of pollution of surface waters is readily visible. In addition, there is ready access to these waters when it comes to eliminating pollutants. However, the problem of eliminating pollution from ground waters—once these become polluted—is far more complicated. The eventual points which may be reached by polluted ground waters are virtually unknown.

Mr. Chairman, we know that vast bodies of ground waters have already been polluted by nondegradable detergents. All ground-water supplies could be threatened unless protection is provided in this bill by specifically including ground waters within the definition as contained in section 502(b) and elsewhere.

Mr. Chairman, I support this amendment and hope that it will receive the favorable vote of the Members.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the first part of this amendment purports to require water-quality standards for ground water. We do not have the knowledge or the technology to devise water-quality standards for ground water. We do not as yet know how to do that; we do not have the ability. That is why we have provided for the study by the Administrator to determine that.

The second part of the amendment deals with the question of the injection process, and the technology for the extraction and the removal of oil and gas. This is a highly technical process, certain technology has to be perfected in order to successfully extract the oil and the gas from under the ground.

Initially the gentleman came to the committee with his amendment, and at that time there were not as many safeguards in the bill as there have been included since his appearance before the committee. As a result of the committee's consideration of the gentleman's amendment we added an amendment which I offered which is H.R. 11896—is much more stringent than S. 2770—its Senate-passed counterpart, on this issue. My amendment on page 372, line 17, tightens this provision down considerably and will not permit this process until the State makes a finding or determination that such process will not degrade the waters. This provision recognizes that those States which pioneered and developed effective methods of protecting subsurface waters against contamination from oil and gas production—long before any great public concern about surface water pollution—shall continue to have primary responsibility for protecting those subsurface waters.

The injection or brine water resulting from petroleum operations back into the earth for disposal purposes is itself an important form of pollution control. Similar injection of "water, gas, or other material" to facilitate production—referred to in the petroleum industry as "secondary recovery"—is not only an excellent form of pollution control, but also the only known method for bringing up millions upon millions of barrels of oil that otherwise would be totally lost to this country. Water flood recovery, already of tremendous importance, now accounts for almost one-third of all the petroleum produced in the United States, and in the years ahead secondary recovery is expected to continue to contribute substantially to our energy supplies.

Few people outside the petroleum producing States are sufficiently aware of a simple, but crucial fact about the production of oil and gas. Normally, the same well that produces oil and gas also produces from the same reservoir varying quantities of associated water, ranging from fresh to saline. Huge volumes of water are commonly found in the same underground strata as oil and gas and come up with produced oil and gas.

In 1970, for example—the latest year for which complete data are available—the United States produced 9,447,000 barrels of crude oil and 64,327,000,000 cubic feet of natural gas per day. Pro-

duced in association with this oil and gas were more than 30 million barrels of salt water per day. Produced in association with this oil and gas were more than 30,000,000 barrels of salt water per day. Put another way, on the average, for every barrel of crude oil that comes up, about three barrels of salt water also come up. All of this salt water—which for the year 1970 amounted to more than 11 billion barrels—must be disposed of safely, somewhere. Both disposal wells and secondary recovery injection wells return the salt water deep into the earth from which it originally came. Most fresh water strata lie near the surface of the earth, usually hundreds, sometimes thousands of feet above the strata into which the disposal and secondary recovery water is injected. Such wells actually offer the best and sometimes the only disposal method available to oil producers, who otherwise would be compelled to dispose of the salt water in evaporation pits on adjacent lands or in surface waters.

Over the years, the State regulatory bodies where substantial petroleum operations are conducted have built up a vast store of knowledge essential to the full protection of subsurface waters. These agencies are thoroughly familiar with petroleum operations and the local geology where such operations are conducted. They have experts knowledgeable in such disciplines as fluid dynamics and reservoir and petroleum engineering. Such knowledge is needed in evaluating applications for disposal and secondary well permits. Approval of these wells, for example, involves such technical data as permeability and porosity of the underground strata, which govern the amount and flow-rate of liquids and gases; the geographic extent of the reservoir; and the pressure of the reservoir.

During the last 35 years, and particularly during the last 10 years, the State regulatory agencies have developed and enforced oil-field disposal and secondary recovery methods which have reduced the risk of subsurface pollution to a minimum. Without prodding or assistance from the Federal Government they have established a record of strict and effective control over oil and gas operations involving deep disposal and secondary recovery production. It does not seem appropriate that such control should be displaced by new Federal authority.

Therefore, Mr. Chairman, I urge the defeat of the amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I appreciate the gentleman yielding to me.

I would state to the gentleman that I believe the testimony reveals in these States that the standards and requirements are substantially higher than in many cases are necessary.

Mr. HARSHA. That is quite true. The injection of the brine resulting from a petroleum operation back into the well, is in itself a pollution abatement, or pollution control process.

Mr. DON H. CLAUSEN. I thank the gentleman.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, I think this is a very dangerous amendment, and I hope that we do not accept it lightly because, as I understand, what they are attempting to do here is bring ground water under the control of the EPA. It is further my understanding that the committee has provided for a study of this subject.

Is that correct?

Mr. HARSHA. The gentleman is correct.

Mr. SISK. I am wholly in favor of that. I recognize the possibility of pollution of ground water, but this whole matter at this point in time, with no more knowledge than we have, bringing this ground water under this type of control, is improper, and I think is a very dangerous thing to do. I would certainly hope that the House would not adopt the amendment.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from Wisconsin (Mr. ASPIN), to bring ground water under the coverage of the Federal Water Pollution Control Act Amendments of 1972, which we are now considering.

The committee bill is drilling a loophole into which contaminants from the injection wells of the oil producers will be permitted to flow, thus adding to the pollution of our ground water resources. This is inexcusable. There is no other industry in America that is more pampered and that benefits more from special-interest legislation than that of oil. Not content with import quotas, tax writeoffs, a 22-percent depletion allowance, international cartel arrangements and joint ventures—all of which cost the American public additional billions of dollars each year—the oil industry and its friends in the Congress now have the sheer nerve to seek an exemption from our antipollution laws.

In the United States far more fresh water is stored in aquifers than in all the Nation's rivers, reservoirs, and lakes. With proper planning, this vast storehouse of fresh water can be managed as effectively as surface reservoirs. Around 20 percent of the Nation now is dependent on ground water. Nearly one-third of the 100 largest cities in our country obtain all or part of their drinking water from wells. About 90 percent of rural families drink ground water. More than half the water used for irrigation and livestock comes from underground water. Ground water used to have a reputation of being free of chemical and biological contamination. Now, this resource, too, is threatened by pollution. Unlike surface water, however, the slow movement of ground water makes the correction of pollution both time consuming and very expensive. While injection wells may represent the best presently available technology for dealing with certain oil industry pollutants, it is not in the best public interests to grant the oil industry in perpetuity the free and unregulated privilege of continuing to pump into such wells numerous chemicals and other pollutants, such as brine and acid, which eventually may escape into ground water and thus destroy the purity of this important water resource.

Mr. Chairman, if we are to be serious about our efforts to stop pollution and to begin the immense task of restoring the quality of our environment, in this instance, our water resources, then it would be the height of hypocrisy for the Congress to grant any exemption and, in particular, to one of the Nation's greatest polluters, the gluttonous oil industry, from our basic antipollution laws. I urge my colleagues to accept this amendment which will assure that the pollution of ground waters is subjected to the same regulation as pollution of navigable waters.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ASPIN).

The question was taken; and on a division (demanded by Mr. ASPIN), there were—ayes 34, noes 86.

So the amendment was rejected.

Mr. DANIELS of New Jersey. Mr. Chairman, I rise in support of H.R. 11896.

This is probably one of the most difficult and complex pieces of legislation this body has ever considered. It creates the basis, foundation and framework for the total and eventual solution to the problem of cleaning up our Nation's waters.

We have moved from 1956 and the days before that to a period, over the last 16 years, when all of us know that the American public wants and demands that this job be done. Here is the bill that will do it. It is the result of countless weeks and months of work in the Committee on Public Works which was the creater of the original Federal program for water pollution legislation.

The bill today will give us in one complete package the start to provide funding, planning, research, programing, and enforcement to achieve our goals. The money in it is but the beginning, but it is a start. The time has come when we must vote and vote for what is needed.

This bill is the answer, and I urge its adoption without amendment.

Mr. LEGGETT. Mr. Chairman, I believe the Public Works Committee should be complimented on this bill. It is a commendable piece of legislation which makes a sincere effort to come to grips with our water pollution problems. In some respects it is even preferable to the excellent bill the Senate passed unanimously. It authorizes $18.35 billion for waste treatment construction grants, allotted to States on the basis of need. In contrast, the Senate bill only authorizes $14 billion for waste treatment, and allots it on the less justifiable basis of population. The House bill authorizes a total of $24.62 billion through fiscal year 1965, as opposed to only $20 billion in the Senate bill.

The House bill originates the concept, not mentioned in the Senate bill, of a $100 million Environmental Financing Authority, set up in the Treasury Department, which would make low-interest loans to communities unable to bor-

row conventional funds for their matching share of waste treatment construction. I understand there may be an amendment to delete the Environmental Financing Authority. I hope any such amendment will be defeated.

My colleague, LES ASPIN, one of the most conscientious and capable Members of this body, is going to propose a ground water pollution amendment designated to deal with oil waste injection wells. I share his concern over the danger of waste oil contaminating our drinking water, and if this were the extent of his amendment I would happily support it. But I do not believe it is a good idea to inject the Federal bureauracy into ground water problems in general, and for this reason I will oppose his amendment unless it is split into two parts.

I am convinced that basic management of ground water basins must be left under State and local control.

In addition, I feel very strongly that supervision of dredge spoil permits must be kept in the hands of the Corps of Engineers, and I will oppose any efforts to take it from them.

But many other of the proposed amendments are desirable, and I shall support them. The Reuss-Dingell clean-water package is excellent; I hope it will pass in its entirety. I am particularly impressed by the need to proceed directly to our clean-water goals without wasting another 2 years on a National Academy of Sciences study. We do not need another study to tell us we have water problems; a dip in the Potomac will confirm that beyond doubt. The amendment does not ask the impossible; it has a reasonable economic escape clause. I cannot imagine why anyone would oppose it.

Another particularly desirable amendment is the Heinz proposal to charge industries for the pollutants they produce. This is really the only way to absolutely discourage an industry from polluting: make it more costly to pollute than not to pollute. Industries do not pollute because they are inherently evil; they do it because it saves them money. Take away the economic incentive, and we eliminate the bulk of our pollution.

I understand there will be a series of amendments to encourage and support recycling. Congressman VANDER JAGT'S reasoning on this matter is perfectly sound: Recycling is not simply "one of a number of ways of dealing with waste"; it is by far the most desirable. I hope his amendments will be accepted.

In closing, I again compliment the Public Works Committee for its excellent work. This is a bill everyone from Ralph Nader to Richard Nixon can be happy with, particularly if the best of the amendments are accepted.

Mr. MIKVA. Mr. Chairman, the water pollution control bill before us today deserves the support of every Member of the House of Representatives. It establishes two national goals to save the environment: an end to the deadly pollution of this country's rivers and lakes by 1985 and, by 1981, clean water in the lakes and rivers— clean enough for people to swim in, clean enough to support fish and plant life. The bill is a step forward, but it does not go far enough. The bill sets noble goals, but it equivocates on the best way to reach them. That is why I joined Congressman DINGELL and REUSS and more than 40 of our colleagues in asking the House to adopt six amendments to the bill called the clean water package. The amendments had the support of a coalition of 25 conservation, environmental, consumer, and labor groups, and should be given careful consideration by the House.

The United States is the most technologically advanced country in the world. It is the most prosperous. Those distinctions have not come without a price. In the process of developing our industries and cities, we have destroyed our environment. In the most prosperous and technologically advanced country in the world, there is a river so overrun with volatile industrial discharges that it is a fire hazard. There is a lake, one of the Great Lakes, that has become a dead sea—fit only for scavenger fish, sludge worms, and algae which seem to thrive on the industrial and municipal waste. Near my own home in Illinois, beaches are regularly closed because there is too much bacteria in the water. It is hardly safe to touch the water, let alone drink it.

In the cities of medieval Europe, the people dumped human waste and garbage into the streets. We have progressed in the last 400 years. Now, we dump it into the water. And things are not getting any better. The last few years have seen the beginning of a new national awareness on the problems of the environment. Despite that, we are losing ground in the battle against pollution. For example, every one of the Great Lakes is more polluted today than it was 5 years ago. As a Nation, we still are spending more time and money polluting the Great Lakes than we are spending to revitalize them. We must change that. We must begin to repay the debt to the environment—a debt that compounds with every gallon of sewage dumped into the lakes and rivers of this country, a debt that threatens the very quality of our lives. This bill can be the first installment on that debt, but it needed strengthening.

There has been a great deal of debate over the costs involved in meeting the 1981 and 1985 deadlines. The bill does provide adequate protection against exorbitant costs, and one of the purposes of the "no discharge" goal for 1985 is to stimulate the search for new ways to recycle our wastes and protect the environment. Critics of the "no discharge" proposal have ignored new waste treatment systems like land disposal—a system that the Corps of Engineers studied for the Chicago area and found feasible and economical. The cost of meeting these deadlines will be great, but the cost of not meeting them will be even greater.

Mr. Chairman, I specifically would like to commend the committee for its attention to the problems of pollution in the Great Lakes. Section 108 of the bill outlines a comprehensive program of demonstration projects for the Lakes. It is aimed at developing new methods and techniques to eliminate pollution, and the program is based on cooperation among Federal, State, and local governments. The Great Lakes desperately need this kind of help because they are being poisoned by pollution—slowly but surely.

Nowhere has the threat to the environment been more real, nowhere have we failed so miserably in attacking the problem, than in the Great Lakes. Late last year, the Environmental Protection Agency asked the administration for $141.3 million to support a proposal which assigned "national priority" to the fight against pollution in the Great Lakes. It was a comprehensive proposal—bold and innovative with a clear-cut goal and a good chance of meeting it—but the Office of Management and Budget rejected the request. It was another example of the chronic gap between what is said and what is done in the area of environmental protection.

This bill may help close the gap and, therefore, I will vote for it. When the Environmental Protection Agency's budget comes before Congress, I will ask that an additional $2 million be appropriated to hire more personnel to enforce Federal antipollution laws and to enforce the provisions of this bill. With that additional money and with the provisions of this bill, many of EPA's plans to save the Great Lakes will be possible to complete.

Altogether, this bill represents a modest start. We have talked about pollution for years. We simply cannot afford to wait any longer to start doing.

Mr. PRYOR of Arkansas. Mr. Chairman, the consideration of H.R. 11896 this afternoon marks a significant crossroads this great body must face on the long road to total environmental quality in this Nation.

The distinguished chairman and members of the House Public Works Committee have labored long and hard on this most important piece of legislation, and they are to be commended for the result of their efforts. H.R. 11896 is a good and substantial piece of legislation.

It is my feeling, however, that the measure does not go quite far enough in insuring that not only the goal but the policy of this Government will be, without a doubt, a return to the best possible natural environment for our people in the shortest possible time.

Everyone of esteemed colleagues realizes the growing concern of the American people over the deteriorating quality of our water resources. And each and every one of you hope to see this condition alleviated. Here, we are in agreement, just as were our friends in the Senate when they unanimously passed S. 2770. The division occurs over the exact methods and emphasis that we shall impose on this high priority.

I would respectfully urge my distinguished colleagues in this Chamber to support the amendments as offered by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Wisconsin (Mr. REUSS) and a large bipartisan group of Members representing a wide spectrum of our Nation.

I believe it is imperative that industry begin as soon as possible to plan the implementation of the most efficient

waste treatment technology. And our good friends in industry are not in objection to clean waters. They have always tried to comply with governmental standard in this regard because a happier, healthier public is in their favor. Resident industry in my great State has been sincere in its attempts to keep Arkansas waters as clean and clear as they have always been. But with the future development of Arkansas and new industries finding a pleasant and productive home for their enterprises, the Federal Government must provide them with definitive guidelines upon which to plan and base their efforts. Putting off the establishment of the deadline by which time the best available techniques will be employed has the effect of wasting time, money, natural resources, and, perhaps even lives.

We can no longer delay. Man is responsible for his polluted atmosphere, and man is responsible for its cleansing. The longer we wait, the more difficult the task.

In regard to other amendments offered, I firmly believe that the EPA should have some part to play in the issuing of discharge permits. After all, the American people are financially supporting this agency—it has the experience and expertise in these matters—and if they have the money and the personnel, I believe that their resources should most definitely be put to use for the good of the States. This would provide a safeguard for those States that might not have the facilities or their own resources to give adequate consideration of permit requests.

I further am of the persuasion that every citizen should have the right to bring suit against pollutors or the EPA. The bill as reported restricts this right only to those directly affected. But the courts are the proper institutions to determine who has a legitimate right standing to bring suit. And let us remember that the maintenance of a quality environment is the responsibility of every citizen.

And if we are to impose stringent but necessary measures to clean our national waters, there should be no question that these provisions should be applied in all States, and that any worker displaced due to compliance with the law should be assisted economically as well as any affected communities. There are other amendments I support, but I do not wish to consume an unreasonable amount of time, though I hope that I make my point very clear. I do not desire to place unreasonable burdens on any segment of our society. The safeguarding of our environment is not the sole responsibility of any one interest, but of all interests, all governments, and all individuals. But we can hesitate no longer.

Let us legislate now a goal of the best possible environment quality so that all our people can earnestly and sincerely begin the fight to clean up the mess that we have all made.

Mr. DONOHUE. Mr. Chairman, as one who has consistently advocated and supported increasingly stringent environmental pollution control measures, I most earnestly urge and hope that this pending "clean water package" of strengthening amendments, to the Federal Water Pollution Control Act now before us, is overwhelmingly adopted by this House.

I think that our action on the basic substance, as well as the proposed strengthening amendments, on this bill should and must be governed by our conscious realization that we are, in effect, dealing with a subject that is virtually a matter of life or death to our entire population. I also very deeply believe there can be no higher order of priority and prudent spending than the protection and preservation of human life together with the constant improvement of the quality of that life by insuring adequate facilities for wholesome recreational exercise and sporting activities.

Mr. Chairman, the goals set forth in this bill, to eliminate the discharge of pollutants into our water by 1985 and the achievement by 1981 of water quality that will actually protect our fish and wildlife resources and permit participation in water recreation activities without serious health menace, are imperative to our national survival and progress as a people. With all due respect to the sincerity and motivation of those of other opinion, I have the very deepest conviction that these goals cannot be accomplished without the establishment of definite timetables of attainment. Past experience has demonstrated that, unless we have a definite target to hit or a definite point to reach, we tend to become rather loose in our aim and laggard in our pursuit. We cannot afford to be either if we expect to timely remove the poison that is now in our rivers and streams and repair the sources and agents that cause the disastrous pollution of our waters.

On this score, I think that the distinguished and dedicated chairman of the House Public Works Committee and his diligent committee associates deserve the appreciation and the congratulations of the country and the Congress for the thought, the work, the time and the constructive suggestions that are contained in this basic bill. It is, without doubt, the most stringent and all-embracing water pollution control bill ever to be presented to the House of Representatives. In most of its aspects, it is commendable and in many areas it gives real promise of effective impact, particularly in those several provisions which directly affect our States, our municipalities, and our industries and businesses.

To most of us and particularly to those of us who have comparatively small communities within our districts, it is obvious that these communities need the greatest possible amount of Federal assistance to construct, repair, and expand their deficient waste treatment facilities. In recent years and more especially in the unhappy economics situation in the country today, these smaller cities and towns just have not been able to raise the money from their already overburdened taxpayers to provide these facilities. Fortunately, both the already-passed Senate bill and the measure up before us now move toward the correction of this inequity, with the House bill recommending higher maximum Federal contributory share of 75 percent if the States will contribute 15 percent of the project cost. I shall urge and earnestly hope that the higher House-provided contribution will prevail and that the Congress will, if and when the need arises, as I think it will, increase the authorization and appropriation from the $20 billion suggested in the pending measure to whatever higher figure is actually required to help our communities to do the job that must be done. Too often in the past, promises of assistance have been held out to these financially pressed cities and towns that have not been carried out. This type of action has naturally lessened the confidence of these cities and towns in the performance of the Federal Government and, in too many instances, has caused great financial hardships to fall upon the local citizens. That evil should and I think will be corrected in this bill through the section that now requires contractual obligations to be set up between the Federal Government and municipalities in these financial transactions. This procedure will reassure our municipalities and States that they can plan waste treatment construction projects with the confidence that once these plans are approved, the construction can go forward to completion in an orderly manner without fear of sudden stoppage or cancellation.

A further most equitable and timely provision in this bill authorizes retroactive reimbursements to States, municipalities and other agencies for waste treatment projects that were initiated after 1956 and constructed but for which they did not receive the Federal contribution to which they were entitled. The committee deserves special commendation for their recognition and rectification of this major injustice.

Mr. Chairman, another aspect of our common effort to clean up the Nation's waters that is of intense concern to me as it is to so many others who have a great number of small businesses in their districts, is to insure that these businesses, especially in this time of high unemployment and economic depression, will not be inequitably burdened by this legislation beyond their ability to survive and carry on normal operations. At the request of myself and a great many other Members of the House, the committee has commendably and rightfully recognized the economic pressures and hardships that will fall upon a great many small businesses and their employees and has attempted to relieve this threatening situation by including a section to provide at least $800 million in low-cost loans to businesses and industries "likely to suffer substantial economic injury without assistance," in meeting the water pollution operating standards established by this bill. The loans could be used to assist any small business or industry "in effecting additions to or alterations in the equipment, facilities—including the construction of pretreatment facilities and interceptor sewers—or methods of operation of such concern to meet water pollution control require-

ments established under the Federal Water Pollution Control Act."

Mr. Chairman, the committee and its members, as well as a great many of my colleagues here, have wisely and justly indicated and registered their intent not to project this legislation in such harsh or unmindful manner as to primarily influence the close-down of businesses and industries that earnestly and honestly desire to observe any newly enacted pollution regulations but who, because of the present precarious and repressive state of our economy, might be forced to substantially reduce or eliminate their operations. Unfortunately, there are no authoritative guiding statistics yet available about the extent of the financial difficulties that may be visited upon our smaller businesses and industries because of the imperative national necessity to control water and other pollution, but this is an area in which the proper Federal Government agencies can promptly begin to lend a resourceful and useful hand and I am hopeful that our Chief Executive will order and encourage that type of administration cooperation in our common effort to remove all dangerous pollutants from our waters.

In any case, the $800 million included in this bill to help these small businesses and industries is a very wholesome initial recognition of the problem by the Congress and, from the attitude of the great majority of the Members here, I would unhesitatingly predict that if the amount projected proves inadequate, it will be quickly and overwhelmingly increased to an amount that will meet the purpose.

Mr. Chairman, in summary, this bill is, of course, a very complex and expansive legislative proposal for the achievement of an imperative national objective. To accomplish that objective within the timetables set will require the highest measure of cooperative understanding and effort on the part of every responsible element within our society and most of all, it will require the highest acceptance of individual and organizational sacrifice. However, I earnestly believe the very great majority of the American people want our Nation's waters to be cleaned up in the shortest time possible. The appropriations, definite goals and realistic enforcement provisions contained in this bill and the proposed strengthening amendments are all designed to meet and overcome the very serious water pollution problem and challenge that threatens our very existence and I urge its adoption in the present national interest and for our future progress.

Mr. ANNUNZIO. Mr. Chairman, today we are considering a bill which may be the most important of this Congress—the Federal Water Pollution Control Act Amendments of 1972. One can hardly overstate the importance of good, clean water to man. It is, of course, essential to life; we must drink water every day. It is also essential to our industry, agriculture, and energy production. The average American family of four uses 600 gallons of water per day. In industry, it takes 600 gallons of water to produce a loaf of bread, 700 gallons to process a ton of oranges into juice, and 660,000 gallons to manufacture a ton of synthetic rubber. The steel industry uses 13 billion gallons of water per day. One acre of irrigated farmland consumes 1.6 million gallons in a growing season; nationwide, irrigation accounts for 135 billion gallons per day. The rates of water use are, furthermore, increasing.

Reuse of water is essential. Yet the water resources of much of the Nation are so polluted as to require extensive treatment if they are to be usable. One-fifth of the Nation's shellfish beds have been closed. Recreation uses have been eliminated in some areas, sharply curtailed in others; one estimate reported by the Council on Environmental Quality put the loss of recreation opportunities for the Delaware Basin alone at $350 million for 1966. How much more sensible it would be if our rivers and streams flowed with pure usable water. This is the need addressed by the bill before us, H.R. 11896.

This bill contains many important provisions for the abatement of water pollution. These have been reviewed and commented on by many—provisions such as the goal of no polluting discharge by 1985 and the interim goal of water quality suitable for the protection and propagation of fish, shellfish, and wildlife and for swimming by 1981; and the provisions prohibiting toxic pollutants, intensifying research, and encouraging the construction of waste treatment facilities. As a comprehensive attack on water pollution, this bill is promising: but unfortunately it contains some critical flaws, making it weaker than S. 2770, unanimously passed by the Senate and vigorously attacked by polluters. These flaws must be corrected if we are to have adequate water for this Nation's future.

And these shortcomings in H.R. 11896 can be rectified. Mr. REUSS, along with many others, has introduced a "clean water package of amendments" to perfect the bill. These amendments are basically technical—they do not in any way contravene the fundamental goals and policies established in this legislation. These amendments have the support of a wide range of interested citizens, including environmental groups like the Sierra Club and the National Wildlife Federation; unions such as the United Steelworkers and the Oil, Chemical & Atomic Workers Union; and the National Farmers League, the League of Women Voters, and the National Consumer's League, and many more, as listed by Mr. REUSS when he introduced his amendments on March 22, 1972, with the support of 39 other Members of the House.

I am now adding my strong support for these amendments; and I call on all my other colleagues to support them also. They are absolutely essential if this Nation is to have adequate supplies of clear, clean water for future consumption, use, and recreation.

The most important of the deficiencies in H.R. 11896 and the correcting amendments are as follows:

First. H.R. 11896, while establishing a zero discharge goal for 1985 and an interim goal for 1981 and effluent limitations to achieve them, includes a requirement that action to achieve these goals after 1976 is contingent on further congressional action subsequent to a National Academy of Sciences-National Academy of Engineering Study—section 301(b)(2)(A) and section 315(a).

I cannot believe that we require yet another study to know what needs to be done. We know that our waters must be cleaned up. The requirement for further congressional action will merely delay the effective abatement of pollution and provide an opportunity for more waffling. Furthermore, by putting off establishing a firm goal, industry will not know what action it must begin taking to meet the ultimate standards; it is in everyone's best interest, including especially those who must plan how to abate pollution, to know where they stand now and in the future. Uncertainty will lead to future delays and expense. Therefore I most strongly support the amendment which strikes from H.R. 11896 the language requiring further congressional action. The NAS–NAE study will still be carried out, and it may indicate some adjustments to be made; but the goal will be established toward which abatement actions will be directed.

Second. A further critical defect in the present bill is the repeal of the permit program as established by President Nixon—Executive Order No. 11574—and turning Federal control of permits over to the States. According to H.R. 11896, the Administrator of EPA authorizes the States to issue permits, while he can set only very general guidelines, and only under certain very restricted conditions can the Administrator veto State actions.

This provision could destroy the comprehensive, national program to abate pollution. Some States could set very weak standards, allowing industry to shop around for a location where they could pollute the most, and thus continue to destroy our water resources. There is, of course, a need for local and regional inputs to the establishment of standards and for granting of permits; but the only way to make a coordinated national attack on water pollution is to place the final responsibility where it belongs, with the Administrator of the Environmental Protection Agency.

Mr. REUSS' amendment will do this by cutting out the provision (section 402(a)(5)) which authorizes the Administrator to turn over the permit granting powers to State or local authorities without retaining significant control or veto powers over them.

Third. While the retention of Federal powers over the granting of permits will discourage industries from shopping around for sites, an activity which would destroy healthy employment patterns, requirements for pollution abatement will in some cases place strains on employers. Consequently, an amendment is included to ease, as far as possible, any undesirable impacts on employment; this amendment to section 507 requires the Administrator to consider employment aspects when issuing effluent limitation orders and to investigate and to hold hearings if requested, on any losses of jobs resulting from pollution abatement programs.

Fourth. Another major shortcoming in

H.R. 11896 is a provision—section 402 (1)—according to which a polluter who has filed an application for a permit has immunity until 1976 from any enforcement action of the Federal Government under the bill or the 1899 Refuse Act. This would permit polluters to continue until 1976 to continue discharging even if they could start abating it sooner, for this immunity clause removes from the Government its most potent antipollution weapon, one which has proven itself in the last few years. An application for a permit should not itself be a permit. I urge support for Mr. REUSS' amendment which would strike the immunity clause from the bill.

Fifth. Two further critical defects in the present bill are its impacts on existing legislation. Section 511(d) of H.R. 11896 amends the National Environmental Policy Act of 1969—the act which has become the guardian of the quality of our lives—by adding to it a loophole such that certification of water pollution permits would constitute compliance with NEPA. Under present interpretations, the issuance of such permits would have to be reviewed by agencies of the Federal Government to insure that approval of the permit took into account environmental impacts; the proposed amendment to NEPA would remove that requirement for review.

Such a weakening of NEPA should not be allowed, certainly not without greater analysis of what it would imply. The Committee on Merchant Marine and Fisheries has jurisdiction over NEPA and is presently holding hearings on this very problem of permits. Surely any action to amend NEPA should await the careful scrutiny of the appropriate committee. We should all, therefore, support the clean water package of amendments which excises the subsection affecting the requirements of NEPA.

The second legislation affected by H.R. 11896 is the Fish and Wildlife Coordination Act. Under present law activities impinging on fish and wildlife must be reviewed by the Fish and Wildlife Service before they are carried out, including such activities as permits for discharge of pollutants or for dredging and filling. H.R. 11896 would remove the requirement for coordination in the granting of permits for discharge and for dredge and fill activities. The committee report says it did not "intend—to decrease or limit the consideration of fish and wildlife," but this exclusion would certainly do so. Therefore, I again support the clean-water package of amendments, which specifically makes the requirements of the Fish and Wildlife Coordination Act apply to the permits for discharge and for dredge and fill.

Sixth. While H.R. 11896 recognizes the need for citizens to be able to sue polluters or the Administrator for not performing his nondiscretionary duties, the bill is defective in closely limiting who has standing to sue. According to H.R. 11896, those with standing to sue are citizens of the geographic area and having a "direct interest," and groups of the area having a direct interest, and, in addition, having actively engaged in the administrative process.

These limitations are too restrictive and confusing. Furthermore, they are regressive. The Clean Air Act of 1970 and the Noise Pollution Control Act adopted by the House on February 29 of this year make no such limitations. Who has standing is an issue which should be up to the courts to decide in each particular case. This defect is corrected in the package of amendments, which says any "person" may sue: the regressive limitations being stricken.

(7) The final major provision of the Clean Water Package of Amendments correct what is, I suspect, an oversight in the present bill. According to section 309(c), violations of the law or of permit conditions are subject to criminal penalties, but violations of a pollution abatement order by the Administrator of EPA are not. The clean water package of amendments correct this deficiency by inserting in the list of violations subject to criminal penalties, the words "any order issued by the Administrator." Without this correction, the Administrator would have no way to back up his directives to abate pollution.

Additionally, section 206 of H.R. 11896, establishes conditions for reimbursing States, municipalities, intermunicipal agencies, or interstate agencies for any publicly owned treatment works constructed by them for which the full Federal contribution to which they were entitled was not received. As presently written, section 206 designates as eligible for retroactive Federal assistance those projects that were initiated after June 30, 1966, but before June 30, 1971. An amendment offered by Mr. WRIGHT of Texas would extend the June 30, 1971 date to June 30, 1972, and I wholeheartedly support this amendment. It would mean reimbursement to the various States for funds expended in good faith during fiscal year 1972 for which the full Federal contribution was not immediately available. For my own State of Illinois, this would mean an additional $165 million in advance reimbursement funds, and would benefit the other States as well.

Mr. Chairman, H.R. 11896 is fundamentally a good bill. With the passage of the amendments I have cited, H.R. 11896 will be an excellent bill. The deficiencies I have listed and the corrections of the Clean Water Package of Amendments and the Wright amendment are important—so important that without the passage of these needed improvements, little progress in abating water pollution can be expected. But by making the goals of the bill firm by eliminating the requirement for further action after the NAS–NAE report; by reaffirming Federal control over the permit program rather than granting such power completely to the States; by insuring that the possible impacts of abatement orders on employment are considered; by striking the immunity clause from the bill which would allow pollution to continue until 1976 without penalty; by removing the restrictions on the National Environmental Policy Act and the Fish and Wildlife Coordination Act; by providing every citizen the right to sue for relief from water pollution; and by establishing sanctions for orders of the Administrator, this bill is made workable, is made truly a protector of our precious waters.

These amendments deserve the support of everyone—everyone in this Chamber and everyone in the Nation. They are not anti-industry, or anti-any group: they are antipollution. That is the purpose of this bill, these amendments, and of our actions today—to clean up our rivers and streams, our harbors and estuaries, so that we and our children may live better. I believe that H.R. 11896, with the passage of these amendments, will provide for that cleanup. I urge each and every one of my colleagues to join with me and the 40 introducers of these amendments to vote "yea" on them. And to vote "yea" for H.R. 11896 as thus amended.

LIMITATION OF DEBATE ON AMENDMENTS

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that debate on all amendments to the bill conclude 2 hours after the Committee of the Whole House on the State of the Union resumes consideration of this bill tomorrow, Wednesday, March 29, 1972.

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

There was no objection.

Mr. JONES of Alabama. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. SMITH of Iowa, 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. 11896) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

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## HOUR OF MEETING TOMORROW

Mr. JAMES V. STANTON. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow morning.

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

Mr. HALL. Mr. Speaker, reserving the right to object, may we have some announcement of the intended program in addition to the unanimous-consent request just agreed to, when we meet tomorrow?

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman.

Mr. GERALD R. FORD. I understand that we have two other bills on the whip notice—one is the Coast Guard authorization and the other is the Maritime authorization. I think the gentleman is specifically asking whether those will be on the program tomorrow; is that correct?

Mr. HALL. I would say that that is among the questions the answers to which I would like to know before we allow this unanimous consent request to go through.

I would like to know if the previously announced Ways and Means Committee bill is going to be brought up under

unanimous consent, and any other program that might be planned in addition to the 2-hour stint.

The SPEAKER. The Chair hesitates to make this announcement, but the gentleman from New Jersey has some privileged resolutions from the Committee on House Administration.

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

Mr. HALL. I yield to the gentleman.

Mr. BOGGS. Mr. Speaker, I announced yesterday that besides the regular program, we would consider by unanimous consent a bill from the Committee on Ways and Means plus six money resolutions from the Committee on House Administration.

Now whether or not after we have concluded that business we would have time to consider the authorizations listed on the whip notice I do not know. If it is not too late in the afternoon, I think we would take up at least one of them and, if not, they would go over until after the Easter recess.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman.

Mr. BYRNES of Wisconsin. If the gentleman has objection to the bill from the Committee on Ways and Means, I would see no point in calling it up, and I am sure the chairman would not call it up. I do not know why that would interfere necessarily on the question of the time for the House to meet tomorrow. If the gentleman would like to have my assurance, I will guarantee that the bill will not come up. I will object myself, if that is the gentleman's desire.

Mr. HALL. That is the kind of talk I like to hear. Do I hear any others?

Mr. BYRNES of Wisconsin. Does the gentleman desire that the Ways and Means Committee bill be taken off? I would like an answer to that question.

Mr. HALL. Yes, Mr. Speaker.

Mr. BYRNES of Wisconsin. All right, then, it will not be called up.

Mr. HALL. I do understand about the House Administration investigating resolutions. I have no objection to them. Would it be the intention to program them before or after the 2-hour stint to which we have just agreed after completion of the antipollution bill?

Mr. BOGGS. It would be my intention to program them after we have completed this legislation.

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

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

There was no objection.

## TRUTH ABOUT MEAT PRICES HEARINGS APRIL 10 AND 11

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

Mr. MELCHER. Mr. Speaker, the war of words on food costs and inflation is generating more heat than light, and half truths circulate galore.

The White House has its own Punch & Judy show in progress, with its puppets espousing both sides of their own self-made verbal battle, to attract voters of clashing views.

Secretary of Agriculture Dr. Earl L. Butz is cast as a villian to consumers and hopefully as a hero to farm voters, in a curious charade in which C. Jackson Grayson, the little known chairman of the Price Commission, and Virginia Knauer, the President's consumer adviser, speak for the other side. They wallop each other with all the zest of Barnum & Bailey's most experienced clowns, hopefully to the delight of everyone in the national audience whether pro or con.

Secretary Butz, in a clumsy attempt to appear to champion the cause of the beef producer, told his audience in Atlanta last week, "The price of steak is just right." Obviously the Secretary has never talked to housewives in front of a meat counter. There never has been a time when that ultimate was attained—because steak prices in the eyes of the buyer and in the family budget are invariably considered high. But it was considered a good act for the man who had only recently raised red meat import quotas 10 percent over last year's imports.

If you are selling—and the farmers and ranchers are always on that end as far as meat is concerned—the best sales technique is to listen to your customer and explain the advantages of your product. To start an argument with consumers, as Secretary Butz' speeches have done, and slyly infer that organized labor is the real cause of higher food prices, does not provide the rebuttal facts that should be provided for the inquiries of Mr. Grayson and Mrs. Knauer.

The most curious aspect of this series of episodes, leading to full-page ads by food chains advising their customers to avoid buying red meats, is that the wholesale price of choice steer beef at Chicago has dropped 5 percent or $3.07 per hundredweight during the past 60 days. All the recent rhetoric, all the claims and counterclaims, cannot refute the facts of the marketplace. Farm and wholesale beef prices are down and the decrease should have a measurable impact on the retail pricing system of the chain stores. Last week's wholesale price was $55.15.

I was shocked at the retail meat price figures for February which I just obtained from the Department of Labor. It showed the national average price of every cut of beef went up in February, while the wholesale price of beef was going down.

The week of January 29, choice beef carcasses in carlots at Chicago sold for $58.22. The week of February 26 they were down to $57.17 or $1.05 per hundredweight. But during February choice round steak went from $1.44 average per pound in January in major U.S. cities to $1.51 per pound—7 cents a pound higher. Boneless choice rump roast went up from $1.41 to $1.48 per pound—up 7 cents. Hamburger went up from 70.8 cents a pound to 73.2 cents or 2.4 cents per pound. Choice chuck rose from 79 cents to 84 cents. Sirloin steak went up from $1.49 to $1.54, or 5 cents.

Chairman Grayson calls for a Price Commission hearing on meat costs for April 12 and he should have facts and figures such as these:

First. Red meat wholesale prices for meat produced in the United States since July of 1970 are hardly up at all. I have looked up carlot prices at Chicago July 18, 1970, and March 18 this year, and here is what I found:

| | Per hundredweight | |
|---|---|---|
| | July 18, 1970 | Mar. 18, 1972 |
| Price of beef [1] | $50.50 | $55.15 |
| Price of pork [2] | 55.62 | 51.10 |
| Combination | 106.12 | 106.25 |
| Percentage increase | | 0.1 |

[1] Choice steer beef, carlot price Chicago.
[2] Average of 8-14 pound loins, Boston Butts and spareribs.

Second. Imported hamburger meat has increased 8 percent between August 12, 1971 and March 20 of this year. The wholesale price on this low-grade hamburger meat last week was 67 cents per pound. Imported meats are given only a slipshod inspection for sanitation and wholesomeness and end up for the most part in hamburger and hot dogs and are not the best buy either in nutritional value or dollar value.

Third. Eastern prices on beef are substantially higher than Midwest or western beef prices. This is not accounted for by freight costs and reflects a different pricing policy—even within the same chain stores. It indicates that larger profit margins are charged up to consumers in the big eastern metropolitan centers where, after all, most of the Nation's beef supply is consumed. The wholesale price of beef is the same for an eastern supermarket as it is for a Midwest supermarket except for 1 cent per pound for freight and yet the average retail price on beef cuts is running up to 40 percent higher in the East. This could be a clear case of deliberate consumer gouging.

Judge for yourself from these January Bureau of Labor Statistics retail prices in Chicago as compared to five metropolitan centers in the populous Northeast.

| | Chicago | Baltimore | Washington | New York | Philadelphia | Boston |
|---|---|---|---|---|---|---|
| Round steak | 1.22 | 1.62 | 1.42 | 1.71 | 1.60 | 1.73 |
| Rump roast | 1.24 | 1.55 | 1.45 | 1.51 | 1.58 | 1.47 |
| Hamburger | .72 | .76 | .69 | .94 | .74 | .83 |

In an election year any damn fool thing can happen, but I believe it is time to blow the whistle on some of the far-out verbal baloney that is being thrown around to attract voting blocks. In the long run consumers and producers, farmers and labor, have a common goal—each strives to survive and progress. If there is any political gain by inciting one group against another, I am sure it is a shallow gain only hurting us in the long haul.

If this country continues as it has for 200 years we shall continue to raise the standard of living of the people and part of that will be an increase in red meat consumption. We will want to provide

it at fair prices. Production costs are extremely high and are locked in, but there is evidence that distribution costs, at least in some areas, are higher than necessary. That is the area that we should be looking at first.

The President's appointments to membership on the Price Commission and Pay Board failed to include anyone representing agriculture. This failure to include representatives from this most basic of our industries perhaps explains the quandry now evidenced by administration officials. Chairman Grayson's Price Commission requested hearings on food prices reflects an absence of facts concerning food production costs, and the existing markets on agriculture products and the pricing policy of food wholesalers, jobbers, and retailers.

It is apparent that a serious void exists for information on food costs within the Price Commission. Representatives of agricultural producers can supply factual data on markets and available food supplies.

Yesterday, I called hearings before the Agricultural Task Force of the Democratic Study Group to assemble and sort factual information on agricultural production and costs for April 10 and 11.

Chairman GRAHAM PURCELL of the Livestock and Grains Subcommittee of the House Agriculture Committee was also setting hearings for the same purpose on those same dates.

The official hearings are preferable, and I am pleased they have been called.

The transcript should provide Chairman Grayson, as he goes into his April 12 hearings, information so he may know that farmers and ranchers are not causing inflation—they are the goats of the inflation he is failing to control.

## IF I SHOULD DIE

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

Mr. CABELL. Mr. Speaker, in January 1969 I had the privilege of giving a principal appointment to West Point to a young man then serving in Vietnam. This young man had volunteered in service to his country and had been commissioned on the field of battle. His tour of duty would have ended with his entrance into the military academy.

But before this could take place—he was killed by a Communist bullet April 9, 1969.

Only last week I was furnished a copy of his last letter to his father. I am extending this letter at this time in the RECORD, with the hope that every Member of this body will read it. This letter is typical of the love of country and bravery exhibited by thousands of young men who have given their lives in protest of Communist tyranny.

After reading this letter I hope that you will give sober thought before advocating blanket amnesty to those who fled to other countries to avoid the draft, or even worse, deserted their posts of duty and sought foreign sanctuary.

IF I SHOULD DIE

If I should die during my tour in Vietnam, I want my parents to read and understand the following:

1. I came here by choice, I joined the Army by choice, I chose to become an Infantry Officer. It was my destiny to become a professional soldier. It (Fighting for my country—right or wrong) is a job that must be done. It is a job I feel I am best at.

2. The American people too often forget what the Flag stands for—I am a Patriot, I believe in our country, and I believe in our system of government—I Feel that My country is worth Fighting for and if need be dying for. The Country we have today was not built by the weak, and the disbelievers—It was built with the blood of men who felt they had something worth dying for. I think it is the duty, the right, and the privilege of every American to fight for this country. It has to be this way, and thank God there are still Men left who believe. The people in the streets who protest our country and its policies have that right to protest only because Men believed enough in the system to give their lives for it. There are still Men with dreams and Ideals that they feel are worth fighting for. This is what I also believe in.

If I die it was for a reason, my life bought something, it was not wasted, I believe this, otherwise I would not be here.

I am a believer, a dreamer, a patriot, and most of all a professional soldier in the United States Army, from the bottoms of my boots to the top of my steel hat. I feel proud and honored to serve for my country and with men who believe.

My Life Was Not Wasted.
Your Loving Son Bruce.
Thank You For Everything.

## CAN WE AVOID A GREAT AMERICAN TRAGEDY?

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

Mr. HALL. Mr. Speaker, it is indeed significant that on this day when we find ourselves embroiled in debate over what will probably become landmark antipollution legislation, I have received a copy of past remarks, made by my lifelong friend, Mr. Joseph W. Rittenhouse, group vice president, electrical products of the Joslyn Manufacturing Co., Chicago, to the National Association of Purchasing Management in Denver, entitled, "Can We Avoid a Great American Tragedy?" Mr. Rittenhouse discusses the demands made on the electrical industry, not only by the users, but by the environmentalists as well. In his remarks a series of question are:

Can we as a Nation survive without the basic industries that have been the muscle and cartilage binding us together for nearly 200 years? He answers with three other questions:

1. Where are we? Squarely in the middle, caught between conflicting forces in a seemingly unbreakable grip. On the one hand those who want to flip the switch and partake of the $100 billion in plant and equipment that supplies 1.5 trillion kilowatt hours per year. While on the other hand, the counter demands for less pollution at any cost.

2. How did we get there? From zero a scant 90 years ago to present day investor owned segment that employs nearly 400,000 people; paying them more than $2.5 billion annually, and paying taxes to the tune of $3.5 billion in 1970. Balance this off against the impossibility of satisfying demands for more of everythng, at a zero rate of pollution growth, with industry as the sole culprit rather than the highway litterers and those who generate the 360 million tons of solid waste per year.

3. Where do we go from here? The government must stop over regulation, conflicting policies, and indecisions which affect esential, massive project and increased costs which in turn will be paid by each of us. The environmentalists must become more realistic in the goals they seek, with the knowledge that the real polluter may be the one who flips the switch rather than the one who supplies the electricity but do we dare to turn the electricity off?

Mr. Speaker, there is much in what Mr. Rittenhouse has to say. I offer his remarks for the enlightenment of all:

CAN WE AVOID A GREAT AMERICAN TRAGEDY?

(By Joseph W. Rittenhouse)

Today we may be facing the most demanding set of contradictions ever confronted by industry, not just ours, but by all of industry and, in fact, by the very roots of our capitalistic society.

Whether the power business can survive is a monumental question; but, monumental as it is, it fades to insignificance in the shadow of the threat to survival of our entire social system.

As I see it, we are a spoiled people. Our national history is a nearly 200 year distillation of the electoral process into the simple question: which candidate has promised the most for the least?

So long have the American people been promised more for less that great masses of them now insist upon privileges as rights, and woe unto the politician who dares approach election day on a platform of economic privation or self-denial.

By giving impetus to a burgeoning bureaucracy and appeasement to our mollycoddled masses, our "promising" politicians have succeeded in virtually denuding the country of its radio production, and television is not far behind.

Every significant producer of automobiles in the country has established major holdings in foreign companies; I suspect as a hedge against the day when federal paternalism chokes the life blood or profit out of their domestic operations.

The steel industry is staggering under the trip hammer blows of our managed economy and foreign labor rates.

Textiles, clothing, and perhaps even food itself, are someplace in the queue of industries that leads to the sewers of self-destruction designed and built by greed, a greed that has learned for nearly 200 years that the masses cast more votes than management, and they respond more gleefully to the euphoria of the give-away than they do to the soberness of self-sacrifice.

By now, I have opened such a Pandora's box that we could spend the rest of our lives debating how best to get the lid back on.

I have raised the question: how can we as a nation survive without the basic industries that have been the muscle and cartilage binding us together for nearly 200 years? My major purpose today is to concentrate on the implications of these generalities to our industry.

Where are we? How did we get there? And where can we go from here?

I believe that the answers to these questions will reply to the query "Can we avoid a great American tragedy?"

WHERE ARE WE?

I guess this depends upon your point of view, and I think that I was invited to speak from my point of view.

We are at a pinnacle of achievement unmatched by any other industry in any other nation in the world. In the short span of about 90 years, the investor owned segment alone has risen from virtually nothing to the mighty stature of a 100 billion dollars investment in plant and equipment. An investment capable of supplying man's needs for 1.5 trillion kilowatt hours per year, and capable of responding instantly at the flip of a switch with a nearly 100% perfect record of satisfying the demand.

From the point of view of the bureaucrat perhaps the most confounding aspect of this gargantuan achievement is that throughout its entire growth our industry has rarely failed to pay taxes on real profits; it has rarely reached for the federal dole; and it has continually reduced the price of its product. The self-same kilowatt hour that cost 11.2¢ in 1906 can be bought for about 2¢ today.

Perhaps it is jealousy that prompts our critics to characterize us as nasty conniving monsters, belching fire and noxious fumes into the atmosphere, killing babies with mysterious and sinister radiations, and scalding the very rocks into which the innocent fish are lured to deposit their eggs.

Perhaps also there is a thread of reason in the concern that they express for our ecology. Whatever their motivations, though, it seems clear that however great are our accomplishments, we are today precariously balanced on a razor's edge. On the one hand there are the demands of the people for more power for less cost. On the other hand, there are the counter demands for less pollution whatever the cost.

It is not enough that we must get as many as 40 different approvals to build a generating station; we are expected to do this and continue to meet society's demands of more for less.

It is not enough that we must tolerate seemingly endless delays in getting rate increases; we must suffer the debilitating impact of reduced ratings for bond issues which, according to the Wall Street Journal, a Standard & Poor's official has attributed to "lagging increases in rates" and consequent declining margins between earnings and fixed charge debt payments.

The conflicts of our dilemma would seem irreconcilable to a less formidable adversary than we. Our heritage, though, is rich in the surmounting of Herculean odds.

In the 90 years of our growth, we have honed to a razor's edge the knife for cutting through the persiflage and duplicity of the heckling obstructionists. We have become exceedingly adept at defining the problem, evolving its solution, and implementing that solution. Our deliberateness and efficiency thoroughly confound the harbinger of doom whose perch is supported by a pipeline to the trough of federal gratuities.

Nevertheless, here is where we are. Squarely in the middle, caught between conflicting forces in a seemingly unbreakable grip.

Let us proceed then to examine my second question: how did we get there? How is it possible that we could have fallen into such a seemingly bottomless pit?

Again, we are at a question of point of view, and again I choose to take my own.

It all began with our gigantic bootstrap operation.

Starting with direct current generators belted to reciprocating steam engines just before the turn of the century, we have expanded our technology to allow construction of single shaft turbogenerators having maximum ratings of 150 megawatts in 1950, 350 megawatts in 1960, and 800 megawatts in 1970.

From zero a scant 90 years ago, we had nearly 3,500 generating stations in 1970, and, as I have already said, the investor owned segment of the industry had about 100 billion dollars in plant and equipment in 1970.

From zero the investor owned segment alone has grown until it employs over 372,500 people; paying them more than 2.5 billion dollars a year, and it paid taxes to the tune of 3.5 billion dollars in 1970.

From zero we have made it possible for more than 90% of the homes in this country to contain refrigerators, radios, washing machines, television sets, and vacuum cleaners.

From zero we have advanced the technology of electric power transmission from the hundreds of volts level to the 765 kV level, and we have established a level of reliability that is second to no other industry in the world.

In a nutshell, our industry has performed a miracle, a miracle of technological advance through self-improvement, and all of this in spite of the tirades of the hecklers, the opportunists, and the headline seekers.

Where then have we gone wrong? If we are so great, how did we end up in such a bind?

I think that Mr. George J. Bloom, Chairman of the Pennsylvania Public Utility Commission, succinctly summarizes one link in the sinister chain of circumstances. On January 26, speaking before the New York Society of Security Analysists, he said:

"Beginning about 1967 . . . What happened to the electric industry was that the trend lines from which it projected public demands for service, and which had proven reliable in the past, suddenly became unreliable.

"Public use greatly exceeded the predictions, and the industry—until then quite comfortable in the knowledge that it had ample generating capacity—confronted a demand that dangerously reduced reserves, and created the strong probability of brownouts and blackouts.

"The particular difficulty which this phenomenon caused for the electric utilities arises from the fact that a generating station requires five or more years to translate drawing-board plans into a fully operating plant, without the roadblocks we experience today."

He goes on to comment on the financial implications of a rapid corrective reaction by the utilities. He points out, for example, that prior to 1968, the seven utilities in Pennsylvania had a net plant investment of about 3.5 billion dollars and that between 1971 and 1975, they will invest 5 billion dollars in new plant and that 3.9 billion of that ". . . will have to be raised in the capital markets.".

He takes cognizance of the reality that ". . . when all the utilities began competing at the same time for huge chunks of investors' money, the cost of that money also moved upward. First mortgage bond money, which had cost 3.5% in the mid-fifties and 5% in the mid-sixties, moved up to cost in the 8% to 9% range by 1970.".

Then he takes the bit in his teeth and summarizes in a few short paragraphs the crux of my next point. He cites ". . . the public's increased service requirements . . ." as the trigger that forces the utilities into new plant construction which in turn ". . . obliges the utilities to sell securities . . ." which establishes the responsibility of the commission to allow ". . . a rate level sufficient to make the securities attractive".

He says, "If I don't do my job . . . (by allowing reasonable rate relief) . . . the utility cannot sell its securities, the plant construction will not take place, and the public will find service in short supply.".

As Mr. Bloom points out, the general public does not understand the relationship between rates that will attract capital and reliability of electric service.

My point is that unscrupulous politicians do understand it, and they also understand that the masses will vote for one who opposes a rate increase; so, as Mr. Bloom says, they call the regulators "cats' paws" of the utilities then they oppose the rate increases. In Bloom's words, "If the political demagogues had their way—if four years from now the householder pushed his wall switch and the lights did not go on—the politicians would disclaim any responsibility and charge the regulatory commissions with neglect of duty."

Between the election-hungry politicians, the power-hungry people, and the skyrocketing cost of money, then, we have all the makings of a real donnybrook, but there is still another link in the chain to compound our sorry plight; the ecology!

There simply has been no way to satisfy the demands of the people for more of everything, including power, at a zero rate of pollution growth, but industry alone is not the sole culprit.

Some of our most accomplished polluters are the garbage skows of New York, the incinerators of Chicago and the beer drinkers and automobile drivers among the people. Cans and soft drink and beer bottles constitute 17.7% of the litter on our highways.

It costs 4.5 billion dollars per year to dispose of the nation's garbage.

We, the people, generate 360 million tons of solid waste per year, and by 1980 we will increase this to enough to build a pile 10 feet deep from Los Angeles clear past New York and into the Atlantic Ocean.

When the question of pollution began to get serious attention, as I'm sure it should, it was immediately seized upon by every vote-hungry headline seeker in the land.

The clarion call to action was picked up by the long-haired malcontents, the holier-than-thou do-gooders, and all the other rabble rousers who would much rather march than work.

The sincere and conscientiously concerned ecologist was quickly lost in the clamor for an audience, and this is a shame because he is a reasonable man and we all could have worked in harmony with him to satisfy all of our major requirements.

"Now" (if Mr. Lincoln will forgive me) "we are engaged in a great civil war . . ." testing whether our great industry or, indeed, this great nation can much longer endure.

The answer to how we got there then is really sort of simple. Over the decades:

1. The people, spoiled by the politicians' perpetual promise of more for less, have demanded more power.

2. We have responded to these demands with speed and efficiency.

3. Exponential growth of population has produced exponential growth in demand. Satisfaction of this demand has caused some cluttering of our environment.

4. The enormous value of our contribution to society has exaggerated our profile on the horizons of pollution.

5. The vote seekers and headline hogs, attracted to this profile, have singled us out for such castigation as will serve their selfish purposes.

6. The money market's coincidental response to massive demands has been substantial escalation of prices.

The combination of these six circumstances has put us across the proverbial barrel, and the situation could soon be ripe for the classical stupidity of a hue and cry for government take-over, and this brings me to my third question:

Where can we go from here?

Dr. John J. McKetta, the E. P. Schoch Professor of Chemical Engineering at the University of Texas, expressed some views relative to this question in the 1971 annual report of Dresser Industries. Dr. McKetta served in 1970–71 as Chairman of the Ad-

visory Committee on Energy to the Secretary of the Interior.

On the subject "Energy—a Growing National Crisis", and more specifically in response to a question as to whether or not our problems all boil down to a matter of money, he says:

"Not entirely. As a matter of fact, as the energy crisis grows, money may eventually be the easiest part of the solution. The more difficult problems lie in the areas of establishing more realistic government policies and setting environmental standards that can be economically attained . . ."

Still speaking in terms of energy in general, he says:

"The government must stop over regulation, conflicting policies, and indecisions which affect essential, massive projects and increase costs which in turn will be paid by each of us.—The environmentalists must become more realistic in the goals they seek."

Still speaking of the supply problems of energy in general, he says ". . . we need an informed public . . ." and ". . . an enlightened government . . .". He goes on to say, ". . . too many people, including some of our national politicians, simply refuse to recognize the plain hard facts. They think someone will always come up with a magic solution and the problem will go away.".

The challenge is clear.

The bandwagon politicians in league with scaremongers and irresponsible self-servers, have spun a thread of truth into a mighty cable with the potential strength to pull down the greatest society in all of history. We can parry their thrust if we can arouse the people with the facts, and above all else, continue to satisfy their demands for more power.

I need not dwell too long on the dimensions of their future demands. The statistics are almost commonplace:

1. Electric Light & Power says that housing starts will increase 18% in 1972 and another 18% in 1973.

2. Eleven billion dollars worth of electric appliances will be produced this year. This is 4.2 billion more than was produced 10 years ago.

3. Virginia Electric and Power Co. reported a 12% increase in annual residential use of electricity last year over the previous year.

4. A single Chicago plant requires 4,000 kilowatts to grind up junk automobiles for re-melting.

5. We plan to spend 13 billion dollars on new plant and equipment in 1972, and nearly 14 billion in 1973.

6. The Atomic Energy Commission projects that nuclear generating capacity will expand to 150 million kilowatts by 1980, and 123 million of it is already under construction or on order.

7. Electric Light & Power says that by the year 2000 we will double the size of our plant four times.

8. They say that we will add 1,000 power plants at a cost of 480 billion dollars by 1980 and 269 of those plants are now under construction.

9. They also project a total plant investment of 600 billion dollars by 1990.

I think we can satisfy the demands.

The problem is how do we reach the people with the facts? The politician who jumps on the environment theme and castigates the power industry has a platform that is not available to us. He is running for office and we are not. By the time we can respond to his charges, he is off to a new television interview where a whole new set of charges are made, and we are slaughtered by the lightning blows of his trip hammer approach.

Our only recourse is to a patient and persistent indulgence in facts with all our available resources. We must counter every half truth with a truth; we must convert inuendo to fact, but we must get our message to the masses who vote.

It does little good for us to talk to each other as we are doing today. We must organize a massive effort to reach the platforms of the Rotary Clubs, the garden clubs, the college campuses and the public schools.

We dare not overlook the assembly halls of our schools because our children are daily being shown our stack plumes by teachers who would rather conduct inspection trips than teach.

The people must learn that the real polluter may be the one who flips the switch, rather than the one who supplies the electricity, but part of our problem is that we dare not demonstrate this by turning the electricity off.

We can't even refuse to accept any new load. To do so would simply unleash new charges of unreliability.

We can certainly tell the people the truth and we won't have to look very far for half truths to rectify. The fakery of the witch's tales about nuclear plants is ripe for exposure, and typical of the job that we must do is the strange case of Dr. Ernest J. Sternglass.

Dr. Sternglass, of the Department of Radiology, University of Pittsburgh, recently charged that the infant mortality rate in Illinois began a "sharp climb" in 1964 with a "peak in 1965 of 25.6 per thousand births", and he tied this to Commonwealth Edison's nuclear power station at Dresden, Illinois. Dr. Sternglass failed to mention that while this nuclear plant continued in operation during 1966 to 1969, the infant mortality rate in Illinois began a steady decline to 22.4 in 1969.

In his statement, he referred to higher infant mortality rates in the "downwind" counties adjacent to the Dresden plant. Yet meteorolgical data indicates that the predominant wind in the Dresden area is away from the counties cited by Dr. Sternglass.

It required time and expert testimony of scientists, physicians, and bio-statisticians to repudiate this man's allegations.

Perhaps somebody should tell Dr. Sternglass that a transcontinental airplane trip exposes him to more radiation than he would receive in a year's residence adjacent to a nuclear power plant.

Then there is the case of the missing "not".

On February 1 of this year, the Chicago Tribune ran a story that Commonwealth Edison was considering closing down its Dresden Unit I because of excessive radioactive emissions. The truth is that the plant was shut down for refueling.

The next day the Tribune ran a correction, a small one hidden in the inside pages and admitting that a quote from a biophysicist at Argonne National Laboratory should have said the emissions from the plant were not dangerously high. In its initial big-headlined story the Tribune had omitted the word "not".

Indian Point # 2 has now been delayed for three years by militant environmentalists. In the meantime, Johnny Carson continues to poke fun at Con Ed's power supply problems.

Quad Cities has stood idle for over five months while the courts consider the cases of environmentalists. This plus the plight of Point Beach Plant could result in Commonwealth Edison's having to operate with extremely skinny reserves this summer. Somebody must insure that the people get the facts in these cases because if power shortages occur you can be sure that your friendly newscaster will lay the blame to poor planning and bad management.

In the non-nuclear area, even Arthur Miller, the playwright, has had his day, and who would dare dispute his authority. When Connecticut Light & Power Co. recently sought a route for a 345 kV line he charged that they were seeking ". . . approval of a project which cuts a mile wide corridor down the State of Connecticut for a distance of 70 miles."

The actual width of the proposed right-of-way, of course, was 250 feet, not 5,280.

Typical of wholly irresponsible heckling is a report prepared recently by three undergraduate students. They were employed for the summer by the Wisconsin State Attorney General's office under a Students to Oppose Pollution Program.

They charged the utilities with not using such methods of pollution abatement as tall stacks, low sulphur coal, tangentially-fired boilers, electrostatic precipitators and cooling ponds, when in truth the utilities were using all of these techniques.

Where then do we start?

Let's dispel the myth that electricity comes out of the wall. Let's dispel the myth that we are irresponsible, money grubbing polluters. Let's dramatize the miracle of electric power until it transcends the federal giveaway as man's great benefactor.

I suggest a direct mail campaign using the routine electric power bill as a vehicle. At a cost little greater than the ink to print it we can tell each householder what his monthly contribution to pollution was. We need simply print on his bill the number of equivalent pounds of coal that were burned to produce his kilowatt hours.

We can tell him on a routine and frequent schedule how many dollars are invested in generation, transmission, and distribution equipment to insure satisfaction of his kilowatt requirements.

We can tell him how many dollars in taxes, labor, and other expense are spent to guarantee that his lights will respond instantly to his light switch.

We can even show him with a series of mailing pieces exactly how the energy in a piece of coal is converted to serve his needs.

Obviously, we will have to digress from the language of the engineer. Minds that are attuned to Pogo will not respond readily to the partial differential equation; but Disney built a fortune on knowledge of how to appeal to the masses. His techniques are available to us.

I suggest a massive cooperative effort to reach the popular platforms and their audiences. An activity reminiscent of the flying truth squads of Eisenhower might even become appropriate.

If this seems a little revolutionary, then I have made my point. If it seems old hat in the sense that you think we're already doing it, then we've been wasting each other's time.

I'm talking about a vigorous, hard-hitting program of activism in which we energetically search out the source of the big lie and attack it in its favorite haunts.

We select from throughout all of our industry the finest communicators that we have.

We organize them into a dynamic task force available for use all over the land.

We equip them with all of the education and facts they can absorb relative to the issues of the moment then unleash them upon the dealers in half-truths wherever they may be.

The women's clubs, civic groups, college assemblies, and public schools are fertile fields in which to spread the seeds of truth.

Can we avoid a great American tragedy? I wish I could say.

We have come a long way. Our path is lined with accomplishments that were not really possible.

Unfortunately, just as we are on the verge of even greater miracles we find ourselves beset on all sides by vicious howling packs bent, however innocently, on bringing to a halt everything that does not look to Washington for direction and support.

In the words of Thomas Sheppard, Jr., Pub-

lisher of the late Look Magazine, "Free enterprise is a relative newcomer as a method of commerce. It could vanish as quickly as it came, and there are signs that it may be on the way out.".

Where can we go from here? The goals are clear; 600 billion dollars in plant, 1,100 generating stations, eleven billion per year in electric appliances, and on and on and on . . . if! If we can overcome the distractions of those who would bring us to our knees before the graven images of the welfare state and a federally controlled economy.

Woe unto us when Betty Furness prevails in her insistence, as Sheppard says, on a law requiring manufacturers to tell ". . . not only what they know about a product but also what they don't know.".

We can achieve our goals, and we can avoid a great American tragedy, but only if we match fact to lie with a vigor that overwhelms. Failing in that we are doomed to lose our freedom—a freedom that Shepard says has many facets including ". . . an individual's right to live in a manner of his own choosing, even if his selections are not the most efficient or the most salubrious or the most esthetically pleasing, in the eyes of a government bureau. It includes his right to buy and eat the least nutritious breakfast cereal, if he happens to like the taste. He may even buy a product that is not the most economical of its kind. It's his decision, his choice, his responsibility.".

Can we avoid a great American tragedy? I think we can. Whether we will or not is the real question. The odds are bad, but I have seen us overcome great odds before. This time success or failure by our industry determines more than in any previous crisis the fate not alone of industry, but of the greatest society in all of history.

Gentlemen, if you don't like my proposal, in heaven's name develop one of your own because this time we dare not fail.

## AMNESTY OPPOSED FOR THOSE WHO FAILED TO ANSWER CALL OF THEIR COUNTRY

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

Mr. GOODLING. Mr. Speaker, as the war is winding down in Vietnam, there are some in our midst who are contemplating extending amnesty, conditional or otherwise, to those Americans who ran from the boundaries of the United States to hide in foreign lands for the purpose of escaping military duty in Vietnam.

I am vigorously opposed to extending such amnesty, and I have today introduced legislation designed to thwart any grant of pardon to those who failed to answer the call of their country.

I feel these escapees are utterly undeserving of amnesty.

For one thing, these individuals have deserted their country in its time of need; hence, they have been morally wrong. Other American citizens might have differed with the effort of the United States in Vietnam, but they still responded to their country's petition for service, subordinating their personal feelings to the will of their Nation.

In effect, these draft dodgers and deserters have accepted their country on a conditional basis; that is, only when things are pleasing and acceptable to them. These "conditional patriots" must realize, of course, that while American citizens have a multitude of privileges, they also have corresponding responsibilities. A major responsibility is an allegiance to country, a resolve to serve America in its time of need. In brief, these individuals committed a breach of obligation.

For another thing, these persons broke faith with those who responded to the call of duty. Many of those who went forth to fight did not live to return to their homeland, while many others returned with injuries and ailments suffered in the line of duty. Amnesty, then, for those who ducked military service would make a mockery of the sacrifice made by those who obeyed the call to national service and fulfilled their enlistment oath.

Furthermore, these escapees from military service violated the law, purely and simply. The fact that conditions are continuously improving in Vietnam does not change the fact that these individuals who fled the United States and sought safety abroad from the draft and military assignment were breaking the law. They should be dealt with accordingly.

Fundamentally, a national security issue is involved in all of this. If amnesty were extended these draft dodgers and deserters, it would encourage others to avoid their obligation to military service, both in the present and the future. There would be no need to answer a call to the colors, because failure to do so would be excused.

Those who have dodged the draft and deserted the military ranks must realize that if they return to the homeland they fled in time of emergency, they will have to plead their case before a court of law. In doing so, they will be satisfying both their own conscience and the law. Amnesty will be supplanted by justice, and it is, indeed, in their good fortune that while justice will have to be served, justice is not without mercy.

## THE ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. ASPINALL) is recognized for 60 minutes.

Mr. ASPINALL. Mr. Speaker, like many Americans, I have been wrestling with the problem of our Nation's energy resources. I know that our Nation's greatness has been possible largely because of the availability and development of economical energy resources. I know that huge quantities of these resources will be required to conquer our national problems of poverty, unemployment, and environmental degradation. I know, too, that, if energy costs continue to escalate, our battle against inflation will be adversely affected. I firmly believe that the isolated blackouts and brownouts we have helplessly confronted in recent years are mere preludes to what will happen on a much broader scale if we fail to heed their warning.

I have been listening to spokesmen for environmental and consumer groups, the Government, and private industry, and they have agreed almost unanimously on one point: Our country is facing an energy crisis.

In conversations with representatives of each group over the past months, I have learned that there is unanimous agreement that public discussion, thought, and understanding of our total energy picture must be stimulated.

Each of these interests, quite naturally, defines the crisis in terms of its own point of view, and, if we are to deal effectively with the situation, these divergent points of view must be brought together. There is, however, no dispute on the following premises:

First. Our country has grown and prospered in great measure because of low-cost energy resources;

Second. Our consumption of energy resources is increasing more rapidly than our development of new resources;

Third. Even if new resources are developed, we must recognize their finite nature and guard closely this trust for future generations;

Fourth. Wanton degradation of the environment cannot be permitted.

The sum of these premises is that we are confronted with one of the major problems of this decade and one of the great problems of our time. Balances must be made, attitudes changed, and perhaps some alteration of our way of life is necessary. For if our future course is not clear, our present direction is.

Take electricity, for example. After World War II, consumption increased at about 7 percent per year. In 1970 it increased 9.2 percent over the previous year. By the year 2000 if present trends continue, this Nation will consume six times as much electricity as it did in 1971.

Crunches this year and next are inevitable, and it makes little difference in which section of the country you live. According to the Federal Power Commission, brownouts are likely in Chicago and Miami this summer. Shortages also may occur in the New York metropolitan area, southern California, large parts of the Southeast, the Midwest, and elsewhere. If nuclear powerplants now ready to operate remain closed by legal actions, the problems could multiply. Some kind of emergency legislation to permit the use of such facilities may be necessary.

With natural gas, the situation is more critical. The Washington Gas Light Co. in the Nation's Capital is accepting no new customers. A Chicago firm can meet only 30 percent of new demand for service. And other cities are experiencing similar difficulties.

The future is not much brighter. For, with less than 6 percent of the world's population, the United States today consumes roughly one-third of the world's energy production. Over the next 15 years, we are told, the demand for fuels and energy will double. Where will it come from, and at what cost?

At present, 96 percent of our primary energy comes from the traditional fossil fuels—petroleum, 43 percent; natural gas, 33 percent; coal, 20 percent—while the remaining 4 percent is divided between waterpower and nuclear power, an underdeveloped resource. Because nuclear plants take 7 to 10 years to plan and build, because technical and environmental questions have not been entirely satisfied, and because capital costs are

high, nuclear energy is not likely to reach maturity as a major source of energy for many years.

For the short-term period, then, certainly for the next 15 years, we must continue to rely heavily on our traditional energy resources. And here we are confronted with a paradox: Despite difficulties meeting demand for gas, oil, and coal, geologists tell us the United States has enough of these fuels underground or offshore to last until the nuclear egg is hatched.

But paradox or not, abundance or not, we still have problems. As natural gas supplies fail, reserves and productive capacity of petroleum in the continental United States decline and determination to protect the environment impacts upon production and use of energy in all forms, dependence on energy sources over which we have no control increases.

Last year billions of dollars left the United States to pay for foreign fuels. That outflow can only be expected to increase substantially in the future.

Today about 25 percent of our liquid fuel is imported, mostly from Venezuela and Canada. By 1980, less than 10 years away, as much as 50 percent may be imported—the bulk of it from the Middle East—and it will not be cheap. I know that Americans are willing to pay for what they get, but we are all entitled to know we are getting what we pay for.

Why am I concerned about this trend? I am concerned because increasing U.S. dependence on foreign supplies will permit the seller to set virtually any price he wants. I use the singular word seller because with petroleum we now must deal with one entity, the Organization of Petroleum Exporting Countries—OPEC.

As our dependency grows, this 11-nation international monopoly could assume autocratic power over petroleum. And competition from other consumer blocs, primarily Western European countries and Japan, who also need more and more oil, will strengthen this power.

National security is a paramount issue. But the implications of the Organization of Petroleum Exporting Countries extend well beyond balance of payments and national security into the whole question of balance of power throughout the world. For, as Secretary Morton has suggested, OPEC's "demands may not always be stated in purely economic terms."

This country needs to take a hard look at its energy resource supplies. It needs to view these supplies in relation to projected demand, the reasons for that demand, and the governmental and industrial policies designed to balance supply and demand.

I believe there are alternatives to brownouts and blackouts, and alternatives to homes without heat and factories without power. I believe there are alternatives to foreign domination of our major energy resource, and alternatives to broad-scale social and economic disruptions. And I believe these alternatives need not be at the expense of a livable world. To the contrary, I believe they may insure a livable world for the future.

But interim solutions and stopgap measures are not enough. National problems require national thought and attention, not the first aid of temporary repair. Do not misunderstand, I respect the job being done by our administrators. Unfortunately, however, they do not always have the time to develop public understanding as they try to extinguish the brush fires in the energy resource area.

For these reasons the Committee on Interior and Insular Affairs has undertaken a project which I hope will stimulate rational discussion and lead to better understanding and practical solutions. In the last week or so, the staff put out a reader intended to acquaint committee members with broader dimensions of the problem.

I realize there is a superabundance of studies on the fuel and energy situation—more than 1,000, in fact, since 1962. Yet these studies more often than not fragment the overall picture. They look at the energy crisis in terms of offshore drilling, or gas shortages, or too many air conditioners, or not enough air conditioners, or blackouts, or too much economic growth, or not enough growth, or too much water pollution, or too many automobiles. And while the studies continue to proliferate—often oblivious to each other—so does the energy crisis.

A second staff report resulting from our study, therefore, will synthesize and evaluate some of the best of these studies. We are hopeful it will identify the major issues and provide a common ground for future discussion. Also planned are reports projecting supply and demand over the next 15 years—outlining what our resources are and what the demands on them are likely to be during this period.

In addition, the Committee on Interior and Insular Affairs plans hearings from April 10–18. These will bring together a range of recognized experts in an attempt to inform the Congress and the public of the dimensions of the energy crisis and explore alternatives to further crises over the next 15 years. We want these hearings to provide a platform for the best minds we can find, whatever their points of view.

At this point I do not contemplate any specific legislation coming from this project, which we expect to conclude by midsummer. Legislation may be called for at some future time, but that is not our intent now. At this time we merely want to gather the facts, and we want to do this without the constraint of trying to focus one eye on the problem and the other on the legislation.

I am pleased to say that Secretaries Morton and Connally are among those who will be appearing, and that an outstanding environmentalist, Dr. Barry Commoner, has agreed to testify. We welcome these men and look forward to receiving their views, and those of others.

I am disappointed to say that Ralph Nader has decided not to appear before this committee. For perhaps more than any other single interest group, American consumers will feel the impact of our fuels and energy crisis. As a spokesman for consumer interests, Mr. Nader's views would have been appreciated.

Finally, we know that the politics of energy involves special interests and firm points of view. In staffing the committee for these hearings, we have tried to avoid any conflict of interest. Because the burden of the energy crisis will fall heavily on the young, I want the young to be actively involved in helping to solve the problem.

In keeping with these goals, we have named Edward Weidenfeld, a New York attorney, as counsel on energy matters. Mr. Weidenfeld, though only 28, is a man of demonstrated intellectual ability, and he has never represented any energy firm, nor does he have financial holdings in any energy interest. I believe his selection symbolizes what the committee hopes to accomplish—a fresh, unbiased overview of one of our major domestic problems.

I am not a young man and I honestly do not know at this time whether I will run for reelection. I do know that a project of this magnitude, added to the heavy burden of existing committee work, will require personal sacrifice on my part and on the part of my fellow committee members. Yet this sacrifice is essential if we are to meet our responsibilities.

In deciding to confront these issues, I thought of the vast beauty of this land, nowhere more lovely than in my own State of Colorado, and of this country's greatness, and I thought of the New Englander who, like all of us, worried about his commitments. The lines were written by Robert Frost:

> The words are lovely, dark and deep. But I have promises to keep. . . .

The promise of abundant, low-cost energy has brought our Nation prosperity and growth. It will play a major role in achieving peace and in improving the quality of life for all of us. It is a promise that, together with the promise of a clean earth, we must keep.

At this time I shall be glad to recognize my colleague from Oklahoma.

Mr. EDMONDSON. Mr. Speaker, I thank the able chairman for yielding.

I am very, very pleased to hear from my chairman this public disclosure and explanation of the goals of the Committee on Interior and Insular Affairs and of the scope of the studies and hearings that are contemplated for the future. I believe personally this is one of the most important undertakings the Committee on Interior and Insular Affairs has ever launched. I think the chairman of the committee demonstrated his usual foresight and his usual statesmanship in putting together the essential elements of a successful study of this kind. He has assembled what I know to be an expert staff. He has given the staff an assignment that has taken them across the country already in their exploration of the facts and deep into the other studies that have been made on this subject. I think it is literally true that the future of the American leadership of the world in terms of our industrial economy is one of the very important stakes that will be involved in the study which is being conducted at this time by the committee. I am very proud of the committee decision to go ahead with it and commend the gentleman from Colorado for his leadership on this important subject.

Mr. ASPINALL. I wish to thank my friend from Oklahoma for his remarks and for his aid as we have gotten these proposed hearings thus far.

I yield to my good friend from California now (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I should like to congratulate the distinguished chairman of the Committee on Interior and Insular Affairs on his remarks concerning the fuel and energy crisis.

I certainly agree that we have an energy crisis of potentially staggering magnitude facing us today.

It is imperative that our Nation take immediate and forthright steps to meet this crisis.

The distinguished gentleman from Colorado has accurately defined the basic problem.

As he stated, our consumption of energy resources is increasing much more rapidly than our development of new resources for the production of energy.

The fact that 96 percent of our energy comes from traditional fossil fuel sources emphasizes the great drain which these resources are undergoing.

At the present rate of increase in consumption, these fossil fuels will last for only a brief span in man's existence on this planet.

Many of us find it hard to realize that mankind has consumed more energy since 1940 than it did in all of recorded history up until that time.

This means that in order to adequately cope with energy demands in the face of decreasing supplies of traditional fossil fuels, we must develop new sources.

In my view, research and development is the key to an adequate, long-term solution to the energy crisis.

I should like to point out to my colleagues that the Committee on Science and Astronautics has recognized the need to take a careful look at energy research and development.

The Subcommittee on Science, Research, and Development, which is chaired by the distinguished gentleman from Georgia (Mr. DAVIS) plans hearings on energy R. & D. in May.

We have also established a task force on energy within the Science Subcommittee.

This task force is chaired by the only scientist presently sitting in the House of Representatives, MIKE MCCORMACK of the State of Washington.

The task force has made much progress in looking at the overall energy research and development issue.

Their work and the work of the subcommittee as a whole will, I am confident, be a great help in developing the kinds of answers that we need to meet the energy crisis, both in the immediate future and in the 21st century and beyond.

I should also like to point out that research and development is only a part of the answer to the energy crisis.

An adequate resource base is also an important aspect of the energy problem, an aspect which we must face immediately and deal with swiftly.

I applaud the leadership which the distinguished gentleman from Colorado is giving the Congress in this regard.

I should like to point out that the interests of our respective committees, interior and insular affairs and science and astronautics, complement each other with regard to the energy issue.

We have already a record of close cooperation.

It is important that the Congress get a total picture of all components of the energy crisis.

I believe this can be done if there is adequate cooperation and coordination among the various legislative committees.

Our committee system exists in order to serve effectively the needs of the Congress and the Nation.

The energy problem overlaps the jurisdictions of several committees, and cannot be solved by any one committee acting alone.

But if each does its part, we can find viable solutions.

I look forward to working closely with Chairman Aspinall in the future, as in the past, as we attempt to find the illusive answers to this important problem facing our Nation.

Mr. ASPINALL. I thank my able colleague, the gentleman from California, who has so distinguished himself as the chairman of the Committee on Science and Astronautics.

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

Mr. ASPINALL. I would be glad to yield to my friend from California (Mr. HOLIFIELD), the present distinguished chairman of the Committee on Government Operations and the former chairman of the Joint Committee on Atomic Energy.

Mr. HOLIFIELD. Mr. Speaker, I strongly support remarks of my colleague, Congressman WAYNE ASPINALL, concerning the importance of energy to our Nation. I am sure that the hearings he has announced before his Interior Committee, which are scheduled to start on April 10, will be a basic source of information for the public, the Congress, and the executive agencies to plan to meet the Nation's energy requirements.

The President's June 4 energy message last year clearly recognized the national importance of energy. I strongly endorsed his message. Its contents contained research and development plans to meet our long-term energy needs; but, as I said at a recent Atomic Energy Commission authorization hearing, it may be time for another Presidential energy message.

I refer to the need for informing the public of the more immediate energy requirements problem since I believe the public does not appreciate the tight situation which is developing for the next year or two. I am sure a message by the President would help a great deal in getting national public attention to this matter. Of course, the hearings planned by my colleague will be of outstanding value to convey the facts concerning this matter to the public.

There are many obstacles to the attainment of a concerted and satisfactory effort toward meeting our energy requirements in a way which will not burden this country in its international role and will not put a greater burden on the quality of our environment. One problem, of course, is the education of the public concerning the multiple factors in the energy equation—the need for clean energy to control environmental insults, the need for energy from the standpoint of national security, the need for energy for our welfare in this industrial society, and the need to conserve energy.

One aspect of the energy problem which it is so very difficult for the lay public to understand is the lead time required to obtain solutions to energy requirements. We must inform the public of the irreversible consequence of an action now on energy supplies years in the future. We must inform the public that once a basic shortage devleops, nothing can be really done to solve the problem in less than about a decade. I am sure that the hearings that my respected colleague has announced will help a great deal in these areas.

As I told a group of utility executives recently, I would be the first to admit we need changes in our Government to better handle problems of energy and the environment. We need changes at all levels. Energy and energy fuels are, to a major degree interchangeable. They should be treated as a unit by the Government. But such is not the case in our Federal Government. The President has proposed a Department of Natural Resources which combines responsibilities concerning energy. Although some of my colleagues in the Congress differ on the specific packaging of an all-energy organization, most agree a combined energy organization in the executive branch is necessary. As you know, the President's bill to establish a Department of Natural Resources is before me officially in my position as chairman of the Government Operations Committee.

I believe an organization on energy lines is also called for in the Congress. The hearings that my colleague has announced will probably develop very important factors which the Congress should consider in organizing itself on an overall energy basis. I believe that when these hearings are finished and the Senate Resolution 45 hearings are completed in the Senate, we will have the facts we need to organize the Congress on the basis of national energy needs. One approach could be the setting up of a joint committee on energy. Another approach could be to form Energy Committees in the House and the Senate. Clean and plentiful energy supplies are now of such importance to the welfare and future of our Nation to warrant such special considerations.

Many studies have been made concerning the demand for and supply of energy. One of the earliest comprehensive ones was the one entitled "Civilian Nuclear Power—A Report to the President—1962". I think it is important to consider a statement at the beginning of this report which considered all significant energy sources—and I quote:

> Next to the land, the water, and the air, without which we could not exist at all, energy is by far the most important of our terrestrial resources. Without it our industrial society would be impossible. In common with the other three it has no substitute.

I am most pleased to hear the attention of the Interior Committee is planning to give to energy.

Mr. ASPINALL. I thank my colleague from California for his contribution.

At this time I would be glad to yield to my other colleague from California (Mr. DON H. CLAUSEN), a member of the committee and one who is certainly interested in this subject.

Mr. DON H. CLAUSEN. Mr. Speaker, I am proud to be associated with this special order that has been taken today to focus attention on the rapidly developing energy crisis in the United States and to commend the chairman again for demonstrating the kind of leadership that we have grown to expect from him as the chairman of our Interior Committee upon which I have the privilege of serving.

Mr. Speaker, for so long the people of the United States have taken for granted the fact that we have unlimited resources upon which to develop the energy of this land and yet there is too little information known upon which to base a finding of fact.

Mr. Speaker, just as I serve on the Public Works Committee, we today having been debating the central issue of water pollution and how to handle some of our energy resources as they relate to pollution, again we find over and over again that there is a need for more and more information. So, I am pleased and proud to be a part of the committee and hope that we can bring to the American people a greater awareness of what I believe to be one of the most impending crises that the United States has yet faced.

I thank the chairman for yielding.

Mr. ASPINALL. I wish to thank my friend from California who has served so ably on these committees.

Mr. PRICE of Illinois. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I am glad to yield to my friend, the gentleman from Illinois (Mr. PRICE), the present vice chairman of the Joint Committee on Atomic Energy.

Mr. PRICE of Illinois. Mr. Speaker, I rise to voice my support of the statement delivered by my distinguished colleague from Colorado (Mr. ASPINALL), the chairman of the Interior and Insular Affairs Committee. His intention to conduct public hearings on the energy needs of our Nation should represent an important step toward the development of a public record of the energy crisis which confronts us.

The record of this body over the past several years is replete with statements by Members calling attention to the energy needs of our Nation and the manner in which energy production and utilization of energy resources relate to the quality of our environment. In the overall picture we must consider all energy sources, both those that are now available to us and those which future research may provide. Unfortunately, many efforts to date have dealt with the problem in piecemeal fashion.

The Interior Committee is directing its attention to our need for energy principally between the present time and the year 1985. It appears unlikely that research, either present or planned, can produce new means of generating energy or provide new energy resources which can make a significant contribution during this time period. Therefore, in large part we will have to meet these energy requirements by the conventional means now available—oil, natural gas, coal, hydroelectric and nuclear power. We have all heard of dwindling supplies of oil and natural gas in the face of increasing demand. I might comment that I may be for the first time referring to nuclear power as a "conventional" source of energy. At the present time nuclear-power stations are generating only 3 percent of the electricity in this country. By 1980, the contribution is expected to rise to 22 percent, and, by the year 2000, in the range of 50 percent.

I certainly agree with Chairman ASPINALL, and I reemphasize his statement that energy resources are important national assets which we will need to conquer our problems of poverty, unemployment, and environmental degradation. We should be wary of becoming overly dependent upon foreign sources of energy fuels. To the best of our ability we should attempt to conserve our own energy resources and to utilize them as efficiently and effectively as we can.

I am hopeful that the witnesses to be called before the Interior Committee will represent not only the Federal agencies and representatives of industry but also spokesman for responsible environmental organizations and members of the public at large. Such public discussion and consideration of all points of view should permit developing a record which will serve as a valuable reference for the use of the Congress and for the public as well.

Mr. ASPINALL. I wish to thank my friend, the gentleman from Illinois (Mr. PRICE) for his cooperation.

Mr. Speaker, I now yield to the gentleman from Idaho (Mr. MCCLURE).

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. MCCLURE. I will be happy to yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I just want to acknowledge the fact that the gentleman from Idaho (Mr. MCCLURE) is the chairman of the Task Force on Energy and Resources for the Republican Research Committee. I think that this special order today demonstrates that there is a genuine bipartisan concern and interest for this subject. I believe the remarks that he will make will add greatly to the record on this matter.

Mr. MCCLURE. Mr. Speaker, I thank the gentleman from California for his kind comments.

Mr. Speaker, I wish to thank the chairman, the gentleman from Colorado (Mr. ASPINALL) for yielding this time to me, and to thank the gentleman, as indeed I think all of the people of our country should also do, for taking this special order to focus attention on this matter, which I think is of such fundamental importance to the health and the welfare and the safety of this country. Certainly there is no question upon which we will focus our attention that is more important to the future of the country than that of our energy resources, and the problems of meeting the energy demands of our economy in future years.

Mr. Speaker, this country is poised on the brink of a national energy crisis. Oil reserves dwindle, gas companies freeze out new customers, power blackouts threaten entire regions of our country, and the cost of energy soars upward. The environment is threatened, not only by the production of energy, but also by its use. Whether or not we can meet this challenge depends on how quickly the American people wake up.

Energy has become an issue of major importance to the people of the United States. We are discovering as energy influences each aspect of our daily lives it affects all segments and individuals in our society. The impact of energy on the worker, the businessman, the consumer, the housewife, the environmentalist—on each of us—is being vividly demonstrated in 1972, not only by increasing prices, but also through continuing announcements of energy shortages. It is difficult to overemphasize the scope or direct relationship of energy in areas of national importance. Our economic well-being is one example of how energy can determine which direction a society goes.

Economic growth cannot be separated from the problems of energy supply and demand. As the Commission on Population Growth and the American Future recently concluded:

> Energy makes the difference between poverty and affluence.

The Commission goes on to say, in part I of its final report:

> The reason per capita income in the United States is so high is that the average American worker has at his command more energy, chiefly in the form of electricity, than any other worker in the world.

I believe the text of their statement is of value, and ask that it be included at the conclusion of my remarks—attachment 1. The analysis of future needs as our population grows, whether under a two-child projection or a three-child projection, indicates the need for new R. & D. efforts directed toward clean energy.

One classic indication of the state of our economy is the gross national product. From 1947 to 1966, the United States benefited from the generally increasing efficiency with which energy was used to meet our economic needs. The ratio of energy consumption to GNP, expressed in terms of British thermal units per dollar, decreased from 106.1 in 1947 to 86.5 in 1966. This meant that we were able to produce a dollar's worth of goods and services with less energy input, a situation which began to change in 1967. During the last 4 successive years, this energy-GNP ratio has increased, and the reversal is of more than academic interest. As discussed in a report by National Economic Research Associates, this "phenomenon" is definitely cause for concern. It questions our future ability to meet the expanding economic needs of our society, within the framework of finite energy resources. I would like to include a portion of the NERA report at the conclusion of my remarks. Attachments II and III.

Analysis for 1971 will soon be available, and should allow a projection for the critical period from now to 1976, a period when demands for new jobs and Govern-

ment revenues are expected to increase at least as rapidly as new sources of energy, if not faster.

To better understand future energy needs, we do have projections concerning anticipated consumption for each sector of society. One such projection, published by the National Petroleum Council, discusses each energy consuming group—residential/commercial, industrial, transportation, and so forth—and illustrates both absolute energy requirements through 1985, in terms of British thermal units, and relative percentages for each grouping.

In addition, the report of the Council projects primary energy consumption by geographic breakdown for selected census divisions. Attachments IV and V. One dominant feature of these projections is the future growth of the electric utilities. As the chart shows, electric utilities will consume over a third of our primary energy by 1985.

As of December 31, 1971, the electric power industry had a total capability of 367,396 megawatts. Of this, 15 percent was hydroelectric, 75 percent was fossil fuel, and 2 percent was nuclear. By 1980, this capability is projected to be 665,000 megawatts, with 10 percent hydro, 60 percent fossil, and 22 percent nuclear. And, by 1990, estimates for total electric utility capability are 1,260,000 megawatts, with 6 percent hydro, 45 percent fossil, and 40 percent nuclear. To keep these figures in perspective, we need only remember that one megawatt is equal to one million watts of electric power.

Fuel use by electric utilities is also high. In 1971, electric power generating plants consumed 329 million tons of coal, 386 million barrels of oil, and almost 4 trillion cubic feet of natural gas.

By 1980, coal consumption alone is estimated at 472 million tons, rising to 600 million tons by 1990.

We cannot, however, underestimate the impact of present electric generating plants on our natural environment. Operating at less than 40 percent efficiency, they reject over 60 percent of their heat to the environment. Fortunately, the United States still has vast potential sources of geothermal energy, energy which like hydroelectric can help meet our future needs with decreased levels of air and water pollution. It is important that any investigation of our energy crisis includes consideration of environmental impacts and I consider it especially noteworthy that Chairman Aspinall has made protection of the environment a major item for the forthcoming energy hearings by the House Committee on Interior and Insular Affairs.

Another item of importance is the end-use of electrical energy. We know that of the 1,463 billion kilowatt-hours sold during the 12-months ending November 30, 1971, over 497 billion kw.-hr. were for residential consumers. In fact, residential consumption of electricity during that same period increased 7.1 percent, compared to only 3.1 percent for industrial consumers. To better understand how energy is used by residential consumers, I would like to include the following table, received from the Chase Manhattan Bank, for the year 1970:

*Residential electricity sales*
*(billion Kw.-hr.)*

| | |
|---|---|
| Kitchen use: | |
| Refrigeration | 84 |
| Cooking | 32 |
| Other | 23 |
| Cleaning & Grooming: | |
| Water heating | 69 |
| Cleaning appliances | 31 |
| Lighting | 71 |
| Radio and television | 34 |
| Space heating | 31 |
| Air conditioning | 27 |
| Miscellaneous appliances | 46 |
| Total | 448 |

As we can see, nearly one-third of the residential energy was used in the kitchen, and over one-half of that was for refrigeration. Lighting and water heating were also large users of energy.

Energy shortages have been predicted for this summer and the following winter, 1972–73, due in a large part to delays in operation of new steam-electric powerplants. The Federal Power Commission has prepared information concerning reserve margins for various regions of the United States, for both critical periods—Attachment VI. The margin percentages are calculated both with and without the new generation capacity. I believe that they demonstrate the seriousness of one aspect of our energy issue.

Another aspect which has recently hit very close to the residential home is the natural gas shortage. I believe by now we're aware of gas utility announcements concerning freezes on new customer hookups, including new homes.

There are presently three general approaches to supplementing domestic production: pipeline imports from Canada and Mexico, liquified natural gas—LNG—imports, and synthetic gas, produced from coal or liquid hydrocarbons.

Pipeline imports from Canada and Mexico have been projected to 1996, and are included in the attached chart—attachment VII—which also indicates the natural gas supply situation for those two countries. As we can see, authorized annual imports decrease from 1,041,319 million cubic feet in 1971 to 7,656 million cubic feet in 1995. Of this amount, over 95 percent is from Canada. Based on present data, we cannot expect any substantial increase in imports from Mexico, due to low levels of exploration activity and the small undiscovered gas potential.

Any increases in authorized imports from Canada will depend on approvals by the Canadian Government. As we have recently seen, the National Energy Board of Canada has denied three applications for export to the United States, based on the need to maintain Canada's reserve-to-production ratio at 30 for the next 20 years.

LNG imports to the United States are increasing, and I have attached information concerning existing applications, peak shaving plants—operating and under development—and export/import points—attachments VIII, IX, and X. I believe that there are two pertinent facts illustrated by the data.

First, LNG will cost two to three times more than domestic natural gas. Whereas long term contracts are for about $1 per thousand cubic feet, short term projects can run about $2 per thousand cubic feet and above.

Second, we will be competing with European nations, such as France, Italy, Spain, and England, plus Japan, for future supplies and, even more important, future LNG tanker capacity. And, a list of 39 new LNG tankers either under construction or on order shows not one single tanker to be built in U.S. shipyards.

Synthetic gas facilities are planned extensively for the United States. A projection of coal-gasification plants—attachment XI—estimates a total production capacity of 17.3 trillion cubic feet, cumulative, by 1990. Total capital expenditures by 1990 are projected to be $7,955,000,000, cumulative. The anticipated impact on future demand for bituminous coal and lignite is also available, shown in attachment XII, with historical figures for reference.

Another major source of synthetic gas is liquid hydrocarbons. These plants, utilizing naptha, natural gas liquids, crude oil, and so forth, will be heavily dependent on foreign sources and the estimated rate is from $0.77 to $1.50 per thousand cubic feet. Additional details on the plants, including geographic location, are contained in attachment XIII.

The Federal Power Commission has estimated that by 1980, domestic production of natural gas will be able to meet less than 60 percent of the U.S. demand. All other sources combined—pipeline imports, LNG, Alaskan gas, synthetic gas—will meet less than 15 percent of the total demand. This will leave over 8 trillion cubic feet of natural gas demand which will not be met under existing projections.

Mr. Speaker, even though I have touched on only a few issues involved in our energy crisis, I believe that they typify the serious questions which must be answered, and answered soon. Under the leadership of Chairman ASPINALL, I am confident that the House Committee on Interior and Insular Affairs will provide a better understanding and a basis for solutions to this crisis. And, by hearing all points of view and providing a platform for rational discussion of dissenting opinions, the committee's energy hearings will undoubtedly result in a complete presentation of the facts, facts which the people of the United States need to know. As a member of the committee, I look forward to participating in the future hearings concerning our Nation's energy resources.

I include the following:

ATTACHMENT I: REPORT, COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

ENERGY

Energy makes the difference between poverty and affluence. The reason per capita in-

come in the United States is so high is that the average American worker has at his command more energy, chiefly in the form of electricity, than any other worker in the world. With energy we refine aluminum, make rubber, shape steel, form new synthetic chemical compounds, propel automobiles, and heat our homes.

How much energy we have available depends on the availability of the necessary fuels and on our ability to convert the fuels to energy—the greatest advance in this regard was the development of inexpensive methods of electricity production. The technology of fuels acquisition and the technology of energy conversion are both critical. So is purchasing power—the ability to pay for domestic development of fuels or to import them. The original inhabitants of North America occupied a continent rich in energy fuels. But they neither knew how to get the fuels out of the ground nor how to convert them to energy. Some modern countries with advanced means of energy conversion lack their own fuel supplies; they buy them from other countries.

The ability of the United States to meet its future energy needs will be determined chiefly by development in technology—the technology of conversion and the technology of fuels acquisition. A major question will be whether we can find methods that are environmentally safe. Virtually every stage of energy use—fuel production, delivery, conversion, and consumption—has a significant environmental impact. For example, one-third of all coal is produced by strip mining, and the consequence is a scarred landscape and severe runoff into streams and rivers. Oil spills which contaminate the oceans and beaches may result from offshore drilling. Much airborne pollution comes from the use of such relatively dirty fuels as coal and oil. Some scientists are beginning to raise the possibility of thermal pollution resulting from concentrated use of energy in local areas. Nuclear power generation requires the disposal of radioactive atomic wastes. Because of these problems, the development of energy-production capacity could be impaired.

The increase in our energy needs will be immense under any projection, although not as large under the 2-child population projection as under the 3-child projection. The relative difference in energy demands under the different population projections is about the same as for minerals, and it becomes very large after the population with the lower rate of growtn stabilizes.

Whether population growth will strain fuel supplies, or cause serious environmental damage in the process of acquiring and using the necessary fuels, depends on future developments in technology.

With no major changes in technology, oil and gas supplies could become a problem for the United States by the year 2000—we would be importing more and paying higher prices; and supplies would certainly be a problem for some world regions. These problems could be averted if we found inexpensive means of using such potential sources as oil shale and tar sands, but using these sources is likely to have environmental consequences as serious as those from the strip-mining of coal. If we unlock the secrets of atomic fusion, we could have an environmentally clean way of generating electricity, with no fuel supply problem. The energy from converting the deuterium contained in 30 cubic kilometers of seawater would equal that of the earth's original supply of coal and petroleum.

Our review of the energy situation indicates that high priority ought to be given to research and development in clean sources of energy production. The faster population grows, the more urgent such breakthroughs become. We turn now to several areas where population growth dominates other considerations—where we cannot be hopeful about the ability of purchasing power and technical development to avert population problems.

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ATTACHMENT II: REPORT, NERA

At a time when environmental preservation has become a dominant national concern and when the inherent conflict between measures to that end and the continuing growth in energy consumption is creating a growing policy dilemma, it is of interest to examine a recent phenomenon that has occurred in the statistical series measuring energy consumption per dollar of (constant dollar) GNP. As shown in Figure I and Table I, the ratio followed a secular decline at an annual compounded rate of 0.7 per cent) between the end of World War II and 1966; since then the year-to-year change has been consistently upward (at an annual compounded rate of 3.0 per cent). On the basis of preliminary 1970 figures, the ratio has risen to the level of the early 1950s. The trend reversal is all the more interesting because of the full length of the period of decline, which was previously shown to date from the early 1920s.[1]

This phenomenon has profound implications for the energy-environment policy dilemma. The demand for energy *in toto* can be viewed as being separate and distinct from the demand for the individual forms of energy because of the wide range of substitutability among the different energy commodities. A given level of population and GNP will generate a certain demand for energy which will be satisfied by a mix of energy commodities, the nature of which will be determined by relative price levels, convenience and taste. As long as the energy/GNP ratio declines, economic growth results in a less than proportionate increase in energy consumption; but with an increasing ratio,economic growth acts as a multiplier. Even with the declining trend in the ratio there has never been any dispute that the economy will require very large increases in energy supplies during the coming decades. A reversal in the trend of the ratio, however, implies even greater increases in the future and consequently greater difficulties in reconciling energy consumption (and the economic growth responsible for it) with environmental preservation.

One can obtain a measure of the significance of the trend reversal by assuming that it did not occur and calculating what aggregate energy consumption would have been on that basis in 1970. The actual level of the ratio in 1970 was 95,400 Btu per dollar of GNP. Projecting the 1947-1966 trend in the ratio to that year, the ratio would have been 84,000 Btu per dollar of GNP, or 12 per cent less. When this ratio is applied to the 1970 GNP figure, we find that aggregate energy consumption in that year would have been 8,258 trillion Btu, or 12 per cent, less than actual consumption. (See Figure I.) This difference is a quantity of energy equivalent to more than the total coal consumption by electric utilities in 1970. *Indeed, it seems fair to conclude that in the absence of the trend reversal in the energy/GNP ratio, the energy supply crisis of 1970 would have been far less severe or would not have occurred at all.*

ATTACHMENT III: REPORT, NERA

ENERGY CONSUMPTION, GROSS NATIONAL PRODUCT AND THE ENERGY/GNP RATIO, 1947–70

| Year | Aggregate energy consumption | | GNP (1958 dollars) | | Energy/GNP ratio | |
|---|---|---|---|---|---|---|
| | Amount (trillion B.t.u.'s) | Percent change from preceding year | Amount (billions) | Percent change from preceding year | Amount (thousand B.t.u.'s per dollar) | Percent change from preceding year |
| | (1) | (2) | (3) | (4) | (5) | (6) |
| 1947 | 32,870 | | $309.9 | | 106.1 | |
| 1948 | 33,994 | +2.5 | 323.7 | +4.5 | 105.0 | −1.0 |
| 1949 | 31,604 | −7.0 | 324.1 | +.1 | 97.5 | −7.1 |
| 1950 | 34,153 | +8.1 | 355.3 | +9.6 | 96.1 | −1.4 |
| 1951 | 36,913 | +8.1 | 383.4 | +7.9 | 96.3 | +.2 |
| 1952 | 36,576 | −.9 | 395.1 | +3.1 | 92.6 | −3.8 |
| 1953 | 37,697 | +3.1 | 412.8 | +4.5 | 91.3 | −1.4 |
| 1954 | 36,360 | −3.5 | 407.0 | −1.4 | 89.3 | −2.2 |
| 1955 | 39.956 | +9.9 | 438.0 | +7.6 | 91.2 | +2.1 |
| 1956 | 42,007 | +5.1 | 446.1 | +1.8 | 94.2 | +3.3 |
| 1957 | 41,920 | −.2 | 452.5 | +1.4 | 92.6 | −1.7 |
| 1958 | 41,493 | −1.0 | 447.3 | −1.1 | 92.8 | +.2 |
| 1959 | 43,411 | +4.6 | 475.9 | +6.4 | 91.2 | −1.7 |
| 1960 | 44,960 | +3.6 | 487.7 | +2.5 | 92.2 | +1.0 |
| 1961 | 45,573 | +1.4 | 497.2 | +1.9 | 91.7 | −.5 |
| 1962 | 47,620 | +4.5 | 529.8 | +6.6 | 89.9 | −2.0 |
| 1963 | 49,649 | +4.3 | 551.0 | +4.0 | 90.1 | +.2 |
| 1964 | 51,515 | +3.8 | 581.1 | +5.5 | 88.7 | −1.6 |
| 1965 | 53,785 | +4.4 | 617.8 | +6.3 | 87.1 | −1.8 |
| 1966 | 56,948 | +5.9 | 658.1 | +6.5 | 86.5 | −.7 |
| 1967 | 58,868 | +3.4 | 675.2 | +2.6 | 87.2 | +.8 |
| 1968 | 62,448 | +6.1 | 707.2 | +4.7 | 88.3 | +1.3 |
| 1969 | 65,832 | +5.4 | 727.1 | +2.8 | 90.5 | +2.5 |
| 1970[1] | [2] 69,099 | +5.0 | 724.3 | −.4 | 95.4 | +5.4 |

[1] Preliminary.
[2] Corrected from Bureau of Mines published values on the basis of Federal Power Commission data.

Source: col. (1)—1947-67: U.S. Department of the Interior, Minerals Yearbook, vol. II, 1962-68; 1968: U.S. Department of the Interior, news release of Apr. 7, 1970, revised; 1969-70: U.S. Department of the Interior, news release of Mar. 9, 1971; col. (3)—1947-65: U.S. Department of Commerce, Business Statistics, 1969, 17th biennial edition (Washington: U.S. Government Printing Office, 1969); 1966-70: U.S. Department of Commerce, Survey of Current Business, July 1970, and unpublished data.

ATTACHMENT IV: REPORT, NATIONAL PETROLEUM COUNCIL

U.S. PRIMARY ENERGY CONSUMPTION PROJECTION BY CONSUMING SECTORS

U.S. PRIMARY ENERGY[1] CONSUMPTION IN TRILLIONS OF B.T.U.'S

| Sector | 1960 | 1970 | 1975 | 1980 | 1985 |
|---|---|---|---|---|---|
| Residential/commercial | 9,426 | 12,994 | 14,733 | 16,669 | 18,768 |
| Industrial | 13,056 | 17,798 | 20,039 | 22,341 | 24,667 |
| Transportation | 10,817 | 16,282 | 19,905 | 23,870 | 28,214 |
| Electric utilities | 8,387 | 16,695 | 23,525 | 32,996 | 44,363 |
| Nonenergy and miscellaneous | 2,916 | 4,058 | 5,279 | 6,705 | 8,930 |
| Total | 44,602 | 67,827 | 83,481 | 102,581 | 124,942 |

PERCENTAGE BREAKDOWN OF U.S. PRIMARY ENERGY[1] CONSUMPTION

| Sector | 1960 | 1970 | 1975 | 1980 | 1985 |
|---|---|---|---|---|---|
| Residential/commercial | 21.1 | 19.2 | 17.6 | 16.2 | 15.0 |
| Industrial | 29.3 | 26.2 | 24.0 | 21.8 | 19.7 |
| Transportation | 24.3 | 24.0 | 23.9 | 23.3 | 22.6 |
| Electric utilities | 18.8 | 24.6 | 28.2 | 32.2 | 35.5 |
| Nonenergy and miscellaneous | 6.5 | 6.0 | 6.3 | 6.5 | 7.2 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

AVERAGE ANNUAL PERCENT CHANGE IN U.S. PRIMARY ENERGY[1] CONSUMPTION

| Sector | 1960–70 | 1970–75 | 1975–80 | 1980–85 | 1970–85 projection |
|---|---|---|---|---|---|
| Residential/commercial | 3.3 | 2.6 | 2.5 | 2.4 | 2.5 |
| Industrial | 3.1 | 2.4 | 2.2 | 2.0 | 2.2 |
| Transportation | 4.2 | 4.1 | 3.7 | 3.4 | 3.7 |
| Electric utilities | 7.2 | 7.1 | 7.0 | 6.1 | 6.7 |
| Nonenergy and miscellaneous | 3.4 | 5.4 | 4.9 | 5.9 | 5.4 |
| Total | 4.3 | 4.2 | 4.2 | 4.0 | 4.2 |

[1] Includes fossil-fuel consumptions in each sector. The nuclear and water power outputs are converted to fossil-fuel input equivalents at average central station heat rates and are included in the electric utility sector.

Source: The historical volumes are from the U.S. Bureau of Mines, except for the 1970 electric utility estimate which is based on Federal Power Commission data for 1970. The B.t.u. conversion factors also are from the Bureau of Mines except for modifications in the bituminous coal factors as follows: Electric utility coal is calculated at 24,000,000 B.t.u.'s per short ton and all other bituminous at 26,200,000 B.t.u.'s per ton.

ATTACHMENT V: REPORT, NATIONAL PETROLEUM COUNCIL

SELECTED CENSUS DIVISIONS GEOGRAPHIC BREAKDOWN OF U.S. PRIMARY ENERGY CONSUMPTION PROJECTION BY CONSUMING SECTORS[1]

(Trillion B.t.u.'s)

| | 1970 | 1975 | 1980 | 1985 |
|---|---|---|---|---|
| New England: | | | | |
| Residential/commercial | 1,042 | 1,141 | 1,249 | 1,341 |
| Industrial | 297 | 311 | 322 | 326 |
| Transportation | 761 | 919 | 1,094 | 1,280 |
| Electric utilities | 647 | 894 | 1,155 | 1,496 |
| Mid-Atlantic: | | | | |
| Residential/commercial | 2,892 | 3,213 | 3,572 | 3,895 |
| Industrial | 2,792 | 3,031 | 3,267 | 3,469 |
| Transportation | 2,337 | 2,805 | 3,249 | 3,685 |
| Electric utilities | 2,364 | 3,222 | 4,388 | 5,692 |
| South Atlantic: | | | | |
| Residential/commercial | 1,277 | 1,436 | 1,596 | 1,783 |
| Industrial | 1,627 | 1,848 | 2,063 | 2,249 |
| Transportation | 2,454 | 3,084 | 3,821 | 4,656 |
| Electric utilities | 2,565 | 3,835 | 5,742 | 8,073 |
| East North Central: | | | | |
| Residential/commercial | 3,404 | 3,860 | 4,401 | 5,011 |
| Industrial | 4,414 | 4,689 | 4,960 | 5,303 |
| Transportation | 2,877 | 3,529 | 4,227 | 4,963 |
| Electric utilities | 3,189 | 4,187 | 5,675 | 7,276 |

[1] Note: Energy consumption in these Census Divisions is not totaled because a breakdown of nonenergy and miscellaneous uses is not available.

ATTACHMENT VI: REPORT, FEDERAL POWER COMMISSION

Within individual areas of the contiguous 48 states, five regions merit special attention in evaluating power supply conditions in the summer of 1972: New York (a part of the Northeast Power Coordinating Council area); Northern Illinois-Wisconsin (part of the Mid-America Interpool Network Council) and Iowa (part of the Mid-Continent Area Reliability Coordination Council area); Virginia-Carolinas and Florida (both part of Southeastern Reliability Council area).

The Commission's staff estimates that with and without the planned nuclear units and fossil-steam units, the following conditions will obtain in the summer of 1972. Because of constant revisions of load estimates and new power purchase agreements, the staff estimates may not exactly agree with latest utility estimates.

ATTACHMENT VI

| | Megawatts | Percent |
|---|---|---|
| New York: | | |
| Estimated peak loads | 20,050 | |
| Planned capacity | 24,414 | |
| Estimated reserve margin[1] | 4,363 | 21.8 |
| Without one nuclear unit | 3,491 | 17.4 |
| Without one nuclear and two fossil steam units | 2,483 | 12.3 |
| Northern Illinois-Wisconsin: | | |
| Estimated peak loads | 18,414 | |
| Planned capacity | 20,920 | |
| Estimated reserve margin | 2,506 | 13.6 |
| Without three nuclear units | 1,604 | 8.7 |
| Without three nuclear and one fossil steam units | 764 | 4.2 |
| Iowa: | | |
| Estimated peak loads | 3,117 | |
| Planned capacity | 3,476 | |
| Estimated reserve margin | 359 | 11.5 |
| Without one nuclear unit | −45 | −1.5 |
| Without one nuclear and one fossil steam unit | −366 | −12.8 |
| Virginia-Carolinas: | | |
| Estimated peak loads | 20,605 | |
| Planned capacity[2] | 23,078 | |
| Estimated reserve margin | 2,473 | 12.0 |
| Without two nuclear units | 812 | 3.9 |
| Without two nuclear and two fossil steam units | −78 | −0.4 |
| Florida: | | |
| Estimated peak loads | 11,706 | |
| Planned capacity | 13,454 | |
| Estimated reserve margin | 1,748 | 14.9 |
| Without one nuclear unit | 1,348 | 11.5 |
| Without one nuclear and two fossil steam units | 665 | 5.7 |

[1] Estimated reserve margin is equal to the difference between planned capacity and estimated peak loads.

[2] Does not reflect the elimination of 841 megawatts associated with Oconee 1.

*Winter 1972–73*—The projected conditions which may prevail with and without—if the planned cumulative generation additions of 15 nuclear units and 44 fossil units (currently through January 1973) do not become operative, are as follows. The most adversely affected regions are New England, the Virginia-Carolinas area, Florida, the Tennessee Valley, and the Rocky Mountain area.

The projected loads, generating capacities and reserves are:

ATTACHMENT VI

| | Megawatts | Percent |
|---|---|---|
| New England: | | |
| Estimated peakloads | 13,543 | |
| Planned capacity | 16,942 | |
| Estimated reserve margin | 3,399 | 25.1 |
| Without 2 nuclear units | 2,229 | 16.5 |
| Without 2 nuclear and 3 fossil steam units | 980 | 7.3 |
| Virginia-Carolinas: | | |
| Estimated peakloads | 18,965 | |
| Planned capacity | 23,412 | |
| Estimated reserve margin | 4,447 | 23.4 |
| Without 2 nuclear units | 2,786 | 14.7 |
| Without 2 nuclear and 2 fossil steam units | 1,796 | 9.5 |
| Rocky Mountain: | | |
| Estimated peakloads | 1,725 | |
| Planned capacity | 2,108 | |
| Estimated reserve margin | 383 | 22.2 |
| Without 1 nuclear unit | 153 | 8.8 |
| No fossil additions | | |
| Florida: | | |
| Estimated peakloads | 12,231 | |
| Planned capacity | 14,802 | |
| Estimated reserve margin | 2,571 | 21.0 |
| Without 2 nuclear units | 1,121 | 9.2 |
| Without 2 nuclear and 3 fossil steam units | 55 | 0.4 |
| Tennessee Valley Authority: | | |
| Estimated peakloads | 18,410 | |
| Planned capacity | 21,605 | |
| Estimated reserve margin | 3,465 | 19.1 |
| Without 1 nuclear unit | 2,400 | 13.2 |
| Without 1 nuclear and 1 fossil steam unit | 1,100 | 6.1 |

ATTACHMENT VII: REPORT, FEDERAL POWER COMMISSION

U.S. NATURAL GAS IMPORTS—MAXIMUM AUTHORIZED ANNUAL IMPORTS FROM CANADA AND MEXICO[1] 1971–96

(All volumes in millions of cubic feet at 14.73 psia and 60° F. at 1,000 B.t.u. per cubic foot)[2]

| Year | El Paso Natural Gas Co. | Pacific Gas Transmission Co. | Montana Power Co. | Midwestern Gas Transmission Co. | Great Lakes Gas Transmission Co. | St. Lawrence Gas Co. | Vermont Gas Systems Inc. | Inter-City Minnesota Pipelines Ltd., Inc. | Tennessee Gas Pipeline Co. | Total from Canada | Mexico | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1971 | 270,393 | 373,500 | 49,092 | 147,235 | [3] 103,763 | 6,700 | [4] 5,318 | [5] 8,052 | 39,000 | 1,003,311 | [6] 38,008 | 1,041,319 |
| 1972 | 310,377 | 373,500 | 49,092 | 147,235 | 103,763 | 5,520 | 5,318 | 8,052 | (7) | 1,002,857 | 35,000 | 1,037,857 |
| 1973 | 332,359 | 373,500 | 29,661 | 147,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 1,005,408 | 32,000 | 1,037,407 |
| 1974 | 332,359 | 373,500 | 29,200 | 147,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 1,004,947 | 29,000 | 1,033,948 |
| 1975 | 332,359 | 373,500 | 29,200 | 147,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 1,004,947 | 26,000 | 1,030,947 |
| 1976 | 332,359 | 373,500 | 29,200 | 147,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 1,004,947 | 23,000 | 1,027,947 |
| 1977 | 332,359 | 373,500 | 29,200 | 147,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 1,004,947 | 20,000 | 1,024,947 |
| 1978 | 332,359 | 373,500 | 29,200 | 147,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 1,004,947 | 17,000 | 1,021,947 |
| 1979 | 332,359 | 373,500 | 29,200 | 147,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 1,004,947 | 14,000 | 1,018,947 |
| 1980 | 332,359 | 373,500 | 29,200 | 147,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 1,004,947 | 10,000 | 1,014,947 |
| 1981 | 329,427 | 373,500 | 29,200 | 100,400 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 955,180 | 6,000 | 961,180 |
| 1982 | 281,359 | 373,500 | 29,200 | 73,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 879,947 | 1,709 | 881,656 |
| 1983 | 281,359 | 373,500 | 29,200 | 73,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 879,947 | ---------- | 879,947 |
| 1984 | 281,359 | 373,500 | 29,200 | 73,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 879,947 | ---------- | 879,947 |
| 1985 | 281,359 | 362,221 | 28,590 | 73,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 868,058 | ---------- | 868,058 |
| 1986 | 281,359 | 280,389 | 23,725 | 73,235 | 103,763 | 5,520 | 5,318 | 8,052 | ---------- | 781,361 | ---------- | 781,361 |
| 1987 | 281,359 | 152,730 | 14,600 | 73,235 | 103,763 | 1,909 | 5,318 | 8,052 | ---------- | 640,966 | ---------- | 640,966 |
| 1988 | 281,359 | 152,730 | 14,600 | 73,235 | 103,763 | ---------- | 5,318 | 8,052 | ---------- | 639,057 | ---------- | 639,057 |
| 1989 | 234,344 | 140,226 | 13,383 | 64,496 | 103,763 | ---------- | 5,314 | 8,052 | ---------- | 569,578 | ---------- | 569,578 |
| 1990 | ---------- | 77,900 | 7,300 | 17,184 | 91,784 | ---------- | ---------- | 8,052 | ---------- | 202,220 | ---------- | 202,220 |
| 1991 | ---------- | 72,336 | 6,783 | ---------- | 26,736 | ---------- | ---------- | 8,052 | ---------- | 113,907 | ---------- | 113,907 |
| 1992 | ---------- | 44,600 | 4,200 | ---------- | ---------- | ---------- | ---------- | 8,052 | ---------- | 56,852 | ---------- | 56,652 |
| 1993 | ---------- | 37,147 | 3,500 | ---------- | ---------- | ---------- | ---------- | 8,052 | ---------- | 48,699 | ---------- | 48,699 |
| 1994 | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- | 8,052 | ---------- | 8,052 | ---------- | 8,052 |
| 1995 | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- | 7,656 | ---------- | 7,656 | ---------- | 7,656 |
| 1996 | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- | ---------- |
| Total | 5,772,926 | 6,549,276 | 565,726 | 2,167,075 | 2,090,017 | 91,409 | 101,038 | 200,904 | 39,000 | [8] 17,577,632 | 251,717 | 17,829,349 |

[1] As authorized by the Federal Power Commission and the National Energy Board, through Jan. 1, 1971.

[2] B.t.u. content of Mexican imports are unspecified.

[3] Figures represent volumes for U.S. consumption. The company is authorized to transport additional volumes for redelivery to Trans-Canada at St. Clair and Sault Ste. Marie, Mich.

[4] Annual volumes of 6,700,000,000 cubic feet are authorized by NEB. However, if scheduled at this rate the remaining reserves would not extend over the life of the license. Actual imported volume in 1970 was 2,532,000,000 cubic feet.

[5] Figures represent volumes for U.S. consumption. The company is authorized to transport additional volumes for redelivery to customers in Canada.

[6] Volumes shown are dedicated to Texas Eastern Transmission Co. Relatively small volumes. (34,000,000 cubic feet in 1970) are imported for ultimate consumption by the city of Roma, Texas. However, annual volumes remaining under this contract are not available.

[7] Temporary authorization on an interruptible basis. Present authorization expires on Apr. 1, 1972. License is renewable on an annual basis if gas is available.

[8] Actual volumes authorized for export from Canada as of Jan. 1, 1971 were 17,656,686,000,000 cubic feet, 79,054,000,000 cubic feet more than above. This difference is due to the maximum annual volumes, as authorized by NEB, not being imported every year prior to 1971.

Sources: FPC form 15, NEB Annual Report for 1970 and report to the Governor in Council, August 1970.

NATURAL GAS SUPPLY OF CANADA AND MEXICO, 1960–70

CANADA

(All volumes in million M c.f. at 14.73 p.s.i.a. and 60° F.)

| | 1960 | 1961 | 1962 | 1963 | 1964 | 1965 | 1966 | 1967 | 1968 | 1969 | 1970 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Proved reserves[1] | 30,507 | 33,356 | 35,245 | 36,759 | 43,155 | 44,131 | 43,214 | 45,434 | 47,407 | 51,669 | 53,086 |
| Production[1] | 537 | 783 | 944 | 1,000 | 1,108 | 1,245 | 1,119 | 1,209 | 1,387 | 1,548 | 1,789 |
| R/P ratio | 56.8 | 42.6 | 37.3 | 36.8 | 38.9 | 35.4 | 38.6 | 37.6 | 34.2 | 33.4 | 29.7 |
| Reserve additions | 4,578 | 3,631 | 2,833 | 2,489 | 7,476 | 2,229 | 4,180 | 3,425 | 3,362 | 5,809 | 3,186 |
| F/P ratio | 8.5 | 4.6 | 3.0 | 2.5 | 6.7 | 1.8 | 3.7 | 2.8 | 2.4 | 3.8 | 1.8 |
| Gas well completions | 292 | 392 | 331 | 338 | 366 | 390 | 386 | 374 | 432 | 498 | 723 |
| Exploratory | 147 | 159 | 110 | 136 | 145 | 162 | 165 | 149 | 161 | 176 | 267 |
| Development | 145 | 233 | 221 | 202 | 221 | 228 | 221 | 225 | 271 | 322 | 456 |
| Total wells drilled[2] | 2,852 | 2,833 | 2,741 | 3,090 | 3,569 | 3,842 | 3,185 | 2,824 | 2,789 | 3,105 | 2,898 |

MEXICO

(All volumes in million M c.f. at 14.69 p.s.i.a. and 68° F.)

| | 1960 | 1961 | 1962 | 1963 | 1964 | 1965 | 1966 | 1967 | 1968 | 1969 | 1970 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Proved reserves | 10,120 | 11,128 | 11,204 | 11,368 | 11,510 | 11,250 | 11,724 | 11,851 | 11,819 | 12,000 | 12,000 |
| Production | 341 | 361 | 371 | 402 | 485 | 493 | 529 | 573 | 577 | 609 | 665 |
| R/P ratio | 29.7 | 30.8 | 30.2 | 28.3 | 23.7 | 22.8 | 22.2 | 20.7 | 20.5 | 19.7 | 18.1 |
| Reserve additions | (3) | 1,369 | 447 | 56.6 | 627 | 233 | 1,003 | 700 | 545 | 790 | 665 |
| F/P ratio | (3) | 3.8 | 1.2 | 1.4 | 1.3 | .5 | 1.9 | 1.2 | .9 | 1.3 | 1.0 |
| Gas well completions | 33 | 53 | 63 | 68 | 97 | 36 | 44 | 90 | 97 | 89 | 26 |
| Exploratory | 19 | 17 | 25 | 16 | 24 | 14 | 27 | 12 | 17 | 15 | 7 |
| Development | 14 | 36 | 38 | 52 | 73 | 22 | 17 | 78 | 80 | 74 | 19 |
| Total wells drilled[2] | 762 | 726 | 639 | 554 | 631 | 361 | 296 | 497 | 602 | 519 | 523 |

[1] Through 1965 the Canadian Petroleum Association reported "proved remaining recoverable reserves" and production therefrom. In 1966 they discontinued publishing the reserves defined in this manner, showing instead "proved remaining marketable reserves," and production therefrom. Marketable gas reserves measured on a dry gas basis equals recoverable gas less field and plant fuel requirements, and gas vented or flared.

[2] Total oil and gas well completions and dry holes.

[3] Not available.

Sources: Canada; Reserves and production, CPA. Well data 1960–66, Canadian Petroleum Association Statistical Yearbooks, 1967–70, Oilweek's Annual Forecast-Review Issues. Mexico; Reserves and production, World Oil, "Mexico" International Outlook issues, Aug. 15, 1961 through Aug. 15, 1971 and American Association of Petroleum Geologists, "Mexico" Foreign Developments issues, July 1961–July 1963 and August 1964–August 1971. Well data from American Association of Petroleum Geologists Foreign Development Issues.

ATTACHMENT VIII: REPORT FEDERAL POWER COMMISSION

FEDERAL POWER COMMISSION SHORT-TERM LIQUEFIED NATURAL GAS IMPORT APPLICATIONS NOV 30, 1971

| No. | Applicant | Docket number | Source | Delivery point | Transport mode | (MMcf) | Estimated volume and price[1] (Mcf) | For deliveries |
|---|---|---|---|---|---|---|---|---|
| 1. | Boston Gas Co | CP69-112 | Algeria | Boston, Mass | Ship | 200 | $1.14 | |
| 2. | Lowell Gas Co | CP70-143 | do | do | do | [2] 374 | 1.52 | |
| 3. | Willbros Terminal Co | CP70-194 | Canada | do | Truck | [3] 266 | 2.20 | |

Footnotes at end of table.

ATTACHMENT VIII: REPORT, FEDERAL POWER COMMISSION—Continued

FEDERAL POWER COMMISSION SHORT-TERM LIQUEFIED NATURAL GAS IMPORT APPLICATIONS NOV. 30, 1971—Continued

| No. | Applicant | Docket number | Source | Delivery point | Transport mode | (MMcf) | Estimated volume and price [1] (Mcf) | For deliveries |
|---|---|---|---|---|---|---|---|---|
| 4. | Texas Eastern Transmission Corp. | CP70-208 | Algeria | Staten Island, N.Y. | Ship | 2,600 | 1.37 | |
| 5. | Boston Gas Co. | CP70-291 | do. | Boston, Mass. | do. | 1,600 | 1.70 | |
| 6. | Fall River Gas Co. | CP70-305 | Canada | Fall River, Mass. | Truck | [4] 150 | 1.12 | |
| 7. | Lowell Gas Co. | CP71-9 | do. | Tewksbury, Mass. | do. | 630 | 1.25 | Oct. 7, 1970. |
| | | | | | | | 1.94 | Oct. 7, 1970, to Apr. 30, 1971. |
| 8. | Boston Gas Co. | CP71-61 | do. | Boston, Mass. | do. | 220 | 1.25 | Oct. 19, 1970, to Nov. 1, 1970. |
| | | | | | | | 2.00 | Nov. 1, to Apr. 1, 1971. |
| 9. | Boston Gas Co. | CP71-247 | do. | do. | do. | [5] 714 | 1.30 | Apr. 1, 1971, to Sept. 1, 1971. |
| | | | | | | | 1.45 | Sept. 1, 1971, to Nov. 1, 1971. |
| | | | | | | | 1.92 | Nov. 1, 1971, to Apr. 1, 1972. |
| 10. | Boston Gas Co. | CP71-248 | Algeria | Boston, Mass. | Ship | 1,250 | 1.66 | |
| 11. | Lowell Gas Co. | CP72-10 | Canada | Tewksbury, Mass. | Truck | [5] 696 | 1.30-1.45 | Apr. 1, 1971, to Oct. 31, 1971.[6] |
| | | | | | | | 1.92 | Nov. 1, 1971, to Apr. 1, 1972. |
| 12. | Fall River Gas Co. | CP72-18 | do. | Fall River, Mass. | do. | [5] 120 | 1.30 | Aug. 31, 1971.[6] |
| | | | | | | | 1.45 | Oct. 31, 1971. |
| 13. | Texas Eastern Transmission Corp. | CP72-93 | Libya | Staten Island, N.Y. | Ship | [5] 11,160 | .81 | |

[1] Volumes and prices rounded to the nearest million cubic feet (MMcf) and cents per thousand cubic feet (Mcf) where necessary; B.t.u. content not given; delivery at shiprail or truckside.
[2] Estimated at 52 thousand cubic feet per metric on the basis of the original application.
[3] Estimated at 88.693 cubic feet per gallon on the basis of reported volumes delivered.
[4] Estimated at 83.3 cubic feet per gallon on the basis of the original application.
[5] Volume is in billion B.t.u. and prices are for million B.t.u.
[6] Based on estimated transportation cost of 45 cents per million B.t.u.

ATTACHMENT IX: REPORT, FEDERAL POWER COMMISSION

U.S. LIQUEFIED NATURAL GAS PEAK SHAVING PLANTS OPERATING OR UNDER DEVELOPMENT

*Company and location*

1. Alabama Gas Corp., Birmingham, Alabama.
2. Arkansas-Missouri Power Co., Blytheville, Arkansas.
3. Atlanta Gas Light Co., Riverdale, Georgia.
4. Baltimore Gas & Electric Co., Baltimore, Maryland.
5. Boston Gas Co., Boston, Massachusetts.
6. Brooklyn Gas Co., Brooklyn, New York.
7. Chattanooga Gas Co., Chattanooga, Tennessee.
8. Citizens Gas & Coke Utility, Beach Grove, Indiana.
9. Commonwealth Natural Gas Co., Tidewater, Virginia.
10. Connecticut Natural Gas Co., Rocky Hill, Connecticut.
11. Consolidated Edison Co., Astoria, New York.
12. Delmarva Power & Light Co., Wilmington, Delaware.
13. Fall River Gas Co., Fall River, Massachusetts.
14. Iowa-Illinois Gas & Electric Co., Bettendorf, Iowa.
15. Long Island Lighting Co., Holbrook, New York.
16. Lowell Gas Co., Lowell, Massachusetts.
17. Memphis Light Gas & Water Div., Memphis, Tennessee.
18. New England Electric System, Lynn, Massachusetts.
19. New England Gas & Electric Assoc. and Air Products & Chemicals, Inc., Hopkinton, Massachusetts.
20. Northern States Power Co., Eau Claire, Wisconsin.
21. Northwest Natural Gas Co., Portland, Oregon.
22. Peoples Gas Light & Coke Co., Mahomet, Illinois.
23. Philadelphia Electric Co., West Conshohocken, Pennsylvania.
24. Philadelphia Gas Works, Philadelphia, Pennsylvania.
25. Roanoke Gas Co., Roanoke, Virginia.
26. San Diego Gas & Electric Co., Chula Vista, California.
27. Southern Connecticut Gas Co., Bridgeport, Connecticut.
28. Texas Eastern Transmission Corp., Staten Island, New York.
29. Transcontinental Gas Pipe Line Corp., Hackensack, New Jersey.
30. Union Light, Heat & Power Co., Erlanger Kentucky.
31. Wisconsin Natural Gas Co., Oak Creek, Wisconsin.
32. Piedmont Natural Gas Co., Charlotte, North Carolina.

Source: Pipeline & Gas Journal, "LNG Continues Big Growth—More Projects, More Dollars," June 1971, pp. 44-45; International Gas Highlights, "Carolina Plant to Liquefy, Store Gas," August 30, 1971, p. 2.

ATTACHMENT X: REPORT, FEDERAL POWER COMMISSION

CURRENT AND PROSPECTIVE WORLDWIDE LNG OCEAN TRADE

EXPORT AND IMPORT POINTS

*Current*

1. Arzew, Algeria: Canvey, England; Le-Havre, France.
2. Kenai, Alaska: Negishi, Japan.
3. Marsa el Brega, Libya: Barcelona, Spain; La Spezia, Italy.

*Prospective and planned*

4. Skikda, Algeria: Fos, France (Mediterranean); Boston, Mass.; Staten Island, New York.
5. Brunei: Japan.
6. Sarawak: Japan.
7. Persian Gulf Area of Iran: Japan.
8. Arzew, Algeria: Cove Point, Md.; Savannah, Ga.
9. Venezuela: U.S. East Coast.
10. Alaska: California.
11. Ecuador: U.S. West Coast.
12. Trinidad: U.S. West Coast.
13. Nigeria: U.S. East Coast.
14. North Sea: U.S. East Coast.

Sources: FPC files; "Proceedings: The Second International Conference and Exhibition on Liquefied Natural Gas," Paris, France, October 19-23, 1970; various news clippings and trade journal articles; personal communications.

ATTACHMENT XII: REPORT, FEDERAL POWER COMMISSION

HISTORICAL AND PROJECTED U.S. DEMAND FOR BITUMINOUS COAL AND LIGNITE

[Millions of tons]

| Year | Domestic conventional usage [1] | | Domestic demand including gasification |
|---|---|---|---|
| | Production | Demand | Demand |
| 1961 | 403.0 | 374.4 | |
| 1962 | 422.1 | 387.8 | |
| 1963 | 458.9 | 409.2 | |
| 1964 | 487.0 | 431.1 | |
| 1965 | 512.1 | 459.2 | |
| 1966 | 533.9 | 486.3 | |
| 1967 | 552.6 | 480.4 | |
| 1968 | 545.2 | 498.8 | |
| 1969 | 560.5 | 507.3 | |
| 1970 | 602.9 | 517.0 | 517.0 |
| 1971 | | 533.8 | 533.8 |
| 1972 | | 551.2 | 551.2 |
| 1973 | | 569.1 | 569.1 |
| 1974 | | 587.6 | 587.6 |
| 1975 | | 606.7 | 606.7 |
| 1976 | | 626.4 | 626.4 |
| 1977 | | 646.7 | 646.7 |
| 1978 | | 667.7 | 667.7 |
| 1979 | | 689.4 | 689.4 |
| 1980 | | 711.9 | 711.9 |
| 1981 | | 735.0 | 749.6 |
| 1982 | | 758.9 | 789.4 |
| 1983 | | 783.5 | 831.2 |
| 1984 | | 809.0 | 875.3 |
| 1985 | | 835.3 | 921.6 |
| 1986 | | 862.4 | 970.5 |
| 1987 | | 890.5 | 1,021.9 |
| 1988 | | 919.4 | 1,076.1 |
| 1989 | | 949.3 | 1,133.1 |
| 1990 | | 980.1 | 1,193.2 |

[1] Historical data, U.S. Bureau of Mines. Excludes tonnage for conversion to synthetic gas.

ATTACHMENT XI: REPORT, FEDERAL POWER COMMISSION

PROJECTION OF UNITED STATES COAL GASIFICATION CAPABILITY—1976-90

[Gas volumes in trillions of cubic feet; coal in millions of tons; expenditures in millions of dollars; gasification plant capacity is 250 million cubic feet per day]

| | 1976 | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Gas production from coal: | | | | | | | | | | | | | | | |
| During year | 0.1 | 0.2 | 0.2 | 0.3 | 0.3 | 0.5 | 0.5 | 0.7 | 1.0 | 1.4 | 1.6 | 2.0 | 2.4 | 2.8 | 3.3 |
| Cumulative | .1 | .3 | .5 | .8 | 1.1 | 1.6 | 2.1 | 2.8 | 3.8 | 5.2 | 6.8 | 8.8 | 11.2 | 14.0 | 17.3 |
| Availability of coal for gasification: | | | | | | | | | | | | | | | |
| During year | 6 | 6 | 0 | 6 | 0 | 15 | 30 | 47 | 66 | 87 | 109 | 131 | 157 | 184 | 213 |
| Cumulative | 6 | 12 | 12 | 18 | 18 | 33 | 63 | 110 | 176 | 263 | 372 | 503 | 660 | 844 | 1,057 |

| | 1976 | 1976 | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Coal gasification plants: | | | | | | | | | | | | | | | | |
| Added during year | | 1 | 1 | 0 | 1 | 0 | 2 | 0 | 3 | 3 | 4 | 3 | 4 | 4 | 5 | 5 |
| Cumulative | | 1 | 2 | 2 | 3 | 3 | 5 | 5 | 8 | 11 | 15 | 18 | 22 | 26 | 31 | 36 |
| Coal gasification capital expenditures: | | | | | | | | | | | | | | | | |
| In mines during year | | 20 | 20 | 0 | 20 | 0 | 100 | 100 | 120 | 120 | 140 | 140 | 160 | 160 | 180 | 200 |
| In mines—cumulative | | 20 | 40 | 40 | 60 | 60 | 160 | 260 | 380 | 500 | 640 | 780 | 940 | 1,100 | 1,280 | 1,480 |
| In plants during year | | 200 | 250 | 0 | 200 | 0 | 400 | 0 | 525 | 525 | 700 | 525 | 700 | 700 | 875 | 875 |
| In plants—cumulative | | 200 | 450 | 450 | 650 | 650 | 1,050 | 1,050 | 1,575 | 2,100 | 2,800 | 3,325 | 4,025 | 4,725 | 5,600 | 6,475 |
| Total during year | | 220 | 270 | 0 | 220 | 0 | 500 | 100 | 645 | 645 | 840 | 665 | 860 | 860 | 1,055 | 1,075 |
| Cumulative total | | 220 | 490 | 490 | 710 | 710 | 1,210 | 1,310 | 1,955 | 2,600 | 3,440 | 4,105 | 4,965 | 5,825 | 6,880 | 7,955 |

ATTACHMENT XIII: REPORT, FEDERAL POWER COMMISSION

U.S. LIQUID HYDROCARBON/SNG PLANTS UNDER CONSTRUCTION, PLANNED, OR PROPOSED

| Company | Location | Investment (Millions of dollars)[1] | Feedstock | | | | Output | | Plant operation | Number of plants | Status/comments |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Mb/d[2] | Type | Cents per gallon[2] | Source | MMcf/d[2] | Dollar Mcf | | | |
| Columbia LNG Corp.[3] | Green Springs Ohio. | 37.8 | [4] 285 | Natural gas liquids. | [5] 84.5 | Alberta, Canada | 250 | [6] 1.12 | Yearlong | 1 | Under construction; projected completion 1973. |
| Algonquin SNG, Inc.[3 7] | Freetown, Mass. | 39.5 | 27.2 | Naphtha | 10.5 | Bayway, N.J. | 120 | [5] 1.41 | do | 1 | Design stage; projected completion Oct. 1973; total feedstock required not under contract |
| Tecon Gasification Co.[3 7] | South Plainfield, N.J. | 139.8 | 110 | do | [8] 10.3 [9] 8.3 | ⅓ domestic; ⅔ foreign | 500 | [6] 1.23 | do | 1 | Contracts let for design and construction; projected completion 1973; total feedstock required not under contract. |
| Consumers Power Co | Marysville, Mich. | 40 | 25 | Natural gas liquids. | | Alberta, Canada. | 100 | | do | 1 | Under construction; projected completion 1973; capacity to double in 1974. |
| Brooklyn Union Gas Co | New York | 20 | 10 | Naphtha | | New Jersey. | 50 | 1.50 | Seasonal | 1 | Contract let for engineering and design; projected completion 1973. |
| Public Service Electric & Gas.[7] | New Jersey | 30 | 25 | do | 7 | Foreign | 125 | .77 | Yearlong | 1 | Precedent agreements for feedstock have been entered into; contracts for engineering to be let soon; projected completion 1973. |
| Boston Gas Co | Everett, Mass. | 4.5 | 10 | Propane/ Naphtha. | | | 40 | 1.30 | Seasonal | 1 | Contract let for design; projected completion 1972. |
| Continental Oil Co.[7] | | | 33 | LPG | | Foreign | 125 | | | 2 | Under consideration; possible by 1974. |
| Panhandle Eastern Pipe Line Co.[7] (trunkline) | Illinois | 50–60 | 60 | Naphtha | | do | 250 | 1.20–1.30 | | 1 | Proposed. |
| Transcontinental Gas Pipe Line Corp. | New York | 80–85 | | do | | | 250 | | | 1 | Planned. |
| Zapata Norness, Inc.[7] | East coast | 200–250 | 85–90 | Crude oil | 5.9–7.1 | Foreign | 400 | .85–.95 | Yearlong | 2 | Proposed program; could have 1 plant ready by 1974; liquid fuels would also be produced. |
| Foster Wheeler Corp.[7] | Nansemond County Va. | 189–326 | 180 | do | 6.5 | Kuwait | 250–700 | .95 | do | 1 | An evaluation program done for a large group of gas transmission and electric power companies for a fuels complex producing various outputs of SNG, Nos. 2, 6 and bunker fuels, and sulfur, depending on equipment configuration. |
| Tenneco Oil Co.[7] | | | | Crude and unfinished oils. | | | | | | 1 | Under investigation; byproduct distillate would also be produced. |
| Consolidated Gas Supply Corp. | Oswego, N.Y. | | | Naphtha | | | | | | 1 | Under study in conjunction with Niagara Mohawk Power and New England petroleum Corp. |
| Northern Illinois Gas Co | Illinois | 50 | 36 | Natural gas liquids. | | Domestic | 150 | | | 1 | Letter of intent for feedstock supply has been signed; projected completion 1973. |
| Ashland Oil of Kentucky | | | | Petroleum liquids. | | | | | | | Development program underway. |
| Peoples Gas Co | | 100 | | do | | | | | | | Part of a 3-year company program for expansion by 1974. |
| Crown Central Petroleum Corp.[7] | Baltimore, Md. | 200 | | Crude oil | | Foreign | 100 | 1.05 | | 1 | Columbia Gas System has agreed to purchase the SNG; projected completion 1973–74; liquid fuels will also be produced. |
| Felmont Oil Corp.[7] | Olean, N.Y. | | 22.5–24 | Naphtha | | do | [10] 35 | | | | Planned. |
| APCO Oil Corp | East | 30 | 28 | do | | Freeport, Bahama Islands | 125 | 1.05–1.13 | | 1 | A letter of intent has been signed under which APCO will produce SNG for Columbia Gas System; first deliveries 1974. |
| Amerada Hess Corp | Reading, N.J. | 14 | | Naphtha | | | | | | | Included in proposal to expand existing facility. |
| Howard Oil Co | Philadelphia, Pa. | | 150 | Crude oil | | Foreign | | | | | Proposed; site acquired, design in progress, and a market waiting. |
| Indiana Gas Co | Indiana | | | Naphtha | | Middle East | | | | | Under investigation in conjunction with other distributors in the area. |
| Tenneco, Inc | | | | do | | | | | | | Negotiating stage; expected to be on-stream by 1974; more than 1 plant. |

[1] May include various equipment and offsites depending on the particular project.
[2] Except where noted.
[3] Filed with the Federal Power Commission.
[4] MMM B.t.u./d.
[5] Cents per B.t.u.
[6] Based on full production rate; subject to contractual escalation or adjustment.
[7] Filed with the Oil Policy Committee or the Office of Emergency Preparedness.
[8] Domestic.
[9] Foreign.
[10] MMM c.f. per year.

Sources: FPC files; trade journals and reports; personal communication.

(Mr. McCLURE asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. ASPINALL. Mr. Speaker, I wish to thank my colleague, the gentleman from Idaho, who serves so ably as the counterpart on the minority side as the Chairman of the Subcommittee on Mining and Mines, whose interest is also in this particular field.

Mr. Speaker, I now yield to my colleague who is the only scientist that we have in the House of Representatives at the present time, the gentleman from Washington (Mr. McCormack)

Mr. McCORMACK. Mr. Speaker, I thank the gentleman from Colorado (Mr. Aspinall) for yielding me this time.

Mr. Speaker, it is indeed a privilege to participate in this special order called by the distinguished Chairman of the House Committee on Interior and Insular Affairs, the gentleman from Colorado (Mr. Aspinall) to announce hearing on the Nation's fuels and energy crisis.

I wish to associate myself completely with the calling of these hearing, with the hearings themselves, and with the remarks of Mr. Aspinall, as well as those of the Honorable Chairman of the House

Committee on Science and Astronautics, the gentleman from California, Mr. GEORGE MILLER, and with those of the Vice Chairman of the Joint Committee on Atomic Energy, the gentleman from Illinois, the Honorable MEL PRICE, and the gentleman from California, the Honorable CHET HOLIFIELD, and the other members of that joint committee.

The consequences of failure on the part of this Nation to provide clean and adequate energy at a reasonable price are truly frightening. They go far beyond the inconvenience and discomfort which most people associate with brownouts and blackouts.

Energy shortages and the consequent skyrocketing costs of energy will lead to industrial stagnation and even shutdowns for those industries that consume large amounts of energy.

The immediate effect of this is increased unemployment in those industries that are large consumers of energy, and soon thereafter unemployment in all those industries that are dependent on the output of the high-energy industries. In short, almost all of our industrial production and employment will suffer.

If we do not have adequate and inexpensive energy we cannot have clean energy. The environmental controls we need to assure future generations of clean air and water, and the measures we must adopt now for ourselves will require, according to Dr. Killian, a 25-percent increase in energy production.

Chairman ASPINALL, I will do everything I can in my power to aid you in your hearings.

Mr. ASPINALL. Mr. Speaker, I wish to thank my friend, the gentleman from Washington, for his leadership in the task force operation and for his cooperation that he has given to this special study on the energy problems in the near future.

## GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that any Member of the House desiring to do so may have 5 legislative days in which to extend his remarks on this subject at this point in the RECORD.

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

There was no objection.

## A NEW HARVEST OF SHAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 15 minutes.

Mr. O'HARA. Mr. Speaker, last week the Subcommittee on Agricultural Labor of the House Committee on Education and Labor began hearings on several pending legislative proposals in the field of labor-management relations in agriculture. On March 23, the subcommittee of which I am chairman, took testimony from several Members who had introduced bills on this subject. It is our intention to resume these hearings shortly after the Easter recess, first, hearing from other Members, and then from organizations and individuals who are concerned with this issue, and, to the extent they can shed light on the problem, from Government agencies. Dates are not yet fixed for the post-Easter hearings, but they will shortly be announced. In the meantime, groups or individuals who would like to be heard should so advise the subcommittee, at its office in room 320, Cannon House Office Building, so that we can work out a hearing schedule that will provide for a comprehensive and expeditious examination of the issues and problems involved.

Coincident with the subcommittee's opening of hearings on this problem however, Mr. Peter Nash, who was chosen by the President to be General Counsel of the NLRB, began an effort to overthrow years of precedent, and to bring a farmworker's union under the punitive provisions of the present National Labor Relations Act. Quite in keeping, of course, with the basic policy of this administration, Counsel Nash made no perceptible effort to provide farmworkers with any of the protections of the act. As the President's hand-picked NLRB General Counsel, Mr. Nash, of course, shares the standard Nixon administration one-way of the question of the rights and obligations of farmworkers.

The petition filed by the Los Angeles Regional Office of NLRA, under Mr. Nash's direction, for an injunction against the United Farm Workers' current boycott activity, while based on the alleged presence of a few dozen UFW members in nonfarm labor jobs, is, in fact, aimed at the entire union, and at all its boycott activities, including, for all practical purposes, those which are legal under present law, and even, arguably, those which would be legal if agricultural labor were covered by the National Labor Relations Act.

It is worth noting, too, Mr. Speaker, that Mr. Nash is not only changing the policy of the Board with regard to farmworkers, but he is doing so in the face of a clear prohibition in the most recent NLRB appropriation legislation, Public Law 92–80, against the expenditure of any NLRB funds "in connection with investigations, hearings, directives or orders concerning bargaining units composed of agricultural laborers * * * as defined in section 3(f) of the Fair Labor Standards Act. I have, today, incidentally, sent the Comptroller General of the United States a formal request to examine Mr. Nash's decision to initiate this complaint, in the light of that appropriations limitation, and to see if the will of the Congress is again being ignored by the administration.

In going down the one-way street, Mr. Nash is, of course, following the party line long since made "perfectly clear" by President Nixon. During his campaign for election to the Presidency, Mr. Nixon posed for publicity shots showing him eating California table grapes, at a time when the efforts of the United Farm Workers to organize grape pickers and bring them into the 20th century were largely dependent on the grape boycott. Candidate Nixon got the backing he hoped that picture would bring him among grape growers and other segments of agribusiness, and now that his 4-year uninterrupted campaign for reelection is reaching a crucial phase, he is again sending out signals, this time through Peter Nash, to his agribusiness supporters that he fully intends to do whatever he can to break the farmworkers' union and to keep farmworkers on the bottom of the economic ladder.

It is ironic, of course, that the President, his Cabinet members, and his other campaign workers are trying to paint a picture of this administration as "caring" about members of the Spanish-speaking community, through the appointment of a few—a very carefully selected few—members of that community to conspicuous and powerless Federal posts, while the President's other aides—the fellows who are running the Government while the President is running for reelection—are carrying out what gives every appearance of being a deliberate, multiagency effort to harass the farmworker whenever he actually tries to improve his own lot through his own efforts. The campaign poster shows Richard Nixon similing benevolently at a farmworker, while the ugly reality is one of neglect where that will do the job, and active hostility where neglect is insufficient.

A few other instance will suffice to fill in the picture, Mr. Speaker.

Yesterday, my subcommittee took testimony with regard to the administration of section 301 of the Sugar Act. This section of that act establishes, as a condition of the payment of subsidies, that employers must pay their workers a fair and reasonable wage as determined by the U.S. Department of Agriculture. According to a table entered into the record of those hearings, covering the period 1949–71, there have been increases almost every year in that period. The increases have not been tremendous, there have been years where there were no increases, and even the present Sugar Act "fair and reasonable wage" in Louisiana has only "risen" to $1.65 per hour. But nonetheless, a small but perceptible increase, based on hearings in the summer, announced in mid-September, and made effective September or October at the beginning of the harvest season, has been the annual pattern in this industry.

But this year, a new pattern was worked out. And I must express my admiration for the USDA or other Nixon administration officials who thought this one up. Because they managed to announce an increase in the Sugar Act wage on the basis of an "increase" which was wholly nonexistent in Louisiana, and nearly so in Florida.

This bit of administrative legerdemain was performed by the simple device of holding the customary hearings in July, making the customary sugar price determinations at the customary time, and then waiting until December to announce the "new wage," and making that wage effective only after the harvest season was over. The USDA's action meant in effect that the planters could pay their help during the harvest season at last year's rate, while the USDA could issue

a press release triumphantly claiming that it had increased cane harvesters' wages.

The Department justified this specious reasoning by linking it to the President's "wage-price freeze," although the wage freeze was long since over when they made their announcement, and the "price freeze" had never applied to sugar, anyway.

There are other areas where the Nixon administration plays this game of "now you see it, now you don't" with the farmworker. The Manpower Administration of the Department of Labor has proudly, and with great fanfare, announced its "$20 million migrant manpower program," but neither the farmworkers who hoped to use manpower programs to break out of their endless cycle of exploitation, nor my subcommittee, which 9 months ago asked the Labor Department for some hard information about its plan, have seen anything substantial, except more press releases.

In the occupational safety field, in spite of a specific mandate in the Occupational Safety and Health Act that the Department must give special priority to the most dangerous occupations, and in spite of the fact that agriculture is the third most hazardous occupation in the Nation, the Department of Labor is still on dead center, promising that an ad hoc advisory committee will be appointed "in a couple of weeks to begin the long task of developing standards, while it refers inquiries to the Department of Agriculture, which promised last winter to name some farmworkers to its Advisory Committee on Farm Safety, and has not yet kept that promise.

The Subcommittee on Farm Labor, Mr. Speaker, would be hard put to cope with, or even to keep advised of, all the forms of discrimination and harassment the farm labor movement is experiencing under the Nixon administration. But we can examine it from case to case, and we can try to cope with it on the same basis. In the case of the NLRB, we can, and we will, invite Mr. Nash to appear at the hearings that have already begun on labor-management relations, and we can ask him just what benefits, if any, he believes will accrue to farmworkers if his slightly myopic interpretation of the law should prevail. We can, I suppose, ask him his opinions on what legislation is needed, but a letter of August 20, 1971, from the Education and Labor Committee to the Board asking for the Board's views on one labor-management bill, has gone as yet unanswered. Similar letters to the Labor and Agriculture Departments, I should mention, have received the same silent treatment.

Our hearings on the administration of the Sugar Act will continue tomorrow, when the Secretary of Agriculture has been asked to appear. I am informally advised that he will not be there, and that he is sending instead a career USDA official who only carries out the policies set by the administration. We will nonetheless do our best to pursue the issues raised in yesterday's hearing.

The Labor Department has been invited for April 24 to explain whatever happened to the migrant manpower program. At that time they will also be asked to explain why a Department response to a complaint, filed by farmworkers against the rural manpower service, has yet to appear, even though the rural manpower service is already beginning to process another year's cycle of farm placement requests.

Mr. Speaker, the fact that the farmworker stands at the lowest rung of the economic ladder; the fact that he is excluded from coverage under most labor protective legislation, and covered inadequately under the rest; the fact that he subsidizes the rest of us by his low wages, his miserable working conditions, and the labor of his children—all these facts have been documented so often as to have become cliches. Why, Mr. Speaker, even Nixon administration officials have been heard to express concern over the pattern of legislative exclusion—though they have been uniformly and eloquently silent when asked for help in changing some of the laws. I would certainly hope that the Nixon administration is not increasing the burden already borne by the farmworker in the form of inequality under the law, by adding to it an equally broad and far more effective pattern of harassment and hostility.

But if that pattern exists, then a new "harvest of shame" is being planted and cultivated right now at the White House.

## SPACE EXPLORATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. ESCH) is recognized for 20 minutes.

Mr. ESCH. Mr. Speaker, whenever I listen to our national debate on the future of the space program I somehow conjure up visions of a similar one which must have taken place within the court of Ferdinand and Isabella nearly 500 years ago. I am sure there were courtiers then who said, "but we do not know whether he will find the way. Maybe all the money will be wasted." Some undoubtedly argued that there were serious problems existing in Spain which needed instant attention. Perhaps still others were cautious about how much the Government was spending and urged that the fantastic project be dropped in order to bring the royal budget into balance.

Similarly, a year later when Columbus returned from his journey, the skeptics must have continued to greet him with scorn. After all, though he had found something he had not brought back any great quantity of gold or rich spices—just a couple Indians and some new plants.

Yet the discovery which Columbus had made was to expand the horizons of the world and to improve the quality of life everywhere. It was Columbus' discovery which initiated and inspired much of the progress made in the next few centuries. It was to inspire both bold new ideas and bold new ways of life.

So, too, has it been with our space program. From the beginning the skeptics have urged that money should be spent instead on "urgent domestic priorities." Many have argued that we simply cannot afford the costs in light of our budget deficits. We all have realized that we really do not know just what we will find and how it will apply to us here on earth. Mr. Speaker, in my opinion, we should not be short-sighted. Our resources are great. We need not turn our backs on any segment of this Nation, including our great cities. To proceed with this project does not mean that we are going to neglect these grave responsibilities. I have faith that as Americans we will respond affirmatively to these challenges.

Our explorations of space, like Columbus' journey to the Western Hemisphere will expand the horizons of the entire world and, I am convinced, will improve the quality of life everywhere. Already, the spinoff of presently ongoing space programs have made vast advances in medical science, in miniaturization, in weather prediction—and thus protection of populations from violent storms—in the location of natural resources, in the location of plant diseases and their control, and many others.

In the next few weeks we will begin debating a new concept of space travel which will determine whether or not the United States will take advantage of the tremendous opportunities and challenges of the new horizons we have found in space. We will decide, like the Spaniards of old, whether we should exploit our new discoveries, or whether we should forego their possibilities.

I strongly feel that we should accept the latest challenge and that we should embark on the new method of exploring the outer reaches of space science.

Space exploration, as we all know, has been extremely expensive. The cost will continue to be high—almost prohibitive—as long as we continue to use today's expendable, one-shot launch vehicles. The kind of extensive manned and unmanned program which could result in so many important discoveries to improve life here on the earth will be impossible unless we find some means of reducing the cost of space exploration.

The space shuttle, as proposed by NASA is our chance to reduce those costs to an acceptable level. The space shuttle represents an entirely new basis of transportation for men and materials from earth to outer space and back. It will take off like a rocket, fly in orbit like a spaceship, and land like an airplane. It will not only take materials and satellites and men into space and serve as their spacecraft, but it will return to earth intact. It is completely reusable.

The space shuttle will expand our space horizons in many ways. First, and perhaps most obvious, it will reduce the cost of putting a payload into orbit, an effort which presently costs from $700 to $1,000 per pound. The shuttle will reduce that cost to $100 per pound. It is estimated that over the initial 12 years of operation, the space shuttle will save the Nation $12 billion in launch and payload costs.

However, far more important than the money saving aspects of the shuttle are its contributions to making our space program more flexible and more useable in solving the difficult problems we face in the decades ahead. The space shuttle will reduce drastically the amount of

training that a person will have to undergo in order to participate in a space flight. It is projected that, within a short period of time, the space shuttle will become a sort of commuter plane for scientists and technicians. It will not be necessary for each of them to be trained in all the essentials of space flight. Thus, if a particular mission involving plant disease is undertaken, agronomists can be transported into space to do the work. Or, if we are having difficulty with communications satellites, we can send our best communications technicians into space to examine the orbiting communications satellite and repair it.

In short, the shuttle will make manned space flight far more productive in scientific discoveries and in practical applications. It will give us a working presence in space. It will also make unmanned space exploration more productive through the repair of unmanned instruments, and perhaps through the collection of actual films rather than just radio signals of the photographs taken. The shuttle will remove the barriers between manned and unmanned research and unify them into a more effective whole.

Additionally, with the shuttle's easy and routine access to space, scientists and astronauts of many nations could be taken into orbit with their experiments to join first-hand in space studies. Thus the expertise of the scientists throughout the world can be brought to bear. In the area of science, perhaps more than in any other, international cooperation and friendship have transcended national borders, hostilities and philosophies.

One important aspect of the space shuttle proposal will be its contributions as a spur to our economy. The leadership momentum this country has maintained in the past has depended upon the "cutting edge" provided by our major national technological programs which have focused our advanced management/scientific/engineering / production talents on the achievements of specific capabilities at specific times. The shuttle program is well suited to replace Apollo as the cutting edge which is required to maintain our national technological superiority.

I sometimes think when we discuss money spent on the space program that many believe the money is sent off in a Buck Rogers-like vehicle to float through the vacuum of the far reaches. To the contrary, every dollar spent on the space program is invested here on earth. A recent economic study indicated that $10 billion invested in the space shuttle over a period of 15 years would result in almost $27 billion in additional indirect stimulation of our economy.

It is well, when we discuss this new proposal, to review the many areas in which the space program has already made significant contributions to our quality of life. The space shuttle can, in every case, expand the practical applications and usefulness of these space research programs. Briefly, the major areas of contribution are:

First. Communications—satellite communications has, within the decade, moved from novelty to accepted convenience. World Olympics, Presidential visits to China, and other historical events, made possible only through use of communications satellites, are now accepted matter of factly by the general public.

Second. Weather—meteorological observation via satellite has provided one of the most significant advances in weather reporting in the Nation's history. Until the advent of earth satellites 80 percent of the earth was subject to only scattered weather observations. Reliable long-range weather predictions of 2 weeks or longer should be attainable using weather satellites.

Third. Navigation—satellite navigation systems can provide global coverage. They are practically invulnerable to weather, available day or night, and are capable of responding instantaneously.

Earth orbiting navigational satellites discern ship and aircraft positions much more accurately than previous systems. In our fast moving environment of air traffic, such a capability is essential for traffic control, and collision avoidance. With satellite assists, controllers can pinpoint an aircraft's position within approximately 1 mile.

Fourth. Agriculture and forestry—observation via satellite will offer a substantial improvement in the kind of crop and fire observation that was initially made possible through aerial photography. The satellite method makes possible regular periodic observation on a routine basis.

Using satellites and their remote sensors, man will be assisted in his management of food crop and timber resources. He can monitor the health of timber resources, aid in determining the best time to plant and to harvest for maximum yields, detect potential damaged crops, help improve land use, conduct crop inventories, spot plant blights before they spread, and be forewarned of impending droughts, erosion, and floods.

Fifth. Astronomy—Astronomers have heretofore been limited in their observations of space by the earth's obscuring atmosphere. Observing equipment placed outside the earth's atmosphere will aid substantially in understanding celestial mechanisms. Manned attendance of astronomical instruments within the shuttle orbiter will allow for modification, adjustment, maintenance, repair, and film recovery and replenishment.

Advancements such as this will assist in transforming astronomy from mere data collection to a better understanding of the universe.

Sixth. Earth resources—the space shuttle will offer man a new and comprehensive view of the earth's resources. It will be a view that will contribute to conservation, as well as utilization.

Man will be able to monitor mineral resources such as iron, copper, and gold. Nonmetallic deposits such as sand, gravel, limestone, oil, and gas will also be observed from the space shuttle. Electromagnetic energy and the electrical properties of rocks and terrains will be much more satisfactorily observed from the shuttle than is presently possible from the limited height of aircraft observation.

The infrared scanners which will be utilized in the space shuttle will be able to track thermal pollution in overheated waterways, follow forest fires through the thickest smoke, and, coupled with other sensors, will monitor oil spills and solid waste dispersal. Utility companies will be assisted by the shuttle through detection of such things as hot spots in transmission lines and location of underground geothermal sources, which have been suggested as pollution-free sources of energy for powerplants.

Forest services and agricultural groups will be benefited by the shuttle's ability to detect crop and plant diseases. The very same film that is used to detect these crop and plant diseases will also be used to detect local underground faults.

Air pollution will be observed by the shuttle and it will become an invaluable tool in charting corrective action as it reports the movement and diffusion of pollutants and the effects of weather and climate in the creation and dissipation of pollution.

In short, the space shuttle will provide the human race with its first opportunity to take an inventory of the planet. Man will be able to know exactly what is on his planet in the way of plants, animals, forests, land, water, minerals, and people. He will be able to determine the stresses that he and nature are placing on this planet, and hopefully be able to establish a harmonious relationship between himself and his surroundings.

Seventh. Oceanography—two-thirds of the earth's surface is covered by the oceans. They can be viewed in their entire scope only from a distant point in space. This distant point of view, which the shuttle will provide, will be utilized to increase our understanding of the oceans, to utilize them as a medium of transport, to detect their influence on weather and climate, and to evaluate them as fishing grounds.

The continually changing state of the sea requires that information, in order to be useful, must be gathered quickly. This is feasible only using satellite techniques.

Eighth. Pollution control—the increased use of outer space afforded us by the shuttle will aid us in locating and minimizing pollution of the oceans and major lakes. It will detect the heat and content changes that typify pollution growth, and will continue to detect disease and insect growth patterns.

Ninth. Space manufacturing—the shuttle's cargo bay, and ability to service stations in space will make it an ideal mechanism for aiding in the development of products that are more easily created in the weightlessness and hard vacuum of space. These possibilities include foamtype steel that has the strength of solid steel yet the lightness of balsa wood and the growth of crystals for industrial uses.

In conclusion, Mr. Speaker, it is my firm belief that 500 years from now when future generations are discussing history, they will point to our decisions to pursue the exploration of space with the same kind of respect which we accord to the decisions our ancestors made to explore the new world. For all of mankind, space is the new world, the

new frontier. An investment in the space shuttle is an investment in the future.

## PENSION PLAN REFORM LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker last week the House received a major document from the President, a comprehensive statement of proposals and programs directed toward helping older Americans. A key element of that wide-ranging package was a plan to reform this Nation's private pension system. Today I offer two bills presented by the President which address the issues of pension expansion and protection and aim to encourage broader coverage and sounder management of private retirement plans.

This century has seen a phenomenal growth in retirement and pension programs as, for the first time in history, significant numbers of people have lived past the Biblical three score and ten and into a phase of life where they have no longer been actively employed. While widespread growth of pension plans was somewhat late in coming to the United States, once it began, it expanded dramatically in both the public and private sectors.

Three million people were covered under private pension plans in 1930. Today some 30 million people are under such plans, a growth given tremendous impetus during World War II when massive amounts were shifted into pensions while wages and salaries were controlled. Some 4 million retired persons are now receiving private pensions totaling about $5 billion a year. Private pension plans now claim assets of over $130 billion, a figure that will soar to $215 billion by 1980.

Even with these impressive figures, however, the pension picture needs qualification. Many are still not covered—perhaps half of the country's wage earners are not in private group plans—and many are in plans deemed inadequate for a retirement income or supplement. Older Americans are particularly aware of such deficiencies and have, in forums like the recent White House Conference on Aging, spoken eloquently about them. Besides broadening coverage, there is the issue of protecting pension rights, the matter of assuring a measure of funds to an employee even before retirement—the vesting principle—as well as the post-retirement income of our older citizens.

As a spur to broaden the coverage of retirement plans, I offer today the Individual Retirement Benefits Act which supports pension contributions in a sound, noncompulsory way via tax incentives. It would allow individuals to invest up to 20 percent of their income, up to a level of $1,500, to private retirement plans and claim a tax deduction for that amount. Such investments could be placed in a broad range of assets held in custodial accounts. To further enhance such investments, earnings on amounts contributed to individual retirement plans would be excludable from gross income.

The act also liberalizes the limitation on contributions on behalf of self-employed individuals. The bill calls for a tax deductible level of 15 percent of earned income or $7,500, up from earlier figures of 10 percent or $2,500. The earlier limitations offered little incentive for the self-employed to contribute to pension plans for themselves or their employees. Since corporations making such contributions on behalf of their employees are subject to no such limitation, the present law has, in effect, forced the self-employed to incorporate for pension purposes. The new ample deduction will encourage the self-employed to continue to operate on their own with adequate retirement benefits for themselves and their workers.

Finally, the act establishes a minimum standard for vesting pensions based on what is called the "Rule of 50." A Presidential message of last year explained the concept:

> Under this standard, every pension would be considered half vested when an employee's age plus the number of years he has participated in the pension plan equals 50. The vesting process would begin with this jump to half-vested status. After this point has been reached, an additional ten percent of the pension would be vested every year—so that the pension would be fully vested five years later.
>
> Under this standard, which must apply to workers who are 30 years of age or older, anyone joining a plan when he is 30 years old would find that his pension would begin to vest at age 40, when his years of participation (10) plus his age (40) would equal 50. The pension of an employee joining at age 40 would begin to vest at age 45, and that of an employee joining at age 50 would begin to vest immediately. And in each case, the degree of vesting would increase from 50 percent to 100 percent over the subsequent five-year period.

There are any number of existent vesting formulas, all addressed to guaranteeing employee pension benefits before retirement age. Many plans already have liberal vesting arrangements, the great majority of large single employer plans providing 100 percent vesting by the 15th year of service. This bill does not attempt to underwrite anything like rapid, full vesting, but it does set a solid base of protection as a standard for employees subject to the whim of a business downturn or an act of employer arbitrariness.

Related to this desire for protection of retirement plans, I also offer the President's Employee Benefits Protection Act which would amend the welfare and pension plans disclosure of 1958. The President cited this legislation in his message of last Thursday. He noted there his original proposal of this legislation 2 years ago, yet the Congress has not seen fit to act upon it. I introduce it today to underline the importance of pension protection, a subject the Congress has too long neglected. A distinguished bipartisan group of members of the Education and Labor Committee have already endorsed the bill and acted as its original sponsors.

This measure aims at strengthening the interests of those participating and benefiting from pension and welfare plans. It achieves this by broadening reporting and disclosure requirements, by establishing a "prudent man" standard for evaluating fiduciaries entrusted with plans, and by providing remedies through the courts to insure that the act's protections can be effectively enforced. Abuses of welfare and pension funds are by no means widespread; most are soundly and honestly run.

Yet we know of the periodic spectacular case in the press, and these and other offenses have been little subject to remedy or redress, either by plan participants or Government entities. This bill proscribes fiduciary conduct under the law of trusts, opens and expands information on the use of funds, and allows civil suits to be brought upon malfeasance of such funds by those responsible. This bill's introduction gives me a chance to reiterate the urgency of the President's original exhortation to the Congress to act in this area.

These are important steps toward fostering and protecting private pension plans. More can be done, particularly in the areas of funding, portability, and reinsurance. I personally favor the reinsurance concept, that is, Federal insurance of private pension plans. While the need for such insurance may not be widespread—a datum still to be confirmed—its object seems highly laudable; protection of an employee whose plan is terminated through no fault of his own. There is widespread concern in my district about this issue and I hope Congress will soon address it. A revealing fact about the need for reinsurance is that my constituents who favor it represent almost wholly organized workers. If union members, who may already possess certain pension safeguards through their membership, feel the issue strongly, how much more do those unorganized, less advantaged workers need it?

Still, reinsurance, as well as funding and portability are controversial issues: One side's focus is on protection for those not covered or for those summarily treated, the other sees increased costs, the specter of Government regulation and the dampening of the future expansion of pension plans. One vision sees the worker dropped after 20 years' service because of a plant layoff and without sufficient service time to qualify for the company pension. The other foresees eventual Government interference in management's options, an employer burdened with costly bookkeeping and denied flexibility in an area where he should be free to work out agreements with his employees.

These are serious issues and have and will be fully debated within this Congress. Toward that end, I am delighted that the General Subcommittee on Labor has undertaken a special study of pension plans which will offer data pertinent to legislation in these areas. How many pension programs possess adequate funding? How necessary is reinsurance due to plant closings or business layoffs? How viable are present portability arrangements? These are the kinds of questions we will be better able to answer from the committee study, hopefully this spring.

The skepticism about private pension plan coverage was neatly summarized in a recent CRS report which cited a former Assistant Secretary of Labor:

In all too many cases the pension promise shrinks to this: "If you remain in good health and stay with the same company until you are 65 years old, and if the company is still in business, and if your department has not been abolished, and if you haven't been laid off for too long a period, and if there is enough money in the fund, and if that money has been prudently managed, you will get a pension."

An overdrawn example perhaps, but still too true in too many cases for too many wage earners. I urge the Congress to move expeditiously on the bills I have presented today and to followup in producing Federal standards for this Nation's private pension system.

## PROTECTING EMPLOYEE PENSION BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. RUPPE) is recognized for 10 minutes.

Mr. RUPPE. Mr. Speaker, today I am introducing the Employee Benefits Protection Act of 1972, a bill to protect the private pension benefits of over 27,000,000 American working men and women.

To date this huge segment of our national labor force and employers have built up private pension reserve assets totaling some $125 billion, and this figure is growing at the rate of $10 to $15 billion annually. As letters of despair from a number of my constituents clearly and tragically indicate, however, this sizable employee investment in a secure retirement is never enjoyed by some contributors because of job transfer, lack of tenure, or plant shutdown. My legislation, therefore, introduces stronger Federal regulation into this virtually unregulated field in order to foster the creation and maintenance of sounder, more secure private pension plans.

I would like to emphasize my firm belief in the role of private pensions as an important, desirable source of retirement income for our senior citizens. The job of the Federal Government, as I see it, is to eliminate those cases where a worker loses all his pension benefits because of unintentional accidents, shortsighted planning, or misuse of private pension programs.

To accomplish this goal, the Employee Benefits Protection Act includes the following key provisions:

One. The legislation requires minimum vesting standards for pension plans, to assure that no plan sets its eligibility standards so high as to deny rights to the majority of the participants in the plan. This vesting requirement states that after 6 years of contribution to a plan, the worker would be guaranteed the right to at least 10 percent of any benefits he had earned up to that time. Each succeeding year an additional 10 percent of his benefits would be vested, so that by the 15th year there would be full vesting. Gradual vesting has a distinct advantage over flat, ungraduated 100-percent vesting in the 15th year; it avoids the situation where a worker is laid off after 14 years and 11 months of participation in the pension plan, thereby losing his right to receive any of his retirement benefits.

Two. Minimum funding standards are required to assure the sound, responsible operation of pension programs and the delivery of promised retirement incomes.

Three. A Federal insurance program is established for private pension programs in order to guarantee the payment of benefits if an employer goes out of business before the plan is fully funded.

Four. Rules of conduct covering conflict of interest and other unethical practices are established to prevent graft and mishandling of pension funds.

Five. The legislation consolidates present regulatory standards for pension plans—now administered by various Federal agencies—into a new, single Pension and Employee Benefit Plan Commission.

Six. Finally, the Employee Benefits Protection Act provides for effective judicial enforcement of the bill's provisions, and for recovery of pension benefits.

I do not take credit for authoring this bill; this legislation represents years of research and debate by many legislators, administrators, and staffers. Neither does this bill mark the end of the debate over what role the Federal Government should play in regulating private pension plans. Nevertheless, I have carefully studied the various proposals before the Congress, and I firmly believe that this bill is a far-reaching and comprehensive approach which will fully guarantee retired employees the private pension benefits which are rightfully due to them.

Because of the urgency and desirability of insuring that our Nation's senior citizens can enjoy full lives and secure retirement years, I strongly hope that the Congress will actively consider this year the Employee Benefits Protection Act or similar legislation.

## JOINT ECONOMIC REPORT—1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 15 minutes.

Mr. BRADEMAS. Mr. Speaker, I wish to call to the attention of my colleagues the 1972 Joint Economic Report of the Joint Economic Committee, and particularly, the supplementary views of our distinguished majority leader, HALE BOGGS.

Mr. BOGGS is well versed in both legislative and economic matters, and his supplementary views are an excellent statement of the leadership of the Congress in the effort to stimulate employment, halt inflation, and restore the economy to its former health.

I am inserting the text of Mr. BOGGS' supplementary views in the RECORD and calling it to the attention of my colleagues:

THE 1972 ECONOMIC REPORT OF THE JOINT ECONOMIC COMMITTEE

SUPPLEMENTARY VIEWS OF REPRESENTATIVE BOGGS

I am in general accord with the views expressed in the Majority Report and hasten to commend my associates on the Joint Economic Committee both for the hard working and thorough way in which they went about exploring the President's economic policy recommendations and for their impressive competence in appraising it. Regrettably, my duties as Majority Leader did not permit me to participate fully in the hearings and, for this reason, it would not be appropriate for me to take a position on each and every recommendation in the Report.

At the same time, I want to take this opportunity to emphasize the fundamental conclusion that the misguided economic policies of the Administration have cost this country some $125 billion in lost production during the past two years and brought about a situation where 5 million people are out of work. What is more, had it not been for the programs put through at the initiative of the 92nd Congress, the situation would have been far worse.

In the circumstances, I feel it incumbent on me to set forth briefly in these supplement views the legislative record of the 92d Congress aimed at the goal of restoring to this nation the full employment enjoyed prior to January 1969 and toward ending the unhappy and unprecedented combination of escalating inflation and plunging employment which has been our lot during the past two years.

When this Congress convened in January 1971, we found the nation's economy in disarray. The legacy of full employment bequeathed President Nixon by the outgoing Democrats in January 1969 had been dissipated and replaced in two years by an additional two million jobless Americans. After witnessing a steady growth of the economy throughout the Kennedy-Johnson years we were now faced with an industrial plant operating below 75 percent of capacity and an annual GNP $74 billion below its potential.

The costs to the nation of this deliberate slowdown have been enormous. Far from bringing down prices as intended, Administration policies produced an unprecedented combination of inflation and recession. The cost of living was 12 percent higher in January than it had been two years before, and unemployment was approaching the ten-year high of 6 percent where it has stayed throughout the year. The number of Americans living in poverty increased in 1970 for the first time in a decade, and welfare rolls also hit all-time highs.

Because this nation obviously could no longer afford inaction, the 92nd Congress extended the authority it had given the President in 1970 to control wages and prices, and urged him once again to act immediately. The Congress approved emergency employment legislation and accelerated public works authorization to get the Federal government into the attack on joblessness.

And after the President finally adopted our recommendations on August 15, we expeditiously enacted tax relief to stimulate the economy and a further extension of the economic stabilization legislation to give full latitude to the Phase II proposal. The Congress strengthened and refined both these measures to provide balance and equitable treatment for all Americans.

A partial list of the measures passed by the 92nd Congress demonstrates the extent and character of our actions up to now.

*Cost of Living Stabilization Act.*—On its own initiative the Congress kept the Economic Stabilization Act of 1970 operative through April 30, 1972, despite the President's repeated disclaimers that he would not invoke the wage-price control mechanism it authorized. However, when the continuing poor performance of our economy led to the August 15 unveiling of the New Economic Program, the President requested a further extension of the controls, and we complied by making the Act operative until 1973 while including additional provision for standby authority to control interest rates.

*Emergency Employment Act.*—With persistent unemployment the most troublesome aspect of our sluggish economy, we enacted several bills to give the job market a shot-in-the-arm. The Emergency Employment Act authorizes $2.25 billion over the next two years to reimburse State and local governments for placing the unemployed in public service jobs—in health, education, sanitation, public works, environmental control. It provides for special consideration for Vietnam veterans and earmarks funds for unemployed professional and technical personnel. And, when unemployment hovered consistently at the six percent level throughout 1971 we expedited a separate $1 billion appropriation in early August to get the Act immediately implemented.

*Accelerated Public Works.*—Another major Congressional initiative aimed at our pervasive unemployment problem would have authorized $5.5 billion for a program of accelerated public works projects, extension of the Public Works and Economic Development Act, and the Appalachian Regional Development Act. The $2 billion that was earmarked for job creation in speeded-up public works projects proved unacceptable to the President, however, and drew a veto which the Senate sustained. With such Administration intransigence toward the highest unemployment in a decade, we were forced to re-draft a compromise bill to extend Appalachia aid and EDA, with only $500 million for unemployment in accelerated public works. Though we passed this legislation on August 5, the President did not order its implementation until December, and then only in a most parsimonious manner.

*Revenue Act.*—To provide stimulation for a lagging economy we approved $15.8 billion in personal and business tax relief. These tax breaks included a seven percent investment tax credit for industry and speed-up of personal tax exemption and deduction increases scheduled for subsequent years. The final product due to Democratic Congressional efforts gave a far greater measure of tax relief to those in the low and moderate income brackets than would have the President's original proposal.

*Small Business Loan Ceiling Increase.*—To ease problems faced by small businessmen during recessionary times, we increased SBA's outstanding loan ceiling from $2.2 billion to $3.1 billion for regular and displaced loans, trade adjustment loans, prime contracts and opportunity loans through fiscal 1972.

*Unemployment Compensation.*—In a bill amending the administration of the Federal unemployment tax collection system, we authorized the payment of an additional 13 weeks of unemployment compensation to individuals who have exhausted their benefits in States with a jobless rate over 6.5 percent.

Conventional text book wisdom of our era has it that, in areas of paramount legislative importance the President proposes and the Congress disposes. Like so many unexamined maxims dealing with human affairs, this, when tested against the practical experience of the 92nd Congress, proves to be less than the entire truth. This Congress, certainly in the economics sphere, to an extent unwitnessed probably for half a century, has been the innovator, the proposer; the President and the entire Executive Branch, by way of contrast, have played the passive role of reactor or receiver, sometimes opposing, sometimes accepting with great reluctance economic reforms emanating from Capitol Hill. The current combination of inflation and recession would be much worse had the Congress relied on the Administration's recommendations alone and failed to enact on its own initiative the economic legislation placed on the statute books during the past year.

The Congress will not allow continued high unemployment and underutilization of productive ability to further pile up the mass of lost potential. We will stand ready during the year to expand public employment further, to enact emergency grants to State and local governments to tide them over the recession, to build additional necessary public facilities, and thereby meet basic needs while providing additional employment, and take any other steps necessary to restore our economic well being.

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## A PLEA TO END SECOND-CLASS CITIZENSHIP FOR GOVERNMENT EMPLOYEES OR LET US PUT THE HATCH ACT BACK IN THE EGG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. BEGICH) is recognized for 10 minutes.

Mr. BEGICH. Mr. Speaker, last week, I introduced H.R. 14036, a bill to restore to Federal civilian employees their rights to participate fully in the political life of the Nation. More specifically, it is legislation designed to remove the outdated and unreasonable restrictions of the Hatch Act. Today, I would like to follow-up the introduction of the bill with some comments on this legislation, especially as it might affect the people of Alaska.

In making these comments, I want to specifically associate myself with the gentleman from California (Mr. WALDIE) and the gentleman from Illinois (Mr. MIKVA), who are standardbearers in the cause of eliminating the repressive features of the Hatch Act. Both of these gentlemen appeared on February 29, 1972, before the Elections Subcommittee of the House Administration Committee, and made articulate statements advocating Hatch Act reform. H.R. 13737, by Mr. WALDIE, is the basis for my own bill. It is my privilege to join them in this cause. My action in doing so fulfills both a campaign promise to the people of Alaska, and a strong personal conviction on my own part.

I do not intend to retread the ground covered so well by others, but I believe a brief review of the Hatch Act history will be useful here.

In 1939, the Hatch Act was enacted for a single important reason. It was intended to protect public employees from involuntary political activity. The key word, I believe, is involuntary.

In 1940, the act was amended to extend its prohibitions to State and local government employees working in federally funded programs.

In 1966, the act was amended to cover employees of private groups carrying out community action programs funded under the Economic Opportunity Act.

Finally, the passage of over 30 years has also brought forth a barrage of incomprehensible rules and regulations to administer the act. Any person who has ever worked under the Hatch Act's shadow knows very well the key rule for survival: "When in doubt, do not do anything, because what you do might be wrong." The classic rule was quoted by Mr. WALDIE in the recent hearings when he read from the Civil Service Commission Pamphlet No. 20, "Political Activity, Federal Officers and Employees," under "Activity by Indirection":

Employees are therefore accountable for political activity by persons other than themselves including wives or husbands if, in fact, the employees are accomplishing by collusion and indirection what they may not do openly and directly.

In summary, the repressive effects of the Hatch Act now fall on over 5 million Federal and Federal-related employees. Also, the Hatch Act has spawned a great number of State level "Little Hatch Acts," which offer varying degrees of the same treatment. The ambiguity of the regulations which carry out the act is pervasive, stopping the expression of opinion in the worst instances and frustrating the expression of opinion even in the best of cases. An act which was originally intended only to protect public employees from involuntary political activity now serves primarily to deny these same employees the freedom to engage in voluntary political activity.

The other face of the argument against the Hatch Act is that it effectively deprives our democratic system of the participation of 5 million citizens. As one who considers Government service to be among the highest callings in our society, I believe this particular 5 million persons to be especially vital to the system. Locking them out of the political process is, very simply, an expense to democracy which we cannot afford.

Let me state specifically why my own commitment is so firm. It is because few States are hit so hard by the twin losses of individual rights and nonparticipation of this valuable component in democracy as is my own State of Alaska.

Nationwide, 5 million employees are restricted in their activities out of a population of 210 million. This is approximately 2½ percent of the total population, and about 7 percent of the voting population of approximately 73 million. As sad as these figures are, they are exceeded substantially by the statistics describing denial of participation in Alaska.

In Alaska, there are over 17,000 Federal employees in a population of 302,000. This means that approximately 6½ percent of the population is restricted, or about 21 percent of the voting population of 82,000.

I really do not believe that either the Nation or Alaska can or should have to stand the loss of this many people from the process of democracy.

The bill which I have introduced is based on the philosophy that the original intent of the Hatch Act is a valid one. That is, to protect public employees from involuntary political activities, and to prevent political activities from becoming a part of the individual's performance of his employment. To this extent, this bill retains features of the present law.

At the same time, the bill I have introduced totally rejects the notion that voluntary political activity, carried on separately from the employment, should be restricted to any degree. Among the rights specifically protected by this legislation are:

Expression of political opinion.

Candidacy for any public office at any level.

Candidacy for, and service as, a party convention delegate or officer.

Participation in, or organization of, meetings, caucuses, conventions, or rallies for political purposes.

Membership in political clubs.

Political campaigning.

I believe strongly that an individual's exercise of these basic rights of political participation should not be a sacrifice required by Government employees. The recent hearings by the House Administration Committee indicate that others feel the same way, and that interest is finally being expressed in reconsidering the Hatch Act. For the sake of over 5 million citizens, I hope that reform is undertaken in a rapid manner and to a meaningful extent.

## PHASE II FLOATS LIKE CORK BUT IS NO STOPPER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I fail to understand what is taking the administration so long to conclude that something has to be done to control skyrocketing food prices. I thought I knew what the answer was up until a few ays ago. I just assumed that the administration, with its eyes firmly planted on the 1972 election, was going out of its way to court the farm vote and what might make sense to some east coast or west coast housewives might not be popular with the families who work on farms. But investigations I have been able to make into this matter convince me that this is a classic case of misplaced concern. The fact of the matter is that, as on so many occasions in American history, the answer is not the one who is making the profits—certainly not the small farmer every public official holds so dear in his speeches—but rather the middlemen who are buying from the farmers and selling to the supermarket chains. I think the administration is gradually coming around to realizing this. Thus, in the space of one weekend, we hear the Secretary of the Treasury and the President himself thinking out loud and indicating that action to control food prices may well be essential if phase II is going to have any chance of success. The problem, of course, will be to convince the Secretary of Agriculture, Mr. Butz, who has gone way out on the limb on this issue, and with no if's, and's, or but's about it, committed himself to opposing price controls over food.

But I, as a Congressman who has to read letters from hundreds of housewives in my district, complaining about ever-increasing food prices while their husbands' wages are held down, cannot be satisfied with this weekend treat of high administration officials thinking out loud and admitting that there is a problem and that something must be done. Phase II has been in operation for far too long. Complaints have been coming in for too many months for this administration to pretend that a problem has just been uncovered and in a few months' time action will be forthcoming. A family's food budget is just too big a factor to be left out of price controls in the first place for me or any other Member of Congress to be satisfied with an assurance that our concern is very much in the forefront of the President's thinking these days. This is not saving the housewife a single blessed penny and, in fact, has cost families across the land millions of dollars in higher food prices.

I do not mind admitting, while I am on the subject of phase II, that this food price fiasco is simply the latest in a whole series of inexplicable sins of omission perpetrated by the designers and architects of the "house of sand" we refer to as phase II. High on my list of sins of omission for some time now was the initial failure of the administration to include insurance premiums covering medical costs in the initial freeze and subsequent guidelines. Again, health costs are just too big a factor for families across this Nation to be subjected to 22, 37, or 44 percent proposed increases in health insurance rates. The fact that in the end the Federal Employees' Blue Cross/Blue Shield premium was rolled back to a staggering 22-percent increase is no cause for universal celebration. A 22-percent increase in such a major budget item as health insurance not only makes a mockery out of the attempt to hold down costs in and of itself, but sets a poor example to the rest of the economy. The Government cannot even control the costs of the Federal employees' health insurance program.

Also high on the list of sins of omission is the failure to effectively control utility costs. The same month that citizens of Massachusetts were hit with announced rate increases from the health insurance companies, we find that they have also been informed about rate increases in their electric bills and telephone bills and other utility bills. Anyone who thinks that after a family writes out the checks to cover all these bills, that that family can possibly feel that inflation is being tackled across-the-board is certainly pipedreaming and has been in Washington too long. He ought to get out of this city and go back to the city from whence he came.

Also high on my list of sins of omission by the architects of phase II is the rather ridiculous pretense that one can have effective control of costs when local property taxes are deliberately exempted from any wage-price control program. I am well aware that States and local government have the right to collect taxes independently from the Federal Government, but the local property taxes are just too big an item in the budget of every American citizen for them to be able to afford the pretense that these taxes can be ignored by the wage-price control people and still have inflation kept in control. Make no mistake about it, you do not have to own property to appreciate what I am getting at. Rent adjustments permitted after the freeze in most cases simply tried to adjust to increases in local property taxes. We all know local property taxes have spiraled in recent years to dizzying heights with no end in sight. Reading the local papers in my district in the past few months has made it crystal clear to me that wage-price controls, phase II, the whole show down here has not made one iota of difference in keeping down the trend of local property taxes increasing by leaps and bounds.

Now I ask you, how can anyone pretend that wage-price controls are working when the architects of the policy have gone out of their way to omit health insurance premiums, local property taxes, food prices, and utility rates from direct controls? In other words, if you leave out health, home, food, heat, and water from controls who is kidding whom that inflation has a chance of being restrained?

The American people are seeing through this, my constituents certainly are. They are not in the mood to take it much longer. Patchwork controls, half-hearted efforts are no substitute for effective controls and ultimate victory over inflation. The wage-price controls were billed originally as a long-awaited lid on costs and price. Some lid. Most of the time the lid seems more and more like a helpless cork, bobbing on the top of the ever-rising tide of higher prices, just barely keeping its head above water. This is not my idea of an effective lid. If the administration is serious about putting the lid on prices, let us get a lid with real clamps that will work instead of float. The time for action is now, without further delay.

## ILLEGAL ADMINISTRATIVE ACTION AGAINST FARMWORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, through the course of the years since the initiation of the trade and labor movement in this country, big business, and corporate interests in general have used cruel and insidious methods to try to thwart and even reverse this trend.

These people have tried to use both economic coercion and physical intimidation to frighten the union members. They have used scab labor and illegal aliens in order to break strikes. When threats of violence did not work, they used violence itself. At one point, groups of companies even hired their own police forces in order to legitimize that violence. The people of Pennsylvania remember them well. The ultimate step, or at least what I thought until now was the ultimate step, came when State governments and even the Federal Government intervened with laws prejudicial to the unions.

Today, unionism is well established in this country. Yet, the fight against it continues, and it continues in even more subtle ways. Instead of management contravening the laws, the executive branch of the Government is now doing it for them. I am speaking specifically about the action by the General Counsel of the National Labor Relations Board against the United Farm Workers Union.

First of all, farmworkers have been specifically excluded from coverage under the National Labor Relations Act

ever since that act was passed. Since agricultural workers have never been covered by the benefits and protection of the NLRA, there was no way until just now that one could construe that they are covered by the prohibitions. Yet, that is exactly what Peter Nash, the new NLRB General Counsel, is trying to do.

Nevertheless, I have a more immediate concern, and it should be the concern of the Congress as a whole. This action is in direct conflict with congressional mandate as manifested in the Department of Labor Appropriations for 1972. In title III the law explicitly states that no part of the National Labor Relations Board appropriations should be available "to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, as defined in section 3(f) of the act of June 25, 1938 (29 U.S.C. 203)." In the face of congressional mandate as well as judicial precedent, Peter Nash has initiated a very questionable action.

For the purposes of the Appropriations Act, the definition of agricultural labor is the same as that in the Fair Labor Standards Act of 1938 which is within the purview of my General Subcommittee on Labor. The act originally excluded any employee employed in agriculture and defined agriculture as:

> Farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices . . . performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

Therefore, it would seem as though the members of the United Farm Workers Union are clearly covered under that provision.

Now, what is Mr. Nash doing? He is using both the power and the resources of the U.S. Government against specific congressional mandate to suppress a movement of workers who have traditionally been most exploited and the poorest paid group of workers in the country. Is this not the most despicable and illegal device yet used to prevent hardworking people from earning a decent, livable wage? I wonder what our country has come to when its Government, one for all the people, uses its powers to suppress a segment thereof.

I am happy to join today with my honorable colleague from Michigan (Mr. O'HARA), in exposing the actions of an administration long unfriendly to labor. This is only one case in a series of prejudicial actions perpetrated against American workers. Let us hope that the tide soon turns. Viva la causa of the United Farm Workers.

## THE NATIONAL HEALTH CARE SERVICES REORGANIZATION AND FINANCING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 30 minutes.

Mr. ULLMAN. Mr. Speaker, the legislation which I am submitting to the Congress today represents an essentially new concept for this Nation's health care system. It is a new concept that can be be phased in over a 5-year period with changes in both the financing and delivery of health care accomplished on a practical timetable. Although it is as broad in scope as any of the major health care proposals now being considered, I believe it is the most realistic. After nearly 2 months of hearings in the Ways and Means Committee, it is my opinion that the administration's proposals are only a piecemeal approach to the problems of national health care, while the Kennedy-Griffiths plan would create a monolithic, federal system tied too closely to Washington. My plan would build on existing resources to reorient our system of health care delivery and would improve and ease the financing of health services for all people. It is a blueprint for the future. But it is also the basis for change today.

The problems of our health care system are certainly well known. We need to restructure the system so that it can more effectively provide services for all. We need to put an end to the fragmentation of services. We need desperately to pull it all together. We need full health insurance coverage for everyone.

The National Health Care Services Reorganization and Financing Act has provisions to move us toward such goals.

It would create a new and better system built on the best resources of the existing system.

It would provide the benefits everyone wants, and absorb medicare and medicaid.

It would assist the average family through government sources and assure that everyone would be provided with comprehensive health care coverage.

Above all, this act would make health services much more readily available to all and would emphasize outpatient services so that illness could be prevented, or treated before it reaches an acute stage.

At the heart of the bill is the establishment of HCC's or health care corporations, locally organized and operated units that would pull community health resources together in a meaningful way, in keeping with community customs and precedent. These HCC's would be organized and run by providers—hospitals, doctors, dentists, and other health professionals, as well as nursing homes and key organizations—within the community. They would grow out of the community and be suited to it, be required to provide for citizen or consumer representation, and would be accountable to the public.

HCC's would, in time, be required to offer services to their enrollees or registrants on a capitation basis. This means that they would provide services for so much per person per year. And providers would then have an incentive to deliver the most appropriate service in the most effective, least costly way. Outpatient services would be used much more widely, and therefore costly inpatient services would be utilized much more wisely.

Every employer would be required to provide a program of comprehensive health care benefits for his employees, paying 75 percent of the premium costs.

For individuals and their families who registered with HCC's, the Federal Government would contribute 10 percent of premium costs.

The Department of Health, Education, and Welfare would set standards of quality for the total program and establish the scope of health insurance benefits. It would purchase coverage for the aged and, to the extent necessary, for those needing assistance in meeting the cost of health insurance protection.

State health commissions, newly appointed by State governors, would approve HCC's for operation and approve charges for service. These same commissions would regulate the administration of health insurance benefits and approve the insurance premium charges of underwriters. Thus, State government would play a vital role and there would be no need for large bureaucratic operations for the system out of Washington.

The details of the act are set forth in the section by section summary, as well as in the bill itself. But in this brief statement, I would like to emphasize these features of the bill especially:

It offers everyone, regardless of age or income, the same broad package of benefits;

It consolidates all HEW health programs;

It insures everyone against the cost of catastrophic illness so that no one's resources could be depleted as a result of his being seriously sick;

It has the Federal Government pay the costs of health care for the poor and the old, and part of the costs for all others;

It offers free medical, dental, and eye care provisions for all children up to age 12;

It emphasizes an increase in outpatient services so that everyone will know where to turn in time of need for health care;

It places the incentives for keeping costs down and the responsibility for care where they belong—at the community level, allowing maximum Federal support with minimum Federal interference;

It develops resources for better health education to raise the levels of health maintenance, nutrition, and the management of illness in the family.

I feel that the national health care program set forth in this bill is truly workable and not just theoretically appealing. Its concept originated in a special committee of the American Hospital Association, which also applied technical resources to its development. Now it has been translated into a realistic, workable bill that deserves the serious consideration of Congress and of the American people.

The program is realistic because communities could begin immediately to coordinate health care resources and to form HCC's. It would take time and much effort to bring about the necessary affiliations among providers of services, but the need to do so is well known and universally understood.

Every individual would have an opportunity to join an HCC, and would have a choice among HCC's in communities where more than one would be formed. In large communities, HCC's would compete with each other for registrants on the basis of quality of service, convenience, and cost. HCC's in underserved areas, rural and urban, would be linked within the requirements of a State plan to HCC's in areas where resources are better developed. In this way, every State would be able to link its health care resources, and all of the people would be served.

Under the restructured system, registrants of HCC's would have a choice in determining what community health services should be provided and how they should be provided. The governing boards of HCC's would include representatives of the community, as well as representatives of affiliated providers of service. There would be, in each State, provisions for fair hearings and for solving problems inherent in any system of health services. This provision is especially important in the development of a system better suited to the public need.

Individuals would continue to have a choice of health insurance carrier, as they do now, and all HCC registrants, regardless of the sources of funds to finance their health insurance protection, would be assumed a common level of benefits and services. Eligibility for federally purchased benefits, whether these would be purchased by the Government in whole or only in part, would be based on income tax records or declarations of income. And recipients of such benefits would not need special identification at the time they sought health services. The restructured system, in other words, would prevent dual class medicine.

HCC's would provide emergency services to all persons, including travelers registered with HCC's elsewhere, or any nonregistered individuals. This would greatly mitigate discontinuity in service and in health insurance protection in our highly mobile society.

HCC's would, through mutual arrangements, provide special services for other HCC's such as cancer therapy, open heart surgery, or dialysis, thereby reducing the need for the most costly of services on a standby and duplicative basis.

The newly formed State health commissions would approve HCC's for operation and would assure the adequacy and quality of health services. These commissions would formulate detailed plans for the coordination of health services and would submit them for approval to the Secretary of HEW. They would have responsibility for approving the rates charged for services by all health care providers, including those not affiliated with HCC's. Their duties would include control of the benefit and premium structures of prepayment plans and insurance companies at the State level, and the issuance of certification of need for new health facilities and services.

The State health commissions would approve HCC proposals to offer services on a capitation basis to their registrants. These proposals would have to result in active programs within 5 years after the approval of HCC's for operation.

In effect, Government would be responsible in the restructured system for fulfilling the principle that health care is an inherent right of every person. This would be a joint responsibility of the Federal and State governments, with the Secretary of HEW in charge of the total national health program, responsible to the President, and also responsible for making reports to Congress as well as recommendations for future legislation.

This, then, is a complex and comprehensive program. But of necessity it must be so. And for this reason the bill provides for appropriate phasing in of benefits and of strengthening resources.

Following the enactment of the legislation, there would be a 5-year period for the development of State plans, the establishment of HCC's, and the setting up of new governmental agencies. It would also be a period for experimentation with various forms of HCC's, and it would provide the interval needed for combining of parts A and B under medicare and for the Federal financing of most benefits under medicare.

The essence of the act is the coordination of our health care system and its financing. Its objective is the improvement of health care services for all. It is aimed at the containment of health care costs and removal of the threat to American families of disastrously high health care expenses.

The bill represents the culmination of much effort, and its basic concepts reflect major policies of the American Hospital Association. It is, in my opinion, the most flexible and progressive solution to the Nation's health care problems, and the most comprehensive bill of its kind. My hope is that it will become the basis in Federal law for better health services for generations to come.

The above-mentioned material follows:

SECTION-BY-SECTION ANALYSIS

To establish a new program of health care delivery and comprehensive health care benefits (including catastrophic coverage) to be available to the employed, the unemployed, and low income individuals at a cost related to their income.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* that this Act, divided into titles, parts, and sections, may be cited as the "National Health Care Services Reorganization and Financing Act."

FINDINGS AND DECLARATION OF PURPOSE

Section 2(a) states that in recognizing health care as an inherent right of each individual and of all the people of the United States, Congress declares that health services must be so organized and financed as to make them readily available to all, without regard to race, creed, color, sex, or age, and without regard to any person's ability to pay; that health services must enhance the dignity of the individual and promote better community life; and that it is a function of government to see that these ends are attained.

(b) calls for reorganization of the methods of delivery, and methods of financing health services, these purposes to be accomplished through a nationwide system of independent Health Care Corporations embodying specific principles:

(1) each corporation must provide through its own resources, or through affiliations with qualified institutional and professional providers, five levels of comprehensive health care: health maintenance services, and primary, specialty, restorative and health-related custodial care;

(2) through a system of independent corporations, every individual would be provided an opportunity to register and, where possible, to have a choice of Health Care Corporations;

(3) Health Care Corporations should be locally established and operated, but subject to State regulation and to national standards of quality and scope of services.

This section also states that with Federal financial assistance in developing corporations and needed outpatient facilities, the system can become operative within five years after the enactment of legislation.

(c) states that in addition to its responsibilities cited above, the Federal government should include financial assistance to the public in obtaining the services of corporations, in accordance with these principles:

(1) the Federal government should require all employers to participate in the purchase of Comprehensive Health Care Benefits for their employees;

(2) the Federal government should purchase or subsidize health insurance for those unable to pay, or unable to pay in full;

(3) social insurance should continue to finance health care for the aged;

(4) to encourage participation by individuals in new health delivery and benefit programs, the Federal government should bear a part of the cost of services.

(d) provides that:

(1) in the fifth year following enactment, every person residing in the United States will be eligible to participate in the program;

(2) every individual will be entitled to the services established in the Act if he has registered with a Health Care Corporation and has obtained health benefit coverage from a qualified insurance carrier, or has had it provided on the basis of his income or age;

(3) coverage will be provided without cost to persons in the lowest income bracket and at reduced cost to persons in higher income brackets specified in this Act; and

(4) coverage will be provided through social insurance to those 65 and over.

DEFINITIONS

Section 3 defines the term "Comprehensive Health Care Benefits" as the benefits described in Title II part B; the term "State" as including the District of Columbia and Puerto Rico; the term "United States" (when used in a geographic sense) as meaning the 50 States, the District of Columbia, and Puerto Rico; the term "Governor" as including the Commissioner of the District of Columbia; and the term "Secretary" as the Secretary of Health, Education, and Welfare.

TITLE I—REORGANIZATION OF NATIONAL HEALTH SERVICES

SHORT TITLE

Section 100. Title I may be cited as the "National Health Services Reorganization Act.

PART A—FEDERAL ADMINISTRATION

ESTABLISHMENT OF OFFICE OF HEALTH AFFAIRS; UNDER SECRETARY FOR HEALTH

Section 101(a) establishes a new organizational entity at the departmental level in the Department of Health, Education, and

Welfare, hereafter referred to as the Office of Health Affairs.

(b) establishes a new position of Under Secretary for Health, DHEW.

(1) states that the appointments to this position shall be made by the President with the advice and consent of the Senate.

(2) establishes the grade and salary level for the Under Secretary.

(3) establishes the Under Secretary for Health as director of the Office of Health Affairs, HEW.

FUNCTIONS AND RESPONSIBILITIES OF THE OFFICE OF HEALTH AFFAIRS

Section 102(a) transfers to the Office of Health Affairs all of the health programs of the Department of HEW, including those under the direction of the Assistant Secretary for Health and Scientific Affairs, the health activities of the Social Security Administration, and the Social and Rehabilitation Service.

(b) charges the Under Secretary for Health, Office of Health Affairs, with responsibility for planning, operation, coordination, and evaluation of all of the health programs of HEW.

(c) with respect to the Health Services Reorganization and Financing Act, charges the Under Secretary for Health with:

(1) continuous review of the activities of State Health Commissions;

(2) liaison with all Federal agencies administering health or health-related programs, and with private national accrediting and other agencies concerned with standards of care and qualifications of health personnel, including the approval and listing of certifying bodies;

(3) responsibility for annual reports, to be transmitted through the Secretary of HEW to the President, first to evaluate the progress of State plans and the development of Health Care Corporations, and thereafter, to evaluate the national program, including recommendations for legislation, if any;

(4) dissemination to State governments, providers of service, and the public, of all pertinent information about the national program; and to State governments, providers of service, and potential sponsors of Health Care Corporations, information concerning the organization and responsibilities of such corporations.

REGULATIONS OF THE SECRETARY

Section 103(a) authorizes the Secretary of HEW to prescribe all further regulations that it considers necessary to implement this Act.

(b) further authorizes the Secretary to prescribe by regulation—

(1) uniform systems of accounting for Health Care Corporations;

(2) the method(s) to be used in determining the financial requirements of institutional health care providers, including operating and capital requirements, and for non-institutional providers, all reasonable fees, salaries, or other compensation for services;

(3) standards of quality and safety, such standards to require as a minimum that hospitals, extended care facilities, and home health agencies meet the applicable requirements contained in title XVIII of the Social Security Act, and that nursing homes meet such requirements as the Secretary finds appropriate;

(4) standards relating to the qualifications and use of paramedical personnel as assistants to physicians and dentists; and

(5) standards for the determination of qualified carriers under Section 232.

NATIONAL HEALTH SERVICES ADVISORY COUNCIL

Section 104(a) establishes a National Health Services Advisory Council, whose Chairman shall be the Under Secretary for Health Affairs, with 20 other members to be appointed by the Secretary.

Members of the Council shall include representatives of health care providers; not less than half of the members shall be representatives of consumers of health care services. Members are to be appointed for four-year staggered terms, with five members appointed each year.

Council members representing providers shall be outstanding in fields related to medical, hospital, and health activities, or be representatives of organizations of professional health personnel. Consumer representatives shall not be engaged in or have financial interest in furnishing health services and shall be persons knowledgeable about health needs and the problems of providing health services.

(b) authorizes the Advisory Council to appoint professional or technical committees; and states that the Council, its members, and its committees may hire staff as authorized by the Secretary. The Council shall meet not less than four times each year and as often as the Secretary deems necessary.

(c) charges the Council with:

(1) advising the Secretary on general policy, and

(2) studying the activities of State Health Commissions, and Health Care Corporations, and other health care providers in order to recommend changes to the Secretary. The Council shall make an annual report to the Secretary which shall be transmitted to Congress with a report by the Secretary on any administrative recommendations of the Council that have not been followed. The Secretary shall report to Congress his views of the Council's recommendations for legislation.

(d) provides that the Council's members and members of its committees shall be compensated for their work at rates fixed by the Secretary but not more than the daily rate for grade GS–18 of the General Schedule; and that they will be reimbursed for travel expenses.

STUDIES OF DELIVERY AND FINANCING OF HEALTH CARE

Section 105(a) requires the Office of Health Affairs to make a continuing study of the operations under this title, including all of the aspects of services of health care providers, the effectiveness of supervision by State Health Commissions, and the financing of services through insurance. The Office is further authorized to study alternative methods of furnishing and financing health care services, and methods of improving the delivery of health services.

(b) authorizes the Office to conduct the functions under this section through contract and to make grants to public or other nonprofit agencies for this purpose.

(c) requires the Office to publish the results of its studies from time to time.

UTILIZATION OF STATE AGENCIES

Section 106(a) authorizes and encourages HEW to make arrangements with State Health Commissions which will enable the commissions:

(1) to contract, as agent and in the name of the Department of HEW, with health insurance carriers approved by the Secretary; and

(2) to perform other functions that the Secretary may deem appropriate.

(b) requires the Department to pay State Health Commissions for their administrative costs pursuant to the arrangements above.

FEDERAL FINANCING RESPONSIBILITIES FOR HEALTH SERVICES

Section 107(a) amends (effective January 1 or July 1, whichever comes first, at least 6 months after the date of enactment of this Act) the Social Security Act to:

(1) make available to all persons eligible for Part A of Title XVIII also eligible for Part B of that Title, and to finance Part B contributions through appropriations from general Federal revenue.

(2) provide for annual appropriations by the Federal government for health insurance benefits that are equal to Title XVIII benefits (with no obligations for copayments or deductibles) for all those eligible under income class 1 as defined in Section 203(a)(1).

(3) provides that no premium or similar amount shall be payable by any individual eligible for benefits under (1) and (2) above.

(b) provides that effective on the first day of the third full fiscal year that begins after this Act is enacted, the Federal government will make annual appropriations in behalf of the program outlined in Title II to meet the following estimated cost for the fiscal year:

(1) expansion of Title XVIII benefits to include Section 225 Catastrophic Expense Benefits for the Aged;

(2) prepaid coverage equivalent to Title XVIII benefits and Section 225 Catastrophic Expense Benefits for persons under 65 who are low income persons or members of low income families and the net cost, after deducting the contribution required of them of this coverage for persons who are under 65 who are medically indigent or members of medically indigent families; and

(3) the cost of providing a 10 per cent premium subsidy for those individuals in Income Class 5 under Section 202(c) who register with Health Care Corporations also provided are appropriations for additional costs incurred under this subsection.

(c) provides that effective on the first day of the fifth fiscal year that begins after the calendar year in which this act is enacted, the Federal government will make annual appropriations in behalf of the program outlined in Title II, to meet the following estimated costs for the fiscal year:

(1) prepaid coverage for Comprehensive Health Care Benefits for persons under 65 who are low-income persons or members of low-income families;

(2) the net cost, after deducting the contribution required of them, of such coverage for persons under 65 who are medically indigent or members of medically indigent families;

(3) the net cost, after deducting the contribution from the Title XVIII Part A trust fund, of such coverage for aged persons; and the added cost of those 65 and over who are either low-income persons or members of low-income families, or are medically indigent persons or members of medically indigent families;

(4) the cost of providing a 10 per cent premium subsidy for those individuals in Income Class 5 (as defined in Section 202(c)) who register with Health Care Corporations;

(5) the cost of establishing or maintaining a reserve of 5 per cent of the foregoing costs; and

(6) the cost of administration incurred by HEW in providing the coverages in (1), (2), and (3).

(d) states that the Secretary shall estimate the costs of (a) and (b) and make requests to Congress for necessary annual appropriations.

CONTRACTING AUTHORITY OF THE SECRETARY

Section 108(a)(1) states that the Secretary shall provide prepaid coverage, through contracts with carriers for the benefits to which individuals and their families (i.e., the aged, the low-income, and the medically indigent) are entitled under Section 203.

(2) permits the Secretary to establish qualifying standards for carriers in addition to those set forth in this part of the Act.

(b)(1) permits the Secretary to negotiate and enter into (A) contracts with a carrier or carriers to provide Comprehensive Health Care Benefits for all individuals in the abovementioned categories; (B) contracts with qualified carriers which have underwritten a prepayment plan for a Health Care Corporation operating wholly or primarily on a pre-

determined capitation charge basis; and (C) direct contracts with Health Care Corporations under Section 235 if the corporations operate on a predetermined capitation charge basis and as such qualify as carriers.

(2) permits the Secretary to authorize State Health Commissions to act as his agents in contracting with carriers described in (1).

(3) exempts contracts under this part from any provision of law requiring competitive bidding and from such other requirements of law as the Secretary may waive. It requires the Secretary, however, to communicate to all qualified carriers a description of the coverage he desires, the requirements and provisions of this title and regulations, and to invite these carriers to submit proposals. The paragraph lists some of the factors which the Secretary is to consider in negotiating contracts, such as the carriers' experience with group health insurance or prepayment plan coverage. It further provides that the Secretary may require the contracting carrier to reinsure with other carriers, and states that he shall enter into a contract with a combination of carriers only if this does not result in high premium rates and only if it best serves the purposes of this title. The term "combination of carriers" is defined.

FEDERAL RESPONSIBILITY FOR DEVELOPMENTAL GRANTS

Section 109(a) states it to be a responsibility of the Secretary to promote and assist the establishment, as soon as practicable, of the system of comprehensive health care delivery contemplated by this title, this to be accomplished through a variety of means of financial and technical assistance in the planning and development of Health Care Corporations, including the provision of incentives for use of the capitation method of payment for health care and the development and improvement of outpatient care centers, particularly in poverty and rural areas.

(b) authorizes the Secretary to recommend necessary appropriations for each fiscal year to carry out this responsibility.

AUTHORIZATION OF DEVELOPMENT FINANCIAL ASSISTANCE

Section 110(a) authorizes the Secretary to:

(1) make grants for planning, organizing, developing, and establishing Health Care Corporations, including their affiliation agreements with providers of health care;

(2) enter into contracts to pay all or part of the operating deficits of these corporations during their establishment or expansion;

(3) make grants to such corporations or their affiliated public or nonprofit providers for the initial operation of new outpatient care centers or new or expanded services in outpatient care centers; and

(4) make grants for major health maintenance, diagnostic, or therapeutic equipment, data processing systems or equipment, or central service equipment, needed for the initial operation of Health Care Corporations.

(b)(1) requires the Secretary, in making the above grants and/or contracts, to take into consideration existing health care resources and systems, and relative needs of States and areas within States; and requires the Secretary to make equitable distribution of such assistance.

(2) states that not more than 15 percent of the appropriations made for such grants or contracts may be spent in any one State.

(3) states that in awarding such contracts during the first five years for which funds have been appropriated, the Secretary shall give priority to corporations that (a) operate primarily on predetermined capitation charges, or (b) are in the process of converting primarily to that basis, or (c) agree to operate on or convert to primarily that basis if awarded such a contract. After the 5-year period, the Secretary may award contracts only to such corporations.

(4)(a) states that a grant or contract shall not be awarded when there is a State plan approved under this part of the Act, unless the State Health Commission has recommended approval of the application and has certified:

(1) in the case of start-up funds for a Health Care Corporation, that such a corporation is needed in the area involved, consonant with the State plan;

(2) in instances of a contract to meet for a reasonable period operating deficits of a Health Care Corporation, that the corporation applicant satisfies the definition of a Health Care Corporation and has been, or upon approval of the contract by the Secretary will be, approved by the commission;

(3) in the case of grants for the initial operation or equipping of outpatient care centers or for the expansion of such centers, or for major equipment, that the corporation satisfies the requirements referred to in paragraph (2) above, and that the outpatient care center or major equipment involved is needed for the effective discharge of the functions of the respective Health Care Corporation under the State plan.

(c) declares that in a state in which there is not yet an approved State plan but in which a State Health Commission and a State Advisory Council have been established, the Secretary shall not make a grant or contract under the foregoing sections unless the commission, the State planning agency, if any, and the appropriate areawide health planning agency (if it is different from the State planning agency) have had an opportunity to review and comment on the application. This paragraph also defines "appropriate areawide health planning agency" as that agency referred to in Section 314(b) of the Public Health Service Act or, if there is no such agency, another public or nonprofit private agency or organization (if any) performing similar functions.

GRANTS FOR STATE PLANS

Section 111(a) authorizes the Secretary to make grants to State Health Commissions for all or part of the cost of developing State plans, including the expenses of State Advisory Councils, and the cost of dissemination of information about the proposed plan, and of public hearings.

(b) authorizes appropriations for grants under this section for each fiscal year in the period beginning with the fiscal year of enactment and ending with the close of the 3rd full fiscal year.

(c) requires the Secretary to pay to each State with an approved plan a percentage of the expenditures for the administration of the plan, beginning with 90 per cent during fiscal years ending before the effective date of the benefit program of this Act (Section 201 and 202), and diminishing to 85 per cent during the next two fiscal years and to 75 per cent thereafter. With respect to Federal functions as agent of the Secretary (see Section 124(b)(10)) the Federal percentage is fixed at 100.

FINANCIAL ASSISTANCE UNDER OTHER PROGRAMS

Section 112(a)(1) states that the Secretary shall, to the optimum extent, use other programs of financial assistance in the field of health care to promote the purposes of this Act.

(2) authorizes the Secretary, notwithstanding any other provision of law, to give highest priority to the needs of Health Care Corporations in the administration of such other programs, particularly in urban or rural poverty areas.

(b)(1) requires the Secretary to develop and disseminate informational materials about the availability of assistance under this part of the Act.

(2) states that the Secretary, on request, may provide advice, counsel, and technical assistance to Health Care Corporations and other named in this part in preparing applications and meeting requirements for grants and contracts.

PENALTIES FOR FRAUD

Section 113(a) provides for any individual, provider of health care, carrier or other person who knowingly or willingly makes or causes to be made any false statement or representation of a material fact in the application of any benefit or any grant or other payment under this Act or makes false statements or fails to disclose or who willingly converts such benefit or payment to any other use or purpose shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year or both.

(b) provides a similar penalty for any provider of health care or other person who furnishes items or services to an individual for which payment is made under this Act for a kick-back or bribe or furnishing of such services or a rebate of any fee or charge.

(c) provides a $2,000 fine or imprisonment for not more than 6 months or both for false statements or misrepresentations of a material fact with respect to the conditions or operation of any organization, institution, or facility in order that it may qualify as a carrier or provider of health care for purposes of this Act.

PART B—STATE FUNCTIONS

*General conditions of State participation*

Section 121 requires that in order for its residents to participate in the provision of Comprehensive Health Care Benefits that are financed or assisted by Federal funds, a State (1) must accept the provisions of this title and establish a newly-constituted and independent agency to carry out its provisions, this agency to be headed by a governing body to be known as the State Health Commission; (2) must establish a State Advisory Council; and (3) must have the Secretary's approval of a State plan submitted by the State Health Commission under section 124 for carrying out the State's responsibilities. (See also sec. 129, Federal Exercise of State Functions in Cases of Noncompliance by States.)

*State health commissions*

Section 122 (a) establishes the following requirements, among others, for State Health Commissions: a membership of three or five commissioners (depending upon the State law establishing the commission) appointed by the governor, for staggered terms (renewable) of six years. Not more than two members of a three-member commission, nor more than three members of a five-member commission, shall be members of the same political party. The governor shall designate one of the members as chairman.

(b) lists the principal qualifications of and requirements for State health commissioners. It provides that commissioners should be chosen not primarily for their experience in health affairs, but for their ability to bring effective and objective policy direction to the commission's affairs, and it requires that (1) health professionals shall not constitute a majority of the membership of a State Commission; (2) commissioners shall serve full-time and not be engaged in any other business; (3) the chairman and the commissioners shall be salaried at levels comparable to those of heads of State executive departments; (4) commissioners may be subject to removal only for causes listed in this section; and (5) commissioners (and other officers or employees of the commission) may not hold any official or contractual relation with, or have any pecuniary interest in, any Health Care Corporation or provider of health care under the regulatory jurisdiction of the State Health Commission. This regulation is not to bar persons having such a relation or interest from serving as members of the State Advisory Council.

*State advisory council*

Sec. 123 states that members of the State Advisory Council shall consist of (1) persons broadly representative of providers of health care in the State, including but not limited

to representatives of Health Care Corporations, other nongovernmental and public organizations, and representatives of schools and institutions concerned with education or training of persons in the health professions and ancillary occupations, and (2) not less than an equal number of persons representative of consumers of health care who are neither providers nor have a financial interest in providing care, are familiar with the State's health care needs, and have knowledge of the problems of providing health care.

*State health care plans*

Sec. 124(a) states the requirements for State plans: (1) conformity with subsection (b) below; (2) submission of the plan in detail to the Secretary by the State Health Commission; (3) preparation of the plan in consultation with the State Advisory Council; and (4) in the case of submission of the initial plan to the Secretary, or of a submission for annual renewal of the Secretary's approval after major revision of the plan, prior reasonable opportunity to the public to express its views of the plan.

(b) itemizes the State plan requirements, including the following:

(1) designation of the State Health Commission as sole administrative agency for the plan;

(2) evidence of the Commission's authority to carry out the plan;

(3) provision for adequate consultation with the State Advisory Council;

(4) statement of qualifications for personnel responsible for administration of the plan;

(5) provision of methods for efficient administration, including personnel merit system standards consistent with those of the Civil Service Commission (but the Secretary shall have no authority with respect to the selection, tenure, and salary of individuals if employed in accordance with the merit system methods); and provision for utilization of qualified professional medical personnel and other professional personnel;

(6) provision for the designation of preferred service areas by applicant Health Care Corporations (in keeping with section 135); approval for each such area of one or more Health Care Corporations (in accordance with section 126); and inclusion of a program for the completion of these initial designations and approvals (including creation of governmental corporations if necessary to carry out the policy of this Act to provide every individual with an opportunity to register and, when possible, to have a choice of Health Care Corporations) as well as registration of eligible individuals with approved Health Care Corporations, not later than the end of the fourth fiscal year that begins after the calendar year in which the bill is enacted;

(7) provision for State arrangements to assure group coverage for Comprehensive Health Care Benefits at reasonable rates, for themselves or their employees, to all residents not entitled to HEW-purchased coverage, and for effective enforcement of these arrangements (subject to review by the Secretary with respect to enforcement of Federal regulations); and provision for regulation of the premium rates of carriers (except under contracts negotiated directly by the Secretary) by the State Health Commission or one to which it delegates that function or alternatively, by the State's insurance department; provision for other regulation and supervision of the carriers by the State Health Commission (including, for Comprehensive Health Care Benefits, a required standard provision for temporary continuation of coverage for the family in the event of the primary insured's death); and provision for hearings, before the Commission, on claims of Health Care Corporations against carriers, and for adjudicating such claims;

(8) provision for optimum use or adaptation of various Federally-aided programs developed for the State and at regional and local levels with respect to comprehensive health planning;

(9) provision that when requested by the Secretary the State Health Commission will, in behalf of the Secretary, contact with qualified carriers for CHCB coverage (other than coverage negotiated and contracted directly by the Secretary) required to be financed by Federal purchase; act as fiscal agent of the Secretary in transactions with carriers;

furnish to the Secretary all information necessary for prospective estimates of government appropriations for implementation of this Act; and review and make recommendations with respect to applications for grants under Part A of this title or for other Federal aid administered by the Secretary;

(10) inclusion of a program whereby the State can cooperate with HEW in a nationwide system for the collection of health data;

(11) protection of individual registrants or applicants for registration through safeguards on the use or disclosure of identifying information collected under paragraph (10) above;

(12) evaluation, at least annually, of the effectiveness of the activities of the State Health Commission, of Health Care Corporations, and other health care providers;

(13) provision that the Commission will make reports of such evaluations of effectiveness, as well as such other reports as the Secretary may require; and

(14) provision that the Commission will review the State plan at least annually and submit modifications to the Secretary.

(c) requires the Secretary to approve a State plan meeting the above-stated requirements, except that the Secretary is directed not to approve a State plan if the plan or other State law, or the practice of a State licensure or regulatory authority—

(1) prevents or limits Health Care Corporations from providing services to registrants through the employment of licensed medical or other health care practitioners by the corporation or other nonprofit providers; or through group practice or other arrangements;

(2) deprives any Health Care Corporation of its rights to designate its preferred service area and of its right of appeal for change in such service area, in accordance with the provisions of this Act;

(3) disqualifies a physician from serving on the governing board of a Health Care Corporation or of an institutional provider thereof;

(4) prevents health care practitioners from employing or arranging with assistants under their supervision to perform health care functions for which they are trained; and

(5) prevents or limits carriers from offering coverage of health care provided in accordance with (1), (2), (3), or (4) above, unless the Secretary finds that the State prohibition or restriction is consistent with the purposes of this title.

(d) stipulates that, with certain minor exceptions, the approval of a State plan shall be for one calendar or one fiscal year, whichever the Secretary determines.

*Designation of health care areas*

Section 125(a) requires each State Health Commission to make a study and survey with a view to approval of service areas for applicant Health Care Corporations and establishes criteria to be considered for that purpose, including the following: size and distribution of population, and patterns of illness among population groups in various parts of the State; existing health care resources, their potential for sponsoring or participating in Health Care Corporations, and their distribution in relation to need for health care; local governmental structures; transportation; patterns of organization for the delivery of care and patterns of use; and requires the Commission, in that connection, to set a date for initial applications of Health Care Corporations indicating their preferred service areas (or statements of intention by proposed sponsors of such corporations) to assist the Commission in its study.

(b) requires, in addition to (a), that the Commission consult representatives of the general public; of public and private health care institutions or their organizations; of medical and other health care profession (including representatives of group practice); of appropriate State and local government agencies; where appropriate, of State Health Commissions in adjoining States; and other interested groups and individuals.

(c) (1) obligates the Commission to publish, as part of the State plan, its survey findings and the designation of service areas for Health Care Corporations. The Commission is required to conduct public hearings on its proposal and thereupon to issue initial designations.

(2) states that the Commission may, in cooperation with another state, designate jointly a service area or areas that include parts of both States.

(d) permits subsequent amendment of a designated service area under subsection (c) either on the Commission's own initiative or on petition of Health Care Corporations or other concerned parties, but requires that final action on the amendment may be taken only after reasonable notice and opportunity for a fair hearing.

*Regulatory functions of State health commissions*

Sec. 126(a) requires that a State plan shall, in addition to requirements above—

(1) stimulate the organization of Health Care Corporations through every means available and provide for cooperative arrangements with other State commissions in jointly or reciprocally approving corporations to serve joint or adjoining service areas;

(2) provide for authorizing the incorporation (or admission into the State from another State) of Health Care Corporations, either through the Commission or other appropriate state agency;

(3) provide for the evaluation of the application of any corporation for approval to operate as a Health Care Corporation in a service area or areas approved by the Commission in accordance with Section 125, and describes the procedure for granting approval and issuing a certificate of approval for the service area or areas involved;

(4) provide that in areas, in whole or in part, where more than one Health Care Corporation has been approved the Commission may, if necessary, restrict the number of individuals to be registered by each corporation, residents to be accepted for registration within that number on a first-applied-first-accepted basis;

(5) limit the charges of approved Health Care Corporations and other licensed providers to charges and rates prospectively approved by the Commission; and require that services are not duplicative or excessive, that charges for physicians' services (such as radiologists and pathologists) which are generally available to all inpatients of an institution, be included as part of institutional service charges and not as separate physicians' charges (regardless of the method of payment to the physician), the purpose being to require no additional copayment from the patient for such services; require that the budgets of Health Care Corporations and other institutional providers be prepared as prescribed by the Secretary; and provide that all providers are entitled to a fair hearing if it is dissatisfied with a decision of the Commission with respect to its charges;

(6) provide for effective enforcement, by

the Commission, of the responsibility of Health Care Corporations and other licensed providers as defined in this Act, assuring that with respect to Health Care Corporations their services be of not less than the scope, quality, and comprehensiveness required by this title, including standards prescribed by the Secretary, and requirements for the provision of services by Health Care Corporations as prescribed in Sections 133 and 134 of this title, and for other providers, requirements for the provision of services similar to those specified in Section 134 as defined by regulations;

(7) prohibit the construction of health care facilities, or changes in major services, or their establishment through rental of major equipment or existing structures, by Health Care Corporations or other providers except when authorized by the Commission on the basis of a finding of need;

(8) authorize the Commission to adjudicate controversies between corporations, affiliated providers, and non-affiliated providers.

(9) provide for a fair hearing, before the Commission, of any individual not accepted for registration by an approved Health Care Corporation of whose service area he claims to be a resident; or with respect to a monetary claim of at least $100 by a registrant against a corporation or carrier; or to any individual who alleges that the corporation has failed to fulfill its obligations under this Act and that the failure is part of a pattern of conduct;

(10) provide for review and approval of peer review systems of approved Health Care Corporations and continued surveillance over their operations; and

(11) provide for implementation of comparable peer review systems for services performed by providers not affiliated with Health Care Corporations.

(b) recognizes that compliance with the procedures set forth in Sections 1863 through 1865 of the Social Security Act are to be employed in establishing compliance with this Act for Health Care Corporations and non-affiliated providers.

(c)(1) authorizes the Commission to take prompt corrective action whenever it determines that a Health Care Corporation has failed to fulfill all of its obligations; and states that the corporation is entitled to opportunity for a hearing with respect to the Commission's decision in this regard, the outcome subject to judicial review as provided by State law. However, initiation of a proceeding for judicial review shall not operate as a stay of the Commission's decision unless so ordered by the court.

(2) states that, paragraph (c)(1) notwithstanding, the Commission may give its order immediate effect, subject to reversal or modification following judicial review, if it decides that a corporation's failure to function creates an imminent hazard to the health of its registrants.

(3) empowers the Commission, in addition to its authority for corrective action above, to revoke (following fair hearing) its certificate of approval for operation by the corporation in its service area and to approve for service in that area another Health Care Corporation or corporations, or, in lieu of this, to bring the delinquent corporation into compliance through appointment of a receiver or other effective means. The order of the Commission shall be subject to judicial review in a State court.

(d) authorizes the Commission to take corrective action whenever it determines that any provider not affiliated with a Health Care Corporation has failed to fulfill the obligations set forth in this Act, this action to include suspension of payment for services performed under Comprehensive Health Care Benefits. Appeal procedures outlined in (c) apply to this provision.

*Judicial review*

Section 127(a) states that any State dissatisfied with the Secretary's action under section 128 (other than subsection (c)(3)) may obtain judicial review of the action, and establishes requirements for the petitioning of such review.

(b) provides that the findings of fact of the Secretary, if supported by substantial evidence, shall be conclusive on the court, but that the court, for good cause shown, may remand the case to the Secretary to take further evidence.

(c) provides that the judgment of the court shall be final, subject to review by the Supreme Court, and that the commencement of proceedings under this section shall not, unless ordered by the court, operate as a stay of the Secretary's action.

*Federal exercise of State functions in cases of noncompliance by States*

Section 128(a) deals with the authority of HEW in the case of any State which has not established a State Health Commission in conformity with Section 122 and submitted an approvable State plan prior to the third fiscal year beginning after the calendar year of enactment of this Act. It grants authority to the Secretary in such an instance to appoint commissioners, hire staff, and assume all functions of a State commission in compliance with the provisions of this Act, and in that event to utilize for that purpose any Federal funds available for administration of State plans under the Act.

(b) stipulates that the Secretary shall not refuse approval of a State plan without reasonable notice to the State and opportunity for hearing; and that, when an application for renewal of approval of the State plan is pending, the Secretary may temporarily postpone expiration of its last approval until it has come to a decision concerning renewal.

(c)(1) describes the instances under which the Secretary may withdraw approval of a State plan which, no longer complies with Section 124(c), and may withhold further payments (or may, in its discretion, suspend approval of parts of a plan and limit payments thereby), until it is satisfied that there will no longer be such a failure to comply.

(2) states that the Secretary may postpone action under (1) to allow necessary time for compliance.

(3) provides that in addition to or in lieu of taking action under (1) the Secretary may request the Attorney General to institute a civil action by the United States against the State to enforce the requirements of this part.

(4) permits the Secretary, when he has withdrawn approval of a State plan, to exercise the functions and use the funds referred to in subsection (a).

*Cooperative interstate activities and uniform laws*

Section 129(a) states that the Secretary shall:

(1) encourage and assist the States and their State Health Commissions with interstate agreements and approvals with respect to Health Care Corporations, including the establishment of joint health service areas; and

(2) shall assist in the development of model State legislation in the areas covered by this Act.

(b) provides for Congressional consent to any two or more States that wish to enter into agreements as cited above.

*Other administrative procedures*

Sec. 130 amends section 505(a)(2) of the Social Security Act to require that the State agency required to administer, or supervise the administration, of a State plan under title V of the Social Security Act be the "State Health Commission" (rather than the "State health agency") of the State (in the case of any State that is a participating State under Title I of the bill). (The amendment would not supersede the grandfather clause of section 505(a)(2) which allows the crippled children's service portion of a State plan to continue to be administered (or supervised) by a welfare agency in the case of a State which on July 1, 1967, provided for administration of its crippled children's service plan by that agency.)

PART C—HEALTH CARE CORPORATIONS

*Incorporation and State approval*

Sec. 131. (a) defines a Health Care Corporation as a nonprofit private or governmental corporation organized to furnish services (through its own resources or through affiliation with other providers, nonprofit or for-profit) to registrants, and to engage in education, research, and other activities related to the furnishing of personal health services. The section specifies that the governing board of the Health Care Corporation must have effective and equitable representation of the corporation's registrants and of its affiliated institutional and professional providers.

(b) requires that a Health Care Corporation must be found by the State Health Commission to satisfy the requirements in (a) above and must be approved by the Commission for service in a designated service area or areas of the State (in accordance with Sections 125 and 126) upon a finding that the corporation is well organized under professionally competent management, has adequate resources in facilities and personnel, and has given satisfactory assurance of financial responsibility.

*Registration with health care corporations*

Section 132(a) specifies that the corporation shall register all residents, within the designated service area for which it has been approved by the State Health Commission, who seek registration during a period of open registration; and that the corporation shall make reasonable effort to register those residents of the area who have failed to apply for registration.

(b) Permits the Health Care Corporation to recruit and register persons outside of its designated service area if its quota of registrants has not been filled;

(c) states that, in accordance with regulations of the Secretary, a registrant may effect registration for his or her spouse and their children under 19;

(d) requires the corporation to disseminate to the public infomation about its operations and its services, including registration information in detail; that it must disseminate information about benefit coverages; assist individuals in establishing entitlement to coverage purchased by the Secretary and in obtaining other coverage;

(e) sets the registration period at 12 months; permits termination of registration with change in residence or for such cause as may be approved by the State Health Commission.

*Undertaking to furnish services*

Section 133(a) states that the Health Care Corporation shall provide all of the services for which registrants have Comprehensive Health Care Benefits coverage and which are medically necessary (or, in the case of health maintenance services, medically appropriate).

(b) permits the corporation to contract for services through (an) affiliated provider(s)—hospital(s), extended care facility(ies), nursing home(s), or home health service agency(ies); physicians, dentists, podiatrists, or optometrists, or combinations of these, such as partnerships, clinics, or group practice organizations; or other kinds of providers designated in regulations. Providers may affiliate with more than one Health Care Corporation, but must designate one such affiliation as primary.

(c) permits the provision of drugs, devices, appliances and equipment to ambulatory patients, and ambulance and other emergency transportation services through providers not affiliated with the corporation; it states that medical and other services of a specialized nature, with permission of the

State Health Commission, may be provided through arrangements with other Health Care Corporations or with providers that are not affiliated with the Health Care Corporation.

(d) emphasizes health maintenance (including health education) for all registrants, assurance of continuity of care, and to the greatest extent possible, the provision of care on an outpatient basis. Health maintenance services are to be periodically scheduled; outpatient services furnished in centers and in physicians' offices; emergency care, including ambulance service, to be available at all times.

(e) requires that a system of outpatient care centers be developed by the Health Care Corporation, these centers to provide health maintenance services and community-based services such as home care, medical social services, and well-baby clinics and mental health clinics. These centers are to be related to institutional and other providers in order to provide necessary laboratory and other diagnostic services and referral and transfer of patients to facilities providing more comprehensive services.

(f) stipulates that the Health Care Corporation must review services provided for registrants in time of emergency by other corporations or providers and, upon approving the charges, submit them to the carriers responsible for payment. Not included are payments for services rendered to registrants who leave their place of residence expressly to obtain health care, unless by arrangement with the corporation.

(g) stipulates that the corporation shall so far as practicable furnish necessary emergency health services to persons not registered with it and may furnish other services to such persons when it can do so without interference to service to its registrants.

*Quality of services*

Section 134(a) fixes the responsibility on the Health Care Corporation for the quality of all health services it provides, or had provided in its behalf, including responsibility for compliance with standards of quality and comprehensiveness prescribed by the Secretary. The corporation is made responsible for maintaining controls on utilization of services; for continuing appraisal of the effectiveness of services; and for identifying problems that require planning for additional services. To these ends the corporation is required to have a system of comprehensive peer review by physicians (and dentists in the case of dental services) which covers all services provided by the corporation and its affiliates. The corporation is required to maintain a program of continuing education for its physicians, dentists and nurses.

(b) requires that all medical policies of the corporation be established with the advice of physicians and all dental policies with the advice of dentists; that all medical judgments must be made by or under the supervision of physicians, and dental judgments by or under the supervision of dentists.

(c) encourages participation of physicians in all aspects of policy formulation and operation of the Health Care Corporation.

*Participation of professional practitioners*

Section 135(a) requires the corporation, so far as practicable, to provide opportunity to all practitioners in its approved service area (physicians, dentists, podiatrists, and optometrists) to furnish services in its behalf. The corporation is required to annually review the scope of services of each practitioner in accordance with his training, experience, and professional competence as determined through peer review. A practitioner must be able to enlarge the scope of his services through in-service training.

(b) stipulates that the corporation may not discriminate in selecting practitioners on any ground unrelated to professional qualifications, but may in initial recruitment give preference to local practitioners as between equally qualified persons.

(c) requires the corporation to permit each practitioner to select, consistent with the requirements for the corporation established by the Act, the form of practice in which he wishes to engage.

*Charges by health care corporations*

Sec. 136(a) requires that charges made by a Health Care Corporation be made at rates fixed prospectively for 12-month periods and approved by the State Health Commission. These may be revised under circumstances that would create hardship, with Commission approval.

(b) states that charges shall consist of an annual capitation amount per registrant or registrant family, or of itemized charges for separate services or units of service. With approval of the Commission, the corporation may vary its methods of determining charges; capitation charges, except for variations based on size and composition of families, must be uniform for all registrants to whom they are applicable, other than registrants having coverage under government-purchased contracts. After three years of operation, the corporation must submit to the State Health Commission a plan to commence two years thereafter for offering capitation rates to its registrants who choose to purchase coverage directly from the corporation. This plan must be implemented by making this option to all registrants five years after the HCC's incorporation.

(c) specific that the corporation's charges shall meet its financial requirements as determined in accordance with regulations and with systems of accounting as prescribed by the Secretary. This section states that the corporation must justify to the Commission the rates it pays to affiliated providers, and must justify the budgets of any affiliated providers on which these rates are based. In cases where an affiliated provider contracts with more than one Health Care Corporation, the corporation with which it has a primary affiliation becomes responsible for the justification of budgets and rates.

(d) affirms that in reviewing budgets and rates the corporation and the Commission must assure that services are provided without unnecessary duplication and that services are not excessively costly.

*Continuing personal health records*

Section 137(a) requires the maintenance by the Health Care Corporation of a personal health record for each registrant and states that these records must be readily available to the medical and other staff of the corporation and its affiliated providers, and that they must make it possible for the Commission to carry out its statistical responsibilities, including those related to the utilization and cost of health services.

(b) states that the corporation must be equipped to promptly transmit personal health records of registrants to appropriate providers.

(c) requires transfer of personal health records from corporation to corporation when registrants transfer; and transmission of information from personal health records to corporations and providers when they furnish emergency services to the registrant of a Health Care Corporation.

(d) restricts the disclosure of personal health information without consent of the registrant to purposes necessary to the administration of the corporation, the State plan, or benefit coverage and provides up to a $1,000 penalty or one year of imprisonment or both for violation of this confidential information.

*Participation by registrants; health education*

Section 138(a) requires corporations to establish methods by which registrants may express their views about the program and performance of the corporation and the health needs of the community, in addition to representation on the corporation's governing board; requires that such opportunity be available to groups of registrants (geographic, economic, or other), and to the extent practicable, to individual registrants; and that advisory committee representation be afforded registrants in general, with subcommittees or separate committees formed for representatives of groups whose interests may differ from those of other registrants.

(b) requires that the corporation undertake a program of continuing health education for its registrants, with special emphasis directed toward low income and medically indigent registrants, affording representation to registrants in the formation of such a program. The section defines the scope of such a program and further requires collaborative efforts in community-wide health education with governmental and private agencies. It also requires the corporation, so far as practicable, to provide assistance to registrants in overcoming language or educational handicaps in obtaining access to health care.

NONDISCRIMINATION; COMPLAINTS

SEC. 139. (a) bars discrimination by the corporation in recruitment, registration, and in provision of services (subject to medically appropriate differentiations, or as specifically authorized in this title), on the ground of race, creed, color, national origin, age, sex, occupation, economic status, or condition of health.

(b) requires the establishment of complaint procedures for registrants or for persons whose applications for registration have been refused. Records of complaints and their disposition must be available for inspection by the Commission.

(c) requires the establishment of procedures for the settlement of disputes with affiliated providers and other providers with whom the corporation has made arrangements for services to its registrants.

*Responsibilities for manpower and for research*

Section 140(a) requires a corporation to coordinate determination of its manpower needs and those of its affiliated providers; coordinate recruitment and allocation of such personnel; and determine qualification and performance standards for such personnel, to be at least equal to standards of recognized professional organizations. Corporations are required to conduct in-service training programs and to encourage these among affiliated providers and to encourage the use of physician assistants and other ancillary personnel under professional supervision.

(b) states that the corporation shall engage in continuing research concerning the organization and methods of delivery of health services, and concerning their quality, effectiveness, and cost. Results of such research are to be available to the State Health Commission and the Secretary of HEW for their use.

*Records and reports*

Section 141 specifies that corporations shall keep records with respect to such areas as financing, utilization of services, and the results of peer review, and require that affiliated providers do the same, all such records to meet reporting requirements of the Commission, in accordance with regulations of the Secretary and to be available for inspection by the Commission.

TITLE II—FINANCING OF NATIONAL HEALTH SERVICES

*Short Title*

Section 200. Title II may be cited as the "National Health Services Financing Act."

PART A—EMPLOYER REQUIREMENTS AND ENTITLEMENT TO BENEFITS

*Employer benefit requirements*

Section 201(a) amends the Social Security Act to require that employers have an ap-

proved health care plan for their employees (and their families). The new Section 230 of Title II of the Social Security Act:

(a) requires every employer within the meaning of this title to provide for each of his employees (and members of their families) coverage equivalent to Title XVIII benefits (both Parts A and B) and Section 225 Catastrophic Expense Benefits during the third and fourth full fiscal years after enactment and to provide Comprehensive Health Care Benefits coverage beginning on the first day of the fifth full fiscal year of enactment.

(b) lists the situations in which the provision of subsection (a) do not apply—

(1) (A) to any employer which is the United States, a state or political subdivision thereof (notwithstanding any agreement entered into in Section 218), or any agency or instrumentality of one or more of the foregoing, or any other employer, all of the services performed for which are excluded from employment by one or more of the numbered paragraphs of Section 210 (a);

(B) in the case of individuals or members of the same families who have multiple employers, all of the employers except the employer paying the highest total taxes under Section 3111 (a) of the Internal Revenue Code of 1965;

(2) (A) with respect to an employee (or member of an employee's family) who is entitled to health insurance benefits under Title XVIII; or

(B) with respect to any medically indigent person or family which elects to obtain coverage under Section 107 (b) or (c).

(c) (1) provides that the Secretary shall pay to or on the behalf of an employer, whose average premiums payable for the health insurance required in subsection (a) an amount by which the premium payments exceed 4 per cent of the average wages paid by him to such employees multiplied by the number of such employees (not in excess of 10).

(2) provides for the prescription of regulations by the Secretary on the period for determining the number of employees of an employer, the wages of the employees, and the premiums payable under subsection (a), as well as the method for determining such wages (and the average thereof) in the cases in which the payment may be made to a payee other than the employer.

(3) provides that payments by the Secretary may be made in advance or by way of reimbursement at such times, in such manner, and in such installments as the Secretary shall deem to be appropriate.

(4) provides that the employer's contributions must be at least the actuarial equivalent of 75 per cent of the premium cost of benefits equivalent to the Medicare coverage during the third and fourth full fiscal years and of the premium cost of Comprehensive Health Care Benefits coverage beginning on the first day of the fifth full fiscal period. This requirement shall in no way prohibit an employee choosing to register with a Health Care Corporation operating in whole or in part on a capitation basis.

(5) stipulates that the period of coverage extends from the date of involuntary termination until the employee becomes eligible for unemployment compensation benefits or until the expiration of —— days from such termination, whichever occurs first.

(b) amends Title IX of the Social Security Act by adding at the end thereof a new section which requires the Secretary of Labor in accordance with regulations prescribed in consultation with the Secretary of HEW to purchase coverage as defined in subsection 201 (a) for every individual who is receiving benefits under any federal or state unemployment compensation law for the individual and members of his family.

ENTITLEMENT TO BENEFITS

Section 202(a) specifies that every individual who is a resident of the U.S., including the District of Columbia and Puerto Rico, is eligible for full or partial Federal contribution to the premium cost of qualified Comprehensive Health Care Benefits (CHCB).

(b) obligates the Secretary to contract with carriers for coverage in behalf of the aged, the low-income, and the medically indigent.

(c) allows all others who are eligible for the program, and those (other than the aged) who are eligible but choose not to enroll in an HEW-contracted plan, to obtain a Federal subsidy of 10 per cent of the premium cost incurred for the purchase of qualified CHCB, irrespective of the source of payment, if the individual (and his family) is registered with an approved Health Care Corporation or with any other similar organization that demonstrates it meets standards prescribed by the Secretary. If existing coverage is broader than CHCB, an actuarial equivalent of CHCB will be utilized to determine the amount of the subsidy.

(d) refers to definitions of the low-income and medically indigent income classes.

INCOME CLASSES

Section 203(a) defines a low-income person or family as a single individual (i.e., one who is not a member of a "family" as defined) or a low-income famliy in income class 1; a medically indigent person or family as a single individual or family in income classes 2, 3, or 4; and the remainder of the population as falling in income class 5.

(b) establishes the following table of income classes for the above-defined categories:

TABLE OF INCOME CLASSES [1]

| Col. I | Col. II | Col. III | Col. IV | Col. V |
|---|---|---|---|---|
| | Family size and income ranges | | | |
| Income class | Single individual | Family of 2 | Family of 3 | Family of 4 or more |
| 1 | 0 to $2,000 | 0 to $3,000 | 0 to $4,500 | 0 to $6,000. |
| 2 | $2,001 to $3,000 | $3,001 to $4,500 | $4,501 to $6,000 | $6,001 to $7,500. |
| 3 | $3,001 to $4,500 | $4,501 to $6,000 | $6,001 to $7,500 | $7,501 to $9,000. |
| 4 | $4,501 to $6,000 | $6,001 to $7,500 | $7,501 to $9,000 | $9,001 to $10,500. |
| 5 | Above $6,000 | Above $7,500 | Above $9,000 | Above $10,500. |

[1] These amounts are to be adjusted under sec. 204, according to increases in the Consumer Price Index.

PERIODIC REVISION OF INCOME CLASSES

Section 204 provides for an increase by the Secretary in the initially fixed dollar amounts of the income class tables, the premium contributions by the medically indigent, the copayments, and the catastrophic expense benefit expenditure limits, whenever in any calendar year the monthly average of the Consumer Price Index for the July-September quarter exceeds by 3 per cent or more the monthly average of the CPI for the corresponding quarter of the base year. The increase would be effective for any "coverage year" that begins in the next fiscal year of the United States. (A "coverage year" is defined by section 222 with respect to an individual, as a 12-month period of CHCB coverage of the individual under an insurance contract or prepayment plan that coincides with a 12-month (annually renewable) term of that contract or plan.)

DETERMINATION OF INCOME LEVEL

Section 205 (a) provides that for the purposes of this part the rate of an individual's (or family's) income shall be determined on the basis of his adjusted gross income (or the family's combined adjusted gross income), as defined in accordance with regulations prescribed by the Secretary in consultation with the Secretary of the Treasury, for the calendar year preceding the coverage year, except that the Secretary may by regulation exclude items of income that are not reasonably available for living expenses and include items that are reasonably available for living expenses although not included in adjusted gross income, and may by regulation provide for redetermination of an individual's or family's rate of income on a more current basis when necessary to prevent serious hardship or inequity.

(b) defines the term "family" as (1) a husband and wife and their dependent unmarried children under 19 or (2) an individual and his or her dependent unmarried children under 19, and defines the terms "child" and "dependent" (as applied to a child) as having the same meaning as in section 1512 of the Internal Revenue Code.

PREMIUM CONTRIBUTIONS FOR FEDERALLY CONTRACTED COVERAGE

Section 206(a) specifies the contributions to premiums for Federally-contracted CHCB coverage to be made by the individuals or families in the 3 income classes of the medically indigent (i.e., income classes 2, 3, and 4), with the amounts rising as income rises. (Section 203(b) contains the table of income classes.) The amounts of contributions initially are $50 for a single individual and $125 for a family in income class 2, $100 and $250 respectively in income class 3, and $150 and $375 in income class 4. In the case of a family in any such income class) in which there is only one member under 65, the contribution rate for a single individual applies. The amounts set initially by section 206 (a) (as well as the income ranges in the income class table) would be adjusted according to increases in the Consumer Price Index under section 204.

(b) requires that individual or family premium contributions by the medically indigent for Federally-contracted coverage be paid to the carrier in accordance with the Secretary's regulations and that there shall be no recourse against the United States in the event of delinquency or default in the payment of such contributions.

INCOME TAX DEDUCTIONS

Section 207 permits individual taxpayers to deduct 100 percent, without dollar limit, of the amounts paid by them as premiums for insurance contracts or prepayment plans approved by State Health Commissions for the actuarial equivalent of CHCB.

LIMITATION OF MEDICAID TO SUPPLEMENTATION OF UNIFORM HEALTH BENEFITS

Section 208(a) provides that, beginning with the effective date of part A of title II of this bill (creating entitlement to Comprehensive Health Care Benefits coverage), the State plan under Title XIX of the Social Security Act (of a participating State under title I of the bill) shall not be required to cover, and there shall be no Federal matching for expenditures for, services or items that are covered by Comprehensive Health Care Benefits and that are furnished to an individual who is entitled to such coverage under section 202 of the bill and who either is a resident of a service area of the State designated in accordance with section 125 or is in fact registered with a health care corporation that holds a certificate of approval for another service area.

(b) requires the Secretary to prescribe the minimum scope of services to be included

in a State plan under title XIX of the Social Security Act (instead of the requirements of section 1903(a)(13) of that Act) on and after the effective date of part A of title II of the bill, with a view to supplementing the coverage of Comprehensive Health Care Benefits.

PART B—CONTENT OF COMPREHENSIVE HEALTH CARE BENEFITS

*Payment for comprehensive health care benefits*

Section 221(a) stipulates that coverage for CHCB entitles the registrant to have payment made by his carrier to his HCC for all medically necessary or appropriate services and items at the HCC's approved predetermined charges. HCCs would receive the full amount of such charges from the carrier; the carrier would bill the registrant for the dollar amounts related to copayments, and certain non-covered services (with the residual risk of nonpayment accruing to the provider) as provided in part C of the bill. Special reference to HCCs operating on a capitation basis is made in Sec. 235.

(b) stipulates that payment for coverage for CHCB for an individual who has not registered with an HCC shall be made by his carrier at approved predetermined charges, less copayments applicable for the services provided.

*Definition of comprehensive health care benefits*

Section 222(a) describes Comprehensive Health Care Benefits as consisting of the following components: outpatient services; inpatient services; and catastrophic expense benefits. The Secretary is authorized to issue from time to time such further regulations to adjust the application of these benefits to best carry out the purposes of this Act.

In addition, this section defines, among other things, the terms coverage year, benefit period and regulations as they relate to CHCB.

(b) states in tabular form the actual benefits to be included in the CHCB package. Emphasis is on outpatient services, including a wide range of health maintenance benefits. Cost sharing (in addition to premium contributions by the medically indigent) would be achieved through copayments and a limitation on the number of inpatient institutional care days and outpatient physician visits. Copayments would be removed through the catastrophic expense provisions, once the covered individual or family reached the predetermined expenditure limit ceilings. Once the catastrophic expense provisions apply the limitations would be removed on the number of physician visits (except for mental illness in a non-HCC environment), the number of inpatient hospital care days (except for mental illness, alcoholism, and drug dependence in a non-HCC environment) and the number of days under outpatient institutional care programs for mental illness, alcoholism, and drug dependence.

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TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS

| I—Services and Items Covered | II—Copayments* and Limitations |
|---|---|
| A. OUTPATIENT SERVICES | |
| 1. Periodic Health Evaluation | |
| a. Screening tests and examinations, as prescribed by regulations under section 226, followed by physical examination by a physician or physicians when indicated by the screening. | No copayment. Within such limits as may be prescribed by regulation under section 226. |
| b. All Immunizations | No copayment and no limitation. |
| c. Well-Baby Care (for infants under age 5)— | |
| (i) during 1st 12 months following birth; | No copayment. |
| (ii) during next 12 months; | 8 visits. |
| (iii) during next 3 years. | 4 visits. |
| | 2 visits per coverage year. |
| d. Dental Services | |
| The following professional dental services, including drugs and supplies that are commonly furnished, without separate charge, as an incident to such professional services: | Items d (i) and (ii) in column I apply initially only to children born not more than 7 years before the effective date of this subpart. For those initially covered, the benefits extend through age 12. |
| (i) Oral examination, including (I) prophylaxis (with fluoride application at appropriate ages), (II) dental X-rays, and (III) in accordance with regulations, other accepted preventive dental procedures. | No copayment. 1 examination per coverage year. |
| (ii) To the extent prescribed by regulation under section 226 and not covered under (i), above, dental care other than orthodontia; but including, insofar as the Secretary finds that resources of facilities and personnel make practicable, routine extractions, dental fillings, and appropriate prosthetic appliances. | Copayment 20% of charges. |
| e. Vision Services (in accordance with regulations under section 226). | For individuals through age 12. |
| (i) Professional services in routine eye examination, including procedures performed (during the course of an eye examination) to determine the refractive state of the eyes and procedures for furnishing prosthetic lenses, provided either by an opthalmologist or other physician skilled in diseases of the eye or by an optometrist (whichever the patient may select). | No copayment. 1 visit per coverage year (including therein a follow-up verification of conformity of prescribed lenses with a prescription issued during the visit). |
| (ii) Eyeglasses, with prescription lenses, including the fitting thereof, and including additional lenses and frames as needed. | Copayment 20% of charges. Initially, one set of eyeglasses (including frame and lenses); thereafter, only newly prescribed lenses (but not frames) as required (but not more often than once a coverage year) because of a change in the condition of the eyes. Standards to be established by regulations promulgated by the Secretary in accordance with section 226. |
| 2. Physicians' Services and Ancillary Health Care. When not otherwise covered under this table— | |
| a. Physicians' services (including radiotherapy) on an outpatient basis in any appropriate setting (including home calls), and services in any such setting under a physician's supervision by allied health personnel (as defined in regulations). | For physicians' services, a copayment for each visit of two dollars. Copayments under this paragraph for services in facilities involved in clauses c. and d. below apply only to services of attending physician. Limited to 10 visits per coverage year. Except that, in accordance with regulations, no limit on the number of visits shall apply to services preceding or following inpatient care in cases (such as surgery or pregnancy and obstetrical care) in which a single combined approved charge is made by the provider for such outpatient and inpatient services. |
| b. Diagnostic procedures on an outpatient basis (when not covered under subparagraph a.), including diagnostic tests, prescribed or ordered by a physician in connection with services referred to in paragraph a. | 20% copayment. Copayment requirement waived for registrants of Health Care Corporations. |
| c. Hospital or outpatient-center services (not included above) rendered to outpatients and incidental to physicians' services covered under paragraph 1. | No separate limitation. |
| d. Supplies, materials, and use of facilities and equipment in connection with the foregoing services, including drugs administered or used as a part of services covered in paragraph 1, 2, or 3. | No separate copayment. No separate limitation. |
| e. Ambulance services. | 20% copayment. Covered only when other methods of transportation are contra-indicated by the patient's condition, and only to the extent provided in regulations. |

* Footnote at end of table.

TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS—Continued

| I—Services and Items Covered—Continued | II—Copayments* and Limitations—Continued |
|---|---|
| **A. OUTPATIENT SERVICES—continued** | |
| 3. Other Outpatient Services<br>a. Outpatient Institutional-Care Program for Mental Illness, Alcoholism, or Drug Abuse and Dependence. | A two dollar copayment, per day, except that copayments may, by regulation, be waived for treatment of drug abuse and drug dependence. (No separate copayment for physicians' services applies under this subparagraph, whether or not such services are charged for separately.)<br>Limited to visits or sessions on 3 days under such a program in lieu of each day of inpatient hospital care allowable during a benefit period (under paragraph B.1.a. below) for the treatment of mental illness, alcoholism, or drug abuse or drug dependence. |
| Such day-care or other part-time services and other items as may be specified in regulations under section 226, furnished to patients, other than inpatients, under a program for the treatment of mental illness, alcoholism, or problems of drug abuse and drug dependence. | |
| b. Drugs, Prosthetic Devices, and Medical Equipment<br>(i) Drugs (other than those covered under paragraph A.1., A.2., or B.1. of this table) dispensed to patients other than inpatients. | For each drug prescription, and each refilling of such a prescription, a one dollar copayment.<br>Covered only if (1) the drug (whether or not it is subject to a prescription requirement under any law other than this title) has in fact been prescribed by a physician and is listed under its established name (as defined in section 502(e) of the Federal Food, Drug, and Cosmetic Act) in a list established for the purposes of this title by the Secretary under section 226(c), and (2) in the case of a drug listed under section 226(c)(2)(B), the disease or condition for which the drug has been prescribed is one for the treatment of which the drug is designated in that list as appropriate. |
| (ii) Prosthetic devices (including hearing aids) prescribed by a physician and not otherwise covered in this table. | Copayment 20% of charges.<br>Covered only if listed in, and in accordance with, regulations under section 2206. |
| (iii) In accordance with regulations, durable medical equipment (not otherwise covered) as described in section 1861(s)(6) of the Social Security Act, certified by a physician as being medically required. | Copayment 20% of charges.<br>Covered only if listed in, and in accordance with, regulations under section 226; and subject to criteria for payment prescribed under that section. |
| c. Home Health Services<br>Such items and services as are defined as "home health services" by section 228(d) and regulations thereunder. | For each visit, a two dollar copayment.<br>Coverage of such services shall be limited to 100 visits per coverage year. The certification and recertification requirements of section 1835(a)(2) of the Social Security Act, with such modifications (if any) as the Secretary may by regulation prescribe, may be applied by the carrier. |
| **B. INPATIENT SERVICES** | |
| 1. Institutional Services<br>a. Inpatient Hospital Care<br>Items and services defined by section 228(e) as "inpatient hospital care." | A five dollar copayment, per day.<br>Coverage is limited to 90 days of inpatient hospital care received in any benefit period: except that for treatment of mental illness, alcoholism, and problems and conditions of drug abuse or drug dependence the limit is 45 days. (The limitation on treatment of mental illness, alcoholism, and problems and conditions of drug abuse or drug dependence is 90 days of inpatient hospital care for registrants of Health Care Corporations.) |
| b. Post-Hospital Extended Care<br>Extended care services (as defined in section 228(b)) furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days. For the purposes of the preceding sentence, the second sentence of section 1861(i) of the Social Security Act shall apply. | A two dollar and fifty cent copayment, per day.<br>Limited to 30 days of such care received in any benefit period. |
| c. Nursing Home Care<br>Nursing home care as defined in section 228. | A two dollar and fifty cent copayment, per day.<br>Coverage shall be limited to 90 days of such care received in any benefit period. |
| **2. Physicians' Services and Ancillary Health Care.**<br>Those physicians' services to inpatients which are not included as "institutional services" under paragraph B.1. a., b., or c. | A two dollar copayment, per visit of the attending physician only. In accordance with regulations under section 226, in the case of services (such as surgery or pregnancy and obstetrical care) in which a single charge is made by the corporation for the attending physicians' services combined with any preceding or following outpatient services related thereto, a copayment of 10% of such combined charges shall apply. Copayments for physicians' services under this paragraph are in addition to the daily copayments for institutional care.<br>No separate limitations. |
| **C. CATASTROPHIC EXPENSE BENEFITS** | |
| Section 225 defines the conditions under which these benefits become effective in any coverage year with respect to any individual or family. To summarize: In the case of a low-income person or low-income family (class 1), these benefits are effective immediately. In the case of medically indigent persons or families (classes 2–4), they become effective when the person or family has incurred in a coverage year, for premium contribution, copayments, and certain other expenditures combined, a total expenditure equal to an amount determined by application of a table in section 225. In the case of individuals or families in income class 5, these benefits apply when a variable expenditure limit is reached, determined by taking 10% of the individual's or family's income. The dollar figures in the tables and the absolute expenditure limit may be adjusted by the Secretary on an annual basis, whenever the Consumer Price Index is more than 3% above the index for the base period (see sections 204 and 224). | For elimination of certain limits on coverage for Physicians' Services and Inpatient Hospital Services when Catastrophic Expense Benefits take effect in a coverage year, see section 225. |

* The initial amounts of the dollar copayments are subject to changes in the Consumer Price Index as determined under sections 204 and 224.

The definition of institutional services for inpatients includes, for benefit purposes, physicians' services, such as those of radiologists and pathologists, which are held out as generally available to all inpatients of an institution, regardless of the method by which the Health Care Corporation compensates the physicians.

*Limitations and exclusions*

Section 223(a) lists the limitations and exclusions, including the exclusion of services that are not medically necessary or appropriate; treatment of TB, mental illness, alcoholism, and drug dependence, when these illnesses are not in an acute phase; purely custodial care; cosmetic surgery (except for prompt repair of accidental injury or improvement of functioning of a malformed

member of the body); and certain other services or items.

(b) excludes from CHCB services for which payment is made through workmen's compensation or motor vehicle insurance.

(c) excludes from CHCB (1) charges for items or services (other than emergency services) furnished by a Federal provider, except (under arrangements with the HCC) one that functions as a community institution, or (2) charges by providers for services required to be furnished at public expense by Federal law or contract with the Federal government.

(d) defines the difference between semi-private and private institutional accommodations and excludes carrier payment for charges in excess of the semi-private rate unless the more expensive accommodations were required for medical reasons.

(e) limits carrier payment to approved charges for covered services, or items where the provider has furnished to an individual services, or items in excess of or more expensive than those covered by CHCB. (However, part C permits the HCC, to the extent authorized by the Secretary's regulations, to have the carrier make payment for non-covered services when billed by the provider, subject to refund if the individual does not reimburse the carrier.)

*Copayment provisions*

Section 224(a) outlines the conditions under which copayments, when indicated in the benefit table, for services or items furnished by the HCC, become the obligation of the registrant for payment to his carrier, or in the instance of an individual not registered with an HCC, by the individual to the provider. Nominal copayments must be paid except by low-income persons or where the out-of-pocket expenditure ceiling has been reached and catastrophic benefits are in effect (see Table of Special Expenditure Limits).

(b) specifies the applicable dollar amounts and refers to the benefit table for the applicable percentage amounts, of copayments related to the various categories of benefits included in the CHCB package. The dollar amounts set initially by this section would be adjusted according to increases in the Consumer Price Index.

*Catastrophic expense benefits*

Section 225(a) stipulates that all copayments would cease, and that except as noted under sec. 222(b) restrictions on the number of physicians' visits and inpatient hospital care days, and outpatient institutional care days under programs for mental illness, alcoholism, and drug dependence (except for extended care and nursing home care days) would become inapplicable when the catastrophic expense benefits provision is in effect.

(b) describes the conditions under which catastrophic expense benefits would take effect. These benefits would be instituted automatically for the low-income persons and families (i.e., those in income class 1), so that no out-of-pocket expenditures would be required to be incurred for this group. As income rises above that category, individuals or families would be required to incur an increasing amount of out-of-pocket expenditures before catastrophic expense benefits take effect, with the actual amounts specified in the Special Expenditure Limit Table.

SPECIAL EXPENDITURE LIMIT TABLE

| Income class | Expenditure limit under 65 | Expenditure limit 65 and over |
|---|---|---|
| 2 | $250 | $125 |
| 3 | 500 | 250 |
| 4 | 750 | 375 |



The dollar amounts initially set for the expenditure limit table would be adjusted according to increases in the Consumer Price Index. For individuals or families in income class 5, the special expenditure limit varies according to level of income, with the exact limit set at 10 percent of income as defined by regulations.

Expenditures creditable toward this ceiling include (1) premiums for CHCB coverage (whether paid by the individual or in his behalf by an employer), (2) copayments related to covered services (including a three-month carry over provision) and (3) expenditures for covered services rendered beyond the specified limits on physician visits (excluding mental illness), on inpatient hospital care days, and on outpatient institutional care days under programs for mental illness, alcoholism, or drug dependence.

*Regulations for comprehensive health care benefits*

Section 226(a) calls for the issuance of regulations by the Secretary to implement the benefit table, in addition to regulations and standards required in other sections of the bill.

(b) provides guidelines for the Secretary in developing regulations relating to health maintenance benefits, in particular, specification of the services that the Secretary may wish to require in the periodic health evaluation portion of CHCB. Special attention through the development of regulations is also given to dental services and vision services, under the expectation that the Secretary shall prescribe the scope of benefits for these services, and allow for future increases, based on the availability of resources.

(c) provides guidance to the Secretary in other key areas of CHCB, including the establishment of the national categories of drugs for outpatient care. The Secretary is directed to list those categories which he finds to be necessary for the treatment of diseases or conditions requiring drug therapy of such duration and cost as commonly to impose substantial financial hardship, and also list the diseases for which drugs are required for treatment, diseases deemed by the Secretary of special importance to the public health, e.g. VD. With respect to the latter drug categories, ambulatory benefits extend only to categories of drugs for diseases or conditions thus listed with respect to it. This section also requires the Secretary to develop special regulations and standards relating to CHCB categories of "prosthetic devices and medical appliances" and to the special outpatient institutional care programs related to the treatment of mental illness, alcoholism, and drug dependence.

*Phasing of benefits*

Section 227 requires the Secretary to submit recommendations for the expansion of benefits after the first five years of the program and to give special consideration to the expansion of dental and vision service benefits.

*Other definitions*

Section 228 defines the terms "drug", "extended care services", "nursing home care", "health-related custodial care", "home health services", "inpatient hospital care", "physician" (by cross reference to section 1861(r) of the Social Security Act), "physicians' services", and "attending physicians". These terms all occur in the benefit table, except for "health-related custodial care" which is referred to in section 223.

PART C—CARRIERS FOR COMPREHENSIVE HEALTH CARE BENEFITS

*Definition of "Carrier"*

Section 231 broadly defines carriers as non-governmental organizations that underwrite insurance for the cost of health care, or provide health benefit plans of the service type, in consideration of predetermined premiums. Approved Health Care Corporations qualify under the definition if they charge for covered health care on an annually predetermined capitation basis in accordance with section 136(b).

*Determination of qualified carrier*

Section 232 establishes qualifications for carriers, essentially that they must be authorized in each State for whose residents they operate health benefit prepayment plans or insurance at group rates, must comply with Section 233, must meet any special Federal standards in the case of a contract with HEW and must, with respect to coverage (under other contracts) for which a Federal premium contribution is requested, accord to HEW and its agents the same informational rights and access to records that HEW is entitled to in the case of coverage purchased by the Secretary.

*Requirement that carriers participate under State plan*

Section 233 requires that a carrier agree to participate in a coverage pool if so required (in accordance with provisions of a State plan pursuant to Section 124(b)(7) in order to qualify for a contract with HEW or for issuance of CHCB coverage eligible for a federal premium subsidy under Section 202(c).

*Conditions of approval of carrier contracts or plans for Federal premium subsidy*

Section 234 provides that the Secretary shall, for the purpose of the Federal premium subsidy under Section 202(c) approve a carrier prepayment plan or contract only if it is in conformity with applicable State standards and regulations and contains payment provisions and protective provisions (specified in Section 124(b)(7)) similar to those provided for in Section 108 for HEW contracts with carriers.

*Contracts with health care corporations on capitation basis*

Section 235 makes it possible for HEW to enter into a contract with a Health Care Corporation that operates on the basis of predetermined capitation charges to provide Comprehensive Health Care Benefits to which registrants are entitled under Section 202(b). The copayment component of the corporation's capitation charges or any separate copayments charged for by the corporation, would not be paid by HEW but collected by the corporation directly from the registrant. This section makes the same requirement of corporations with respect to records and notification of registrants as Section 108 imposes on carriers. Corporations are also required to establish record and payment centers and to issue identical membership cards to all of their registrants to prevent discrimination on account of economic status at the point of service.

*Effect of nonpayment*

Section 236(a) sets forth requirements for premium contributions and special premiums to be paid in advance to carriers by or on behalf of individuals.

(b) contains provisions for termination of benefit coverage (subject to a grace period) in the event of nonpayment with respect to the above.

*Enrollment under contracts with carriers*

Section 237(a) vests authority in the Secretary to establish regulations for the enrollment of registrants entitled to HEW-purchased Comprehensive Health Care Benefits.

(b) limits the types of enrollment to enrollment by a registrant for himself only or for himself and his spouse and other registrants who are members of his family. The conditions for change in type of enrollment

are left to regulations. The individual enrolling for himself and his family is held liable for premium contributions related to family coverage.

(c) specifies that to the optimum extent open enrollment periods under this section and open registration periods for Health Care Corporations shall be coordinated, and that a corporation's registration center shall provide information concerning enrollment.

*Reports by, and audits of carriers*

Section 238 states that contracts shall require carriers to make such reports as the Secretary finds necessary, to keep essential records, and to assure the correctness and verification of its reports.

*Jurisdiction of courts*

Section 239 invests district courts with original jurisdiction, concurrent with the Court of Claims, of a civil action or claim against the United States concerning this part of the Act.

*Prospective regulations*

Section 240 specifies that contract regulations, or amendments thereto, or to this title, shall not apply until the next contract year if their applications would increase the obligations or adversely affect the rights of a contracting carrier unless made applicable by the contract itself or by amendment thereto.

TITLE III—EFFECTIVE DATES

TRANSITIONAL EFFECTIVE DATES

Section 301(a) except as otherwise provided in this section and in section 302 (including any amendments made by it to existing law) shall be effective upon the date of the enactment of this Act.

(b) Sections 101, 102, 107(a), 109, 110, 111, and 112 and parts B and C of Title I shall take effect upon the first January 1 or July 1 which occurs 6 months or more after the date of enactment of this Act.

(c) Section 107(b), 128 (with respect to States which have not complied with Sections 122 and 124), and the amendments made by Section 201 shall take effect on the first day of the third fiscal year which begins after the date of enactment of this Act.

FULL OPERATION OF PROGRAM

Section 302. The program under this Act shall be fully in operation, and the benefits of part B of Title II shall be fully effective and available (in lieu of any benefits which would otherwise be available under Title XVIII of the Social Security Act), in accordance with all the provisions of this Act, on and after the first day of the fifth fiscal year which begins after the date of enactment of this Act.

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H.R. 14140

A Bill to establish a new program of health care delivery and comprehensive health care benefits (including catstrophic coverage), to be available to employed, unemployed, anl low-income individuals at a cost related to their income

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act, divided into titles, parts, and sections in accordance with the following table of contents, may be cited as the "National Health Care Services Reorganization and Financing Act".

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FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) Recognizing health care as an inherent right of each individual and of all the people of the United States, the Congress finds and declares that health services must be so organized and financed as to make them readily available to all, without regard to race, creed, color, sex, or age, and without regard to any person's ability to pay; that the services must be so provided as to enhance the dignity of the individual and promote better life for all; and that it is a function of Government to assure that these ends are attained.

(b) The Congress finds that achievement of these purposes requires substantial modification of the organization and methods of delivery of health services and the methods of financing them, and that these purposes will best be served by the creation of a nationwide system of independent Health Care Corporations embodying the principles—

(1) that each corporation should combine, either in its own structure or by affiliation, institutions and professionals qualified to furnish the entire range of health services, and should provide to its registrants an integrated and comprehensive program of health services, emphasizing preventive and outpatient care and embracing health maintenance services, primary care, specialty care, restorative care, and health-related custodial care;

(2) that such independent corporations should span the Nation, so that every resident of the country will have the opportunity to register with a corporation and, where practicable, a choice among corporations; and

(3) that such corporations should be locally established and operated, but should be subject to State regulation and to national standards of quality and scope of services;

and the Congress finds that, with financial assistance by the Federal Government in the development of Health Care Corporations and the creation of needed outpatient facilities, such a system can become operative nationwide within five years atfer the enactment of this Act.

(c) The Congress further finds that, in addition to stimulating and assisting the creation of Health Care Corporations and the establishment of State Health Commissions, and setting nationwide standards for the operation of Health Care Corporations, the functions of the Federal Government should include financial assistance to members of the public in obtaining the services of such corporations, in accordance with the principles—

(1) that the Federal Government should require all employers to participate in the purchase of Comprehensive Health Care Benefits for their employees;

(2) that the Federal Government should assume the cost of purchasing or subsidizing health insurance for those unable to pay for it, or unable to pay in full;

(3) that social insurance should continue to finance hospital care for the aged and that general revenues be used to fully finance medical care; and

(4) that to encourage participation by individuals in new health delivery and benefit programs, the Federal Government should bear a part of the cost of services.

(d) Pursuant to the foregoing findings, and to carry out the foregoing declarations, the Congress by the enactment of this Act declare and provides—

(1) that all persons residing in the United States will be eligible to participate in the program created by this Act, beginning in the fifth year after its enactment;

(2) that each person so participating will be entitled to receive from a Health Care Corporation services as described in this title, if he has registered with the corporation and has obtained a qualified health benefit coverage from a carrier, or on the basis of his income or his age has been provided with such a coverage;

(3) that such coverage will be provided through a Government contribution without cost to persons in the lowest income bracket and at reduced cost to persons in the other income brackets specified in this title; and

(4) that such coverage will be provided through social insurance and general revenues to persons who have attained the age of 65.

DEFINITIONS

SEC. 3. For the purposes of this title—

(1) the term "Comprehensive Health Care Benefits" means the benefits described in part B of title II;

(2) the term "State" includes the District of Columbia and the Commonwealth of Puerto Rico;

(3) the term "United States", when used in a geographical sense, means the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico;

(4) the term "Governor" includes the Commissioner of the District of Columbia; and

(5) the term "Secretary" means the Secretary of Health, Education, and Welfare.

## TITLE I—REORGANIZATION OF NATIONAL HEALTH SERVICES

SHORT TITLE

SEC. 100. This title may be cited as the "National Health Care Services Reorganization Act".

### PART A—FEDERAL ADMINISTRATION

ESTABLISHMENT OF OFFICE OF HEALTH AFFAIRS; UNDER SECRETARY FOR HEALTH

SEC. 101. (a) There is hereby established within the Department of Health, Education, and Welfare, as a separate organizational entity, the Office of Health Affairs.

(b) The Office of Health Affairs shall be under the direction and control of an Under Secretary for Health, Department of Health, Education, and Welfare, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate provided for positions in level III of the Executive Schedule as set forth in section 5314 of title 5, United States Code.

FUNCTIONS AND RESPONSIBILITIES OF THE OFFICE OF HEALTH AFFAIRS

SEC. 102. (a) All of the health programs of the Department of Health, Education, and Welfare, including the programs under the direction of the Assistant Secretary for Health and Scientific Affairs, and the health activities of the Social Security Administration and the Social and Rehabilitation Service, are transferred to the Office of Health Affairs.

(b) The Office of Health Affairs shall be charged with responsibility for the planning, administration, operation, coordination, and evaluation of all programs so transferred as well as the program under this Act.

(c) With respect to the program under this Act, the Office of Health Affairs shall be specifically charged with responsibility for—

(1) continuous review of the activities of State Health Commissions;

(2) liaison with all Federal agencies administering health or health-related programs, and with private national accrediting and other agencies concerned with standards of care and qualifications of health personnel, including the approval and listing of certifying bodies;

(3) annual reports, to be transmitted through the Secretary to the President, first to evaluate the progress of State plans and the development of health care corporations, and thereafter to evaluate the national program, including recommendations for legislation, if any; and

(4) dissemination to State governments, and to providers of service and the public, of all pertinent information about the national program, and to State governments, providers of service, and potential sponsors of health care corporations of information concerning the organization and responsibilities of such corporations.

REGULATIONS OF THE SECRETARY

SEC. 103. (a) In addition to regulations specifically required or authorized by this title, the Secretary is authorized to prescribe such further regulations, not inconsistent with law, as he deems necessary to the efficient administration of the title. Regulations shall be issued in accordance with the provisions of section 553 of title 5, United States Code.

(b) In addition to authority otherwise conferred by this title, the Secretary is authorized to prescribe by regulation—

(1) uniform systems of accounting to be used in determining the reasonableness of the budgets and charges of Health Care Corporations and other providers of health care;

(2) the method or methods to be used, and the elements to be considered, in determining, for the purposes of section 136 the financial requirements of Health Care Corporations and other providers, including—

(A) for such corporations and for institutions, all reasonable operating costs (including approved educational costs) and sufficient capital payments to permit the corporation or institution to reasonably finance existing or needed facilities and equipment for comprehensive health services; and

(B) for individual providers or groups of providers, all reasonable fees, salaries, or other compensation for needed professional and related services;

(3) standards of quality and standards of safety for all facilities of, and all services furnished by, Health Care Corporations (including facilities of, and services furnished by, affiliated providers or other providers acting under arrangements with such corporations) and other providers; such standards to require, as a minimum, that hospitals, extended care facilities, and home health agencies (including units of Health Care Corporations performing the functions of any such institutions) meet the applicable statutory requirements, pertaining to quality and safety, contained in title XVIII of the Social Security Act, and that nursing homes meet such of the foregoing requirements as the Secretary finds appropriate;

(4) standards relating to the use of paramedical personnel as assistants to physicians and dentists, and relating to the qualifications of such personnel; and

(5) standards for the determination of qualified carriers under section 232.

NATIONAL HEALTH SEVICES ADVISORY COUNCIL

SEC. 104. (a) There is hereby established a National Health Services Advisory Council (hereinafter in this section referred to as the "Council"), which shall consist of the Undersecretary for Health, who shall serve as Chairman of the Council, and twenty members, not otherwise in the employ of the United States, appointed by the Secretary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall include persons who are representative of providers of health services, and of persons (who shall constitute not less than one-half of the Council) who are representative of consumers of such services. Each appointed member shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and (2) the terms of the members first taking office shall expire, as designated by the Secretary at the time of appointment, five at the end of the first year, five at the end of the second year, five at the end of the third year, and five at the end of the fourth year, after the date of the enactment of this Act. Members of the Council who are representative of providers of health care shall be persons who are outstanding in fields related to medical, paramedical, hospital, or other health activities, or who are representative of organizations or associations of professional health personnel; and members who are representative of consumers of such care shall be persons, not engaged in and having no financial interest in the furnishing of health services, who are familiar with the needs of various segments of the population for personal health services and are experienced in dealing with problems associated with the furnishing of such services.

(b) The Council is authorized to appoint such professional or technical committees, from its own members or from other persons or both, as may be useful in carrying out its functions. The Council, its members, and its committees shall be provided with such secretarial, clerical, or other assistance as may be authorized by the Secretary for carrying out their respective functions. The Council shall meet as frequently as the Secretary deems necessary, but not less than four times each year. Upon request by seven or more members it shall be the duty of the Chairman to call a meeting of the Council.

(c) It shall be the function of the Council (1) to advise the Secretary on matters of general policy in the administration of this title and in the formulation of regulations, and (2) to study the operation of this title and the activities of State Health Commissions, Health Care Corporations, and other providers, with a view to recommending any changes in the administration of this title or in its provisions which may appear desirable. The Council shall make an annual report to the Secretary on the performance of its functions, and the Secretary shall transmit the report to the Congress, together with a report by the Secretary on any administrative recommendations of the Council which have not been followed, and a report by the Secretary of his views with respect to any legislative recommendations of the Council.

(d) Appointed members of the Council and members of technical or professional committees, while serving on business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary but not exceeding the daily equivalent of the rate specified at the time of such service for grade GS–18 of the General Schedule; and while so serving away from their places of residence they shall be entitled to receive actual and necessary traveling expenses, including per diem in lieu of subsistence, as authorized by section 5703 (b) of title 5, United States Code, for persons in the government service employed intermittently.

STUDIES OF DELIVERY AND FINANCING OF HEALTH CARE

SEC. 105. (a) The Office of Health Affairs shall make a continuing study of the operation of this title, including the adequacy, quality, and utilization of services furnished

by Health Care Corporations and other providers, the effectiveness of peer review and cost controls, the effectiveness of supervision of such corporations by State Health Commissions, the financing of services through insurance and otherwise, and all other aspects of the system of health care created pursuant to this title. The Office is authorized, also, to make studies and conduct research in regard to alternative methods of furnishing and financing health care (including methods followed in other countries), and of methods of enhancing, through financial incentives or otherwise, the quality of care and the economy and efficiency of its delivery.

(b) The Office may carry out its functions under this section directly or through contracts, and it is authorized to make grants to public or other nonprofit agencies or institutions for studies and research which it deems likely to further the purposes of this section.

(c) The Office shall from time to time publish the results of studies and research conducted pursuant to this section.

UTILIZATION OF STATE AGENCIES

SEC. 106. (a) The Secretary may, and to the optimum extent determined by him to promote efficient administration of this title shall, make arrangements with State Health Commissions (in accordance with section 124(b)(9) whereby the commission involved (directly or through arrangements approved by the Secretary with another State agency or agencies) will—

(1) subject to the applicable provisions of part C of title II, contract, as agent and in the name of the Department of Health, Education, and Welfare, with carriers approved by the Secretary, as provided in paragraph (1) (B) and (C) of section 108(b); and

(2) from time to time perform such other functions for or on behalf of the Secretary, other than the issuance of Federal regulations and standards, under this title as the Secretary may deem appropriate.

(b) The Secretary shall, in accordance with section 111, pay State Health Commissions the cost of the proper and efficient administration of their functions under arrangements made with them pursuant to subsection (a).

FEDERAL FINANCING RESPONSIBILITIES FOR HEALTH SERVICES

SEC. 107. (a) Notwithstanding any provision to the contrary in title XVIII of the Social Security Act or in any other law, effective with respect to items and services furnished (and periods occurring) on or after the first transitional effective date as specified in section 301(b) and before the effective date for full operation of the program under this Act as specified in section 302—

(1) every individual who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act shall be automatically enrolled in the supplementary medical insurance program established by part B of such title (with such coverage period, and subject to such other terms and conditions, as may be prescribed by the Secretary in regulations);

(2) every resident of the United States who is a low-income person or a member of a low-income family (as those terms are defined in section 203(a)(1) of this Act), and who is not otherwise entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act or enrolled in the supplementary medical insurance program established by part B of such title, shall, under regulations prescribed by the Secretary (but without regard to age, insured status, or any other eligibility requirements, or any coinsurance, copayment, or deductible requirements, which might otherwise apply), be provided by the Secretary, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate), with benefits under this Act equivalent to the hospital insurance benefits available under part A of title XVIII of the Social Security Act and the supplementary medical insurance benefits under part B of such title; and

(3) no premium or similar amount shall be payable by any individual for or on account of his enrollment in or coverage under the insurance program established by part B of such title XVIII, or for or on account of the provision to him of benefits under paragraph (2) of this subsection.

There are authorized to be appropriated from time to time to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate) sums equal to (A) the cost of the additional benefits paid from such funds by reason of paragraph (2), and (B) the total premiums which, but for paragraph (3), would be payable by all individuals for or on account of enrollment in or coverage under the insurance program established by part B of such title XVIII or the benefits provided to them under paragraph (2).

(b) Effective with respect to items and services furnished (and periods occurring) on or after the second transitional effective date as specified in section 301(c) and before the effective date for full operation of the program under this Act as specified in section 302—

(1) every individual age 65 or over described in paragraph (1) or (2) of subsection (a) shall be provided by the Secretary (in addition to the benefits provided such individual under subsection (a)) with Catastrophic Expense Benefits coverage under and in accordance with section 225 of this Act but without regard to any special expenditure limit which might otherwise apply under subsection (b) of such section;

(2) every resident of the United States who is a medically indigent person or a member of a medically indigent family (as such terms are defined in section 203(a)(2) of this Act), and who is not otherwise entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act or enrolled in the supplementary medical insurance program established by part B of such title, shall, under regulations prescribed by the Secretary (but without regard to age, insured status, or any other eligibility requirements which might otherwise apply), be provided by the Secretary, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate), with benefits under this Act equivalent to the hospital insurance benefits available under part A of title XVIII of the Social Security Act and the supplementary medical insurance benefits available under part B of such title, and in addition shall be provided with Catastrophic Expense Benefits coverage under and in accordance with section 225 of this Act at premium rates determined under secttion 206; and

(3) any other individual who registers with a Health Care Corporation shall be entitled to the 10-percent premium subsidy under section 202(c).

There are authorized to be appropriated from time to time to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate) sums equal to the additional costs incurred by such Funds by reason of benefits under this subsection.

(c) There is authorized to be appropriated for each fiscal year beginning on or after the effective date specified in section 302, for the purpose of financing the program set forth in title II of this Act, an amount sufficient to pay (on the basis of estimates for such fiscal year)—

(1) the cost of providing prepaid coverage for Comprehensive Health Care Benefits to persons who are under the age of 65 and are low-income persons or members of low-income families;

(2) the net cost, after deducting the contribution to be required of them, of providing such coverage to persons who are under the age of 65 and are medically indigent persons or members of medically indigent families;

(3)(i) the added cost, resulting from their low incomes or their medical indigence, of providing such coverage to persons who have attained the age of 65 years and who either are low-income persons or members of low-income families or are medically indigent persons or members of medically indigent families, and (ii) the added cost of Comprehensive Health Care Benefits available to those eligible for benefits under part A of title XVIII of the Social Security Act;

(4) the cost of providing the 10-percent premium subsidy under section 202(c) for all individuals who register with Health Care Corporations and purchase Comprehensive Health Care Benefits privately (or for whom such benefits are purchased by private sources);

(5) the cost of establishing or maintaining a reserve equal to 5 percent of the foregoing costs; and

(6) the cost of administration incurred by the Secretary in providing the coverages referred to in paragraphs (1), (2), and (3).

(d) For each fiscal year the Secretary shall estimate the costs referred to in subsections (a), (b), and (c) by projection based upon the costs in the second preceding fiscal year, or (in the case of the first two fiscal years involved) upon the Secretary's estimate of the costs that would have been incurred in such second preceding fiscal year if this title had then been in effect. Each projection shall take account of the then current rate of change in the cost of health services, expected changes in the low-income population and the medically indigent population, trends in the utilization of health services, and other factors which the Secretary finds relevant; and, in projecting aggregate contributions to be made by medically indigent persons and families, shall take account of the then current rate of change in the Consumer Price Index.

CONTRACTING AUTHORITY OF THE SECRETARY

SEC. 108. (a)(1) The Secretary shall, through contracts with carriers, provide the prepaid coverage for the benefits to which aged, low-income, and certain other individuals and their families are entitled under section 203.

(2) In addition to the qualifying requirements for carriers specifically set forth in this title, the Secretary may establish further qualifying standards for carriers (or classes thereof).

(b)(1) The Secretary may negotiate and enter into (A) contracts with a carrier or carriers to administer Comprehensive Health Care Benefits for all individuals entitled to benefits under section 203; (B) contracts with qualified carriers which have underwritten a prepayment plan for a Health Care Corporation operating wholly or primarily on a predetermined capitation charge basis; and (C) direct contracts with Health Care Corporations under section 235 if the corporations operate on a predetermined capitation charge basis and as such qualify as carriers.

(2) The Secretary may authorize State Health Commissions to act as his agents in contracting with carriers as described in paragraph (1).

(3) Contracts under this part are exempted from any provision of law requiring competitive bidding and from such other

requirements of law as the Secretary may waive. The Secretary is required, however, to notify all potentially qualified carriers a description of the contract requirements he desires and the requirements and provisions of this title and regulations, and to invite these carriers to submit proposals. Among the factors which the Secretary is required under this title to consider in negotiating and approving contracts shall be the carriers' experience with group health insurance or prepayment plan coverage. The Secretary may require the contracting carrier to subcontract with other carriers, and he shall enter into a contract with a combination of carriers only if this does not result in higher administrative costs and only if it best serves the purposes of this title. The term "combination of carriers" or "combination," as used in this section, means (i) a group of qualified carriers that have entered into a joint venture or other cooperative arrangement for the purpose of administering coverage under a contract under this part, or (ii) a corporation (which itself is a qualified carrier) designated or caused to be created by a group of qualified carriers for the purpose stated in clause (i); and any further reference in this part to a "carrier" shall be deemed to include reference to such a combination.

FEDERAL RESPONSIBILITY FOR DEVELOPMENTAL GRANTS

SEC. 109. (a) It is one of the purposes of this part to establish the responsibility of the Secretary to encourage, promote, and assist the establishment, as soon as practicable, of the comprehensive health care delivery system contemplated by this title, by providing financial and technical assistance for the early planning, development, establishment, and initial operation of Health Care Corporations, including incentives for use of the capitation payment method for health care and for the development and improvement of outpatient care centers, particularly in poverty and rural areas.

(b) There are authorized by the Secretary to be appropriated for each fiscal year, for carrying out the purpose stated in subsection (a), such sums as may be necessary. Sums so appropriated for grants or contracts for any fiscal year shall remain available for obligation until the close of the succeeding fiscal year.

AUTHORIZATION OF DEVELOPMENTAL FINANCIAL ASSISTANCE

SEC. 110. (a) For the purpose stated in section 111, the Secretary is authorized, in accordance with the provisions of this part, to make—

(1) grants for planning, organizing, developing, and establishing Health Care Corporations (or for any one or more of such activities), including affiliation or other arrangements (if any) of such a corporation with providers of health care, in conformity with part C of this title;

(2) contracts, in connection with the establishment or substantial expansion of Health Care Corporations, to pay for a reasonable period all or part of any operating deficits of such corporations;

(3) grants to Health Care Corporations, or to public or nonprofit providers affiliated therewith, for the initial operation of (A) new outpatient care centers or (B) new or expanded services in (or based in) outpatient care centers; and

(4) grants for major health-maintenance, diagnostic, or therapeutic equipment, data processing systems or equipment, or central-service equipment, needed for initial operating capability of Health Care Corporations.

(b)(1) In making grants and contracts under this part, the Secretary (A) shall take into account existing health care resources and health care delivery systems in the several States, the relative need of the States and areas within the States for such assistance, and their populations, and (B) shall have due regard to the achievement, consistently with the purposes of this title and this part, of an equitable distribution of such assistance.

(2) Not more than 15 percent of the appropriations made for grants or contracts under this part may be expended in any one State.

(3) In making grants and awarding contracts during the first five fiscal years for which funds have been appropriated under this part, the Secretary shall give priority to the applications of corporations that (A) operate primarily on the basis of predetermined capitation charges, or (B) are in the process of converting to primarily that basis, or (C) agree to operate on or convert to primarily that basis if awarded such a contract. After that period, the Secretary may award such contracts only to such corporations.

(4)(A) A grant or contract shall not be made or awarded under the preceding provisions of this part when there is in effect, for the State that includes the area involved in the application for such assistance, a State plan approved under part B, unless the State Health Commission has recommended approval of the application and has certified—

(1) in the case of an application for a grant under subsection (a)(1) of this section 111, that (A) there is need for a Health Care Corporation in the area involved (or of an additional Health Care Corporation if one approved under part B has already been assigned to the area), and (B) the area has been designated as a health service area in accordance with the State plan or, if not, there is probable cause to believe that it will be so designated;

(2) in the case of an application for a contract under subsection (a)(2) of this section or section 112, that the applicant (A) is a Health Care Corporation in conformity with section 131(a), (B) has been approved, or upon the Secretary's approval of the application for the contract will be approved, by the Commission under part C, and (C) has been, or upon approval of the contract application by the Secretary will be, assigned by the Commission under the State plan to the health care area or areas involved in the application; or

(3) in the case of an application for a grant under subsection (a)(3), that (A) the Health Care Corporation which is the applicant or involved in the application is in conformity with section 131(a) and has been, or upon approval of the grant application by the Secretary will be, approved by the Commission under part B and assigned under the State plan to the health service area involved in the application for the grant; and (B) the outpatient care center or services thereof, or the equipment or system, for which the grant is sought, is needed for the effective discharge of the corporation's functions under the State plan.

(c)(1) In the case of a State for which there is not yet in effect a State plan approved by the Secretary under part B but in which a State Health Commission and a State Advisory Council have been established in conformity with that part, the Secretary shall not make a grant or contract under the foregoing sections of this part unless the Commission, the State planning agency (if any) designated or established for the State as required under section 314(a)(2)(A) of the Public Health Service Act (if it is a separate agency from the commission), and the appropriate areawide health planning agency (if it is different from the State planning agency) have had an opportunity (in accordance with regulations of the Secretary) to review and comment on the application for the grant or contract.

GRANTS FOR STATE PLANS

SEC. 111. (a) In order to facilitate and expedite the submission of State plans to the Secretary pursuant to section 124, the Secretary is authorized to make grants to State Health Commissions for all or part of the necessary cost of developing and preparing such plans, including (but not limited to) the expenses of their State advisory councils consulted in connection therewith, the cost of disseminating to the public and to others information concerning a proposed plan, and the most of public hearings thereon.

(b) There are authorized to be appropriated for grants under this section such sums as may be necessary for each fiscal year in the period beginning with the fiscal year in which this Act is enacted and ending with the close of the third full fiscal year after this Act is enacted.

(c)(1) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this title an amount equal to the Federal percentage of the sums expended for the proper and efficient administration of the State plan. Such payments and payments under grants pursuant to this section may be made in installments (not less often than quarterly) and may be made in advance (on the basis of estimates) or by way of reimbursement, with necessary adjustments on account of prior overpayments or underpayments.

(2) The Federal percentage, for the purpose of paragraph (1), shall be 90 percent with respect to sums expended by a State during fiscal years ending prior to the effective date of the benefit program under this Act (as set forth in sections 201 and 202), 85 percent with respect to sums so expended during the next two fiscal years, and 75 percent with respect to sums expended thereafter; except that with respect to sums expended by the State for proper and efficient administration pursuant to provisions of the State plan contained therein in compliance with section 124(b)(10) the Federal percentage shall always be 100 percent.

FINANCIAL ASSISTANCE UNDER OTHER PROGRAMS

SEC. 112. (a)(1) In administering other programs of financial assistance in the field of health care (including construction of facilities for health care) the Secretary and, on recommendation of the Secretary, other Federal agencies shall to the optimum extent utilize those programs to promote the purposes of this Act.

(2) Notwithstanding any other provision of law, the Secretary may, and such other agencies when requested by the Secretary shall, in the administration of such other programs, give (or require agencies and organizations assisted to give) highest priority to the needs of Health Care Corporations, particularly in areas determined by the Secretary to be urban or rural poverty areas.

(b)(1) The Secretary shall prepare and widely disseminate, through publications and otherwise, information concerning the availability of assistance under this part.

(2) The Secretary may upon request provide advice, counsel, and technical assistance to Health Care Corporations and other interested organizations and agencies in preparing applications, and in meeting the requirements of this part and of the Secretary, for grants and contracts authorized by this part.

PENALTIES FOR FRAUD

SEC. 113. (a) Any individual, provider of health care, carrier, or other person who—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit, or any grant or other payment, under this Act,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

(3) having knowledge of the occurrence of any event affecting (A) his or its initial or continued right to any such benefit or payment of any other person in whose behalf he or it has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

(4) having made application to receive any such benefit or payment for a particular use or purpose and having received it, knowingly and willfully converts such benefit or payment or any part thereof to any other use or purpose,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Any provider of health care or other person who furnishes items or services to an individual for which payment is or may be made under this Act and who solicits, offers, or receives any—

(1) kickbacks or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services.

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any organization, institution, or facility in order that it may qualify as a carrier or a provider of health care for purposes of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than 6 months, or both.

PART B—STATE FUNCTIONS

GENERAL CONDITIONS OF STATE PARTICIPATION

SEC. 121. (a) Except as otherwise provided in this Act, the Comprehensive Health Care Benefits provided for individuals in this title and financed or assisted from Federal funds shall be available in any State if, and only if, in conformity with the requirements of this part, (1) the State has accepted the provisions of this Act and created, as a newly constituted and independent establishment within the executive branch of the State government, a State agency for carrying out the responsibilities devolving upon the State under this Act headed by a multimember governing body hereinafter in this title referred to as the "State Health Commission" (or as the "State commission" or the "commission"); (2) there has been established in that agency a State Advisory Council; and (3) there is in effect an approval, by the Secretary, of a State plan submitted by the State Health Commission under section 124 for carrying out the State's responsibilities under this title.

(b) For Federal exercise of State functions in cases of noncompliance by States, see section 103.

STATE HEALTH COMMISSIONS

SEC. 122. (a) The State Health Commission of a State shall be composed of three or five members (whichever number may be authorized under the law of its creation) appointed by the Governor of the State for staggered terms, which shall be renewable. Each term shall be for six years, except as necessary in the case of initial appointments to meet the requirement of staggered terms, and except in the case of a member appointed to fill a vacancy occurring before the expiration of the term of his predecessor. Not more than two members of a three-member commission, nor three members of a five-member commission, shall be members of the same political party. The Governor shall designate one of the members of the commission to serve as chairman.

(b) (1) It is the sense of the Congress that the members of a State Health Commission should be chosen, not primarily from the standpoint of specialized experience in the subject matter fields within the commission's jurisdiction, but rather with a view to their ability to bring to the affairs of the commission broad gaged, highly qualified, effective, and disinterested policy direction. Persons representative of the health care professions shall not constitute a majority of the membership of the commission.

(2) During his term of membership, no member of the commission shall engage in any other business, vocation, or employment.

(3) The chairman and other members of the commision shall receive salaries at levels comparable to the compensation of the head of a principal executive department of the State.

(4) No member of the commission shall during his term of office be subject to removal except for dereliction of duty, corruption, incompetency, or conviction of a crime involving moral turpitude, or for a cause stated in paragraph (5) of this subsection.

(5) Any individual, while in the employ of or holding any official or contractual relation to or affiliation with a Health Care Corporation or any other corporation or provider of health care under the regulatory jurisdiction of the State commission, while in any manner pecuniarily interested in any such corporation or provider, shall be disqualified from being a member, officer, or employee of the commission; except that if such disqualification by reason of pecuniary interest arises otherwise than voluntarily while such individual is such a member, officer, or employee, the individual may be permitted to remain in office or employment if within a reasonable time he divests himself of that pecuniary interest. The preceding sentence shall not apply to membership on the State Advisory Council by an individual who discloses his interest in or relation to a corporation or provider, nor shall it apply to any individual solely because he is a registrant of a Health Care Corporation or a beneficiary member of or subscriber to another provider of health care.

STATE ADVISORY COUNCILS

SEC. 123. The Advisory Council to the State Health Commission of a State, which shall consult with the commission in the development and carrying out of the State plan, shall consist of (1) persons broadly representative of providers of health care (including health maintenance) in the State (including but not limited to persons representative of Health Care Corporations when organized and approved, other nongovernmental and public organizations, societies and groups of health professionals, and schools and institutions particularly concerned with education or training of persons in the health professions and ancillary occupations), and (2) not less than an equal number of persons who are representative of consumers of health care and (A) neither are providers nor have a pecuniary interest in the provision of such care, (B) are familiar with the needs of the various segments of the State's population for such care, and (C) are experienced in dealing with problems associated with the provision of such care.

STATE HEALTH CARE PLANS

SEC. 124. (a) In order to be approvable under this part for any year the State plan of any State must—

(1) meet the requirements of subsection (b);

(2) have been submitted to the Secretary by the State Health Commission (constituted and operating in conformity with the preceding sections of this part) at such time and presented in such detail, and contain or be accompanied by such information, as the Secretary deems necessary;

(3) have been prepared in consultation with the State Advisory Council; and

(4) have been submitted to the Secretary only after the commission has afforded to the general public of the State a reasonable opportunity for presentation of views on the plan in the case of submission of the plan for initial approval or for annual renewal of approval after major revision of the plan.

(b) The State plan must—

(1) designate the State Health Commission of the submitting State as the sole agency for the administration of the plan, except as otherwise authorized by this part;

(2) contain or be supported by satisfactory evidence that the commission has the authority to carry out the plan in accordance with this part;

(3) provide for adequate consultation with the State Advisory Council in carrying out the plan;

(4) set forth, in such detail as the Secretary may prescribe, the qualifications for personnel having responsibilities in the administration of the plan;

(5) provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient administration of the plan, including (A) methods relating to the establishment and maintenance of personnel standards on a merit basis consistent with such standards as are or may be established by the Civil Service Commission under section 208(a) of the Intergovernmental Personnel Act of 1970 (Public Law 91-648), and (B) provision for utilization of qualified professional medical personnel (particularly in connection with the development or administration of standards of quality and utilization of health care) and of paramedical and other qualified professional staff; but the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with the methods relating to personnel standards on a merit basis established and maintained in conformity with this paragraph;

(6) (A) provide for the designation of preferred service areas by applicant Health Care Corporations in accordance with the requirements of section 135 and for approval in each such area of one or more Health Care Corporations in accordance with section 126;

(B) include, with respect to existing and proposed Health Care Corporations, their affiliated providers of health care, and other such providers, (i) provisions incorporating the requirements of part C of this title, and (ii) the provisions required by section 126;

(C) provide, in accordance with sections 125 and 126, for cooperation with other States in the administration of the plan, and in particular authorize cooperative arrangements with adjoining States with respect to (i), joint service areas and (ii) establishment, admission, and approval of Health Care Corporations for service in such joint areas for serving separate areas in the cooperating States; and

(D) include a program by completing (i) the initial approval of Health Care Corporations for service in designated areas (including, if necessary to carry out the purpose stated in section 2(b)(2), the creation of governmental Health Care Corporations), and (ii) the initial registration of eligible individuals with such approved corporations, not later than the close of the fourth fiscal year that begins after the calendar year in which this Act is enacted;

(7) (A) include such provisions for effective arrangements or procedures as will as-

sure an opportunity to obtain group coverage for Comprehensive Health Care Benefits at reasonable rates, for themselves or their employees, to all residents of the State who are not entitled to coverage of such benefits purchased by the Secretary, and provide for the effective enforcement of these arrangements and procedures by the commission (subject to review by the Secretary with respect to enforcement of Federal regulations);

(B) provide for regulating the premium rates of carriers issuing group health benefit prepayment plans or insurance contracts for residents of the State (except under contracts negotiated and made directly by the Secretary), except that the plan may—

(i) vest in the State agency primarily charged by State law with regulating the business of insurance in the State, or

(ii) authorize the commission to delegate to that or another appropriate State agency, the function of regulating the premium rates for such prepayment plans or insurance contracts charged by carriers (other than Health Care Corporations acting as carriers for their own registrants);

(C) provide, consistently with regulations and standards of the Secretary relating to Comprehensive Health Care Benefits coverage, for the regulation and supervision of such carriers and such plans and contracts by the commission, including in the case of group coverage for Comprehensive Health Care Benefits the establishment, by the commission, of required standard provisions whereby, in the event of interruption or termination (by death or otherwise) of a covered individual's status as a member of the employee or other group that the plan or contract covers, the individual (or covered members of his family in case of his death) will have the privilege of continuing coverage under the plan or contract for a specified period (not less than 30 days) that the commission deems reasonable; and

(D) provide (subject to any regulation by the Secretary or interpretations thereunder with respect to contracts with carriers or otherwise with respect to coverage for Comprehensive Health Care Benefits)—

(i) for granting an opportunity for a fair hearing, before the commission, to any approved Health Care Corporations or nonaffiliated provider whose claim against a carrier for payment of charges for services or items furnished to a registrant of the corporation covered by the carrier for Comprehensive Health Care Benefits, or for payment of capitation charges with respect to a thus covered registrant in the case of a Health Care Corporation operating on a capitation charge basis, has been denied by the carrier in whole or in part, and

(ii) for adjudicating the claim;

(8) provide effective methods and procedures for (A) optimum utilization or adaptation, in the administration of the plan submitted under this section, of (i) such plans as have been or will be developed for the State pursuant to subsection (a) of section 314 of the Public Health Service Act, (ii) the State plan approved under subsection (d) of that section, (iii) any comprehensive plans developed under subsection (b) of that section for regions, metropolitan areas, or other local areas wholly or partly within the State, and (iv) relevant plans developed under any other programs, and (B) coordination (or, at the State's option, consolidation in the case of planning at State level) of planning under the plan submitted under this section with ongoing or projected planning activities under those subsections or programs;

(9) provide that, if and to the extent requested by the Secretary, the commission (directly or through appropriate arrangements, approved by the Secretary, with another appropriate State agency or agencies) will perform, for or on behalf of the Secretary, any or all of the following functions:

(A) as authorized by section 108, contract, as agent of the Secretary, with qualified carriers for Comprehensive Health Care Benefits coverage in the State required under this Act to be financed by Federal purchase of such coverage from a carrier;

(B) act as fiscal agent of the Secretary in transactions with carriers (or classes thereof) in the State, including (if and to the extent that the Secretary assumes this function) the collection or receipt, and transmittal to carriers, of premium contributions by beneficiaries of federally purchased Comprehensive Health Care Benefits coverage (or by others on their behalf) when such contributions are required by or pursuant to this Act;

(C) furnish to the Secretary such timely information and prospective estimates as the Secretary may find necessary for developing its estimates of costs and required Government contributions under section 107;

(D) review, and make recommendations with respect to, applications to the Secretary for grants under appropriate sections of part A of this title, and, when requested, review and make recommendations with respect to applications to the Secretary for grants or contracts under other provisions of law administered by the Secretary, act as agent for the Secretary in investigating and certifying compliance with the terms and conditions of such grants or contracts, and make payments from Federal funds thereunder; and

(E) perform such other functions for or on behalf of the Secretary as he may reasonably request;

(10)(A) in cooperation with the Secretary, and in accordance with such methods as may be recommended for the design and implementation of a nationwide cooperative system for producing comparable and uniform health-related information and statistics, function as a center, for the State, for the collection (from Health Care Corporations and other providers, health benefit prepayment plans and private health insurance companies, and other sources), retrieval, analysis, reporting, and publication of statistical and other information related to health and health care, including data on the fiscal operations of such corporations, plans, and companies and including data of the kinds enumerated in section 305 of the Public Health Service Act, and (B) require such corporations and providers, and such plans and companies doing business in the State, to make statistical and other reports of such information and data to the commission;

(11) provide safeguards that restrict to purposes directly connected with the administration of the plan the use or disclosure of identifying information concerning (A) individuals with respect to whom information is obtained in carrying out the State plan provisions required by paragraph (10), or (B) individuals who are registrants or applicants for registration under this Act or who claim eligibility for Comprehensive Health Care Benefits coverage by a carrier;

(12) provide, in accordance with methods and procedures prescribed or approved by the Secretary, for the evaluation, at least annually, of the health-related and economic effectiveness of the activities of the commission and of Health Care Corporations (including their affiliated providers) and other providers under the commission's supervision, including a review and comparative evaluation of data on utilization of health care services (including drugs) provided by Health Care Corporations and other providers;

(13) provide that the commission will make such annual and other reports (including reports of evaluations made pursuant to the provisions contained in the plan in accordance with the preceding paragraph) as the Secretary may from time to time reasonably require, and comply with such provisions as the Secretary may find necessary to assure the correctness and verification of such reports; and

(14) provide that the commission will from time to time, and in any event not less often than annually, review the plan and submit to the Secretary any modification thereof which it considers necessary.

(c) The Secretary shall approve any State plan and any modification thereof which complies with subsections (a) and (b); except that he shall not grant such approval if the plan or modification or other State law (statutory or otherwise) or the practice of a State licensure or regulatory authority under color of law—

(1) prevents or limits Health Care Corporations (approved by the commission under the plan) from undertaking to provide covered health care to registrants (and to others at its election) (A) through direct employment of medical or other licensed health care practitioners by the corporation or other nonprofit providers, or (B) through group practice (as defined by regulations of the Secretary) or other arrangements by the corporation or other providers with such practitioners or groups thereof (whether such arrangements be on a capitation, fee-for-service, or other basis); or

(2) deprives any Health Care Corporation of its right to designate its preferred service area and of its right of appeal for change in such service areas, in accordance with the provisions of this Act;

(3) disqualifies from service on the governing board of a Health Care Corporation or affiliated institutional provider thereof a physician who is on the staff of the Health Care Corporation or the institution or is an affiliated provider of the Health Care Corporation;

(4) prevents or limits such practitioners from employing or arranging with appropriately trained assistants under this supervision to perform, consistently with standards of the Secretary prescribed under section 103(b)(4), health care functions commensurate with their qualifications and training; or

(5) prevents or limits carriers from offering coverage of health care provided in accordance with paragraph (1), (2), (3), or (4), unless the Secretary determines, in accordance with regulations issued by him, that the prohibition or restriction is consistent with the purposes of this title.

(d)(1) An approval of a State plan submitted to the Secretary under this part shall, unless renewed, or unless sooner withdrawn or suspended under this part, be in effect for a period of one calendar or fiscal year, whichever the Secretary determines, except that the initial approval may be for the remainder of the fiscal or calendar year then current or, where deemed appropriate by the Secretary, may be made effective until the end of the succeeding year.

(2) For the purposes of this Act, a State with respect to which there is in effect an approval of a State plan by the Secretary under this part, or with respect to which the Secretary is performing the functions that he is authorized to perform under section 128(a) or (c)(4), is a "participating State".

DESIGNATION OF HEALTH CARE AREAS

SEC. 125. (a) As soon as practicable after its organization, the State Health Commission of each participating State shall conduct a study and survey with a view to the approval of service areas for applicant Health Care Corporations as a basis for the issuance of certificates of approval by the commission (in accordance with section 126(a)(3)), with the objective of affording to all the people in the State equal and ready access to the full range of comprehensive health care of high quality provided for in this title and, where practicable, a choice among Health Care Corporations. In making its study and survey, the commission shall give appro-

priate consideration to (1) the size and distribution of the State's population and the incidence of illness or disease in population groups in different regional, metropolitan, or other local areas (or parts thereof) of the State, (2) existing health care organizations, institutions, or resources for the provision of health care, their potential for sponsoring or participating in the organization of Health Care Corporations, and their distribution in relation to the need for care, (3) local governmental structures, (4) transportation facilities, (5) patterns of organization for the delivery of health care, (6) patterns of use of health care, and (7) other relevant factors. To assist in its study and survey, and especially in connection with its consideration and evaluation of the factors referred to in clause (2) of the preceding sentence, the commission shall set a date by which shall be filed with it applications by Health Care Corporations for certificates of approval for operation in areas defined in the respective applications (or statements of intention, by proposed sponsors of such corporations, to file such applications). No such certificate shall be granted under section 126 until a final regulation has been issued under the last sentence of subsection (c)(1) of this section.

(b) In addition to making the study and survey referred to by subsection (a), and before approving applications for certificates of approval, the commission shall consult with persons representative of the general public, representatives of public and private health care institutions or their organizations, representatives of the medical and other health care professions, including persons representative of health care practitioners engaged or employed in group practice, representatives of appropriate State and local governmental agencies, State commissions in adjoining States (where appropriate), and other interested groups and individuals.

(c)(1) After its study, survey, and consultation, the commission shall publish a proposed regulation setting forth its findings and approvals of Health Care Corporations and the service areas proposed, which need not coincide with the areas of existing municipalities or political subdivisions of the State. The commission shall give reasonable public notice of its proposal and of a public hearing or hearings on the proposal and shall, after such hearing or hearings, by final order confirm the regulation or issue a revised regulation.

(2) In carrying out this section the commission may, in accordance with cooperative arrangements referred to in section 124(b)(6)(C), designate with another State or States a service area or areas that include parts or all of such States.

(d) The commission may, either on its own motion or on petition of any interested Health Care Corporation or other interested provider of health care, an interested registrant or organization representing registrants, or any other interested person, amend or repeal a final regulation issued under subsection (c), but final action on a proposal under this subsection may (upon request of an interested person filing objections to the action proposed, specifying with particularity the changes desired, and stating reasonable grounds therefor) be taken only by decision on the record made after fair hearing.

REGULATION FUNCTIONS OF STATE HEALTH COMMISSIONS

SEC. 126. (a) For the purposes of part C of this title and of paragraph (6) of section 124(b), a State plan shall, in addition to complying with section 125—

(1) provide for (A) stimulating and encouraging the organization of Health Care Corporations (as defined in section 131(a)) where needed by (i) giving information and advice to providers of health care and other potential sponsors as to the requirements for organization of such corporations and for commission approval of such corporations for service, (ii) giving technical assistance to sponsors in meeting such requirements, and (iii) in appropriate cases recommending to the Secretary grants or contracts under part A of this title; and (B) in accordance with cooperative arrangements referred to in section 124(b)(6), cooperating with State Health Commissions of the other States in jointly (or concurrently) or reciprocally admitting and approving Health Care Corporations for service, especially in joint or adjoining service areas of the respective States;

(2) provide for authorizing the incorporation in the State, or admission from other States, of nonprofit corporations and, at the State's option, of governmental corporations that can under the law of the State qualify as Health Care Corporations in accordance with section 131(a), but this function may at the option of the State be vested in an authority of the State other than the State Health Commission if this will not substantially permit the duplication of functions of the commission or impede the objectives of this Act;

(3)(A) provide for evaluation of the application of any corporation (incorporated in or admitted to the State in accordance with paragraph (2)) for approval to operate as a Health Care Corporation in a service area or areas approved by the commission in accordance with section 125;

(B) provide for granting such approval (evidenced by a certificate of approval) if (after reasonable notice and opportunity for hearing to the applicant, to any other corporation which holds or has applied for a certificate of approval for the service area or areas involved, and to the public) the commission finds—

(i) that the applicant qualifies as a Health Care Corporation in conformity with section 131(a) and satisfies the requirements of clauses (2) and (3) of section 131(b),

(ii) that there is need for the facilities and services to be provided by the applicant in the area or areas covered by the certificate,

(iii) if another Health Care Corporation or corporations already holds a certificate of approval for a service area covered by the certificate, that the additional operation of the applicant in that area will be economically feasible and will promote the purpose of giving a choice to registrants as stated in section 2(b)(2), and

(iv) if there is also pending before the commission the application of another Health Care Corporation for approval of its operation in a service area included in the certificate granted to the first-mentioned applicant, that the proceedings for the consideration of both applications have been consolidated and either (I) that approval is also granted to the other applicant or (II) that for reasons stated in the commission's findings approval to the other applicant is denied; and

(C) provide that any certificate of approval granted by the commission is subject to revocation or amendment in accordance with subsection (c) of this section or upon revision of the approved service area or areas, covered by the certificate, under the provisions included in the State plan in accordance with section 125;

(4) provide, with respect to any service area for which more than one Health Care Corporation is approved and in which the combined capacity of all such corporations is sufficient to serve adequately all residents of the area but in which the separate capacity of one or more (but less than all) of such corporations can serve adequately only a reasonable proportion of the area's residents, for allowing any such corporation (whose capacity is thus limited) to restrict to a number approved by the commission the number of individuals whom it will accept for registration, and requiring the corporation in that event to accept, in such manner as may be required by the commission, residents of the area up to that number for registration on a first-applied first-accepted basis; but the plan shall preclude any action or procedure under this paragraph that does not assure the adequate provision, on a nondiscriminatory basis, of all the benefits of this Act to all the residents of the area who desire to register;

(5)(A) provide for limiting all charges of approved Health Care Corporations and other licensed providers for health services and items to the kinds of charges and the rates that are prospectively approved by the commission, in accordance with the principles and requirements of section 136, after (i) review of the provider's budget and its proposer charges, and (ii) such review or examination of other data, and such inspection, as the commission may deem appropriate; (B) require that the provider's budget and charges (i) do not make provision for services that are excessive or unnecessarily duplicative and (ii) do not take into account any actual or proposed capital ependitures (as defined in regulations of the Secretary) related to construction or rental of health care facilities by or for the provider for which the commission has not granted a certificate of need when required under the plan; (C) require that charges for physicians' services, such as those of radiologists and pathologists, that are held out as generally available to all inpatients of an institution, be included as part of institutional-service charges and not as separate physicians' services charges (regardless of the method of payment to the physician); (D) require that the provider's budget and proposed charges be prepared in accordance with accounting principles, prescribed by the Secretary, designed to bring about uniform methods of determining institutional costs and financial requirements; and (E) provide for granting an opportunity for a fair hearing to any health care provider which is dissatisfied with a decision of the commission with respect to the provider's proposed charges;

(6) provide for effective enforcement, by the commission, of the responsibility of approved Health Care Corporations and other licensed providers to (A) provide the necessary health care and items for which the registrants have Comprehensive Health Care Benefits coverage, (B) assure that such care be of not less than the scope, quality, and comprehensiveness required by this Act, including regulations and standards of the Secretary prescribed under part A of this title, (C) in the instance of Health Care Corporations, perform the functions specified in sections 133 and 134 with respect to services furnished by others to registrants while absent from their place of residence or in emergencies, and (D) in the instance of nonaffiliated providers, perform functions similar to those specified in section 134, as specified in regulations;

(7) prohibit the construction, modernization, or expansion of facilities and services of hospitals, extended care facilities, nursing homes, or other health care facilities, or the establishment of such facilities through rental of major equipment or existing structures, by Health Care Corporations or other providers, except when authorized by a certificate of need by the commission;

(8) authorize the commission in its discretion to adjudicate, at the request of an approved Health Care Corporation or a provider affiliated with it, or a nonaffiliated provider, a controversy between the corporation and the provider with respect to any matter within the regulatory or supervisory authority of the commission;

(9) provide for granting an opportunity for a fair hearing before the commission (A)

to any individual who is not accepted for registration by an approved Health Care Corporation of whose approved service area he claims to be a resident; or (B) with respect to a monetary claim by a registrant against a provider or against a carrier under whose prepayment plan the individual is covered for Comprehensive Health Care Benefits, or by a provider or a carrier against the individual relating to the provision of health care or to such coverage, where the claim has been denied (in whole or part) or is not acted upon with reasonable promptness and the amount in controversy is $100 or more; or (C) to any individual who alleges a substantial failure of the provider with respect to the provider's obligations to provide health care to the individual, and alleges facts showing that the failure is part of a pattern of similar conduct;

(10) provide for review and approval of peer review systems of approved Health Care Corporations and for continuous surveillance over the performance of approved Health Care Corporations in relation to their obligations under this Act, and enforcement of those obligations as provided for in this section; and.

(11) provide for review and approval of peer review systems of nonaffiliated providers and for continuous surveillance over the performance of such providers in relation to their obligations under this Act, and enforcement of those obligations as provided in this section.

(b) If a Health Care Corporation or nonaffiliated provider complies with the procedures set forth in sections 1863 through 1865 of the Social Security Act, such provider shall be deemed to meet the standards relating to comparable elements established by this Act and regulations thereunder.

(c) (1) (A) Whenever the State Health Commission determines that there is a failure on the part of an approved Health Care Corporation (whether owing to its own acts or omissions or those of a provider furnishing services on its behalf) to fulfill all obligations assumed by the corporation or placed upon it by this Act, the commission shall by order direct the corporation to take prompt corrective action.

(B) If the corporation, within such reasonable period as may be required by the commission by regulation, requests a hearing on the commission's order and states reasonable grounds for objecting to the decision, the commission shall give the corporation reasonable notice and opportunity for a hearing with respect to the commission's decision and, if a hearing is held, shall on the basis of the record at the hearing render a decision, subject to such judicial review on the record as may be provided by applicable State law. Initiation of a proceeding for judicial review shall not operate as a stay of the commission's decision unless so ordered by the court.

(2) Notwithstanding paragraph (1), where the failure of a Health Care Corporation to comply with its obligations is so gross as in the judgment of the commission to create an imminent hazard to the health of registrants, the commission may give its order immediate effect, subject to later reversal or modification if so determined after hearing or after judicial review.

(3) In addition to the authority of the commission to order corrective action to be taken as above provided, the State plan shall, in the event of a substantial failure of the corporation to fulfill its obligations, empower the commission, after reasonable opportunity for a fair hearing, (A) to revoke its certificate of approval for operation by the corporation and issue for the service area involved a certificate of approval to another Health Care Corporation, or corporations, or (B) in lieu of such revocation, to take effective action (through appointment of a receiver for the corporation or other appropriate means) to bring the corporation into compliance with its obligations and provide its registrants with the health care services to which they are entitled. The order of the commission shall, when final, be subject to judicial review in a State court of competent jurisdiction on the basis of the record before the commission, and the findings of fact of the commission shall, if supported by substantial evidence in the record when considered a whole, be binding on the court.

(d) The commission is authorized to take corrective action whenever it determines that any provider not affiliated with a Health Care Corporation has failed to fulfill the obligations set forth in this Act, this action to include suspension of payment for services performed under Comprehensive Health Care Benefits. The appeal procedures outlined in subsection (c) shall apply with respect to action taken under this subsection.

JUDICIAL REVIEW

SEC. 127. (a) Any State that is dissatified with a final action of the Secretary taken under section 128 (other than subsection (c) (3) thereof) may obtain judicial review of such action by filing, within sixty days after such action, a petition for review with the United States court of appeals for the circuit in which the State is located. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or any officer designated by him for that purpose. The Secretary shall thereupon file in the court the record of the proceedings on which it based it action, as provided in section 2112 of title 28, United States Code. Upon the filing of the petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record the Secretary may modify or set aside its order.

(b) The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary 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, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

FEDERAL EXERCISE OF STATE FUNCTIONS IN CASES OF NONCOMPLIANCE BY STATES

SEC. 128. (a) In the case of any State which has not established a State Health Commission in conformity with section 122, and submitted to the Secretary an approvable State plan pursuant to section 124, prior to the third fiscal year that begins after the calendar year in which this Act is enacted, the Secretary may, until such a State plan has been submitted to and approved by him under this title, assume and exercise, through the Department of Health, Education, and Welfare, with respect to the area of that State, those functions which would be required or authorized by this title to be exercised by the State Health Commission of that State if there were in effect a State plan approved under this title, and may utilize for that purpose any funds available under this title for payments for the administration of State plans. In any case in which the Secretary invokes the authority contained in the preceding sentence, any State law or practice that under section 124(c) would preclude approval of a State plan under this title shall be inoperative.

(b) (1) The Secretary shall not finally refuse to approve a State plan submitted to it under this title except after according to the State reasonable notice and opportunity for hearing.

(2) If, at the scheduled expiration of the effective period of approval of a State plan, there is pending before the Secretary an application of the State for renewal of the approval, the Secretary may, by order, temporarily postpone the scheduled expiration date until its decision on the application for renewal.

(c) (1) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Health Commission administering a State plan approved under section 124 (c), determines—

(A) (i) that the plan has been so changed that it no longer complies with the provisions of section 124(b), including any provision of this title incorporated therein by reference, or (ii) that in the administration of the plan there is a failure to comply substantially with any such provision;

(B) that there is a failure to comply with any requirement of section 122; or

(C) that the State law or practice is such as, under the provisions of section 124(c), would preclude approval of the plan;

the Secretary shall by order withdraw approval of the plan and withhold further payments under section 124(e) (or, in the Secretary's discretion, suspend approval as to the part or parts of the plan affected by a failure determined under clause (A) or (B) of this paragraph and limit payments to those payable with respect to other parts), until the Secretary is satisfied that there will no longer be any such failure to comply or, in a case described in clause (C), until the plan is approvable under section 124(c), and shall forthwith notify the Commissioner of the order.

(2) If in the judgment of the Secretary it would better promote the purposes of this title to do so, he may postpone the effective date of his order under paragraph (1) for such reasonable period as he finds appropriate to allow necessary time for compliance with the requirements of this title.

(3) In addition to or in lieu of issuing an order pursuant to paragraph (1), the Secretary may request the Attorney General to institute a civil action by the United States against the State to enforce the requirements of this title.

(4) Whenever the Secretary has withdrawn approval of a State plan pursuant to paragraph (1), he may, with regard to the State involved, exercise the functions and use the funds referred to in subsection (a).

COOPERATIVE INTERSTATE ACTIVITIES AND UNIFORM LAWS

SEC. 129. (a) The Secretary (1) shall encourage and assist the States and their State Health Commissions in carrying out cooperatively with other States their respective functions in accordance with part B, including the making of agreements between States for that purpose with respect to the establishment, admission (into jurisdictions other than those of incorporation), and approval of Health Care Corporations, the establishment of joint health care areas and assignment of such corporations thereto, the exchange of information, and other matters, and (2) shall develop and encourage the enactment of model State legislation in the fields covered by this title.

(b) The consent of the Congress is hereby given to any two or more States to enter into agreements of the kinds referred to in subsection (a), not in conflict with any provision of this Act or regulation of the Secretary thereunder or with any other law or treaty of the United States.

OTHER ADMINISTRATIVE PROCEDURES

SEC. 130. (a) Effective on and after the effective date of part A of title II of this Act, the Secretary is authorized and directed, notwithstanding any provision of title V of the Social Security Act, to provide by regulation for limiting the use (directly or indirectly) of Federal funds under title V of the Social Security Act for personal health services and items (or for reimbursement for expenditures for such services or items) in participating States (as defined in section 124(d)(2) of this Act) in such manner as will avoid to the maximum extent practicable the use of such funds for personal health services or items for individuals to the extent that these individuals are entitled under section 202(b) of this Act to Comprehensive Health Care Benefits coverage for like services and items.

(b)(1) Section 505(a)(2) of the Social Security Act is amended (A) by striking out "State health agency" the first time these words occur and inserting in lieu thereof "State Health Commission (established in accordance with section 121 of the National Health Care Services Reorganization and Financing Act)", and (B) by striking out "State health agency" the second time these words occur and inserting in lieu thereof "State Health Commission".

(2) The amendments made by paragraph (1) shall, with respect to any State, become effective on the date on which the State becomes a participating State (as defined in section 124(d)(2) of this Act).

PART C—HEALTH CARE CORPORATIONS

INCORPORATION AND STATE APPROVAL

SEC. 131. (a) A Health Care Corporation is a nonprofit private or governmental corporation which (1) is organized for the purpose of furnishing (through its own facilities and personnel or through other providers, nonprofit or for-profit) comprehensive and coordinated personal health services to persons registered with the corporation, furnishing personal health services to other persons to the extent authorized by this title, and engaging in educational, research, and other activities incidental or related to the furnishing of personal health services; and (2) provides (or will provide after the period of organization and initial registration) effective and equitable representation, on its governing board, of the registrants with the corporation and of the affiliated institutional and professional providers furnishing services on its behalf.

(b) A Health Care Corporation is eligible, for the purposes of this title, to furnish services in a State only if it is approved by the State Health Commission of the State, for operation in an approved service area or areas of the State (under the provisions of the State plan in accordance with sections 125 and 126), upon a finding by the commission (1) that the corporation conforms to the provisions of subsection (a), (2) that it has an adequate organization under professionally competent management, and adequate resources in facilities and personnel (including resources available to it through contracts with affiliated providers), to meet the requirements of this part and of regulations prescribed thereunder and requirements prescribed by the State Health Commission, and (3) that it has given assurances (including assurances of financial responsibility), satisfactory to the commission, that in operation it will meet all such requirements.

REGISTRATION WITH HEALTH CARE CORPORATIONS

SEC. 132. (a) A Health Care Corporation shall, in accordance with regulations of the State Health Commission—

(1) register with the corporation all persons (or such number of persons as may be required by the commission pursuant to section 126(a)(4)), resident in the service area approved for it by the commission, who apply for such registration during a period of open registration fixed by the commission, or apply therefor after termination of registration with another corporation pursuant to subsection (e); and

(2) make all reasonable efforts, on a continuing basis, to procure the registration of persons resident in the area who, having failed to apply for registration, have been assigned by the commission to the corporation for recruitment.

(b) Within its capacity to furnish services and with the approval of the commission, the corporation may recruit and register persons (whether or not residents of the area) whom it is not required by subsection (a) to recruit or register.

(c) In such cases and such manner as may be specified in regulations of the Secretary, a registrant may effect registration on behalf of his or her spouse and children under 19 years of age.

(d) The corporation shall make available, and shall employ all reasonable means to disseminate throughout its approved service area, full information about its operations, including descriptions of the services it furnishes and places where they are furnished, and including information about the methods and times of registration; and information about the benefit coverages (both those purchased by the Secretary and others) available to residents of the area, and the methods of obtaining such coverage. It shall assist registrants and applicants for registration to establish entitlement to coverage purchased by the Secreary under section 202, and to obtain other coverage as appropriate.

(e) Registration with a Health Care Corporation shall be effective for a period of twelve months, except that a registrant may terminate his registration if he changes his place of residence or for such other cause as may be approved by the State Health Commission.

UNDERTAKING TO FURNISH SERVICES

SEC. 133. (a) A Health Care Corporation shall assume responsibility for making available and furnishing to each registrant with the corporation, and to any other person to the extent required by regulations of the Secretary, all services for which he has Comprehensive Health Care Benefits coverage and which are medically necessary (or, in the case of health maintenance services, medically appropriate). The acceptance of a registration shall constitute an obligation of the corporation to the registrant to furnish all such services, either through the facilities and personnel of the corporation, through affiliated providers meeting the requirements of subsection (b), or through other providers in accordance with subsection (c).

(b) Services may be provided through an affiliated provider who, by contract with the Health Care Corporation, has undertaken (1) to furnish on behalf of the corporation a portion of the services for which the corporation is responsible, and (2) to cooperate and (to the extent practicable) participate in discharging all other responsibilities of the corporation under this part. Affiliated providers may be hospitals, extended care facilities, nursing homes, or home health service agencies (hereafter referred to collectively as "institutional providers"); physicians, dentists, podiatrists, or optometrists; combinations of the foregoing, such as partnerships, clinics, or group practice organizations, which may include appropriate paramedical, technical, or other supporting personnel; or other providers of kinds designated in regulations of the Secretary. The services of an affiliated provider may, but need not, be furnished exclusively on behalf of one Health Care Corporation. A provider may be affiliated with two or more Health Care Corporations, but in the case of an institutional provider shall designate one affiliation as the provider's primary affiliation.

(c) Drugs, devices, appliances, and equipment may be furnished to outpatients, and ambulance and other emergency transportation services may be furnished, through providers not affiliated with the corporation, under arrangements which the commission finds assure adequate availability of such items and services. Medical and other services of specialized nature, which the commission in accordance with regulations of the Secretary finds cannot practicably be furnished by a Health Care Corporation or its affiliated providers, may be furnished through arrangements with or referral to other Health Care Corporations or other providers.

(d) The organization of the services furnished by or on behalf of the corporation shall emphasize health maintenance (including health education) of registrants, assure continuity of care and referral of patients to such services and at such times as may be medically appropriate, and to the greatest extent possible provide care on an outpatient basis. All services shall be made as readily available as is practicable to all registrants within the approved service area of the corporation, and the corporation shall (in accordance with regulations of the Secretary) maintain a system of scheduling periodic health maintenance services for each registrant and reminding him thereof. Outpatient care shall be furnished in centers and physicians' offices conveniently accessible throughout the area. Emergency care, including ambulance service within the approved service area of the corporation, shall be available at all times.

(e) The corporation shall as rapidly as practicable develop, by affiliation with existing organizations or otherwise, a system of outpatient care centers throughout its approved service area, utilizing hospital medical staffs and other physicians practicing in the area, and staffing the centers with physicians and appropriate ancillary personnel to furnish primary medical care. To the extent practicable, the corporation shall also furnish through or in conjunction with such centers health maintenance services and community-based services such as home care, medical social services, and the services of well-baby clinics and mental health clinics. Centers shall be so related to institutional or other providers as to assure the availability of necessary laboratory and other diagnostic services, and the ready referral and transfer of patients to facilities providing more comprehensive services when medically appropriate.

(f) Whenever services for which the corporation is responsible under subsection (a) are furnished by another Health Care Corporation to a registrant who is absent from his place of residence, or are furnished in an emergency by any provider (wherever situated) who is not affiliated with the corporation or acting under arrangements with it, the corporation shall review a report of the services rendered and the charge therefor and shall submit it to the carrier responsible for its payment; or, if it is itself the carrier or is otherwise responsible for payment, shall pay the charge. This subsection shall not be applicable in the case of a registrant who, otherwise than pursuant to arrangement by the corporation, has left his place of residence for the purpose of obtaining health services.

(g) The corporation shall so far as practicable furnish necessary emergency health services to persons not registered with it, and may furnish other services to such persons when it can do so without interference with services to its registrants.

QUALITY OF SERVICES

SEC. 134. (a) A Health Care Corporation shall assume responsibility (1) for the quality of all services furnished by it either through its own facilities and personnel or by providers affiliated or acting under arrangements with it, and for compliance with standards of quality and comprehensiveness

prescribed by the Secretary, (2) for maintaining controls upon the utilization of all such services, (3) for continuing appraisal, through medical audits and otherwise, of the effectiveness of such services, and (4) for identifying problem areas requiring planning for additional services. For these purposes the corporation shall maintain a system (approved by the commission) of comprehensive peer review by a group or groups of physicians (and a group or groups of dentists in the case of dental services) selected from its staff and from affiliated providers and their staffs, embracing services furnished by affiliated providers as well as services furnished directly by the corporation, and shall require similar review by a staff committee or committees of each hospital and extended care facility affiliated with it. The corporation shall, through an appropriate staff committee or committees, maintain a program of continuing professional education of physicians, dentists, and nurses (and, to the extent the corporation deems desirable, of other professional personnel) furnishing services on its behalf.

(b) All medical policies of the corporation shall be established with the advice of physicians, and all dental policies with the advice of dentists. All medical judgments related to health care shall be made by or under the supervision of physicians, and all dental judgments by or under the supervision of dentists.

(c) The corporation shall encourage the participation of physicians in all aspects of its policy-formulation and operation (including budget review), both in administrative and in advisory capacities.

PARTICIPATION OF PROFESSIONAL PRACTITIONERS

SEC. 135. (a) Within the limits of its need for physicians, dentists, podiatrists, and optometrists (hereafter referred to collectively as "practitioners"), and so far as is consistent with the furnishing of the highest practicable quality of care, a Health Care Corporation shall provide opportunity to all practitioners practicing in its approved service area to furnish services on its behalf, either (at the election of the corporation) as members of its professional staff or as affiliated providers. It shall fix, and review annually, the scope of services which each practioner may so furnish, in accordance with his training, experience, and professional competence as determined, pursuant to rules of the corporation, through peer review of his credentials and performance. A practitioner who desires to enlarge the scope of services assigned him shall be assisted through in-service training in acquiring added experience and professional competence, and his assigned scope of service shall be reconsidered from time to time.

(b) In selecting practitioners to furnish services on its behalf and in fixing the scope of services which each may furnish, the corporation shall not discriminate on any ground unrelated to professional qualifications; but in carrying out the purpose of subsection (a) in its initial recruitment of practitioners the corporation may give preference, as between equally qualified persons, to those who at the time are practicing in its approved service area.

(c) The corporation shall so organize the services furnished by practitioners on its behalf as to meet the purposes of sections 133 and 134. To the extent consistent with such organization it shall permit each practitioner to elect the form or forms of practice (individual office practice, group practice, or other form of practice) in which he wishes to engage.

CHARGES BY HEALTH CARE CORPORATIONS

SEC. 136. (a) All charges by a Health Care Corporation for health services shall be made at rates fixed by the corporation prospectively for a twelve-month period and approved by the commission. Rates so approved may be revised before the end of the period only on the basis of events, occurring subsequent to the approval, which the commission finds (1) could not reasonably have been foreseen at the time of approval, and (2) will, if the rates are not revised, impose severe financial hardship on the corporation.

(b) Such charges shall consist either of an annual amount for each registrant or registrant family (hereafter referred to as a "capitation amount"), or of itemized charges for separate services or units of service. With the approval of the commission, the corporation may use one method of determining charges for some services or with respect to some registrants and the other method for other services or with respect to other registrants. After three years of operation, the corporation must submit to the State Health Commission a plan to commence two years thereafter for offering capitation rates to its registrants who choose to purchase coverage directly from the corporation. This plan must be implemented by the corporation by making this option to all registrants five years after its incorporation. Except for reasonable variations (in accordance with regulations of the Secretary) based on the size and composition of families, capitation amounts shall be uniform for all registrants to whom they are applicable, other than registrants having coverage under contracts purchased by the Secretary.

(c) Charges of the corporation, by whichever method determined, shall be at rates estimated to be sufficient for the twelve-month period to meet the financial requirements of the corporation, as reflected in its budget for the period, to enable it to fulfill its responsibilities under this part. The financial requirements shall be determined in accordance with regulations, and with systems of accounting, prescribed by the Secretary under section 103(b). The corporation shall be responsible for justifying to the commission the rates the corporation proposes to pay to affiliated and other providers for services it has undertaken to furnish, and for justifying the budgets of any affiliated providers on which such rates are based; except that justification of the budget and rates of an institutional provider affiliated with two or more health care corporations shall be the sole responsibility of the corporation with which the institutions has its primary affiliation.

(d) The corporation and the commission, in developing and reviewing the budget of the corporation and the rates to be paid to other providers, and in reviewing the budgets of any affiliated providers, shall seek to assure that adequate services are available to registrants of the corporation without unnecessary duplication or other excessively costly or excessive services.

CONTINUING PERSONAL HEALTH RECORD

SEC. 137. (a) A Health Care Corporation shall develop, and keep current, a continuing personal health record for each registrant of the corporation, in such form, consistent with regulations of the Secretary, as may be required by the commission for the purposes (1) of making medical histories and other pertinent data readily available to the medical and other staff of the corporation and its affiliated providers, and (2) of enabling the corporation to meet requirements of the commission for gathering and reporting health care statistics, including statistics on the utilization and cost of health services.

(b) The corporation shall, to the greatest extent practicable, equip its facilities, and assure that facilities of its affiliated providers are equipped, for the prompt transmission, to appropriate members of the staffs of all such facilities, of the personal health records of its registrants.

(c) Whenever a registrant with one Health Care Corporation transfers his registration to another such corporation, his personal health record shall be transferred to the latter corporation. To such extent as may be required by regulations of the Secretary, a Health Care Corporation shall make available to other Health Care Corporations, and other providers (not affiliated with it), who furnish emergency or other health services to its registrants, information from the personal health records of the registrants.

(d) Personal health records, information contained therein, and other information concerning individual registrants or applicants for registration shall be used or disclosed, without the consent of the individual only (1) in accordance with this section, or (2) for purposes necessary to the administration of the Health Care Corporation, the State plan, or any benefit coverage pursuant to this tile. Any person who violates any provision of this subsection shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

PARTICIPATION BY REGISTRANTS; HEALTH EDUCATION

SEC. 138. (a) A Health Care Corporation shall establish methods by which (in addition to their representation on its governing board) registrants may express their views with regard to the policies and operation of the corporation, the health needs of the community, and the need for any modification or expansion of the services furnished by the corporation. The corporation shall take all practicable steps to assure that this opportunity is readily available to all substantial groups (geographic, economic, or other) of registrants, and to the extent practicable, to individual registrants. The corporation shall establish an advisory committee representative of registrants in general, and subcommittees or separate committees representative of any groups whose interests may differ materially from those of other registrants. Through such committee or committees, the corporation shall seek a continuing evaluation by its registrants of its program and performance.

(b) The corporation shall undertake a program of continuing health education, with special emphasis directed toward low-income and medically indigent registrants. The program shall be designed and conducted with the advice and participation of representatives of the registrants, for the purpose of overcoming lack of information and correcting misinformation on the part of registrants about personal health matters, encouraging their interest in healthful living, proper nutrition, and the avoidance of illness, and enabling them to make more responsible and effective use of health maintenance services and, when illness occurs, of the diagnostic and therapeutic services available to them. Corporations shall provide, to registrants in need thereof, assistance in overcoming language or education handicaps in obtaining access to health care. In carrying out this subsection the corporation shall collaborate with governmental and private agencies engaged in community wide health education.

NONDISCRIMINATION; COMPLAINTS

SEC. 139. (a) In recruitment and registration a Health Care Corporation shall not discriminate on the ground of race, creed, color, national origin, age, sex, occupation, economic status, or condition of health. Subject to such differentiations as are medically appropriate or are specifically authorized by this title, the corporation and other providers shall not discriminate on any of the foregoing grounds in furnishing services on behalf of the corporation.

(b) The corporation shall establish adequate procedures for the receipt and disposition of complaints by registrants with

respect to service furnished them, failure to furnish services or to pay for services furnished by others, or the propriety of charge made by the corporation; and complaints by persons whose applications for registration have been refused. The corporation shall, to such extent and in such form as may be required by the commission, maintain records of such complaints and of their disposition, and shall make such records available for inspection by the commission.

(c) The corporation shall establish adequate procedures for the settlement of disputes with affiliated providers, with other providers having arrangements with the corporation for the furnishing of health care to its registrants, and with nonaffiliated providers.

RESPONSIBILITES FOR MANPOWER AND FOR RESEARCH

SEC. 140. (a) A Health Care Corporation shall coordinate among its own staff and the staffs of its affiliated providers determination of the needs for the several classes of health personnel, and the recruitment and allocation of such personnel; shall set qualification and performance standards for such personnel, which shall at least equal standards established or recommended by recognized professional organizations; and shall conduct within its own organization and encourage in its affiliated providers such programs of inservice training as it finds necessary or useful in meeting manpower needs, improving the quality of care, and promoting upward mobility within the several health professions and occupations. To the extent permitted by the law of the State in accordance with section 124(c)(3), and consistent with regulations of the Secretary and good professional practice, the corporation shall encourage the use of physician assistants and paramedical and other ancillary personnel, under appropriate professional supervision, to increase the productivity of its medical and dental staff and of affiliated providers and their staffs.

(b) The corporation, in addition to a continuing evaluation of its own performance, shall engage or participate in continuing research concerning the organization and methods of delivery of health services, and concerning their quality, effectiveness, and cost. The results of such research shall be made available to the commission and the Secretary for such dissemination as the commission or Secretary may deem proper.

RECORDS AND REPORTS

SEC. 141. A Health Care Corporation shall keep such records, and on behalf of itself and its affiliated providers make such reports to the commission, as the commission, in accordance with regulations of the Secretary, shall require with respect to financial matters, the utilization of services, the results of peer review of quality, and other matters; and shall require that its affiliated providers keep such records and furnish it with such information as may be necessary for this purpose. The corporation and its affiliated providers shall make the records required pursuant to this section available for inspection by representatives of the commission when necessary for the purpose of verification of such reports.

## TITLE II—FINANCING OF NATIONAL HEALTH SERVICES

SHORT TITLE

SEC. 200. This title may be cited as the "National Health Care Services Financing Act".

### PART A—EMPLOYER REQUIREMENTS AND ENTITLEMENT TO BENEFITS

REQUIREMENT OF COMPREHENSIVE HEALTH CARE BENEFITS COVERAGE FOR EMPLOYEES

SEC. 201. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"REQUIREMENT OF COMPREHENSIVE HEALTH CARE—BENEFITS COVERAGE FOR EMPLOYEES

"SEC. 230. (a) Under regulations prescribed by the Secretary (subject to subsection (b)), every person who is an employer within the meaning of this title shall be required—

"(1) during the period beginning on the transitional effective date specified in section 301(b) of the National Health Care Services Reorganziation and Financing Act and ending on the day before the effective date specified in section 302 of such Act, to provide benefits under such Act equivalent to the hospital insurance benefits available under part A of title XVIII of this Act and the supplementary medical insurance benefits available under part B of such title, and in addition to provide Catastrophic Expense Benefits coverage under and in accordance with section 225 of the National Health Care Services Reorganization and Financing Act, for each of his employees (performing employment for him within the meaning of section 210(a) of this Act) and for the members of the family of each such employee; and

"(2) from and after the effective date specified in section 302 of the National Health Care Services Reorganization and Financing Act, to provide Comprehensive Health Care Benefits coverage (as provided or made available under such Act) to each such employee and for the members of the family of each such employee.

"(b) The provisions of subsection (a) shall not apply—

"(1)(A) with respect to any employer which is the United States, a State or political subdivision thereof (not withstanding any agreement entered into under section 218), or any agency or instrumentality of one or more of the foregoing, or any other employer all of the services performed for which are excluded from 'employment' by one or more of the numbered paragraphs of section 210(a); or

"(B) in any case where the employed member of a family has two or more employers, or where two or more members of the family each have one or more employers, with respect to any such employer other than the one whose total taxes paid under section 3111(a) of the Internal Revenue Code of 1954 on account of the employment of such members or members is greatest; or

"(2)(A) with respect to any employee (or member of an employee's family) who is entitled to health insurance benefits under title XVIII; or

"(B) with respect to any medically indigent person or family (as defined and determined under section 203 of the National Health Care Services Reorganization and Financing Act) who or which elects to obtain comprehensive Health Care Benefits coverage under the National Health Care Services Reorganization and Financing Act without regard to this section.

"(c)(1) The Secretary shall reimburse any employer to whom subsection (a) applies for any amount by which such employer's share of the average premiums payable for the coverage of his employees to whom such subsection applies during any period exceeds (1) 4 percent of the average wages per employee paid by such employer to such employees for such period, multiplied by (2) the number of such employees (not in excess of ten).

"(2) The Secretary shall prescribe regulations for purposes of this subsection relating to the period for determining the number of employees of an employer, the wages of the employees, and the premiums payable under the National Health Care Services Reorganization and Financing Act, as well as the method for determining such wages (and the average thereof) and the cases in which payment may be made to a payee other than the employer.

"(3) Payments by the Secretary pursuant to this subsection shall be made in advance or by way of reimbursement, at such times, in such manner, and in such installments as the Secretary shall determine to be appropriate.

"(4) For purposes of this section the employer's contribution must be at least the actuarial equivalent of 75 percent of the premium cost of the coverage provided by him for his employees as required by subsection (a). The requirement for an employer's contribution shall not in any way prohibit the employee from choosing to register with a Health Care Corporation operating in whole or in part on a capitation basis.

"(5) The period of coverage of any employee whose employment is involuntarily terminated shall extend from the date of such termination until the employee becomes eligible for unemployment compensation benefits or until the expiration of — days from such termination, whichever first occurs."

(b) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"REQUIREMENT OF COMPREHENSIVE HEALTH CARE BENEFITS COVERAGE FOR INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION BENEFITS

"SEC. 906. Every individual who is receiving benefits under any Federal or State unemployment compensation law, and the members of his family, shall be entitled under the National Health Care Services Reorganization and Financing Act (while such individual is eligible for and receiving such benefits)—

"(1) during the period beginning on the transitional effective date specified in section 301(b) of the National Health Care Services Reorganization and Financing Act and ending on the day before the effective date specified in section 302 of such Act, to coverage in the form of (A) benefits under such Act equivalent to the hospital insurance benefits available under part A of title XVIII of this Act and the supplementary medical insurance benefits available under part B of such title, and (B) Catastrophic Expense Benefits coverage under and in accordance with section 225 of the National Health Care Services Reorganization and Financing Act; and

"(2) from the after the effect date specified in section 302 of the National Health Care Services Reorganization and Financing Act, to Comprehensive Health Care Benefits coverage as provided or made available under such Act.

The Secretary of Labor, in accordance with regulations prescribed in consultation with the Secretary of Health, Education, and Welfare, shall purchase such coverage for, and determine the methods by which (and the terms and conditions under which) it is to be made available to, such individuals and members. There are authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out this section."

ENTITLEMENT TO BENEFITS FEDERALLY SUBSIDIZED

SEC. 202. (a) Every individual who is a resident of the United States shall, as provided in this section and under the conditions and to the extent otherwise specified in this part, be entitled—

(1) in cases specified in subsection (b), to coverage for Comprehensive Health Care Benefits (as described in this part) contracted for by the Secretary, or

(2) in cases specified in subsection (c), to a Federal contribution to the premium cost of coverage for such benefits under an approved insurance contract or prepayment plan to which the Secretary is not a party.

(b) Such an individual shall be entitled to such coverage contracted for by the Secretary with a carrier under section 108, if he—

(1)(A) has attained the age of 65, or (B)

is under 65 but is a low-income person or a member of a low-income family, or

(2) is under 65 and is a medically indigent person who complies, or a member of a medically indigent family which complies, with the requirement of section 206 with respect to contributions to premiums for such coverage.

(c) (1) Every other individual referred to in subsection (a) who is registered with an approved Health Care Corporation in a participating State, or with any other organization providing comprehensive health care and services which is engaged in the delivery of such care and services to a defined population group established through open enrollment and has demonstrated such standards as the Secretary may prescribe in order to assure that it will be operated and its services delivered in an effective manner consistent with the purposes and provisions of this Act, and every individual under 65 who is entitled to coverage under subsection (b) but elects not to enroll therefore, shall be entitled to a Federal subsidy of 10 percent of the amount of premium charged by a qualified carrier (as determined under section 232) at an approved group rate for prepaid coverage of the individual for Comprehensive Health Care Benefits under an approved insurance contract or prepayment plan to which the Secretary is not a party, except that in the case of individuals under 65 who are entitled to coverage under subsection (b) but elect not to enroll therefor the Federal contribution shall not exceed an amount equal to 10 percent of the total premium rate for such individuals that would have applied if they had elected coverage under subsection (b). Payments under this subsection shall, upon certification by the Secretary, be made to the carrier.

(2) As used in this subsection, (A) the term "approved group rate" means a group rate prescribed or approved (for the coverage referred to in paragraph (1)) by the State Health Commission (or its delegate agency) under the State plan (approved under part B of title I) of the participating State of which the individual concerned is a resident or, in the case of coverage under an employer plan, the State in which the individual is employed; (B) the term "approved insurance contract or prepayment plan" means an insurance contract or prepayment plan that is approved by the Secretary under section 234; and (C) the term "premium" does not include special premiums payable, in accordance with the provisions referred to in section 234, by a registrant to a carrier to cover the copayment component of capitation charges paid by the carrier to the registrant's Health Care Corporation.

(3) If the coverage of the insurance contract or prepayment plan for an individual (or an individual and his family) entitled to a contribution under paragraph (1) includes Comprehensive Health Care Benefits but also includes benefits greater than those required for Comprehensive Health Care Benefits coverage and a combined premium rate is charged by the carrier for the total coverage, the Federal contribution payable under paragraph (1) shall be based on that portion of the total premium which, in accordance with actuarial principles, is attributable to coverage for Comprehensive Health Care Benefits for that individual (or him and his family) and shall be determined in accordance with regulations of the Secretary.

(4) Entitlement to a contribution under paragraph (1), and the amount thereof, shall be determined without regard to whether the cost of the remainder of the premium is borne (or whether in the absence of that contribution the cost of that portion of the premium which is equal to the contribution would be borne) by the covered individual, by his employer, or by any other person or agency.

(d) For definitions of "low-income person", "low-income family", "medically indigent person", "medically indigent family", and "family", see sections 203 through 205.

INCOME CLASSES

SEC. 203. (a) For purposes of this part—

(1) the terms "low-income person" and "low-income family" mean, respectively, a single individual or family in income class 1;

(2) the terms "medically indigent person" and "medically indigent family" mean, respectively, a single individual or family in income class 2, 3, or 4;

(3) all persons or members of families not in income class 1, 2, 3 or 4 are classified as being in income class 5;

(4) the term "income class", with respect to a single individual or a family, means for any coverage year the individual's or family's income class as determined by application of—

(A) the table set forth in subsection (b) of this section, or

(B) if containing higher dollar amounts, the redetermined income class table promulgated by the Secretary for that year under section 204; and (5) the term "single individual" means an individual who is not a member of a "family" within the meaning of section 205.

(b) (1) The income class table referred to in subsection (a) (4) (A) is as follows:

TABLE OF INCOME CLASSES

| Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| | Family size and income ranges | | | |
| Income class | Single individual | Family of 2 | Family of 3 | Family of 4 or more |
| 1 | $0 to $2,000 | $0 to $3,000 | $0 to $4,500 | $0 to $6,000. |
| 2 | $2,001 to $3,000 | $3,001 to $4,500 | $4,501 to $6,000 | $6,001 to $7,500. |
| 3 | $3,001 to $4,500 | $4,501 to $6,000 | $6,001 to $7,500 | $7,501 to $9,000. |
| 4 | $4,501 to $6,000 | $6,601 to $7,500 | $7,501 to $9,000 | $9,001 to $10,500. |
| 5 | Above $6,000 | Above $7,500 | Above $9,000 | Above $10,500. |

PERIODIC REVISION OF INCOME CLASSES

SEC. 204. (a) Not later than December 31 of each calendar year (after the year in which this Act is enacted), the Secretary shall, in accordance with subsection (b), redetermine and promulgate—

(1) the dollar amounts in the table of income classes under section 203(b);

(2) the amounts of annual premium contributions to be required of medically indigent persons and medically indigent families under section 206;

(3) the dollar amounts of copayments under section 222; and

(4) for Catastrophic Expense Benefits, the dollar amounts for the special-expenditure limits under section 225.

(b) The redetermined amounts shall be the same as the amounts specified in the respective sections cited in subsection (a) unless the average of the Consumer Price Index for the months of July, August, and September of the calendar year in which the redetermination is made exceeds by 3 percent or more the average of that index for the corresponding months of the year in which this Act is enacted. In the latter event, the Secretary shall adjust each of the amounts so specified by increasing it by the same percentage as the percentage increase (referred to in the preceding sentence) in the average of the Consumer Price Index, after rounding the latter percentage to the nearest multiple of 0.1 percent (or to the next higher multiple if the percentage is an odd multiple of 0.05 percent) and rounding each dollar amount so obtained—

(1) for the table of income classes, to the nearest multiple of $100 (or to the next higher multiple if the amount to be rounded is an odd multiple of $50),

(2) for premium contributions to be made by medically indigent persons and medically indigent families, to the nearest multiple of $10 (or to the next higher multiple if the amount to be rounded is an odd multiple of $5),

(3) for copayments, to the nearest multiple of 25 cents (or to the next higher multiple if the amount to be rounded is an odd multiple of 12½ cents), and

(4) for the special-expenditure limits for Catastrophic Expense Benefits, to the nearest multiple of $100 (or to the next higher multiple if the amount is to be rounded is an odd multiple of $50).

(c) The amounts as so redetermined and promulgated in any calendar year (whether or not the same as the amounts specified in the sections cited in subsection (a)) shall be effective for any coverage year that begins in the fiscal year beginning in the following calendar year.

(d) As used in this section, the term "Consumer Price Index" means the Consumer Price Index (All Items—United States City Average) published monthly by the Bureau of Labor Standards of the Department of Labor.

DETERMINATION OF INCOME LEVEL

SEC. 205. (a) For the purposes of this part, the rate of income of a single individual or a family shall be determined on the basis of his adjusted gross income (in the case of a single individual) or the family's combined adjusted gross income (in the case of a family), as defined in accordance with regulations prescribed by the Secretary in consultation with the Secretary of the Treasury or his delegate, for the calendar year preceding the coverage year with respect to which the determination is made; except that—

(1) the Secretary may prescribe regulations (A) excluding from the amount thus determined items of income that are not reasonably available for living expenses, and (B) including therein items that are reasonably available for living expenses although not included in adjusted gross income, and

(2) the Secretary may by regulation provide for redetermination of an individual's or family's rate of income on a more current basis when necessary to prevent serious hardship or inequity.

(b) For the purposes of this part—

(1) the term "family" means (A) a husband and wife (not divorced or judicially separated), or (B) such spouses and their dependent unmarried children under 19, or (C) an individual and his or her dependent unmarried children under 19; and

(2) the terms "child" and "dependent" (as applied to a child) have the meanings assigned them in sections 151 and 152 of the Internal Revenue Code of 1954.

PREMIUM CONTRIBUTIONS FOR FEDERALLY CONTRACTED COVERAGE

SEC. 206. (a) (1) In the case of medically indigent persons and members of medically indigent families referred to in section 202 (b) (2), entitlement to coverage contracted for by the Secretary shall be subject to the condition that the individual or family concerned, or another person or agency on the individual's or family's behalf, contribute to the carrier's annual premium charge for such coverage.

(2) (A) The annual amount of contribution so required with respect to such an individual or family shall be—

(i) $50 for a single individual, and $125 for a family, in income class 2;

(ii) $100 for a single individual, and $250 for a family, in income class 3;

(iii) $150 for a single individual, and $375 for a family, in income class 4;

except that in the case of a family (in any such income class) in which only one member is under the age of 65, the amount of contribution required under the foregoing clause applicable to that income class shall be the amount specified in that clause for a single individual, and except that if, by reason of an increase in the Consumer Price Index, higher contribution amounts are promulgated under section 204 by the Secretary with respect to single individuals or families in income class 2, 3, or 4 for any coverage year, those amounts shall apply for that year.

(B) For determination of income classes, see section 203.

(b) Annual contributions under this section shall be payable, by or on behalf of the individual or family concerned, to the carrier under whose contract with the Secretary the individual or family is enrolled, in such installments and in such manner as may be prescribed by the Secretary by regulation. There shall be no recourse against the United States under this title on account of any delinquency or default in the payment of such contributions. For effect of delinquency or default on coverage, see section 236.

INCOME TAX DEDUCTIONS BY INDIVIDUALS

SEC. 207. Section 213(a)(2) of the Internal Revenue Code of 1954 (relating to individual's deduction for medical insurance expense) is amended to read as follows:

"(2) the sum of—

"(A) an amount (not in excess of $150) equal to one-half of the expenses (other than those deductible under subparagraph (B)) paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents (as defined in section 152), and

"(B) in the case of a taxpayer who at any time during the taxable year is covered under an insurance contract or prepayment plan approved by the appropriate State Health Commission under title I of the National Health Care Services Reorganization and Financing Act, an amount equal to all the expenses paid during the taxable year for Comprehensive Health Care Benefits coverage, as defined in section 222 of that Act."

LIMITATION OF MEDICAID TO SUPPLEMENTATION OF COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 208. (a) On and after the effective date of entitlement to benefits under part A of title II, a participating State (as defined in section 124(d)(2)) shall, notwithstanding any provision of title XIX of the Social Security Act (relating to grants to States for medical assistance programs), not be required to provide in its State plan under that title for paying under that plan for any service or item (set forth in section 222) that is covered by Comprehensive Health Care Benefits and is furnished to an individual who is entitled to such coverage under section 202 and who (1) is a resident of a service area of that State (designated in accordance with section 125) or (2) is in fact registered with a Health Care Corporation that holds a certificate of approval for a service area of that State other than the area of which he is a resident. Any amount expended by such a participating State for furnishing any such service or item to such an individual on or after the date (whether or not the service or item is in fact covered under that State plan) shall be disregarded in determining the amount of any payment to be made to the State under title XIX of that Act.

(b) The Secretary shall, with a view to supplementing (so far as practicable), through State plans under title XIX of the Social Security Act, the coverage of Comprehensive Health Care Benefits for individuals referred to in subsection (a), prescribe by regulation the minimum scope of services and items that shall (in lieu of the requirements of section 1903(a)(13) of that Act) be included, on and after the date referred to in subsection (a), in a State plan as a condition of approval under title XIX of that Act.

PART B—COMPREHENSIVE HEALTH CARE BENEFITS

PAYMENT FOR COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 221. (a)(1) Except as provided in paragraph (2), coverage of a registrant for Comprehensive Health Care Benefits shall entitle the registrant to have the carrier pay, in accordance with part C of this title but subject to the limitations of this part, the approved predetermined charges of the Health Care Corporation, of which he is a registrant, for services and items (set forth in section 222) furnished to him and covered by such benefits, or, in those instances in which subsection (b)(3) applies, the charges (approved and submitted to the carrier in accordance with section 133(f)) of another Health Care Corporation or provider that furnished to him covered services or items. Such coverage is subject to the carrier's right (as provided in part C of this title) to reimbursement from the registrant in the amount of the copayments (if any) payable under this part, and subject to the other provisions of this part.

(2) In the case of registrants of an approved Health Care Corporation that operates on a capitation charge basis, coverage for Comprehensive Health Care Benefits shall entitle the registrant to have the covering carrier (or the Secretary where the registrant is enrolled under a contact of the Secretary with the corporation under section 235) make payment of capitation charges (instead of fee-for-service charges) on his behalf in accordance with the applicable provisions of part C of this title. The conditions under which, the manner in which, and the extent to which the amounts of copayments provided for in this part, or the actuarial equivalent of such copayments, is to be paid and collected in such cases, is also governed by part C of this title.

(3) For payment by the carrier to the Health Care Corporation for certain charges not covered by Comprehensive Health Care Benefits, see section 234.

(b) In the case of an individual not registered with a Health Care Corporation, such individual shall make copayments in the amounts specified in the benefit table in section 222, and subject to changes in the Consumer Price Index as determined in sections 204 and 224. Such individuals shall be responsible for copayments and payment for noncovered services at the time services are provided, the carrier paying the non-affiliated provider for covered services, less the copayment amount, in accordance with charges approved by the State Health Commission.

DEFINITION OF COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 222. (a)(1) Comprehensive Health Care Benefits shall, subject to other provisions of this title, consist of benefits for (A) Outpatient Services, (B) Inpatient Services, and (C) Catastrophic Expense Benefits, as described or referred to in the benefit table set forth in subsection (b) and in other provisions of this title. In addition to specific requirements for the issuance of regulations in the table and in other provisions of this part, the Secretary is authorized to issue from time to time such further regulations governing and otherwise adjusting the application of the table as in his judgment will best carry out the purposes of this Act.

(2) For the purposes of the table and of the subsequent provisions of this part—

(A) the term "coverage year" with respect to an individual means a 12-month period of Comprehensive Health Care Benefits coverage of the individual under a qualified carrier's insurance contract or prepayment plan which coincides with a 12-month (annually renewable) term of that contract or plan; and the Secretary shall by regulation provide for application of the table to an individual whose initial enrollment under such a contract or plan occurs after the beginning of a then current 12-month term of the contract or plan or who is enrolled under a carrier contract with the Secretary that has a shorter initial term;

(B) the term "benefit period" with respect to an individual means a period of consecutive days—

(i) beginning with the first day (not included in a previous benefit period) that occurs during a coverage year and on which he is furnished covered inpatient hospital services, post-hospital extended care services, nursing home care, or services under an outpatient institutional-care program for mental illness, alcoholism, or drug abuse or drug dependence (as provided in paragraphs A.3.a. and B.1, respectively, of the benefit table), and

(ii) ending with the close of the first period of 60 consecutive days thereafter (whether or not in the same coverage year) on which he is not receiving any of the care or service referred to in clause (i);

(C) the term "regulations" refers to regulations of the Secretary; and

(D) the term "outpatient services" means services listed under the heading "Outpatient Services of Health Care Corporations" in the benefit table (including such services to patients confined to the home) and furnished to individuals who are not inpatients covered for services under paragraph B.

For other definitions of terms used in the table, see section 228.

(b) The table referred to in subsection (a) is as follows:

TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS

| I—SERVICES AND ITEMS COVERED | II—COPAYMENTS* AND LIMITATIONS |
|---|---|
| A. OUTPATIENT SERVICES | |
| 1. Periodic Health Evaluation | |
| a. Screening tests and examinations, as prescribed by regulations under section 226, followed by physical examination by a physician or physicians when indicated by the screening. | No copayment. Within such limits as may be prescribed by regulation under section 226. |
| b. All Immunizations | No copayment and no limitation. |
| c. Well-Baby Care (for infants under age 5)— | No copayment. |
| (i) during 1st 12 months following birth; | 8 visits. |
| (ii) during next 12 months; | 4 visits. |
| (iii) during next 3 years. | 2 visits per coverage year. |
| d. Dental Services | |

* Footnote at end of table.

| I—Services and Items Covered—Continued<br>A. Outpatient services—continued | II—Copayments* and Limitations—Continued |
|---|---|
| The following professional dental services, including drugs and supplies that are commonly furnished, without separate charge, as an incident to such professional services: | |
| (i) Oral examination, including (I) prophylaxis (with fluoride application at appropriate ages), (II) dental X-rays, and (III) in accordance with regulations, other accepted preventive dental procedures. | Items d (i) and (ii) in column I apply initially only to children born not more than 7 years before the effective date of this subpart. For those initially covered, the benefits extend through age 12. |
| | No copayment. |
| | 1 examination per coverage year. |
| (ii) To the extent prescribed by regulation under section 226 and not covered under (i), above, dental care other than orthodontia; but including, insofar as the Secretary finds that resources of facilities and personnel make practicable, routine extractions, dental fillings, and appropriate prosthetic appliances. | Copayment 20% of charges. |
| e. Vision Services (in accordance with regulations under section 226) | |
| (i) Professional services in routine eye examination, including procedures performed (during the course of an eye examination) to determine the refractive state of the eyes and procedures for furnishing prosthetic lenses, provided either by an ophthalmologist or other physician skilled in diseases of the eye or by an optometrist (whichever the patient may select). | For individuals through age 12. |
| | No copayment. |
| | 1 visit per coverage year (including therein a follow-up verification of conformity of prescribed lenses with a prescription issued during the visit). |
| (ii) Eyeglasses with prescription lenses, including the fitting thereof, and including additional lenses and frames as needed. | Copayment 20% of charges. |
| | Initially, one set of eyeglasses (including frame and lenses); thereafter, only newly prescribed lenses and frames as required (but not more often than once a coverage year) because of a change in the condition of the eyes. Standards to be established by regulations promulgated by the Secretary in accordance with section 226. |
| 2. Physicians' Services and Ancillary Health Care<br>When not otherwise covered under this table— | |
| a. Physicians' services (including radiotherapy) on an outpatient basis in any appropriate institutional or noninstitutional setting (including home calls), and services in any such setting under a physician's supervision by allied health personnel (as defined in regulations). | For physicians' services, a copayment for each visit or two dollars. Copayments under this paragraph for services in facilities involved in clauses c. and d. below apply only to services of attending physician.<br>Limited to 10 visits per coverage year. Except that, in accordance with regulations, no limit on the number of visits shall apply to services preceding or following inpatient care in cases (such as surgery or pregnancy and obstetrical care) in which a single combined approved charge is made by the provider for such outpatient and inpatient services. |
| b. Diagnostic procedures on an outpatient basis (when not covered under subparagraph a.), including diagnostic tests, prescribed or ordered by a physician in connection with services referred to in paragraph a. | 20% copayment.<br>Copayment requirement waived for registrants of Health Care Corporations. |
| c. Hospital or outpatient-center services (not included above) rendered to outpatients and incidental to physicians' services covered under paragraph 1. | No separate limitation. |
| d. Supplies, materials, and use of facilities and equipment in connection with the foregoing services, including drugs administered or used as a part of services covered in paragraph 1, 2, or 3. | No separate copayment. |
| e. Ambulance services. | No separate limitation.<br><br>20% copayment.<br>Covered only when other methods of transportation are contraindicated by the patient's condition, and only to the extent provided in regulations. |
| 3. Other Outpatient Services<br>a. Outpatient Institutional-Care Program for Mental Illness. Alcoholism, or Drug Abuse and Dependence. | A two-dollar copayment, per day, except that copayments may, by regulation, be waived for treatment of drug abuse and drug dependence. (No separate copayment for physicians' services applies under this subparagraph, whether or not such services are charged for separately.) |
| Such day-care or other part-time services and other items as may be specified in regulations under section 226, furnished to patients, other than inpatients, under a program for the treatment of mental illness, alcoholism, or problems of drug abuse and drug dependence. | Limited to visits or sessions on 3 days under such a program in lieu of each day of inpatient hospital care allowable during a benefit period (under paragraph B.1.a. below) for the treatment of mental illness, alcoholism, or drug abuse or drug dependence. |
| b. Drugs, Prosthetic Devices, and Medical Equipment<br>(i) Drugs (other than those covered under paragraph A.1., A.2., or B.1. of this table) dispensed to patients other than inpatients. | For each drug prescription, and each refilling of such a prescription, a one dollar copayment.<br>Covered only if (1) the drug (whether or not it is subject to prescription requirement under any law other than this title) has in fact been prescribed by a physician and is listed under its established name (as defined in section 502(e) of the Federal Food, Drug, and Cosmetic Act) in a list established for the purposes of this title by the Secretary under section 226(c), and (2) in the case of a drug listed under section 226(c)(2)(B), the disease or condition for which the drug has been prescribed is one for the treatment of which the drug is designated in that list as appropriate. |
| (ii) Prosthetic devices (including hearing aids) prescribed by a physician and not otherwise covered in this table. | Copayment 20% of charges.<br>Covered only if listed in, and in accordance with, regulations under section 2206. |
| (iii) In accordance with regulations, durable medical equipment (not otherwise covered as described in section 1861(s)(6) of the Social Security Act, certified by a physician as being medically required. | Copayment 20% of charges.<br>Covered only if listed in, and in accordance with, regulations under section 226; and subject to criteria for payment prescribed under that section. |
| c. Home Health Services<br>Such items and services as are defined as "home health services" by section 228(d) and regulations thereunder. | For each visit, a two-dollars copayment.<br>Coverage of such services shall be limited to 100 visits per coverage year. The certification and recertification requirements of section 1835(a)(2) of the Social Security Act, with such modifications (if any) as the Secretary may by regulation prescribe, may be applied by the carrier. |

* Footnote at end of table.

TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS—Continued

| I—Services and Items Covered—Continued | II—Copayments* and Limitations—Continued |
|---|---|
| B. INPATIENT SERVICES | |
| 1. Institutional Services | |
| a. Inpatient Hospital Care<br>Items and services defined by section 228(e) as "inpatient hospital care." | A five-dollar copayment, per day.<br>Coverage is limited to 90 days of inpatient hospital care received in any benefit period; except that for treatment of mental illness, alcoholism, and problems and conditions of drug abuse or drug dependence the limit is 45 days. (The limitation on treatment of mental illness, alcoholism, and problems and conditions of drug abuse or drug dependence is 90 days of inpatient hospital care for registrants of Health Care Corporations.) |
| b. Post-Hospital Extended Care<br>Extended care services (as defined in section 228(b)) furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days. For the purpose of the preceding sentence, the second sentence of section 1861(i) of the Social Security Act shall apply. | A two-dollar-and-fifty-cent copayment, per day.<br>Limited to 30 days of such care received in any benefit period. |
| c. Nursing Home Care<br>Nursing home care as defined in section 228. | A two-dollar-and-fifty-cent copayment, per day.<br>Coverage shall be limited to 90 days of such care received in any benefit period. |
| 2. Physicians' Services<br>Those physicians' services to inpatients which are not included as "institutional services" under paragraph B.1. a., b., or c. | A two-dollars copayment, per visit of the attending physician only. In accordance with regulations under section 226, in the case of services (such as surgery or pregnancy and obstetrical care) in which a single charge is made by the corporation for the attending physicians' services combined with any preceding or following outpatient services related thereto, a copayment of 10% of such combined charges shall apply. Copayments for physicians' services under this paragraph are in addition to the daily copayments for institutional care.<br>No separate limitations. |
| C. CATASTROPHIC EXPENSE BENEFITS<br>Section 225 defines the conditions under which these benefits become effective in any coverage year with respect to any individual or family. To summarize: In the case of a low-income person or low-income family (class 1), these benefits are effective immediately. In the case of medically indigent persons or families (classes 2–4), they become effective when the person or family has incurred in a coverage year, for premium contributions, copayments, and certain other expenditures combined, a total expenditure equal to an amount determined by application of a table in section 225. In the case of individuals or families in income class 5, these benefits apply when a variable expenditure limit is reached, determined by taking 10% of the individual's or family's income. The dollar figures in the tables and the absolute expenditure limit may be adjusted by the Secretary on an annual basis, whenever the Consumer Price Index is more than 3% above the index for the base period (see sections 204 and 224). | For elimination of certain limits on coverage for Physicians' Services and Inpatient Hospital Services when Catastrophic Expense Benefits take effect in a coverage year, see section 225. |

*The initial amounts of the dollar copayments are subject to changes in the Consumer Price Index as determined under sections 204 and 224.

LIMITATIONS AND EXCLUSIONS

SEC. 223. (a) Notwithstanding any other provision of this title, Comprehensive Health Care Benefits shall not cover charges for—

(1) services or items that are not medically necessary (or, in the case of health maintenance services under paragraph A. 1. of the benefit table, medically appropriate), as determined in accordance with regulations and subject to such requirements for certification and recertification by physicians as are specified in this part or in regulations;

(2) inpatient treatment of tuberculosis, mental illness, alcoholism, or problems of drug abuse or drug dependence, unless the condition of the patient is in an acute phase;

(3) custodial care, other than health-related custodial care;

(4) cosmetic surgery or charges incurred in connection therewith, except as required for the prompt repair of accidental injury or for improvement of the functioning of a malformed body member;

(5) personal comfort items;

(6) drugs not prescribed, except when administered by or under the immediate supervision of a physician; or

(7)(A) treatment of flat-foot conditions and the prescription of supportive devices therefor, or

(B) routine foot care (including the cutting or removal of corns or calluses, the trimming of nails, and other routine hygienic care).

(b) Comprehensive Health Care Benefits shall not cover any item or service to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to that item or service under a workman's compensation law or plan of the United States or a State or under a motor vehicle insurance policy or plan. Any payment by the carrier under coverage under this title with respect to any item or service shall be conditioned on reimbursement to the carrier when notice or other information is received that payment for the item or service has been made under such a law, policy, or plan.

(c) Comprehensive Health Care Benefits shall not cover—

(1) charges for items or services (other than emergency services in accordance with section 133(f)) furnished by a Federal provider of services, except a provider of services which the appropriate State Health Commission determines is providing services (by arrangement with a Health Care Corporation or otherwise in accordance with part C of title I) as a community institution or agency; or

(2) charges of a Health Care Corporation or other provider for any item or service which the corporation or provider is obligated by a law of, or contract with the United States to render at public expense.

(d)(1) If the bed and board furnished as part of inpatient institutional services is in accommodations more expensive than semiprivate accommodations, the amount taken into account for purpose of payment with respect to such care under Comprehensive Health Care Benefits coverage may not exceed an amount equal to the approved charges of the Health Care Corporation or nonaffiliated institutional provider for such services if furnished in semiprivate accommodations unless the more expensive accommodations were required for medical reasons.

(2) If the bed and board furnished as part of inpatient services is in accommodations other than, but not more expensive than, semiprivate accommodations and the use of such other accommodations was neither at the request of the patient nor for a reason consistent with the purposes of this Act (as determined under regulations), the amount of the payment, if any, with respect thereto shall in no event be greater than the corporation's or nonaffiliated provider's approved charge for bed and board in the accommodations furnished.

(3) For purposes of this subsection, the term "semiprivate accommodations" means two-bed, three-bed, or four-bed accommodations.

(e) If, any other case, items or services are furnished to an individual in excess of, or more expensive than, items or services with respect to which payment may be made under Comprehensive Health Care Benefits Coverage, there shall be taken into account, for purposes of payment by the carrier, only the approved charges of the corporation or other provider with respect to which such payment may be made.

COPAYMENT PROVISIONS

SEC. 224. (a) Except to the extent that Health Care Corporations operate on a predetermined capitation charge basis and do not impose separate charges for services and other items covered by Comprehensive Health Care Benefits at the time such services and items are furnished to a covered individual, and except when Catastrophic Expense Benefits are in effect as determined under section 225, coverage for Comprehensive Health Care Benefits is subject to the payment, by the covered individual or on his behalf by another person or agency, of copayments in the case of services or items with respect to which copayments are specified in the benefit table set forth in section 222, but only if the individual is not a low-income person or a member of a low-income family (as defined in section 203). As provided in part C of this title, the amount of such copayments shall not be deducted by the carrier from payment to the Health Care Corporation for covered services and other items but shall be recovered by the carrier

as provided in that part, without recourse against the corporation. Payment for coverage for Comprehensive Health Care Benefits for an individual who has not registered with a Health Care Corporation shall be made by his carrier at approved predetermined charges, less copayments applicable for the services provided.

(b) In those cases in which the table in section 222 specifies as the required copayment a stated percentage of charges with respect to a covered service or item, the amount of the copayment shall, subject to section 223, be equal to that percentage of the approved charges of the provider involved for the covered service or item. In those cases in which the copayment in the table is stated as a dollar amount, if by reason of an increase in the Consumer Price Index, a higher amount is promulgated for any coverage year under section 204 by the Secretary with respect to any copayment item than the amount specified in the table of benefits for that item, the amount so promulgated shall apply with respect to that year.

CATASTROPHIC EXPENSE BENEFITS

SEC. 225. (a) When Catastrophic Expense Benefits are in effect as a part of coverage for Comprehensive Health Care Benefits with respect to a covered individual in a coverage year, (1) copayments that would otherwise be required to be made by or on behalf of that individual shall not be required with respect to services or items furnished in that coverage year on or after the effective date of those benefits, and (2) the benefit limits shown in column II of the benefit table for physicians' services and ancillary health care (paragraph A. 2. a.), for outpatient institutional-care programs for mental illness, alcoholism, or drug abuse or drug dependence (paragraph A. 3. a.), and for inpatient hospital care (paragraph B. 1. a.) become inapplicable during that period for those classes of services and care except as otherwise indicated in that column.

(b) (1) In the case of a covered individual who is (or whose family is) in income class 1, with respect to a coverage year, Catastrophic Expense Benefits shall automatically be in effect during the entire year as part of his coverage for Comprehensive Health Care Benefits.

(2) In the case of any covered individual (or his family) in income class 2, 3, or 4, Catastrophic Expense Benefits shall become effective in a coverage year when the sum of creditable expenditures incurred by him, or incurred by him and all other members of his family in the case of an individual who is a member of a family, equals the amount of a special expenditure limit determined as in the table below (or the amount redetermined by the Secretary for that year under section 204).

SPECIAL EXPENDITURE LIMIT TABLE

| Income class | Expenditure limit under 65 | Expenditure limit 65 and over |
|---|---|---|
| 2 | $250 | $125 |
| 3 | 500 | 250 |
| 4 | 750 | 375 |

(3) In the case of an individual and his family who are in income class 5, the special expenditure limit beyond which Catastrophic Expense Benefits are to take effect shall vary according to the level of income, with the exact limit set at 10 percent of the individual's or family's income (as defined in accordance with regulations prescribed by the Secretary in consultation with the Secretary of the Treasury or his delegate). The income base to which the 10 percent is to be applied shall be rounded to the nearest multiple of $100 (or to the next higher multiple if the amount to be rounded is an odd multiple of $50).

(4) The following expenditures incurred by a covered individual, or incurred by him and other members of his family in the case of an individual who is a member of a family, shall be counted as creditable expenditures in determining under paragraph (2) whether and when Catastrophic Expense Benefits become effective with respect to him in a coverage year:

(A) Expenditures incurred for premiums, or contributions to premiums, for Comprehensive Health Care Benefits coverage (for that year) of that individual, or of him and other members of his family.

(B) Expenditures incurred in that year for copayments under Comprehensive Health Care Benefits coverage, and expenditures for copayments incurred in the last 3 months of the immediately preceding coverage year under such coverage.

(C) (i) Expenditures incurred in the coverage year involved for charges for physicians' services and ancillary health care (other than treatment of mental illness) described in column I of paragraph A.2 of the benefit table, or for outpatient institutional care for mental illness, alcoholism, or drug abuse or drug dependence as described in paragraph A.3.a. in that column, or for inpatient hospital care or physicians' services to inpatients (other than for mental illness, alcoholism, or drug abuse or drug dependence) described in paragraph B.1.a. or B.2. in that column, if those charges were excluded from coverage under such paragraph solely because of the applicable limitations in column II of the benefit table on the number of visits per coverage year or on the number of days of care per benefit period; and (ii) like expenditures incurred in the last 3 months of the immediately preceding coverage year and applied toward the applicable expenditure limit or limits under this section for that year.

(5) For the purposes of this section—

(A) expenditures or (whether or not payment is or has been made) deemed to be incurred—

(i) in the case of premiums or contributions to premiums, when payment is due; or

(ii) in the case of copayments, and of charges described in paragraph (4) (C), when the service or item giving rise to the copayment or charge was provided, unless payment is sooner made; and

(B) expenditures are deemed to be incurred by a covered individual (unless they are Federal payments) if paid or payable by the covered individual or on his behalf by another person or agency.

REGULATIONS FOR COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 226. (a) In addition to any other regulations and standards with respect to the coverage of Comprehensive Health Care Benefits and the various classes thereof, payment of charges to Health Care Corporations for services and items covered thereby, collection of copayments by carriers as provided in part C of this title, and other matters relating to such benefits, the Secretary shall issue regulations on the matters required by this section. Section 240, relating to regulations affecting the rights and obligations of carriers, shall also apply to regulations under this part.

(b) The Secretary shall issue regulations amplifying the provisions of the benefit table with respect to health maintenance benefits covered by paragraph A. 1. of the benefit table and in particular shall—

(1) in the light of the special emphasis of this Act on the obligation of Health Care Corporations for health maintenance, prescribe the coverage of Comprehensive Health Care Benefits with respect to periodic health evaluation as comprehensively as resources of facilities and personnel will permit and with a view to keeping in step with modern developments in this field, and in this connection consider—

(A) insofar as the frequency of evaluations for particular age groups is concerned, the provision of one appropriate evaluation per coverage year for individuals aged 65 or older, one every second year for those aged 19 to 64 inclusive, and one every five years for those aged 5 to 18 inclusive; and

(B) insofar as the components of such evaluations are concerned, including in such coverage, as the Secretary may deem medically appropriate and practicable for the different age, sex, and other patient groups, regularly scheduled complete histories, blood tests, serologies, urinalyses, and other appropriate chemical laboratory tests; chest X-rays; electrocardiograms; Papanicolaou smear tests; rectal and proctoscopic examinations; glaucoma tests; and hearing tests; and

(2) issue regulations with respect to the coverage of paragraph A.1.e. of the benefit table for vision services.

(c) The Secretary shall issue standards and other regulations with respect to coverage under paragraphs A.2. and A.3. and paragraph B of the benefit table, and in particular shall—

(1) define the physicians' and other services, and the drugs and other items, that are to be covered as benefits under paragraph A.3.a. of the benefit table in outpatient institutional-care programs for mental illness, alcoholism, or problems of drug abuse and drug dependence, and set forth such criteria for these benefits as will encourage the establishment and use of such programs on a sound basis and lessen the need for inpatient treatment of these conditions; and waive, or provide for the waiver, of copayments in such programs for the treatment of drug abuse and drug dependence to the extent that the Secretary finds that such waiver is desirable in order to encourage the use of these programs by persons who are in need of such treatment;

(2) for the purpose of coverage of drugs under paragraph A.3.b.(i) of the benefit table, establish and keep current, on the basis of determinations of the Secretary with respect to the safety and efficacy of the drugs involved—

(A) a list of the categories of drugs that the Secretary finds to be appropriate for the treatment of diseases or conditions requiring drug therapy of such duration and cost as commonly to impose financial hardship; and

(B) a list that (i) designates diseases and conditions, requiring intensive drug therapy (with drugs other than those listed under subparagraph (A)), which the Secretary finds to be of especial importance to the public health, and (ii) specifies with respect to each such disease or condition the category of drugs which the Secretary finds to be appropriate for the treatment thereof;

(3) (A) designate prosthetic devices (including such devices not included under section 1861(s) of the Social Security Act and including hearing aids) to be covered under paragraph A. 3. b. (ii) of the benefit table, and (B) prescribe the conditions for coverage of durable medical equipment (as described in section 1861(s) of the Social Security Act) under paragraph A. 3. b. (iii) of that table (including criteria for determining whether payment for expensive purchased equipment shall be made on a rental-equivalent basis);

(4) (A) (i) prescribe regulations for determining what is to be counted as a visit in the case of physicians' services coverage under paragraph A. 2. a. of the benefit table and physicians' services coverage under paragraph B. 2. of the table; (ii) prescribe regulations (I) exempting from the limits on the number of visits under paragraph A. 2. a. of the table physicians' services preceding or following inpatient care in cases (such as surgery, or pregnancy and obstetrical care) in which a single combined charge is made by the provider involved, for any outpatient and inpatient services, and (II) providing for copayments in such cases in an amount equal to a percentage of the combined covered charges for outpatient and inpatient, phy-

sicians' services as specified in column II of paragraph B. 2. of the table; and

(5) prescribe regulations, referred to in column II of paragraph A. 3. c. of the benefit table, with respect to the nature and number of visits to be counted for home health services coverage purposes.

PHASING OF ADDITIONAL BENEFITS

SEC. 227. The Secretary shall submit to Congress recommendations for the expansion of benefits after the program is in operation as specified in section 302. The Secretary shall give special consideration to the expansion of benefits for dental and vision services based on the availability of resources.

OTHER DEFINITIONS

SEC. 228. For the purposes of this part:

(a) The term "drug" means a drug within the meaning of section 201(g)(1) of the Federal Food, Drug, Cosmetic Act, as now in force or as hereafter amended, including any product of a kind subject to licensing under section 351 of the Public Health Service Act.

(b) The terms "extended care services" and "nursing home care" mean, respectively, services and items specified as such in regulations of the Secretary (including the services specified in section 1861(h) of the Social Security Act) for the respective classes of institutions, if the services are—

(1) furnished to patients who require active inpatient treatment but are not in an acute phase of illness and who currently either require primarily convalescent or restorative services or require primarily health-related custodial care;

(2) furnished under arrangements, in accordance with section 133(d), for the transfer of patients among inpatient care facilities as medically appropriate;

(3) furnished by an institution which (A) meets the requirements of paragraphs (1) through (9) of section 1861(j) of the Social Security Act (defining the term "extended care facility" for purposes of title XVIII of that Act), (B) meets such other conditions relating to the physical facilities or to the safety or quality of care of patients as the Secretary may by regulations prescribe for the respective classes of institutions, and (C) is not an institution primarily for the care and treatment of mental illness or tuberculosis; and

(4) in the case of extended care services, furnished by an institution which is structurally a part of, physically connected with, or in immediate proximity to a hospital, and either is under the supervision of the professional staff of the hospital or has an organized medical staff.

(c) The term "health-related custodial care" means that component of comprehensive health care which—

(1) is furnished to a patient who has a non-curable disease diagnosed by a physician (as defined in section 1861(r)(1) of the Social Security Act) as still requiring medical or nursing care (or both), for palliation or as terminal care, through extended care services or nursing home care or home health services or physicians' home calls;

(2) has the purpose of maintaining the well-being of that patient to the maximum degree possible; and

(3) involves a patient who either—

(A) is bedridden, or unable to get into and out of bed without assistance, or

(B) requires nursing care procedures (such as complicated dressings, irrigations, or intravenous medications) that cannot be performed by the patient or by nonnursing personnel (such as a family member or companion), or

(C) experiences frequent episodes of sudden, acute illness requiring emergency treatment that cannot be controlled by medication (such as uncontrolled diabetes, epilepsy, paroxysmal tachycardia, or fibrillation), or

(D) requires constant physical restraints to prevent injury to himself or others (as in the case of senile patients or patients who suffer from certain mental illnesses).

(d)(1) The term "home health services" means (subject to paragraph (3)) the items and services specified in paragraph (2), if—

(A) they are furnished to an individual who is under the care of a physician;

(B) they are furnished by a Health Care Corporation either directly or through an affiliated provider that is a "home health agency" as defined in section 1861(o) of the Social Security Act (but not excluding an agency or organization that is primarily for the care and treatment of mental illness);

(C) they are furnished under a plan, established and periodically reviewed by a physician, for furnishing them to the individual; and

(D) they are, except as provided in paragraph (2)(G), furnished on a visiting basis in a place of residence used as the individual's home.

(2) The items and services referred to in paragraph (1) are—

(A) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(B) physical, occupational, or speech therapy;

(C) medical social services under the direction of a physician;

(D) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

(E) medical supplies (other than drugs), and the use of medical appliances, while under the plan referred to in paragraph (1)(C);

(F) medical services provided by an intern or resident-in-training in a provider institution; and

(G) any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the Health Care Corporation or home health agency referred to in paragraph (1)(B), at a hospital, extended care facility, or rehabilitation center, and

(i) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in the place of residence referred to in paragraph (1)(D); or

(ii) which are furnished at that facility while he is there to receive any item or service referred to in clause (i) of this subparagraph,

but not including transportation of the individual in connection with any such item or service.

(3) Notwithstanding the provisions of paragraphs (1) and (2), the term "home health services" does not include any item or service if it would not be included under "inpatient hospital care" (as defined in subsection (e)) if furnished to an inpatient of a hospital.

(e) The term "inpatient hospital care" means the following items and services furnished to an inpatient of a hospital and, except as otherwise specified, by the hospital:

(1) Bed and board.

(2) Such physicians' services in the hospital (such as those of radiologists and pathologists) as are held out as generally available to all inpatients of a hospital and which are charged for by the hospital as part of its services.

(3) Such nursing services and other related services, such use of hospital facilities, and such medical social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by the hospital for the care and treatment of inpatients.

(4) Such other diagnostic or therapeutic items or services, furnished by the hospital, as are ordinarily so furnished to inpatients of the hospital.

(f)(1) The term "physician" means, except when otherwise specified, a physician as defined in section 1861(r) of the Social Security Act. Such term also includes a chiropractor who is licensed as such by the State (or, in a State which does not license chiropractors as such, is legally authorized to perform the services of a chiropractor in the jurisdiction in which he performs such services), and who meets uniform minimum standards promulgated by the Secretary, but only for the purpose of paragraph A.2. of the benefit table and paragraph (2) of this subsection and only with respect to treatment by means of manual manipulation of the spine which he is legally authorized to perform by the State or jurisdiction in which such treatment is provided.

(2) The term "physicians' services" means professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls.

(3) The term "attending physician" means, with respect to a patient, the physician having primary responsibility for the patient's medical care.

PART C—CARRIERS FOR COMPREHENSIVE HEALTH CARE BENEFITS

DEFINITION OF "CARRIER"

SEC. 231. As used in this Act, the term "carrier" means—

(1) a voluntary association, corporation, partnership, or other nongovernmental organization that is engaged in providing, paying for, or reimbursing the cost of, health care under insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of predetermined premiums or other periodic charges payable to the carrier; and

(2) a Health Care Corporation approved by a State Health Commission under a State plan approved by the Secretary under this Act, to the extent that the corporation charges for covered health care on an annually predetermined capitation basis in accordance with section 136(b).

DETERMINATION OF QUALIFIED CARRIER

SEC. 232. A carrier is a qualified carrier for the purposes of this Act if—

(1) it is authorized to operate health benefit prepayment plans or insurance at group rates in each State for whose residents it provides, or proposes to provide, coverage under this Act, is in compliance with section 233, and meets such additional standards as the Secretary may establish, including, in the case of contracts with the Secretary under sections 202 and 206, any special standards established for the purpose of those sections; and

(2) with respect to coverage for which a premium contribution by the Secretary is requested under section 202(c), the carrier agrees to accord to the Secretary and his agents the same rights to information and access to the carrier's records as is required to be accorded to them under section 241.

REQUIREMENT THAT CARRIERS PARTICIPATE UNDER STATE PLANS

SEC. 233. A carrier shall not be qualified for award of a contract with the Secretary under section 202 or 206 or for issuance of Comprehensive Health Care Benefits coverage eligible for a premium subsidy under section 202(c), unless the carrier agrees, if required by the appropriate State Health Commission (or its delegate agency) of a State, to participate in a coverage pool in accordance with provisions therefor contained in the State plan pursuant to section 124(b)(7), or unless the carrier is in fact such a participant.

CONDITIONS OF APPROVAL OF CARRIER CONTRACTS OR PLANS FOR FEDERAL PREMIUM SUBSIDY

SEC. 234. The Secretary shall, for the purpose of any premium contribution under sec-

tion 202(c), approve an insurance contract or prepayment plan of a carrier (including such a contract or plan under State plan provisions referred to in section 124(b)(7)) only if the insurance contract or prepayment plan—

(1) is in conformity with applicable regulations and standards prescribed under the State plan (approved under part B of title I) of the appropriate participating State;

(2) provides for 12-month coverage terms;

(3) does not permit any exclusion from, or limitation with regard to, coverage of an individual because of health status (pre-existing, current, or future), economic status, race, sex, occupation, age, or establishment of any other condition inconsistent with regulations of the Secretary, but this paragraph shall not be construed to preclude reasonable classification of risks for premium rate purposes in accordance with actuarial principles; and

(4) contains such provisions as the Secretary may prescribe or approve relating to coordination of the coverage under the insurance contract or prepayment plan involved with overlapping or duplicative coverages under other insurance contracts or prepayment plans.

CONTRACTS WITH HEALTH CARE CORPORATIONS ON CAPITATION BASIS

SEC. 235. In the case of a Health Care Corporation that operates on the basis of predetermined capitation charges (approved by the appropriate State Health Commission), the Secretary may, if satisfied as to the corporation's financial responsibility to qualify as a carrier for itself under this section, provide the coverage for Comprehensive Health Care Benefits under this Act to which registrants of the corporation are entitled under section 202(b), by entering (directly or through the State Health Commission as the Secreary's agent as authorized by section 108(c)(2)) into a contract with the corporation, whereby the Secretary, in consideration of the corporation's undertaking to provide (or, when authorized under part C of title I, pay for) the services and items covered by such benefits, agrees that there shall be paid by the Secretary to the corporation, with respect to those registrants of the corporation who enroll under the contract, the same amounts that a third-party carrier would be required to pay under a contract with the Secretary, except that a contract under this section—

(1) shall authorize the Secretary in the case of a Health Care Corporation that does not impose separate charges equivalent to copayments in addition to capitation charges, to deduct, from any capitation payments otherwise payable by the Secretary to the corporation on behalf of an individual enrolled under the contract, the value (as determined on the basis of actuarial principles) of any copayments to which the covered registrants would be subject under part B of title II if the corporation imposed separate charges equivalent to copayments;

(2) shall not, in the case of a Health Care Corporation that imposes separate charges equivalent to copayments in addition to capitation charges, undertake to pay those charges to the corporation;

(3) shall provide that the corporation shall itself collect from a registrant (or from others on his behalf) all copayments and premium contributions (in the form of capitation charges) payable by the registrant, and shall keep for the registrant the record of such copayments and contributions incurred by him (or his family) and notify him when he has reached the applicable expenditure limit under section 225 giving rise to Catastrophic Expense Benefits; and

(4) shall require the corporation to establish, in accordance with regulations or with provisions in the contract, effective procedures (through such means as establishment of a separate record and payment center and issuance of identical membership cards to all its registrants, regardless of whether they have benefit coverage purchased by the Secretary) that will prevent persons who furnish health services or items for the corporation from identifying those registrants who enjoy coverage purchased by the Secretary and discriminating against them on that account.

Any reference in this part to premiums, or contributions to premiums, shall be deemed to include capitation amounts paid by the Secretary, or contributions to capitation charges by registrants, respectively, under contracts made under this section.

EFFECT OF NONPAYMENT OF PREMIUMS

SEC. 236. (a) Premium contributions and special premiums payable pursuant to section 206, by individuals referred to therein who are enrolled under a contract under this title, shall be paid by or on behalf of the registrant to the carrier (from sources other than the Secretary) in periodic installments in advance in a manner and at the time or times prescribed in regulations of the Secretary but not less often than quarterly nor more often than monthly.

(b) In the event of nonpayment of a contribution or special premium installment, when due, to the carrier by or on behalf of an individual, the benefit coverage to which the overdue installment relates shall, upon notice by the carrier in accordance with regulations of the Secretary, and unless payment is made prior to the expiration of a grace period (not in excess of 90 days) prescribed by the regulations, except that (1) the manner and order of termination of coverage of family members in the event of partial delinquency or default in family contribution installments payable under section 206 shall be determined in accordance with regulations, (2) delinquency or default in contribution installments under section 206 shall not affect the coverage of any family member who has attained the age of 65, and (3) delay in payment shall not give rise to termination of coverage if attributable to an act or omission of a Federal officer or employee used as a conduit for transmitting such installments.

ENROLLMENT UNDER CONTRACTS WITH CARRIERS

SEC. 237. (a) The Secretary may, by regulations consistent with other provisions of this Act, prescribe the time or times at which, the manner in which, and the conditions under which individuals may (1) enroll, under a contract made under this part, for Comprehensive Health Care Benefits coverage purchased by the Secretary to which under section 202 they are entitled, or (2) change enrollment under one contract to enrollment under another.

(b) The regulations under this section shall permit enrollment by an individual for himself only, or for himself and his spouse and other individuals who are members of his family (as defined in section 205(b)), and shall prescribe the times at which, the manner in which, and the conditions under which a change from one such type of enrollment to another may be made. An individual enrolling for himself and family shall be liable for any premium contributions on which entitlement to family coverage is conditioned.

(c) To the optimum extent, (1) open enrollment periods under this section and open periods for registrations with Health Care Corporations approved by State commissions under approved State plans under this Act shall be closely coordinated, to the end that registration and enrollment, and changes therein, may be effected concurrently, and (2) registration centers of Health Care Corporations shall function also as centers at which to apply for, and obtain information concerning, enrollment.

REPORTS BY AND AUDITS OF CARRIERS

SEC. 238. Each contract with a carrier under this title, including contracts with Health Care Corporations qualifying as carriers and contracting with respect to their registrants, shall require the carrier to make such reports, in such form, and containing such information as the Secretary or his agents may require to carry out their functions under this Act, and to keep such records and afford such access thereto as the Secretary or his agents may find necessary to assure the correctness and verification of the reports and otherwise to carry out its functions under this Act.

JURISDICTION OF COURTS

SEC. 239. The district courts of the United States shall have original jurisdiction, concurrent with the Court of Claims, of a civil action or claim against the United States founded on this part.

PROSPECTIVE REGULATIONS

SEC. 240. Regulations, amendments to regulations, or amendments to this Act, issued or enacted during an annual contract term under this title, shall not, to the extent that their applications would increase the obligations or adversely affect the rights of the contracting carrier, apply to that contract until the next contract year unless made applicable by the contract or by amendment thereto.

TITLE III—EFFECTIVE DATES

TRANSITIONAL EFFECTIVE DATES

SEC. 301. (a) Except as otherwise provided in this section and section 302, this Act (including and amendments made by it to existing law) shall be effective upon the date of its enactment.

(b) Sections 101, 102, 107(a), 109, 110, 111, and 112, and parts B and C of title I, shall take effect upon the first January 1 or July 1 which occurs six months or more after the date of the enactment of this Act.

(c) Section 107(b), section 128 (with respect to States which have not complied with sections 122 and 124), and the amendments made by section 201 shall take effect on the first day of the third fiscal year which begins after the date of the enactment of this Act.

FULL OPERATION OF PROGRAM

SEC. 302. The program under this Act shall be fully in operation, and the benefits under part B of title II shall be fully effective and available (in lieu of any benefits which would otherwise be available under title XVIII of the Social Security Act), in accordance with all of the provisions of this Act, on and after the first day of the fifth fiscal year which begins after the date of the enactment of this Act.

## REAR ADM. LEVERING SMITH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. HÉBERT) is recognized for 10 minutes.

Mr. HÉBERT. Mr. Speaker, on the 31st of March Rear Adm. Levering Smith, U.S. Navy, retires after 40 years of naval service. Since April of 1956 he has held positions in the Strategic Systems Projects Office—formerly designated Special Projects Office—and in February 1965 he was appointed its Director.

During those 16 years with the Polaris and Poseidon programs, he has contributed immeasurably to the defense of the Nation.

Although Admiral Smith will continue to serve on active duty as Director in a retired status, the occasion of his formal retirement from regular active duty presents an excellent opportunity for a grateful Nation to express recognition of Admiral Smith's accomplishments and contributions to its defense. Through his

forceful leadership and unswerving devotion, he has overcome formidable obstacles and directed a crucial defense program with notable and continuing success. For this he deserves a hearty "well done."

## CLEVELAND COMMUNITY COMMITTEE ON CONSUMER PRICES TESTIMONY BEFORE THE PRICE COMMISSION, WASHINGTON, D.C., MARCH 28, 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 15 minutes.

Mr. VANIK. Mr. Speaker, it was my privilege today to introduce and accompany Mrs. Carolyn Sugiuchi, of South Euclid, Ohio, during her testimony before the Price Commission, which was holding public hearings on the economic stabilization program in Washington, D.C.

When President Nixon on August 15, 1971, announced his new economic policy, the citizens of my community organized a Community Committee on Consumer Prices.

Mrs. Carolyn Sugiuchi, and the chairman of the committee, Mr. Craig Seasholes, and the other 215 volunteers of the Community Committee on Consumer Prices, have rendered a great service to our community, and the whole Nation.

This dedicated group of concerned citizens has monitored over 6,600 prices of a complete range of consumer goods in an effort to help make phase II successful in the Cleveland community. Our committee has a record of base prices—those in existence before November 15.

At the time the President announced his price control program, I urged that all consumer prices be cataloged for future reference. From what I can gather—this was never done by a public agency.

It may be that the Community Committee on Consumer Prices of the 22d District of Ohio has the best records in America on base prices.

I was pleased to present Mrs. Carolyn Sugiuchi to the Price Commission as a citizen who has provided exemplary public service in a great American struggle to hold back the tide of inflation.

Mrs. Sugiuchi's statement is as follows:

STATEMENT OF CAROLYN SUGIUCHI

Mr. Chairman, members of the Council: I appreciate this opportunity to appear before you and to share with you some of the work and experiences of the Community Committee on Consumer Prices. The Committee is a group composed of approximately 250 (275) citizen volunteers from Ohio's 22nd Congressional District. This District is largely middle income, middle class with comfortable homes and family life. These volunteers are extremely concerned about the critical state of the Nation's economy and their own economic situation. The Committee is organized into 12 subcommittees on the basis of geographical area within the boundaries of the District; each subcommittee has a chairman, all of whom combine to form an Executive Committee. Two student representatives, a Chairman, and a Secretary complete this smaller planning group. In addition to individual participation, several school and community organizations have done work on a group basis.

Our volunteers are anxious to continue monitoring prices and can be mobilized at a moment's notice. They are eager to work to insure the stabilization of prices in a unified effort to stop inflation.

The Committee was formed at a public meeting on October 25, 1971. This meeting was called in response to inquiries from citizens who were concerned about rising prices. These people wanted to do something constructive and wanted to co-operate with the Administration. They agreed on a project of helping in monitoring the voluntary compliance sought by the Economic Stabilization Program. In accord, our plan has been one of organized and directed checking of consumer items and prices.

To implement the purpose of our Committee, we began by dividing consumer items into eight categories—Autos and Transportation, Clothing, Food, Health, Housing, Recreation, Services, and Utilities. Pricing forms which were developed to organize data collections, were given along with a set of instructions to each volunteer. Volunteers were asked to do their initial listing of items in a ten-day period—November 1–10 before the end of Phase I. They could chose any category—and goods or services—in any number desired—while recognizing that some products were under control and others were not.

The original sheets were collected, indexed, and items catalogued with "Freeze Prices." For mass price checks, all volunteers were asked to do their monitoring within a stipulated period of time. We encouraged people to report any increases which they felt might be a violation to people to report any increases which they felt might be a violation to the Economic Stabilization Program. A listing of monitored items was the Economic Stabilization Program. A listing of monitored items was maintained in a separate catalogue with the Phase I price and the current price for comparative purposes.

The results of the first mass check conducted from December 1st through 10th indicated that prices in most of the categories held fairly well. Items increased in price in three categories—Food, Health, and Services. Only three items increased out of 113 checked in Health and Services. What became glaringly obvious early in our checking was the number of food items which increased, and the amounts of those increases. In comparison to three items increasing out of 113 in Health and Services, Food items checked revealed 93 items increasing in price out of 708. This trend continued in the January 3rd through 25th check when 1805 items were monitored. This month five categories contained item increases—adding Housing and Recreation to those already mentioned. The checks in Health, Housing, Recreation and Services revealed that 34 items increased in price out of 484 checked. In the Food category among 231 items increased out of 1203 food items checked. Of all the specific items under Food, beef, fresh fruit, and fresh vegetables were responsible for nearly one-third of these increases. In the January check period, 57 beef items increased in price out of 81 checked; 28 produce items went up in price out of 73 items checked. Complete reports on the two mass food checks may be found in the addenda. Examples of price increases in beef are as follows:

Hamburger—least expensive with 24–30% fat content:
November 8: 59c/lb.
December 7: 67c/lb.
January 21: 69c/lb.
March 27: 89c/lb.
Rump Roast:
November 4: $1.38/lb.
December 6: $1.39/lb.
January 3: $1.44/lb.
March 27: $1.49/lb.
Top Round Steak:
November 4: $1.29/lb.
December 6: $1.39/lb.
January 3: $1.49/lb.
March 27: $1.49/lb.

One can readily understand the cries of absolute indignation over meat prices. Food budgets are simply devastated by such price increases in this single food item. In early March, one volunter buying a small rump roast (less than three pounds) found that this one item accounted for over 10% of his total bill for the week at the supermarket. The headline "Meat Leads Spiral" was hardly front page news to the volunteers in the 22nd Congressional District when we picked up the morning paper last Friday. We have been well aware of this spiral which has squeezed our food budgets for months.

In the attempt to work within the structure of the Economic Stabilization Program, the people have met many frustrations. When Phase II began, people thought prices would be controlled, that prices would not increase, but would stabilize. Our understanding of the word "stabilize" is to remain unchanged, non-fluctuating, but this is not what has happened, to say the least. People are confused and amazed to learn that a price increase is not necesarily a violation. We are further confused when told "The goal of the (Price) Commission is to hold increases of prices and rents, on the average for the whole nation, to no more than 2½% a year." We are puzzled, because we see increases of much more than 2½% on items that are supposed to be controlled. Early in Phase II a man who had been purchasing a chocolate coconut bar cookie for 12 cents found the same bar cookie increased in price by 3 cents. He calculated three over twelve equals one fourth which equals 25%—considerably more than 2½%. The Economic Stabilization Program explained, "It's not that simple." It certainly isn't! Reading from the General Information pamphlet (S–2) provided by Internal Revenue Service we learned that *extra costs* incurred can be passed on to the consumer *in addition* to the usual percentage of profit margin, something the consumer does not know. With these allowances and conditions which permit price increases, plus the exclusion of some items from control altogether, the man wonders, as we all wonder, where is the price control and where is stabilization. We can only conclude that these are really misnomers, more than a little bit misleading, and a source of much dissatisfaction with the Stabilization Program.

The use of the Base Price Catalog or Forty Items List is another source of difficulty. The choices, if one has the time and energey to invest in checking a base price, are going to the store's office (often several floors away), trying to locate a list which may not exist, or, in supermarkets, finding an item in a huge, unindexed catalog whose pages are filled with many items and numbers from which to extract a base price. At best, one or two items might be checked, but to check all items which could be in violation would be impossible. The entire procedure for determining violations is too complicated and not at all realistic.

Although it is obvious that many businesses have been co-operative, another problem for the people is that of violators. Notice of violators has not been forthcoming for the public, and we wonder who we might be patronizing that has been or is a violator. For example, one volunteer who had been paying 68¢ for a twelve-ounce package of pasteurized process American cheese found the price increased to 75¢ in mid-February. On February 18, 1972, an Alleged Violation Form was sent to the Economic Stabilization Program and an acknowledgement received on February 22, 1972. Over a month has passed with no communication, and, as of last Saturday, the cheese was still 75¢. The volunteer wonders whether the price is a violation, how many unsuspecting people are paying the higher price unnecessarily, and

when the Economic Stabilization Program will advise her.

What does the present economic situation mean to our families personally? Hoping that no one becomes ill, no appliance needs repair, the car holds together, families are cutting down and cutting out to what is absolutely necessary—and the list of what is essential is getting shorter and shorter. Women who turned to economy meats found they are not inexpensive—stewing beef in one market was priced $1.24 per pound on March 18, 1972; that same week, boneless short ribs were $1.04 per pound. For the woman who has a policy of spending no more than $1.00 per pound for meat, her choices last Saturday (March 25, 1972) would have been from such things as beef heart—59¢ per pound, back and neck bones—52¢ per pound, country style sausage 84¢ pre pound, beef tongue—74¢ per pound.

As for meat substitutes, fish and cheese prices have increased also. Budget stretchers such as beans, noodles, and macaroni are starches. One volunteer who has $50 table money for her two children, her husband, and herself, has to stretch that amount not one week, but two, rather difficult at today's prices. Most disheartened, and most disheartening, of all are those retirees on fixed, low incomes who already have been counting every penny and cutting every corner. Even a small increase on items causes a hardship, and these people, along with the rest of us, are fearful of where it will end.

Several suggestions have been made by the Executive Committee and volunteers regarding the Economic Stabilization Program. They suggest that all foods be controlled, that raw materials for manufacturing be controlled, that prices be set firmly so that everyone knows the cost, that people be permitted to report possible violations by telephone, that the public be informed of violators, and that profits be limited.

Mr. Chairman, I hope that my statement illustrates to the Council the utter frustration of the individual consumer with rising prices and the apparent ineffectiveness of Phase II. At the same time I want you to know that this Community Committee will continue to monitor prices and undertake whatever else may be needed to make the Economic Stabilization Program effective.

In addition, Mr. Speaker, I would like to include in the RECORD the text of my remarks to the Price Commission which followed Mrs. Sugiuchi's presentation. The recommendations which I made to the Price Commission have largely been based on the information and data which the 22d District Community Committee on Consumer Prices has furnished my office during the last several months:

STATEMENT OF CONGRESSMAN CHARLES A. VANIK

Mr. Chairman, members of the Commission: The testimony of Mrs. Sugiuchi demonstrates the value of community committees on consumer prices. These efforts demonstrate the availability of community service—people are delighted to be a part of this program. They will work in the cause of halting inflation without compensation.

Not only have they monitored prices in the Cleveland area and helped instill a greater sense of price consciousness, but their reports have been invaluable to me in my congressional efforts to help develop a successful economic stabilization program. Their reports have provided me with detailed and individualized information on price changes and trends, often a month before government statistics are available.

I, therefore, recommend that Citizens' Committees on Consumer Prices be established in every Congressional district of America. Until a better plan is devised, these Committees could be appointed by Members of Congress and include representatives of all segments of the community. The Cost of Living Council could fund the basic cost of a community office and a fulltime consumer agent. If we can provide every community with an agricultural agent—why not a consumer agent to carry on the administrative work of the community committee?

A Citizens' Committee can provide facts on price changes with astounding speed. Two months before government agencies were aware of meat price escalation, our 22nd District Committee reported this fact and it sounded the alram—one of the first in the Nation.

My efforts to provide greater price stabilization in meat prices were largely inspired by the findings of this citizen committee. In early December, this citizens' group predicted that fresh food prices were rising to a dangerous level. As a result of the Community Committee on Consumer Prices' findings, I directed letters to the Council and to the Secretary of Agriculture on January 5th asking that immediate action be taken to control rising food prices. Unfortunately, no significant action has been taken.

From our community efforts, we also conclude that the President's Economic Program to Control Inflation is absolutely doomed if the Administration persists in exempting meat, fresh vegetables and fruits from price control.

We cannot expect Agriculture and the food processors to monitor themselves or exercise effective restraints on price abuse. The temptations for "quick profits" are too grave. If controls reduce supplies, as some have suggested, let us test that challenge in the open market place.

Present pricing policies on meat have, for all practical purposes, already created a shortage for the low and moderate income families. Their dinner tables have already felt the sting of reduced meat rations. High meat prices have already driven millions of people to some degree of voluntary meat rationing. They buy the meat they can afford—and it is less and less every day.

You simply cannot convince the worker, whose real income fell last month, that an economic program which freezes his wages is good for America while the price he must pay for meat, fresh fruits and vegetables is on a trajectory to the moon.

The average American family spends $41 for food each week. Of this purchase 54% is for meat and fresh fruits and vegetables. The average consumer has to face up to increased food prices as a daily experience. This inflationary effect is felt with every swallow, and he has already taken more inflation than he can stomach.

It is now obvious that the decision to exempt fresh produce and meats from some forms of controls was a serious mistake.

I hope that the alarming rate of price increases during the last few months will at last move the Commission to take action.

There are several actions which can be taken.

First, the supply—and, therefore, the price—of lean and manufacturing meats used in hot dogs, hamburgers, and other cheaper cuts of meat is largely determined by restrictions imposed under the authority of the Meat Quota Law of 1964. While this year's quota has been set at a level 7% higher than last year's, it is still too restrictive. We are simply not letting enough lean meat into this country to meet demand or stabilize prices.

Therefore, I have introduced legislation, along with Congressman Rosenthal of New York and 30 others to repeal the Meat Quota Law of 1964.

Some have said that the repeal of the Quota Law would not be helpful. Others have said that it would hurt the American farmer at the time when they are finally beginning to receive a more adequate return on their investments and efforts. Their arguments are a smokescreen thrown up to blind the American consumer.

The American farmer and rancher simply does not produce the tough, range fed meat that certain foreign countries do. This foreign meat is too tough to be used in the higher priced roasts and steaks, which the American producers specialize in. It can only be used in items like hamburger meat, hot dogs, sausages, and tinned meats. To a very large extent, American meat and foreign meat are not in the same competitive categories.

The price of meat for the cheaper cuts, which the middle and lower income families of America rely on, is still rising. Although it is late in the shipping season, a repeal of the Meat Import Quota Law could help stabilize these rising prices.

My last point, Mr. Chairman, concerns the method by which the Internal Revenue Service investigates violations.

The man on the street has the right to know who is holding the line on prices and who is violating the "national conscience." But the I.R.S. has informed me that, while they will make some information available to a person who makes a specific complaint, they will not "make public" the news of violators. Only if the Justice Department files suit against a company or corporation will this information be made public.

A number of my constituents have indicated that if they knew which companies and businesses had been found to be in violation by the I.R.S.—but the Justice Department had not yet acted—it would influence their shopping habits. In other words, the public might like to avoid patronizing those companies and stores which are not cooperating during the present economic emergency.

For example, my office received a press release from the Council just this last Friday that reported that the first suit had been brought against Tier I prenotifier—Purity Supreme, Inc., a $150 million sales per year company which operates 39 discount supermarkets in Massachusetts. The press release further noted that the improper actions of the company occurred between November 18 and December 17 of last year. Yet only now, three months later, is the government clearly publicizing this case. I am sure that quicker action and better publicity in this case would have altered the shopping habits of many in the Boston area.

In an effort to increase the public's awareness of violators, I have introduced legislation "to direct the posting in all local and regional offices of the Internal Revenue Service of up-to-date lists of violators of orders and regulations issued under the Economic Stabilization Act." These violator lists should be those found in violation by the Cost of Living Council before court litigation.

The success of your program—of our program to control inflation—depends upon a total partnership between industry, agriculture, and the consumer. There can be no exceptions to this commitment. The exemptions set the stage for the destruction of your work.

## LEWIS E. TURNER RECEIVES THE DISTINGUISHED SERVICE CITATION

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, one of the able and effective members of the Department of the Air Force, the Honorable Lewis E. Turner, has received the Distinguished Service Citation from the Reserve Officers Association of the United

States. Mr. Turner who is the Deputy Assistant Secretary of the Air Force for Installations received this important award on February 25. It was made by the Air Force Chief of Staff, Gen. John D. Ryan.

Mr. Turner's friends are legion and his outstanding work is appreciated throughout the Nation. I present for publication in the CONGRESSIONAL RECORD the news release on the occasion, the citation which accompanied the award, and a biographical sketch of Mr. Turner.

LEWIS E. TURNER RECEIVES RESERVE CITATION

WASHINGTON, March 3.—Lewis E. Turner, Deputy Assistant Secretary of the Air Force for Installations, received the Reserve Officers Association of the United States' Distinguished Service Citation February 25. Presentation was made by Air Force Chief of Staff General John D. Ryan during the Association's 50th Anniversary Mid-Winter Council Meeting at the Washington Hilton Hotel.

Mr. Turner was cited for providing ". . . outstanding service to the United States Air Force, Active and Reserve, in timely provisioning of facilities to support mission requirements of a rapidly changing force."

The Reserve Officers Association further credited Mr. Turner with providing priority efforts to the approval process for individual Air Force Reserve construction and maintenance projects. "His support in the vital review and approval process has contributed immeasurably to earlier contract awards with the resultant reduction in the time required to provide facilities support for the Air Force Reserve units," the citation accompanying the award concluded.

The award consists of a laminated plaque and is awarded for outstanding contributions to national security through support of the United States reserve forces.

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CITATION TO ACCOMPANY AWARD OF ROA DISTINGUISHED CITATION TO MR. LEWIS F. TURNER

As the Deputy Assistant Secretary of the Air Force for Installations since 1964, Mr. Turner has "performed outstanding service to the United States Air Force, Active and Reserve, in timely provisioning of facilities to support mission requirements of a rapidly changing force."

On numerous occasions Mr. Turner has provided priority efforts to the approval process for individual Air Force Reserve construction and maintenance projects. His support in the vital review and approval process has contributed immeasurably to earlier contract awards with the resultant reduction in the time required to provide facilities support for Air Force Reserve units.

Mr. Tuner's consistent support of USAFR programs and purposes and distinguished service have brought great credit to himself, the Air Force Reserve and the United States Air Force.

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BIOGRAPHY: LEWIS E. TURNER, DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (INSTALLATIONS)

As the Deputy Assistant Secretary for Installations, Mr. Turner is the senior official, within the Department of the Air Force, responsible for installations and civil engineering matters. In this capacity, he directs the management, utilization and maintenance of the Air Force's $16.6 billion inventory of real property involving the annual expenditure of over $1.7 billion in construction and maintenance efforts. He executes these functions through an organization consisting of 95,000 engineers and technicians, operating from bases located on every continent of the world.

Mr. Turner was born in Radford, Va., on June 7, 1917. He was educated in the Virginia public school system and has completed various management courses conducted by military and civilian institutions in the Washington area, including a short course at the Air War College in 1952. He has also attended the Defense Advanced Management Systems Course at Monterey, Calif., and the Brookings Institution Management and Program Executives Course at Williamsburg, Va.

He began his career in the Government in 1940 with the Civil Service Commission, later moving to the General Accounting Office and the War Production Board. At the end of World War II he became associated with the War Assets Administration where he worked as a budget officer. When the Air Force became a separate service, he was asked to join the Air Force Budget Office to assist in establishing a management and budgeting system for the Department.

In 1959 Mr. Turner moved to the Office of the Secretary of the Air Force as Deputy Assistant Secretary (Financial Control). He left the Government service in 1961 to enter private industry as Executive Vice President of a large construction and maintenance firm in Los Angeles, Calif. He returned to the Air Force in February 1964 to assume his present post after three successful years in private industry.

During Mr. Turner's career in the Government, he has received many awards and public recognition: Outstanding Performance Ratings each year of Government service; in 1961 and 1969 Exceptional Civilian Service Awards by the Secretary of the Air Force; in 1969 the Air Force Association Citation was presented "For exceptionally outstanding service to the United States Air Force active and reserve, in the timely provisioning of facilities to support mission requirements of a rapidly changing military force." In 1967 Mr. Turner was nominated by the Secretary of the Air Force for the National Civil Service League Career Service Award.

Mr. Turner is married to the former Della Kate Pettus of Montgomery, Ala., and they have three children. He and his family are members of the Walker Chapel Methodist Church of Arlington. Mr. Turner is a member of the Westwood Country Club of Northern Virginia, Officers' Clubs of Bolling and Andrews Air Force Bases, and is a non-resident member of the Oakmont Country Club of Glendale, Calif.

The family resides at 3539 North Valley Street, Arlington, Va.

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## IRVING BRANT COMMENTS ON RACISM IN AMERICA

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, I would like to commend to the attention of my colleagues a speech delivered by Mr. Irving Brant, recipient of the E. B. MacNaughton Civil Liberties Award in Oregon this year and renowned constitutional authority and defender of liberties.

Mr. Brant addresses himself to a problem that has long been with us, and one which remains basically unsolved and immensely threatening to our society and to the American people as a whole.

Irving Brant was born only 19 years after the formal abolition of slavery. Yet, the Nation's slavery to racism continues to this day. His comments on the continuing racism in our country show the insight and perception that only a man of his years, intelligence, and sensitivity could provide.

The speech follows:

SHALL RACISM DESTROY AMERICA?

(Speech of Irving Brant, accepting E. B. MacNaughton Civil Liberties Award, Mar. 4, 1972, Eugene, Oreg.)

I cannot begin to tell you how deeply this award is appreciated. Personally, it affords the keenest pleasure, although my contributions have been small compared to the dedicated service of those who devote time and effort, day after day, to the operations of the American Civil Liberties Union. The very existence of this annual award testifies to the depth of the ACLU dedication at a time when civil rights and liberties are being challenged throughout our country and the world. Here in the United States that challenge is seen in the mindless attitudes of unthinking people and in the callousness of congressional majorities. It is seen in senators who disregard the basic philosophy of Supreme Court nominees. It is seen in a President and Attorney General who yearn to name, for that high tribunal, more extreme deniers of liberty than they can hope to get away with.

The Supreme Court today is at a stage of crisis. I remember reading, about sixty years ago, the remark of some prominent American that the only really important function of a President is to appoint members of the Supreme Court. The clear implication was that the country would be safe only as long as that court continued to misconstrue the Fourteenth Amendment and employ it to strike down state laws regulating corporations.

That perversion ended with the first four Supreme Court appointments made by Franklin D. Roosevelt. His purpose was to select justices who would uphold the power of Congress to cope with national economic emergencies. No primary thought was given by him at the outset to the guarantees of personal liberty, which were not acutely at issue then. It was more or less by the laws of chance that four of the eight Roosevelt appointees turned out to be exceptionally valiant defenders of the Bill of Rights.

President Truman made five appointments to the Supreme Court, choosing personal friends. His closest approach to a judicial philosophy, perhaps, lies in a remark he made to me: "I can tell you one thing. I never will appoint a professional liberal to the Court." My idea of a professional liberal is a conservative who, for political gain, tries to make a public record as a liberal. I suspect that Mr. Truman's real animus was against intellectual liberals. The breed repelled him, and his conservative appointments reflected that fact.

Then came President Eisenhower, who made four appointments and regretted two and one-half of them. I remarked one day to Chief Justice Warren that he and Justice Brennan were "happy accidents." He replied with a smile, "I doubt if the President expected us to take the stands we have taken." A third Eisenhower selection, Justice Potter Stewart, has moved gradually toward the liberal side; not decisively, but enough so that bitter outcries are reaching him from the Ohio rightwingers who rejoiced at his appointment.

Truman's appointee Tom Clark is another conservative who became increasingly liberal as the years passed. He always was that way on one point. I asked him once why he was a stricter enforcer of the ban on unreasonable search and seizure than of other constitutional guarantees. He replied that he did not know that this was true but if it was, it was because, as a prosecuting attorney in Texas, he was denounced by a judge in open court for refusing to prosecute a Negro whose house had been almost torn to pieces by ransacking police.

Speaking of Justice Clark, Hugo Black said to me: "The only thing wrong with Tom is that he doesn't read enough." I suspect

that if Tom Clark had steeped himself in Hallam's *History of England* and Howell's *State Trials*, he would have become as ardent a libertarian as his son Ramsey, of whom he is justly proud.

Most members of the Supreme Court, but especially the liberals, are avid readers on controversial topics. I told Black about a splendid, impartial paper on the history of the NAACP, delivered by an Alabama Negro before the Southern Historical Association. Black asked me to get it for him. I did so, requesting its return. It came back—from Chief Justice Warren.

John F. Kennedy and Lyndon Johnson, I believe, were the only Presidents, unless Woodrow Wilson can be included, who consciously sought to place libertarians on the Court. Johnson is commonly regarded as a Southern conservative who, as Senate leader, opposed civil-rights legislation until it was forced on him by political pressures. I know better. In 1957, I was asked to come to Johnson's office. There a special assistant told me that Johnson was considering the introduction of a sweeping bill based on the Fifteenth Amendment, to clear up the entire race problem at one stroke. I was asked to submit an opinion on what could be done under that amendment. A week later this assistant called me and said the decision had been made to push a milder bill that would be assured of passage. Thurgood Marshall was put on the Supreme Court because of outstanding fitness and Lyndon Johnson's sense of racial justice. Incidentally, Tom Clark, a southerner, helped put Marshall in line for that post.

Chief Justice Warren did not rule the "Warren Court," but the Warren Court died with the Chief Justice's retirement and the loss of three other members. In the making of four replacements, two Nixon nominees were rejected by the Senate as unfit, seven indicated presidential choices were negated either by the American Bar Association or the bar of public opinion. All replacements were made by a President who was the enthusiastic partner of Senator Joe McCarthy in the infamous political revival of Salem witchhunting. Picture the fate of the country if the Senate had no veto!

The years just ahead will be the most critical since 1798, as far as the rights and liberties of the American people are concerned. In 1798, a Congress crazed with fear of the French Revolution and American democracy tore the Constitution to shreds with a Sedition Act that wiped out every vestige of freedom of speech and press. Justices of the Supreme Court in that day rode circuit, and every one of them enforced the Sedition Act with the same ferocity displayed by Congress.

There is no possibility of that situation recurring; public opinion would not permit it. A few weeks ago a right-wing newspaper columnist observed that the Warren Court period was a deviation from nearly two hundred years of judicial conservation. The recent liberal epoch, he said hopefully, might prove to be a brief interlude, giving way to a long-term swing in the conservative direction.

This is possible, but the Warren Court did not invent liberalism. The Fourteenth Amendment, as a protection of human rights, lay dormant for more than fifty years. Then social imperatives began piling up, expressed in dissenting opinions by Justices Holmes and Brandeis. In 1925, a Supreme Court ruled by reactionaries ushered in a new day by planting a libertarian dictum in a vicious decision.

Upholding the conviction of Socialist Benjamin Gitlow under New York's criminal anarchy statute, Justice Sanford wrote: "For present purposes we may and do assume that freedom of speech and of the press are . . . protected by the due process clause of the Fourteenth Amendment from impairment by the States." That grudging concession, won by the ACLU, did not save Gitlow, but it opened the floodgates of reform. Step by step, the guarantees of the first eight amendments were brought within the compass of due process of law and equal protection of the laws, commanded by the Fourteenth Amendment. These concepts of liberty have become the stabilizing imperatives of American society. No Supreme Court, no matter how heavily Nixonized and Mitchellized, will ever jam the Fourteenth Amendment back into an iron-spiked coffin. In the debate on William Rehnquist's confirmation to the Court, it was brought out that as law clerk to Justice Robert Jackson, he had drafted a brief upholding *Plessy* v. *Ferguson* and its "separate but equal" device for maintaining segregated schools. Mr. Rehnquist protested that he took this side by direction of Justice Jackson to help Jackson reach a decision. That may well be true, but even if not, *Plessy* v. *Ferguson* would stay dead if there were nine Rehnquists on the Court. Regardless of his rightwing politics, Justice Rehnquist is an intelligent man, an able lawyer of good intentions, and he understands, perhaps too well, the driving forces of politics.

This does not imply a liberal stance in the Nixon appointees; far from it. The danger is not that a Nixonized Court will strip itself of basic authority, under the Fourteenth Amendment, to uphold racial equality and protect freedom of religion, speech and press against violations by the states. Nor will such a court formally abdicate other applications of the Bill of Rights to the states. The danger is far more insidious. It lies in acceptance of the working principles of Nixonism-Mitchellism itself, in undue zeal for law and order at the expense of liberty, in insensitivity to wrongs, in subordination of rightful judicial power to the other branches of government. Successfully remodeled such a Court will undermine all constitutional guarantees, in both state and federal fields, by loose and devitalizing construction of the guarantees themselves. Chipping off a bit here, a bit there, such a Court may with the best of intentions nullify a great part of the Bill of Rights.

Even that would not be fatal, however unfair and repugnant to the Constitution, if it merely reduced for a time the protections thrown around persons guilty or innocent of conventional criminality. The deadly peril lies in the impact of such a trend upon the American racial crisis. Strip the guiltiest robber or rapist of constitutional protections and it opens the way to harassment by police, prosecutors and courts of all organized groups working for social objectives. On that score, all too little recognized, the very existence of the United States as a viable society is at stake. Looming above all else, in this respect, is the racial conflict, to which I shall devote the remainder of this address.

The race struggle will not be settled by the Supreme Court. It will be ended by Congress, by state governments, and by the American people, or it will destroy this nation. Popular reaction against the Sedition Act of 1798 overthrew the political party that imposed it on the country. Political freedom prevailed, after that, until the growing cancer of Negro slavery corroded American society and finally plunged the nation into the calamity of civil war.

And what since then? From the time the slaves were set free and were guaranteed equality by the Constitution, the ancient corrosion has continued to corrupt society. No longer clearly visible, as it was in the days of slavery, it has worked with a deadliness comparable to parasites in the human body, feeding on a victim that does not know it is infested. *Brown* v. *Board of Education* cleared the skin but failed to cure the deeper infection.

I came into this world in 1885, only nineteen years after slavery came to an end. That is comparable to the speck of time since Eisenhower entered the White House. Two years before I was born the Supreme Court struck down the Civil Rights Acts passed for the protection of the emancipated slaves. Thus my life span has been virtually identical with the period of oppression that began in a bargain between Northern Republicans and Southern Democrats. The North said to the South: "You can do what you like to the blacks, if you will let us do what we want for the corporations." The bargain thus entered into has a residue today in what is called the Southern Strategy of Richard Nixon.

You may perhaps assume, from my present remarks, that I have been a lifelong recognizer of racial equality. By no means. I have never at any time felt hostility toward persons of a different color of skin. However, my growing up, in regard to racial equality involved a shedding, one by one, of nearly every false cliche about Negro inferiority ever possessed by a Georgia hillbilly, or, at that time, by a Northern professor of ethnology.

Like virtually all white Americans, I believed in early years that intelligence in a Negro was prima facia evidence of white blood in his veins. I did not scoff at the barbershop idea that Jack Johnson won the heavyweight boxing championship because Negro skullbones were a quarter of an inch thick.

I was seventeen years old before I became personally acquainted with a Negro. Before that, my racial impressions were picked up from blackface comedians in minstrel shows. My first black acquaintance was Hal Short, an Iowa City high school classmate, the only Negro in school. He was a topnotch student, who must therefore have had a white grandfather, although he did not look it. We elected him class treasurer. He went with us kids to Reichardt's ice cream parlor. This proved that we were completely free of racial prejudice. Of course, we said in Hal's absence, he knew enough not to come to class parties. He understood his place. In truth, our dumb self-satisfaction did not spring from conscious prejudice. It was thoughtlessness based on ignorance. That was carried to the limit, indeed far beyond the limit, in our high school football yell—the same yell that was given in thousands of high schools throughout the United States. I can never forget its wording:

"Nigger, nigger, hoe pertater,
Half past alligator,
Ram, ram, bulligator,
Sizz boom bah!
Iowa City high school, rah, rah, rah!"

Half a century ago, the average white American did not know that black people had feelings, did not believe that they were fully human. For a parallel, go back to Shakespeare's *Merchant of Venice*. Listen to the words of Shylock, whom every Christian spat upon:

"I am a Jew! Hath not a Jew eyes? Hath not a Jew hands, organs, dimensions, senses, affections, passions? Fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same winter and summer as a Christian? If you prick us, do we not bleed? If you tickle us, do we not laugh? If you poison us, do we not die?"

Let me go back to Hal Short, who also became my classmate in the University of Iowa. He graduated in engineering—a course I would have been sure to flunk. A year after graduation he came back to Iowa City and resumed his old job as porter in a barber shop. "That's it," I thought, "the shiftlessness of a black man will always come through." I did not hear the words Hal Short had been listening to, day after day, month after month, at engineering employment offices all over the United States: "No opening." "Sorry, no opening." "No opening." "No opening."

My awakening to Negro intelligence began in Washington, in 1938, when I started work on my biography of President Madison, a man who worked to abolish slavery but could not escape it himself. I discovered that during Madison's sixteen years' residence in the national capital one of his farms, of 2,000 acres, was under the unsupervised management of a Negro slave.

Then I read a slender book of recollections of Madison by his black valet. The excellent literary style marked the book, for me, as a white man's writing based on a black man's talk—until I ran across a letter written by that slave, written at the same intellectual level as the book.

In the Papers of Thomas Jefferson I came upon the original manuscript of the remarkable treatise on mathematics written by the Negro Robert Banneker. It had the same effect upon me that it had on Jefferson—it wiped out every preconception of racial inferiority in a fullblooded black.

That effect was magnified when I ran across, in the French Archives, the letters written to Napoleon by Toussaint Louverture, black leader of the slave revolt in Haiti. Writing in perfect French, he dealt with the master of Europe in terms of equality, dignity and strength. His large bold signature heightened the effect. No wonder that Napoleon made him a general in the French army before tricking him into a peace conference, under a sacred pledge of safe conduct, and then throwing him into a dungeon for the rest of his life.

My research in the Library of Congress took me into the Legislative Reference division. There I had the surprise of my life. The executive secretary, essentially the highest working official, turned out to be a Negro woman. That meant that whenever a Mississippi senator phoned the Library of Congress to ask for material to prove Negro inferiority, the request was handled by a black woman, and, like as not, was assigned to a black researcher. Hundreds of others on the library staff furnished proof that black men and women were the intellectual equal of whites.

But these Negroes had grown up in a white society, benefiting from association with whites. Did African Negroes possess similar qualities? I doubted it. That doubt was swept away by a guest speaker at a luncheon of the Overseas Writers Club, Tom Mboya of Kenya. I listened for an hour as he fielded questions from a hundred hard-hitting correspondents about Kenya's relations with the British government. At the conclusion of the session I remarked that I had never heard a man better fitted to be prime minister of England. And this man was a product of the African plains and jungles.

Within the past year a prominent doctor of philosophy has published a book affirming once more, by alleged impartial scientific inquiry, the discredited theory of inherent inferiority in the Negro mentality. Disclaiming all racial prejudice, the author claims that the absence of certain genes of heredity in the black race inescapably reduces Negroes to a lower level of achievement. This book has been eagerly seized on by racial segregationists. I discussed the book recently with another doctor of philosophy—a woman—who said that she had been a student at Antioch College when the author of that book was on the faculty. "My clearest recollection of him," she said, "is of his intense dislike of Negroes." So, it appears, the defect is not in Negro genes governing intelligence, but in white genes governing candor.

The whole issue is silly, anyway. If you should disfranchise all voters, black and white, whose IQ falls below the highest IQ achieved by a Negro, you would wipe out ninety-nine per cent of the electorate. Distribute governing power according to intelligence quotients, and this country will certainly be in a hell of a fix.

Prejudice! Prejudice! That is what the nation is up against today. The innate equality of blacks and whites has been demonstrated by the unchallengeable criterion of human experience. The only remaining obstacle to attainment of equal status is the white man's refusal to face reality. A continuance of that refusal spells national disaster, threatens national destruction.

Seventy years ago the great majority of blacks picked cotton, cut sugar cane, or plowed corn, as sharecroppers or farm hands in fourteen Southern states. They were kept in economic subjection, enforced illiteracy and political impotence by landowner pressure, sheriffs' deputies and the Ku Klux Klan. The white North looked upon that situation with complacent disregard or even support. As late as 1938, an Atlanta newspaper editor told me that ninety per cent of the Georgia Negroes south of Macon were living in peonage. Such may still be the case in some southern counties, but nationally, that situation of the blacks has disappeared forever. It has been destroyed by their northward migration, by the Supreme Court, by the voting rights acts of Congress, by education, and by Negro voting power. What they face now is exclusion from the skilled working force and denial of the right to live where they please.

How has the white population responded to this near-revolution? By a flight to the suburbs that turns the big cities into black ghettos. By job discrimination, by housing discrimination, by police harassment. What happens in physics and chemistry when a constantly expanding mass encounters constantly increasing pressure? Sooner or later an explosion is bound to result. So it is in our cities today. Ghetto confinement and frustration are building an atomic bomb, to which, if the pressure is not relieved, despair and anger will some day furnish the trigger.

Black Americans, once helpless on the farms, today lack only national organization to give the United States a choice between racial equality and universal chaos. The black ghettos soon will control the governments of all large cities. Once fully organized, their officers need only to act together to halt every railroad train in the nation, to block every major truck route. And national organization will come if the pressure inducing it continues to mount.

The remedy is simple, though not easy. All that is needed is sufficient insight and resulting action, based either on goodwill or the necessities of self-preservation. The black population must be admitted to an equal share in the fruits promised by the preamble of the Constitution—A Constitution written and ordained to "secure the blessings of liberty to ourselves and our posterity." The one overwhelming need is for white people to recognize black people as a genuine part of our common society.

## NATIONAL PEACE ACTION COALITION IS CONTROLLED BY SOCIALIST WORKERS PARTY

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, at a series of hearings last June held by the House Committee on Internal Security which I have the honor to chair, a considerable amount of evidence established that a group in this country called the National Peace Action Coalition is completely controlled by the Socialist Workers Party, a collection of Trotskyite Communists.

While considerable attention is paid to the various demonstrations and other activities carried out by the NPAC, little heed has been paid to the fact that its leadership is topheavy with members of the SWP and its youth arm, the Young Socialist Alliance.

Now one might take the fact that the Socialist Workers Party controls every activity of the NPAC—this has never really been denied or challenged—and adopt a ho-hum attitude.

"What danger does this present to us?" one might ask.

Well, Mr. Speaker, the danger represented by the worldwide movement of the Trotskyite Communists—those who advocate armed revolution on an international scale—is already close to home.

Its dangers are as fresh as can be found in the daily news accounts from Argentina and that country, Mr. Speaker, is in the Western Hemisphere, not far off in Southeast Asia.

I talk, Mr. Speaker, of the deeds of the Trotskyite Revolutionary Army of the People in Argentina, a group that this moment is holding prisoner Mr. Oberdan Sallustro, an executive of Fiat, a large Italian motorcar company. That is, they are holding him prisoner if they have not yet, as promised, murdered him.

This revolutionary army, known by its Spanish initials as E.R.P., has threatened to execute Mr. Sallustro if its demands for ransom in various forms of $1 million are not met. It also seeks other concessions for the release of Mr. Sallustro, 56-year-old Fiat manager for Argentina. These include release of 50 jailed guerrillas and their safe conduct to a country of their own choosing.

Last year, Mr. Speaker, the same group kidnaped the manager of a Swift meat packing plant in Argentina, freeing him only after similar demands were met. The Committee on Internal Security described this kidnaping in appendix B of part 2 of the hearings held last year on the NPAC and the People's Coalition for Peace and Justice.

During the hearings on NPAC, an expert witness, Mr. Milorad Popov, who is assistant editor of the Yearbook on International Communist Affairs put out by the Hoover Institution at Stanford University, testified that the Socialist Workers Party is for all intents and purposes a segment of an international collection of Trotskyite Communists called the Fourth International.

I would like to point out, Mr. Speaker, that the revolutionary army in Argentina is also one segment of the Fourth International. This connection came up during my questioning of Mr. Popov.

Also described in part 2 of the hearings is a statement of views of the E.R.P. as carried in the Intercontinental Press, official organ of the international Socialist Workers Party.

I would like to quote some of these aims for the benefit of my colleagues. Remember, Mr. Speaker, that these are the words of the official organ of the Socialist Workers Party.

> The strategic principle guiding us is to extend the war, which in our opinion has already begun . . .
>
> We carry forward this extension of the

people's civil war through (both) political and military action.

What is involved in activity that is both "open" and clandestine . . .

Among us we have neither rankings nor insignia. Our only commandante is and will be Che Guevara . . . This alone defines our internationalist revolutionary tradition—our complete solidarity with Cuba.

For us the road to liberation in Latin America passes historically through armed revolution.

On the world level we view with revolutionary sympathy Korea, Vietnam and China in addition to Cuba.

There may be those, Mr. Speaker, who believe that "it cannot happen here," that this country faces no danger of political kidnapings, of demands for huge ransoms, of ultimatums to free convicted criminals upon pain of execution of some hapless and helpless individual whose only crime is being important enough to serve as a suitable hostage.

I am not that sanguine, Mr. Speaker; this country has already suffered from a wave of bombings carried out by radicals.

Let us hope, Mr. Speaker, that when the SWP decides that marches and demonstrations are insufficient to bring about imposition of the form of government it prefers on this country, we are not confronted with the kind of terrorist activities already launched in Argentina and elsewhere in this hemisphere.

As I have said before, Mr. Speaker, the Socialist Workers Party and its allies do not represent the "doves" of honorable peace; they are instead the "hawks" of the other side.

I think, Mr. Speaker, it is not only the right of those of us in this House to be concerned by what they are doing and what they might do—it is our duty.

## TAX REFORM ACT OF 1972

(Mr. HORTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HORTON. Mr. Speaker, in the Tax Reform Act of 1969, Congress sought to distribute the tax burden fairly among the poor, middle-income, and wealthy Americans as well as businesses and corporations. Many improvements in the Federal tax system were made, but it is equally apparent that further adjustments are needed to correct remaining deficiencies.

In an effort to remedy this situation, I have introduced today H.R. 14144, the Tax Reform Act of 1972. This measure would bring in an additional $5.25 billion in Federal revenue. Included in the bill are several provisions plugging loopholes for wealthy Americans now paying little or no taxes. The legislation also provides for tightening tax rules on the income of foreign subsidiaries of American corporations. Under the reform package, the Federal Government would receive an estimated $2.1 billion in revenue through taxing capital gains on property transferred at death or by gift and in offering an alternative to States and localities issuing only tax-free bonds. Through adjustments such as these, Federal revenue can be increased substantially, the exportation of American jobs to foreign countries can be discouraged, and many inequities in our tax system can be erased.

While the Congress succeeded in enacting comprehensive tax reforms in 1969, it is by no means too early to consider more needed reforms. Indeed, given our high unemployment rates and huge budget deficits, tax reform should be one of the primary issues which Congress confronts. Apart from strictly economic considerations, this is an election year. Each of us will be asking our constituents for another vote of confidence and economic questions will rank high, if not first, among their concerns.

Mr. Speaker, the legislation I have introduced does not address all the tax loopholes that need closing, but it will eliminate some of the most glaring inequities, it will create jobs, and it will raise desperately needed Federal revenue. Because H.R. 14144 is limited in scope, it can and should serve as a bipartisan vehicle for meaningful tax reform—one that can be acted upon quickly in the remainder of this session.

An explanation and complete text of H.R. 14144 follows:

SECTION-BY-SECTION EXPLANATION OF H.R. 14144

TITLE I. TAXATION OF CAPITAL GAINS ON PROPERTY TRANSFERRED AT DEATH OR BY GIFT

(Anticipated Annual Revenue Gain: $2–3 billion.)

When shares of stock, real estate, and other forms of property increase in value, the increase is taxed as a capital gain. Under present law, the capital gains tax rate on assets held longer than 6 months is about half of the tax rate for ordinary income.

Take, for example, an individual who purchases stock in a company for $50,000. Assume that the company's stock rises dramatically in price so that, in a few years, his stock is worth $150,000. If he sells the stock, he will have to pay a capital gains tax on the $100,000 increase in value. If he is in the top 70% tax bracket, he would have to pay a tax of $30,000—25% of the first $50,000 plus 35% of the second $50,000.

However, if this individual never sells the stock but passes it on to his heirs, no capital gains tax is paid by anyone. The heirs would only have to pay capital gains taxes on any increase in the value of the stock beyond $150,000 and only if they sell it.

Several billion dollars in tax revenue fall through this loophole each year. Who benefits? Those individuals with large amounts of accumulated wealth to pass on to the next generation.

H.R. 14144 would close this capital gains loophole by treating property transferred at death as if the decedent had sold it at death. An income tax would be imposed on the capital gain and the tax would be treated as a debt of the decedent's estate. It would thus be deductible from the gross estate for estate tax purposes and would reduce the estate tax liability. Estates under $60,000 would be exempted and there would be additional exemptions for personal and household effects, transfers to a husband or wife, and to orphans. The gain on appreciated property transferred by gift would also be taxed at the time of transfer to avoid giving an artificial incentive for lifetime gifts.

Closing the capital gains loophole was originally recommended by the Treasury Department in 1968 in its "Tax Reform Studies and Proposals", published by the House Ways and Means Committee and the Senate Finance Committee. H.R. 14144 would not only correct the inequitable policy of not taxing appreciation on assets transferred at death, but also eliminate the incentive to older Americans to hold on to and, in effect, immobilize their assets.

TITLE II. FEDERAL INTEREST SUBSIDY TO STATES AND LOCALITIES TO ENCOURAGE ISSUANCE OF TAXABLE BONDS

(Anticipated Annual Revenue Gain: $100 Million.)

State and local bonds have long been an attractive investment for the very rich because the interest paid on such bonds is tax-free. The average taxpayer sees no great advantage in buying tax-free municipal bonds paying 4 or 5 percent interest when he can buy taxable corporate bonds paying higher interest. But tax-free interest becomes progressively more attractive as a taxpayer's marginal tax bracket climbs to around 42 percent. It has been estimated that over 80 percent of the tax-free bonds purchased by individuals are held by the wealthiest 1 percent of the population.

This tax exemption does serve an important purpose because it enables states and cities, suffering terrific revenue crises, to raise funds at relatively low interest rates to finance roads, schools, sewage treatment plants and other vital facilities. If we simply taxed the interest on municipals, our states and localities would be forced to forgo badly-needed public improvements or pay higher interest rates, which few could afford. Neither of these alternatives is acceptable.

H.R. 14144, therefore, would allow states and localities to continue issuing tax-free bonds. But it would give them the additional option of issuing taxable bonds and receiving an interest subsidy from the Federal Government to make up for the higher interest rate they would have to pay bond purchasers. The Federal interest subsidy could be as high as 40 percent of the total interest paid, with no strings attached.

The treasury now loses far more revenue by failing to tax the interest on municipal bonds than states and localities save in lower borrowing costs. A conservative estimate put the saving to states and localities at $1.3 billion annually, while the yearly revenue loss to the Federal Government was estimated at $1.8 billion. Thus, it is reasonable to expect a revenue gain of $100 million each year from this provision.

Apart from raising additional revenue, H.R. 14144 would make municipal bonds salable to a much wider market. Tax-free municipals are now bought almost exclusively by very wealthy individuals, banks and other financial institutions. By enabling these bonds to be sold at higher, Federally-subsidized interest rates, H.R. 14144 would make them attractive to a far wider spectrum of investors.

This provision was included in the House-passed version of the 1969 Tax Reform Act, but was dropped in conference with the Senate.

TITLE III. TAXATION OF INCOME OF FOREIGN SUBSIDIARIES OF U.S. CORPORATIONS ON A CURRENT BASIS

(Anticipated Annual Revenue Gain: $150 Million.)

The income of foreign subsidiaries of U.S. corporations is not taxed by the United States until it is returned to the parent corporation or corporations in this country. As a result, the tax on this income is usually deferred for many years, and in some cases the income may never be taxed at all.

In addition to costing the Treasury roughly $150 million a year in lost revenue, this tax loophole gives U.S. corporations an artificial incentive to build plants in foreign countries and export American jobs. A U.S. firm may well decide to build a plant in a foreign country in order to get the tax deferral benefits of present law.

H.R. 14144 would close this revenue-losing loophole by taxing foreign subsidiary income on a current basis. Only "controlled" foreign

corporations—those with more than half of their stock held by American corporations—would be covered. Each American corporation holding more than 10 percent of a controlled foreign corporation's stock would have to include in its U.S. tax return each year its pro rata share of the foreign corporation's earnings and profits for that year.

While this provision is not intended to sharply curtail the investment of U.S. business capital abroad, it will be a step toward equalizing at least a part of low labor costs and other advantages to U.S. firms doing business abroad at the same time it provides a modest revenue gain for the Treasury.

TITLE IV. TIGHTENING OF MINIMUM TAX ON TAX PREFERENCES

(Anticipated Annual Revenue Gain: $3 Billion.)

The Minimum Tax provision was included in the 1969 Tax Reform Act to deal with the problem of very wealthy persons who paid little or no Federal income taxes. There were, for example, 301 persons with reported incomes for 1969 in excess of $200,000 who paid no Federal income tax at all for that year.

The Minimum Tax provision has had some impact, but not enough. In 1970, the first year the Minimum Tax was in effect, there were still 112 persons with reported incomes in excess of $200,000 who paid no Federal income tax for that year.

The problem is that the Minimum Tax contains so many exclusions and exemptions that relatively little "preference income" is reached by it. In addition, the taxpayer's total "tax preference" income must exceed $30,000 plus the amount of income tax he pays on his regular, non-preference income before the Minimum Tax is even assessed. Moreover, the Minimum Tax rate is only 10 percent, about what a married couple filing separately would pay on a total family income of $12,000.

According to preliminary figures released by the Treasury, the Minimum Tax brought in only $116.9 million in additional revenue in 1970. When the 1969 Tax Reform Act was passed, the Treasury estimated that the Minimum Tax would bring in about $500 million a year in additional revenue when fully implemented. H.R. 14144 would raise an additional $3 billion a year by making the following changes in the Minimum Tax:

1. Eliminate the deduction presently allowed for the amount of tax paid on regular, non-preference income;

2. Include state and local bond interest among the "tax preference" items subject to the Minimum Tax; and

3. Increase the Minimum Tax rate from 10 percent to 20 percent.

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H.R. 14144

A bill to amend the Internal Revenue Code of 1954 to raise needed additional revenues by tax reform

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reform Act of 1972".

(b) TABLE OF CONTENTS.—

TITLE I—GAIN ON CERTAIN PROPERTY TRANSFERRED AT DEATH OR BY GIFT
Sec. 101. Gains and losses on property transmitted at death.
Sec. 102. Gains and losses on lifetime gifts.
Sec. 103. Gross income definition.
Sec. 104. Basis of certain property acquired from a decedent.
Sec. 105. Basis of property acquired by gift.
Sec. 106. Contributions of certain property to charity.
Sec. 107. Time for filing decedent's final income tax return.
Sec. 108. Extension of time for paying tax.
Sec. 109. Effective date.
TITLE II—STATE AND LOCAL BONDS
Sec. 201. Interest on State and local obligations.
TITLE III—FOREIGN CORPORATIONS
Sec. 301. Taxation of earnings and profits of controlled foreign corporations.
Sec. 302. Effective dates.
TITLE IV—MINIMUM TAX FOR TAX PREFERENCES
Sec. 401 Repeal of deduction for taxes and rate increase.
Sec. 402. Inclusion of interest on State obligations.
Sec. 403. Effective date.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(d) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of the technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

TITLE I—GAIN ON CERTAIN PROPERTY TRANSFERRED AT DEATH OR BY GIFT

SEC. 101. GAINS AND LOSSES ON PROPERTY TRANSMITTED AT DEATH.

(a) Part II of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1954 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 84. GAINS AND LOSSES ON PROPERTY AT TIME OF DEATH.

"(a) IN GENERAL.—In the case of the death of a taxpayer there shall be included in computing taxable income for the taxable period in which falls the date of his death, the gains and losses which would be taken into account if the taxpayer had sold all property (except items of income in respect of a decedent under section 691), which is considered to have been acquired from or to have passed from the decedent taxpayer (within the meaning of section 1014(b)) at a selling price equal to its fair market value at death, or if an election is made under section 2032 (relating to the alternate valuation date), at a price equal to its fair market value on such date. The gains and losses so computed shall be considered amounts received from the sale or exchange of a capital asset held for more than six months. For purposes of this section, losses shall be determined without regard to section 1091.

"(b) EXEMPTIONS.—Subsection (a) shall not apply to the following:

"(1) HOUSEHOLD OR PERSONAL EFFECTS.—Gain on a personal or household item acquired from a decedent or which has passed from a decedent (within the meaning of section 1014(b)), if the fair market value of such item at death (or, if an election is made under section 2032, relating to the alternate valuation date, the fair market value on such date) is less than $2,000.

"(2) PROPERTY WHICH PASSES OR HAS PASSED TO SURVIVING SPOUSE.—Property which passes or has passed from the decedent to his surviving spouse, but only to the extent deductible under section 2056 (relating to the allowance of an estate tax marital deduction).

"(c) BASIS FOR COMPUTING GAIN OR LOSS.—For purposes of subsection (a), the following rules shall apply in determining basis for computing gain or loss:

"(1) MINIMUM BASIS.—Property to which subsection (a) applies shall be considered to have a minimum total adjusted basis to the decedent of $60,000 or the total fair market value of the property, if lower.

"(2) PROPERTY ACQUIRED BEFORE DATE OF ENACTMENT.—In the case of property acquired before the date of enactment of this section, if the basis otherwise determined under this subtitle, adjusted as provided in section 1016, is less than the fair market value of the property as of the date of enactment of this section, then the basis for determining gain shall be such fair market value.

"(3) ALLOCATION OF BASIS.—If subsection (a) does not apply, by reason of paragraph (2) of subsection (b), the basis of property (as determined under paragraphs (1) and (2)) shall be allocated (pursuant to rules and regulations prescribed by the Secretary or his delegate) among all property (other than cash) to which subsection (a) applies in proportion to the fair market value of such property.

"(d) LOSS CARRYBACK.—If the application of subsection (a) produces a net long term capital loss, the amount thereof (to the extent not utilized against net capital gain, computed without regard to subsection (a), for the decedent's final taxable period) shall be a loss carryback to each of the three taxable years preceding the decedent's final taxable year. The entire amount of the net loss produced by subsection (a) shall first be carried, as a net long term capital loss, to the earliest of the taxable years to which such loss may be carried, and the portion of such loss which shall be carried to each of the other years to which such loss may be carried shall be the excess, if any, of such loss over the total of the net capital gains for each of the prior taxable years to which such loss may be carried. If there remains, after the application of the preceding sentence, any unused loss produced by subsection (a), one-half of the amount thereof shall first be carried, as a loss deductible against ordinary income, to the earliest of the taxable years to which such loss may be carried, and the portion of such loss which shall be carried to each of the other taxable years to which such loss may be carried shall be that portion, if any, of one-half of such loss which is not used to reduce the amount subject to income taxation for a prior taxable year to which such loss may be carried. The carryback of a loss pursuant to this paragraph may not increase or produce a net operating loss (as defined in section 172(c)) for the taxable year to which it is being carried back.

"(e) LIABILITY FOR INCOME TAX ON GAINS AT DEATH.—Unless the decedent directs otherwise in his will, if any part of the property which is subject to tax by reason of section 84 (relating to income taxation of gains at death) consists of property transferred by the decedent during his lifetime, the executor shall be entitled to recover from the donee to which the decedent made a transfer during his lifetime, such portion of the total tax paid by reason of section 84 as the tax attributable to the property transferred during the decedent's lifetime bears to the total tax paid."

(b) The table of sections for part II of such subchapter is amended by adding at the end thereof the following item:

"SEC. 84. Gains and losses on property at time of death."

SEC. 102. GAINS AND LOSSES ON LIFETIME GIFTS.

(a) Part II of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1954 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 85. GAINS AND LOSSES ON LIFETIME GIFTS.

"(a) IN GENERAL.—In the case of the transfer of property by gift, there shall be included in computing taxable income for the

taxable period in which the transfer was made, the gains and losses which would be taken into account if the taxpayer had sold the transferred property at a selling price equal to its fair market value at the time of the transfer.

"(b) EXEMPTIONS.—Subsection (a) shall not apply to the following:

"(1) PROPERTY TRANSFERRED TO SPOUSE.—Property transferred by gift to an individual who at the time of the transfer is the taxpayer's spouse, but only to the extent the property transferred is deductible (without regard to the limitation equal to one-half of the value of the transferred property) under section 2523 (relating to the allowance of a gift tax marital deduction).

"(2) ANNUAL PER DONEE EXEMPTION.—In the the case of transfers of property by gift made to any person during the taxable year, the first $1,000 of the amount of gain which would otherwise be taken into account for purposes of subsection (a).

"(c) BASIS FOR COMPUTING GAIN OR LOSS.—In the case of property acquired before the date of enactment of this section, if the basis otherwise determined under this subtitle, adjusted as provided in section 1016, is less than the fair market value of the property as of the date of enactment of this section, then the basis for determining gain shall be such fair market value.

"(d) LOSSES BETWEEN RELATED PARTIES.—No deduction shall be allowed in respect of losses from transfers of property by gift where both the donor and the donee (or transferee) are persons specified within any one of the paragraphs of subsection (b) of section 267."

(b) The table of sections of part II of such subchapter is amended by adding at the end thereof the following item:

"SEC. 85. GAINS AND LOSSES ON LIFETIME GIFTS."

SEC. 103. GROSS INCOME DEFINITION.

Section 61(a) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

"(16) Gains derived, pursuant to section 84, on property at time of death.

"(17) Gains derived, pursuant to section 85, on property transferred during lifetime."

SEC. 104. BASIS OF CERTAIN PROPERTY ACQUIRED FROM A DECEDENT.

Section 1014 of the Internal Revenue Code of 1954 (relating to basis of property acquired from a decedent) is amended by striking out paragraph (6) of subsection (b) and by adding at the end thereof the following new subsection:

"(d) PROPERTY NOT SUBJECT TO TAX AT DEATH.—The basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent, which is not, pursuant to paragraph (2) of section 84(b) (relating to property which passes or has passed to surviving spouse), subject to taxation under section 84(a), shall be the adjusted basis of the property, determined with regard to section 84(c)(3) (relating to allocation of basis), immediately before the death of the decedent."

SEC. 105. BASIS OF PROPERTY ACQUIRED BY GIFT.

Section 1015 of the Internal Revenue Code of 1954 (relating to basis of property acquired by gifts and transfers in trust) is amended by adding at the end thereof the following subsection:

"(e) Property Subject to Tax Upon Transfer.—To the extent that gain or loss is taken into account in computing taxable income, pursuant to section 85(a) (relating to gains and losses on lifetime gifts), the basis of property in the hands of a person acquiring the property by gift shall be the fair market value of the property at the time of the transfer by gift."

SEC. 106. CONTRIBUTIONS OF CERTAIN PROPERTY TO CHARITY.

Section 170(e) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(3) PROPERTY SUBJECT TO TAX UPON TRANSFER TO A CHARITY.—In determining the amount of any charitable contribution of property otherwise taken into account under this section no reduction shall be made under paragraph (1) to the extent gain is taken into account in computing taxable income under section 85(a) (relating to gains and losses on lifetime gifts)."

SEC. 107. TIME FOR FILING DECEDENTS FINAL INCOME TAX RETURN.

Section 6072 is amended by redesignating subsection (e) as subsection (f) and by adding after subsection (d) the following new subsection:

"(e) FINAL INCOME TAX RETURN OF A DECEDENT.—The return for a decedent's final taxable period, required under section 6012 or 6013, shall be filed on or before the date required by subsection (a) or within 9 months after the date of the decedent's death, whichever is later."

SEC. 108. EXTENSION OF TIME FOR PAYING TAX.

(a)(1) Section 6161(a)(1) of the Internal Revenue Code of 1954 is amended by inserting "or income tax due for the decedent's final taxable period" after "estate tax" in the parentheses in the first sentence thereof.

(2) Section 6161(a)(2) of such Code is amended by striking out the comma at the end of subparagraph (A) thereof and inserting in lieu thereof "or section 84 (relating to income taxation of gains at death),".

(3) The heading of section 6161(a)(2) is amended to read "Estate Tax or Income Tax on Gains at Death."

(b)(1) Section 6166(a) of such Code is amended by inserting "section 84 (relating to income taxation of gains at death) or" before "section 2001" in the first sentence thereof.

(2) Section 6166(b) of such Code is amended—

(A) by inserting "imposed by section 2001" before "which may be paid in installments"; and

(B) by adding at the end thereof a new sentence to read as follows: "The maximum amount of tax imposed by section 84 (relating to income taxation of gains at death) which may be paid in installments as provided in this section shall be an amount which bears the same ratio to the tax imposed by section 84 as the gain attributable (pursuant to rules and regulations prescribed by the Secretary or his delegate) to the interest in the closely held business bears to the total gains subject to tax pursuant to section 84."

(3) Section 6166(f) of such Code is amended by inserting "section 84 (relating to income taxation of gains at death) or" before "section 2001" in the first sentence thereof.

(4) Section 6166(h)(1)(B) of such Code is amended by inserting "section 84 (relating to income taxation of gains at death) or" before "section 2001" in the last sentence thereof.

(5) The heading of section 6166 is amended by inserting "Or Income Tax on Gains at Death" after "Estate Tax" and the item relating to section 6166 in the table of sections for subchapter B of chapter 62 of subtitle F is amended to read as follows: "Extension of time for payment of estate tax or income tax on gains at death where estate consists largely of interest in closely held business."

SEC. 109. EFFECTIVE DATE.

The amendments made by this Act shall apply to decedents dying on or after the first day of the first calendar year beginning after the date of the enactment of this Act.

## TITLE II—STATE AND LOCAL BONDS

SEC. 201. INTEREST ON STATE AND LOCAL OBLIGATIONS.

(a) ELECTION TO ISSUE TAXABLE BONDS.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ELECTION TO ISSUE TAXABLE BONDS.—

"(1) SUBSECTION (a) NOT TO APPLY.—The issuer of obligations described in subsection (a)(1) may elect to issue obligations to which subsection (a)(1) does not apply.

"(2) ELECTION.—The election described in paragraph (1) shall be made (at such time, in such manner, and subject to such conditions as the Secretary or his delegate by regulations prescribes) with respect to each issue of obligations to which it is to apply. An election with respect to any issue once made shall be irrevocable."

(b) UNITED STATES TO PAY FIXED PERCENTAGE OF INTEREST YIELD ON TAXABLE ISSUES.—

(1) PERMANENT APPROPRIATION.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this subsection; and such appropriations shall be deemed permanent annual appropriations.

(2) PAYMENT OF FIXED PERCENTAGE OF INTEREST YIELD.—

(A) IN GENERAL.—The Secretary of the Treasury or his delegate shall pay a fixed percentage of the interest yield on each issue of obligations with respect to which an election under section 103(e) of the Internal Revenue Code of 1954 (relating to election to issue taxable bonds) applies. Before the first day of each calendar quarter, the Secretary or his delegate shall determine (and publish in the Federal Register) the fixed percentage—

(i) for calendar quarters beginning before January 1, 1977, not less than 30 percent and not more than 40 percent, and

(ii) for calendar quarters beginning after December 31, 1976, not less than 25 percent and not more than 40 percent,

of the interest yield which he determines it is necessary for the United States to pay in order to encourage the States and political subdivisions thereof to make elections under section 103(e). The fixed percentage so determined and published shall apply with respect to all issues of obligations made during such calendar quarter to which elections under such section 103(e) apply.

(B) INTEREST YIELD.—For purposes of this subsection, the interest yield on any issue of obligations shall be determined immediately after such obligations are issued.

(C) TIME OF PAYMENT.—Payment of any interest required under subparagraph (A) shall be made by the Secretary of the Treasury or his delegate not later than the time at which the interest payment on the obligation is required to be made by the insurer.

(3) DUAL COUPON OBLIGATIONS.—At the request of the issuer, the liability of the United States under this subsection to pay the interest to the holder of an issue of obligations shall be made through assumption by the United States of the obligation to pay a separate set of interest coupons issued with the obligations.

(4) SUBSECTION TO APPLY ONLY TO SECTION 103(e) OBLIGATIONS.—This subsection shall apply only to obligations which, but for an election under section 103(e) of the Internal Revenue Code of 1954, would be obligations to which section 103(a)(1) of such Code applies.

(c) EFFECTIVE DATE.—This section shall apply only to obligations issued in a calendar quarter beginning after June 30, 1973.

TITLE III—FOREIGN CORPORATIONS

SEC. 301. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by inserting after subpart H thereof the following:

"SUBPART I—CONTROLLED FOREIGN CORPORATIONS

"Sec. 982. Amounts included in gross income of United States shareholders.
"Sec. 983. Definitions.
"Sec. 984. Rules for determining stock ownership.
"Sec. 985. Exclusion from gross income of previously taxed earnings and profits.
"Sec. 986. Adjustments to basis of stock in controlled foreign corporations and of other property.
"Sec. 987. Records and accounts of United States shareholders.

"SEC. 982. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

"(a) AMOUNTS INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every United States shareholder of such corporation who owns (within the meaning of section 984(a)) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in its gross income, for its taxable year in which or with which such taxable year of the corporation ends, its pro rata share of the corporation's earnings and profits for such year.

"(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—A United States shareholder's pro rata share referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 984(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its earnings and profits for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

"(B) an amount (i) which bears the same ratio to the earnings and profits of such corporation for the taxable year, as (ii) the part of such year described in subparagraph (A)(ii) during which such shareholder did not own (within the meaning of section 984(a)) such stock bears to the entire year.

"(b) EARNINGS AND PROFITS.—For purposes of this subpart, under regulations prescribed by the Secretary or his delegate, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312(m)(3), shall be determined according to rules substantially similar to those applicable to domestic corporations,

"(2) shall be appropriately adjusted for deficits in earnings and profits of such corporation for any prior taxable year beginning after December 31, 1971,

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"SEC. 983. DEFINITIONS.

"(a) UNITED STATES SHAREHOLDER DEFINED.—For purposes of this subpart, the term 'United States shareholder' means, with respect to any foreign corporation, a domestic corporation which owns (within the meaning of section 984(a)), or is considered as owning by applying the rules of ownership of section 984(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

"(b) CONTROLLED FOREIGN CORPORATION DEFINED.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 984(a)), or is considered as owned by applying the rules of ownership of section 984(b), by United States shareholders on any day during the taxable year of such foreign corporation.

"SEC. 984. RULES FOR DETERMINING STOCK OWNERSHIP.—

"(a) DIRECT AND INDIRECT OWNERSHIP.—

"(1) GENERAL RULE.—For purposes of this snubpart, stock owned means—

"(A) stock owned directly, and

"(B) stock owned with the application of paragraph (2).

"(2) STOCK OWNERSHIP THROUGH FOREIGN ENTITIES.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation or foreign estate (within the meaning of section 7701(a)(31)) or by or for a partnership or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for the purposes of applying such sentence, be treated as actually owned by such person.

"(b) CONSTRUCTIVE OWNERSHIP.—For purposes of section 983, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any domestic corporation as a United States shareholder within the meaning of section 983(a), or to treat a foreign corporation as a controlled foreign corporation under section 983(b), except that—

"(1) In applying subparagraphs (A), (B), and (C) of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all of the stock entitled to vote.

"(2) In applying subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C).

"SEC. 985. EXCLUSION FROM GROSS INCOME OF PREVIOUSLY TAXED EARNINGS AND PROFITS.

"(a) EXCLUSION FROM GROSS INCOME.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 982(a) shall not, when such amounts are distributed directly, or indirectly, through a chain of ownership described under section 984(a), to—

"(1) such shareholder (or any domestic corporation which acquires from any person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary or his delegate may by regulations prescribe), or

"(2) a trust (other than a foreign trust) of which such shareholder is a beneficiary, be again included in the gross income of such United States shareholder (or of such domestic corporation or of such trust).

"(b) EXCLUSION FROM GROSS INCOME OF CERTAIN FOREIGN SUBSIDIARIES.—For purposes of section 982(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 982(a), shall not, when distributed through a chain of ownership described under section 984(a), be also included in the gross income of another controlled foreign corporation in such chain for purposes of the application of section 982(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary or his delegate may prescribe by regulations).

"(c) ALLOCATION OF DISTRIBUTIONS.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

"(1) first, to earnings and profits attributable to amounts included in gross income under section 982(a), and

"(2) then to other earnings and profits.

"(d) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME NOT TO BE TREATED AS DIVIDENDS.—Any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

"SEC 986. ADJUSTMENTS TO BASIS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS AND OF OTHER PROPERTY.

"(a) INCREASE IN BASIS.—Under regulations prescribed by the Secretary or his delegate, the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which it is considered under section 984(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in its gross income under section 982(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder.

"(b) REDUCTION IN BASIS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary or his delegate, the adjusted basis of stock or other property with respect to which a United States share-

holder or a United States person receives an amount which is excluded from gross income under section 985(a) shall be reduced by the amount so excluded.

"(2) AMOUNT IN EXCESS OF BASIS.—To the extent that an amount excluded from gross income under section 985(a) exceeds the adjusted basis of the stock or other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"SEC. 987. RECORDS AND ACCOUNTS OF UNITED STATES SHAREHOLDERS.

"(a) RECORDS AND ACCOUNTS TO BE MAINTAINED.—The Secretary or his delegate may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart.

"(b) TWO OR MORE PERSONS REQUIRED TO MAINTAIN OR FURNISH THE SAME RECORDS AND ACCOUNTS WITH RESPECT TO THE SAME FOREIGN CORPORATION.—Where, but for this subsection, two or more persons would be required to maintain or furnish the same records and accounts as may by regulations be required under subsection (a) with respect to the same controlled foreign corporation for the same period, the Secretary or his delegate may by regulations provide that the maintenance or furnishing of such records and accounts by only one such person shall satisfy the requirements of subsection (a) for such other persons."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 864(c)(4)(D) is amended to read as follows:

"(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958 (b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote."

(2) Section 951 is amended by adding at the end thereof the following:

"(e) TAXABLE YEARS ENDING AFTER DECEMBER 31, 1971.—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1)(A)(ii) of such subsection) with respect to a taxable year of a controlled foreign corporation ending after December 31, 1971."

(3) Section 1016(a)(20) is amended by striking out "section 961" and inserting in lieu thereof "sections 961 and 986".

(4) Section 1246(a)(2)(B) is amended by inserting "or 982" after "section 951" and by inserting "or 985" after "section 959".

(5) Section 1248 is amended—

(A) by striking out subsection (b);

(B) by revising subsection (d)(1) to read as follows:

"(1) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 951 OR 982.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 951 or 982, with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount from gross income under section 959 or 983.";

(C) by striking out in subsection (d)(3) "section 902(d)" and inserting in lieu thereof "subsection (h)", and by adding at the end of such subsection "No amount shall be excluded from the earnings and profits of a foreign corporation under this paragraph with respect to any United States person which is a domestic corporation for any taxable year of such foreign corporation ending after December 31, 1971."; and

(D) by adding at the end thereof the following:

"(h) LESS DEVELOPED COUNTRY CORPORATION DEFINED.—For purposes of this section, the term "less developed country corporation" means—

"(1) a foreign corporation which, for its taxable year, is a less developed country corporation within the meaning of section 955(c)(1) or (2), and

"(2) a foreign corporation which owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation which is a less developed country corporation within the meaning of section 955(e)(1), and—

"(A) 80 percent or more of the gross income of which for its taxable year meets the requirement of section 955(c)(1)(A); and

"(B) 80 percent or more in value of the assets of which on each day of such year consists of property described in section 955(c)(1)(B)."

SEC. 302. EFFECTIVE DATES.

(a) Except as provided in subsection (a), the amendments made by this title shall apply with respect to taxable years of foreign corporations ending after December 31, 1971, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(b) The amendments made by subsection (b)(4) of section 301 shall apply with respect to sales or exchanges occurring in taxable years beginning after December 31, 1971.

TITLE IV—MINIMUM TAX FOR TAX PREFERENCES

SEC. 401. REPEAL OF DEDUCTION FOR TAXES AND RATE INCREASE.

(a) IN GENERAL.—Section 56(a) (relating to imposition of minimum tax for tax preferences) is amended to read as follows:

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 20 percent of the amount (if any) by which the sum of the items of tax preference exceeds $30,000."

(b) REPEAL OF TAX CARRYOVER PROVISION.—Section 56(c) (relating to tax carryovers) is hereby repealed.

SEC. 402. INCLUSION OF INTEREST ON STATE OBLIGATIONS.

Section 57(a) (relating to items of tax preference in general) is amended by inserting after paragraph (10) the following new paragraph:

"(11) Interest on certain governmental obligations.—The interest on obligations which is excludable from gross income for the taxable year under section 103."

SEC. 403. EFFECTIVE DATE.

The amendments made by this title shall apply only with respect to taxable years ending after the date of the enactment of this Act.



## PRIMARY PROLIFERATION

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, last Tuesday I introduced H.R. 13985, to require that every primary election held for the expression of a preference for the nomination of persons for election to the office of President be held within 30 days before the national nominating convention. This bill is a companion to H.R. 8606 which I introduced on May 20, 1971, to limit presidential campaigns to a period of 60 days.

The March 21 edition of the Hartford Times carried an editorial entitled "Illinois Just the Third; 19 Primaries Still To Go" which concisely indicates the major deficiencies of the present primary system. The American public are fed up with the length, the inanity, the frustration, and the waste of presidential primaries and campaigns. They are aghast at the pouring out of huge sums of money and the inability to focus on issues which affect the fate of our country. I know that my colleagues will read the editorial with interest:

ILLINOIS JUST THE THIRD; 19 PRIMARIES STILL TO GO

The long, wearying trek began in cold, snowy New Hampshire on March 7. It will end on a warm June day in New York State.

On that day, if not before, one of the Democratic aspirants for nomination for president should be clearly in the forefront.

Presidential primaries, 22 of them this year, can be wearisome affairs not only for the candidates, but for the electorate. Do we really need more than four months of campaigning to get to know the competitors and where they stand? Is it really necessary to spend millions of dollars on staff and on advertising and on travel expenses? Could there not be one national primary held on the same day in every state?

The answer is that yes, of course four months of campaigning is too long, the money expenditure is monstrous (Paul N. McCloskey of California and Fred Harris of Oklahoma have already dropped out of the race because of lack of money) and there could be (and probably some day will be) a national primary day.

But much as many people would like to see these reforms, there are those who find merits in our present scrambled system.

Arthur Schlesinger, former aide to President Kennedy, says the extended primary race gives a candidate an exceptional chance to get to know the country, its people, their problems and their moods.

Likewise, the long primary gives voters a chance to shop and compare, and make both factual and intuitive judgments on the men seeking their votes. (Senator Muskie, in a moment of emotion, sheds angry tears in Manchester, N.H., as a good many Americans watched via television. They are entitled to their own conclusions).

Mr. Schlesinger is also candid in describing the primaries as a device for Democrats to get their message before the people, offsetting the President's daily access to the news media.

But even Democrats wonder if it's worth while.

One of the most dogged advocates of campaign reform is Rep. John Monagan of Waterbury. He has long urged a time limit on election campaigns. This month he suggested a similar time limit on primary electioneering: A law requiring that no primary contest occur any earlier than one month before the nominating convention itself.

Were such a law in effect now, the weekly parade of state contests—Illinois today, Florida last week, New Hampshire the week before—wouldn't even have begun yet.

The Monagan proposal is less stringent than that offered by some—including John M. Bailey, Connecticut's Democratic chairman—for a single national primary day. A "primary month" would allow more local exposure for candidates, and more of the kind of give-and-take Schlesinger champions.

But the primaries would be neatly concentrated in June, and serious campaigning wouldn't really begin until May. Meantime,

our political aspirants could concentrate on doing the job they were elected to do.

Congressman Monagan should keep plugging away. He makes sense.

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## LISTENING TO RADIO FREE EUROPE

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, just last week, after a prolonged deadlock, the two Houses of the Congress gave their approval to legislation which authorizes financing of Radio Free Europe and Radio Liberty through the end of the current fiscal year.

What will happen to these two stations after June 30 is anyone's guess. The House, on November 19 of last year, voted overwhelmingly—271 to 12—in favor of a study proposal which I advanced and which could have provided the Congress with reliable, indepth information on which to base its decision regarding the future of these broadcasting operations.

The Senate conferees, however, would not accept this proposal.

While the issue is still before us, therefore, I thought that many of my colleagues would be interested to read an article by Mr. Henry Kamm which appeared in the March 26 issue of the New York Times Magazine.

One passage in the article struck me as being particularly pertinent to the debate which has engaged the Congress in recent months. It reads:

Despite its cold-war origins and CIA sponsorship, Radio Free Europe's listeners consider it not a propaganda station, but the anti-propaganda station that adjusts the one-sided view of the world laid down for all domestic media by the information department of the central committee of each /Eastern European/ country's Communist party. The people of Eastern Europe are sophisticated enough to know that Radio Free Europe is interested in influencing their minds, but they seem to feel that its methods do less violence to their intelligence than do those of the state media.

Mr. Kamm's article follows:

LISTENING IN ON RADIO FREE EUROPE—THE STATION THAT FULBRIGHT WANTS TO SHUT DOWN

(By Henry Kamm)

MUNICH.—*"Mr. President, I submit that these radios should be given an opportunity to take their rightful place in the graveyard of cold-war relics."*—Senator J. W. Fulbright, speaking in the Senate on Feb. 17, 1972.

*"It happens quite often that I am unable to hear your station because of the jamming. At such moments I feel like smashing the radio, as if the wooden box were to blame, and I almost cry in helpless rage. It seems to me that somebody wants to tear me away by force from my good friends. Be with us, as we remain with you*—"Your Listener From Chrudim," writing to the Czechoslovak Department of Radio Free Europe on Sept. 27, 1971.

No doubt the Senator from Arkansas is right. Radio Free Europe began broadcasting to five countries of Eastern and Central Europe at the height of the cold war, not to mention a hotter one raging in Korea, on July 4, 1950. But just as surely, the lady from Chrudim is right. She is just one of millions in her own country, Poland, Hungary, Rumania and Bulgaria who believe that their own newspapers, television and radio tell them lies, that nothing available to them is quite so reliable as Radio Free Europe.

As Chairman of the Senate Foreign Relations Committee, Fulbright prevented all Congressional attempts to renew funding for Radio Free Europe and its sister station, Radio Liberty, which broadcasts to the Soviet Union, before their last appropriation expired Feb. 22. Despite a House bill providing new funds through June 30, 1973, and a Senate measure guaranteeing funds through next June 30, Fulbright has kept the stations living on borrowed time by blocking any compromise bill. The House will no doubt accept the Senate version (which the Administration has reluctantly backed) to keep the stations from dying before June 30, but there is still permission here about its prospects. At a time when President Nixon will be preparing to visit Moscow, the pessimists ask, what chance is there for the passage of a measure to continue a service that has been a thorn in the Soviet side for many years?

The disclosure that Radio Free Europe and Radio Liberty operated on funds secretly supplied by the Central Intelligence Agency set off in the United States a heated debate on the propriety of continuing to pretend that they were private institutions supported by charitable contributions, and that debate ultimately led to Fulbright's stand. But the disclosures and the debate caused no concern among the stations' listeners. They continue to tune in with as much faith as an American might bring to a newspaper that has a decent record for factual reporting and an editorial policy with which he agrees more often than not. Their devotion is almost unmatched in countries that offer more than one credible source of news.

It takes a while for a newcomer to the countries of the East to stop being surprised when a Polish or Rumanian friend says, "I heard on the radio last night . . ." and relays a bit of news that the Polish or Rumanian radio would announce only if its management, the Government, were to repudiate everything it stands for. "The radio" means Radio Free Europe; the Warsaw or Bucharest stations are more likely to be discussed as "they."

Despite its cold-war origins and C.I.A. sponsorship, Radio Free Europe's listeners consider it not a propaganda station, but the antipropaganda station that adjusts the one-sided view of the world laid down for all domestic media by the information department of the central committee of each country's Communist party. The people of Eastern Europe are sophisticated enough to know that Radio Free Europe is interested in influencing their minds, but they seem to feel that its methods do less violence to their intelligence than do those of the state media.

"We don't project one point of view, but the diversity of freedom," said Jan Nowak, the head of Radio Free Europe's Polish service.

Although it is an American station, recognized by its audience as such despite its neutral name, its programs do not reflect a specifically American point of view. The bulk of its news report is drawn from four news agencies, of which only one, United Press International, is American. The others are Reuters, of Britain; Agence France-Presse, and Deutsche Presse Agentur. More European newspapers of all political persuasions than American are cited in the press reviews that form an essential part of the programing.

Unlike the three other foreign broadcasters with large audiences in Eastern Europe—the British Broadcasting Corporation, the Voice of America and the West German Deutsche Welle—Radio Free Europe is not regarded as an official station pushing a government point of view. In countries in which only government views are broadcast and there is a deep audience skepticism toward all official views, Radio Free Europe's quasi-private sponsorship gives it a great credibility edge.

"The programs of the B.B.C. or the Voice of America are welcome, but they bear an official stamp," said Karel Jezdinsky, one of the most popular and politically influential commentators of Radio Prague when that station found its long-muffled voice for a few glorious months in 1968. "Their news programs are limited to news from a national point of view. The rest are nonpolitical programs of no basic interest to the listener. They can get some nonpolitical news on life in England or America even in their own press. The achievements of American science, for instance, are discussed even on the Czech radio.

"Radio Free Europe is unique in broadcasting Western ideas as such," said the bearded, 32-year-old commentator. "You can't tell what country they come from." Jezdinsky's listening experience goes back to his school days. He recalls a period in the early nineteen-fifties when Czechoslovak school children were warned by their teachers to pay no attention to the Radio Free Europe leaflets being dropped from balloons over that country as well as Poland and Hungary. "My teacher would say to the class, 'Don't read them, just bring them to school,' but privately he would ask me whether I'd read one and what it said."

In 1969 Jezdinsky, then the Prague radio correspondent in Belgrade, held a news conference to announce that he could no longer work for a station that collaborated with the forces occupying his country. He intended to accept a post with the B.B.C. "But then I thought that I would have more freedom here to comment in the way I was used to . . . . I would not be just a translator of an Englishman's commentary."

Since then, Jezdinsky says, he has been broadcasting his own views without interference or suggestion from any quarter. Listener mail encourages him and Slava Volny, another popular broadcaster of the Prague Spring who joined R.F.E., to believe that they made the right choice.

Radio Free Europe's balloon-launching days are long over. Flamboyant gestures are eschewed, as are excited words. The American front office and the five broadcasting departments, each headed by a former national of the country it serves, are kept aware of the charges to which the station laid itself open after the Soviet Union crushed the Hungarian Revolution of 1956.

After the collapse of the revolution, the station was accused of having incited rebellion and having promised the rebels foreign assistance. Independent investigations failed to bear out the charges, but a subsequent reappraisal of the station's functions and performance introduced an attitude of prudence and restraint that prevails to this day.

While station officials contend that there was never any organized campaign to fan the flames of revolution in Budapest, they concede that a number of broadcasts indicated strongly, even after resistance was doomed, that if the rebels held out a few more days help would arrive. "There was an absence of control during the critical four days," said James F. Brown, a soft-spoken, scholarly Briton who heads Radio Free Europe's research department.

In what Brown called an "agonizing reappraisal" after the revolution, a number of heads rolled. Some of those who had been writing political commentaries or directing that work found themselves reporting on sports or other less sensitive matters. A new feeling pervaded the sprawling building in Munich's English Garden, a feeling that a station like Radio Free Europe had a potential for provoking violence and that it must

not use the potential—but must expect to be accused of doing so.

"As a radio man, I am against any supposition that one can from afar influence policy on such important matters directly," said Jezdinsky, who holds a doctorate in sociology and mas media. "You can inform and educate and give ideas, but I don't think any action committed in Czechoslovakia in the last 20 years was incited by R.F.E. As a listener, I never heard any appeal to tell me what I should do or should not do."

While there is no doubt that the tone of the broadcasts softened progressively after 1956, most officials here contend that this was caused more by the softening of the East European governments after Nikita S. Khrushchev's repudiation of Stalinism than by the Hungarian catastrophe. Thinking back again on his days as a listener, Jezdinsky said:

"Sure, the tone was rough in condemning the terroristic system that objectively existed and was called Stalinism. The tone was justified, because life then was horrible. We used the same tone when we were able to broadcast from Radio Prague about that period in 1968. Journalists too young to have listened to R.F.E. in those days "discovered" the same facts independently and spoke about them on the air from Prague just as harshly as R.F.E. did."

Harsh speech is rare these days on Radio Free Europe. The harshest denunications of the Soviet Union and its allied parties and governments that are broadcast are the condemnations issued by dissidents from within the Soviet Union and by critics in Western Communist parties.

In its own commentaries, Radio Free Europe tries hard to encourage reforming trends in the countries to which it broadcasts. But it avoided strong criticism of Wladyslaw Gomulka, who was carried to power by liberal Communist forces in Poland in 1956, long after he had repudiated his original supporters. And it is sparing now in criticizing his successor, Edward Gierek, because it fears that the alternatives are worse.

Istvan Bede, Hungary's first postwar Ambassador to Britain and since 1957 the head of the Hungarian service of Radio Free Europe, remembers a joke that circulated in Budapest after the party's First Secretary, Janos Kadar, introduced in the later nineteen-sixties economic reforms that were unpopular because a number of consumer prices rose. "The joke," says Bede, "was that the only ones who were for the reforms were Kadar and Radio Free Europe. We supported the reforms because we think they are sound and good for the people."

Like other department chiefs, Bede comes down hard against any intention to "liberate" his former homeland or to "roll back" Communism. "I wouldn't even say we are an opposition party," he remarks. "Opposition parties sometimes go to extremes, and we must always be restrained. We are not asking the Communists to give up Communism. Friends who have been to Hungary tell me they believe Socialism is now generally accepted in the country. I don't wish it, but one must accept reality. I am not entitled by the Hungarian people to represent or lead them. I have no mandate from anybody. I am not the voice of Free Hungary or the Hungarian conscience. We don't broadcast the views of Hungarian émigré politicians because they live in the past. We have to be realistic. We would like a beautiful Communism or, as Khrushchev said, goulash Communism."

The Czechoslovak service, broadcasting to a country in which unhappiness with the Communist leadership is greatest and the wounds are still fresh, in which the political arrests continue and the gulf between those who govern and those who are governed is widest, is doing its utmost to discourage either rage or unwarranted hope. To Rozina Jadrna, a disk jockey with a large following, the job is mainly one of binding wounds. In reply to many despairing letters from young people, she occasionally plays a record called "Desiderata," on which a singer named Les Crane recites against a musical background a bit of prose containing these lines:

"Go placidly amid the noise and haste and remember what peace there may be in silence. As far as possible without surrender be on good terms with all persons. Speak your truth quitely and clearly and listen to others, even the dull and ignorant; they, too, have their story. With all its sham, drudgery and broken dreams, it is still a beautiful world. Be careful, strive to be happy."

Miss Jadrna played that record on Jan. 19, the third anniversary of the death of Jan Palach, the Prague youth who set himself aflame and became a symbol of his country's martyrdom. She also played a song by Leonard Cohen, the American pop poet and singer, about Joan of Arc at the stake. She made no comment, but she received a letter thanking her for remembering Palach on his anniversary.

In these days when opponents of Soviet-imposed "normalization" are regularly arrested, Radio Free Europe employs a caution that some consider to be excessive. The temporary detention of Jiri Dienstbier, a liberal former radio commentator, had not yet been broadcast several days after his release because only one newspaper had published a report of his arrest, and Radio Free Europe rules require a second corroborating source before an item is put on the air.

Even the strongest personalities on the staff express a sense of the limitations their role imposes on them. Jan Nowak, who left Poland as a courier to London during the Warsaw uprising of 1944 (carrying the archives of the Resistance in bandages on an arm that had been broken in a parachute drop), customarily answers questions about when he left Poland with, "I have never left Poland." The director of the Polish service, which he runs with an iron hand, he has more independent political support in the United States than anyone else at Radio Free Europe because of the political strength of the Polish-American community.

But the 57-year-old Nowak says he recognized, for instance, that on a cardinal question for Poland on which he saw eye-to-eye with the Communist Government he could never broadcast any commentary. The question was that of Poland's western frontier on the Oder-Neisse Line. Because Radio Free Europe broadcasts from West Germany, which did not recognize the loss of German territories behind the line, the Polish service could not comment on the issue until Chancellor Willy Brandt accepted Poland's borders.

Nowak rejects allegations that Radio Free Europe represents the thinking of those who want to restore the prewar right-wing rule over Poland. "I don't believe for a moment that Poland can be capitalist or should be capitalist. My own dream is that the system should be more pragmatic, more human and more free. That is all we want, and it can happen. Policy is the art of the possible, and socialism has many meanings. I would be most happy if Poland had social democracy. I don't see any other practical solution."

Asked to apply the sensitive barometer of anti-Semitism, usually a reliable measure of how right-wing a Polish organization may be, Nowak reluctantly—because, he said, he did not like this way of looking at people—noted that there were a number of Jews among his closest associates. During the anti-Semitic purge of 1968, Radio Free Europe was habitually branded by the Government as a key part of the "Zionist conspiracy" against Poland.

"I wouldn't take any other job," Nowak said. "It is not a sacrifice but a privilege. Our voices are in every Polish home. We defend intellectuals, repressed Communists, the church, Jews and peasants. We defend with equal zeal Kolakowski and Wyszynski." Leszek Kolakowski, a philosopher driven out of the Communist party and now in emigration, and Stefan Cardinal Wyszynski, the Primate of Poland, represent the opposite ends of their nation's political spectrum.

Perhaps Nowak was exaggerating when he said R.F.E. was in every Polish home, but there is no doubt that it is very popular, the most trusted source of news and the most keenly resented opposition medium in Poland. Poles call it Warsaw West, to contrast with the official Warsaw station. Dinner-table conversation often assumes that all present have been listening to the station, and foreign correspondents called on the carpet for dispatches that the Foreign Ministry's press officials find objectionable have noted that the officials' displeasure seems to be in direct proportion to the use Radio Free Europe has made of the offending article.

The station's audience-research projects, conducted in seven West European countries among tourists from the five nations to which it broadcasts, consistently put Poland at the top of the list. In 1971, 60 per cent of Poles over 14 years of age listened to the station often. In Rumania, it was 57 per cent; in Hungary, 53 per cent; in Bulgaria, 46, and in Czechoslovakia, 45. Jamming is heaviest in the last two countries, widespread in Poland, weak in Hungary and nonexistent in Rumania.

It is doubtful that Radio Free Europe has ever broadcast a prepared commentary that conflicted directly with a clearly defined United States foreign-policy position. "We operate under a generally understood frame of reference in this building," said Ralph E. Walter, the 47-year-old Minnesotan who has been director of the station since 1968 and has never worked for anyone else. ("I am not a C.I.A. man," he says. "I have never been a C.I.A. man.")

But there is enormous freedom within the frame of reference Walter describes. The restriction applies only to commentaries by staff members; the full range of the world press is available for broadcast. American opposition to the war in Vietnam has been expressed in many excerpts from hostile newspaper editorials and columns that must have made some listeners wonder whether they had turned on their national stations by mistake. The controversy over the Pentagon Papers published by The New York Times last year received more coverage than a European audience—even in the West—could have found interesting.

But imagine what a Rumanian listener, accustomed by his press and radio to a solidly one-sided news presentation, must have thought of a "propaganda" station that wound up a review of American, British, French, West German and Swedish comment on the Pentagon Papers with an editorial from the Swiss newspaper Neue Zuercher Zeitung. "Europeans, having read Thucydides, may find [the Pentagon Papers] naive and ask again if a country where these things occur can be a leading power," it said of the country that paid to have the remark broadcast to a hostile nation.

"On foreign affairs I say what I want," contends Noel Bernard, the head of the Rumanian service, who speaks in the clipped English he learned in Palestine and perfected at the B.B.C. "I don't know another radio station that has as much freedom as this station. It's been quite uncanny."

Bernard, who left Rumania in 1940, said there was no pro-American bias. "I have difficulty making my six people in New York be more objective in reporting from America. They are much too kind, probably because they are new immigrants and very pro-American. They are so grateful."

Walter, the director, believes that Radio Free Europe's autonomy is the *sine quo non* of its operation. "We don't sit here and take orders from the State Department, the C.I.A. or anybody," he said. "If it has been effective—and I think it has been—it is because of the way it has been allowed to operate."

Policy direction from the front office is loose. The practice of issuing guidance summaries daily was abandoned more than 10 years ago, and they now appear only occasionally (there were 40 in 1971 and two in the first two months of this year). The summaries are windy accounts of publicly available information on such complex problems as Chinese-American or Soviet-Rumanian relations and end with the instruction that broadcasters will report "along the above lines." They provide a lot of leeway and little guidance.

The American hand is felt strongest in the area of news. In the central newsroom, Nathan Kingsley, a former national editor of The New York Herald-Tribune and editor of its Paris edition, applies rigorous standards of objectivity that are straight out of American journalism textbooks. Nothing that has not been put on the internal wire from the news room to each broadcasting service may be used in the 10-minute hourly newscasts prepared separately by each service. Kingsley's staff, an English-language rock in the currents of East European languages swirling around it, is made up of American and Commonwealth newsmen.

They work like any large news organization, relying on a variety of commercial sources. In addition to the four news agencies to which it subscribes, Radio Free Europe receives the reports of all the official press agencies of the Communist world. The station has correspondents in the major capitals of Western Europe, as well as in New York and Washington. The news staff also scours the major newspapers of the West.

President Nixon's China trip, to take one example, was passed off with a minimum of highly editorialized coverage by the East European media while Radio Free Europe's New York office monitored all American television broadcasts from China and sent second-hand "live" coverage to Munich to enliven the official statements, toasts and speeches with a sense of presence at the event.

Eastern and Western official and press reaction to the Presidential trip, rather than the station's comments, made up most of the coverage after Nixon's return. In addition to news, commentaries and press reviews, the bulk of Radio Free Europe's programing is devoted to discussions under such specific headings as "economics," "labor," "agriculture," "literary life" or "problems of youth." There are readings from books that circulate secretly in their countries of origin but are published openly in the West. A Sunday religious service is broadcast in each of the languages, and disk jockey shows present the most popular Western commodity in the East, pop music.

There are 1,140 Radio Free Europe employes here, 344 at its transmitters in Portugal and 96 at its New York offices. They broadcast 20 hours daily to Czechoslovakia, 19 each to Poland and Hungary, 12 to Rumania and 7½ to Bulgaria. "What nobody else has ever in history done, the Americans have done here," said Bede, the Hungarian service chief. "They have brought five nations who have forever detested each other together under one roof and there have never been disputes between us." He says American sponsorship of the station comes close to "pure idealism," and he expresses a feeling that is widespread in the warren of offices and studios:

"Not for a moment do I have the feeling that R.F.E. is American and receives American money and therefore I have to serve American interests. This would be possible only under the Americans because Americans are most liberal in accepting others as full-fledged partners. The British would also let you do it your way, but if once it came out in a way they didn't like you'd be out. If you worked for French money, it would have to show in what you did. The Americans have a tolerance that no Europeans have."

Senator Fulbright's onslaught, which has left the station's staff feeling that it is living on borrowed time, has brought out the sardonic humor that is native to Central and Eastern Europeans in times of political stress. Over an unending flow of coffee in the basement cafeteria, the former Bulgarians, Poles, Hungarians, Czechoslovaks and Rumanians, most of whom are now stateless or American, puzzle over the paradox: A man who gained an international reputation for liberalism by sponsoring an unprecedentedly large program of educational exchanges now, in the name of the same liberalism, wants to cut off the principal source of news from the citizens of the Soviet Union and its dependencies. Since Radio Free Europe's building was designed to be usable as a hospital when the station is closed, a statue of the Senator is being proposed for the entrance hall with the inscription, "To the man who made this hospital possible."

Jezdinsky, the Czechoslovak commentator, says it is all very familiar to him—he attended the demise of Radio Free Prague. Fulbright's contention that Radio Free Europe and Radio Liberty are roadblocks on the way to Soviet-American *détente* has a familiar ring to Czechs, Jezdinsky said. "Chamberlain and Daladier once came to this city to arrange a *modus vivendi* with Hitler. And to the Czechs who said that the price for the arrangement was very heavy for them, they said, 'You bloody Central Europeans are just an irritant here.' "

To the R.F.E. staff, this is the heart of the issue. Even many here who agree with Fulbright on his opposition to the war in Indochina and who, like him, think Congress should not have been deceived about the funding of the stations are hurt by being written off as rusty knights riding off to a superannuated cold war.

"Every Eastern European statement I read about peaceful coexistence—and I read at least three a week—," says Bernard, the chief of the Rumanian service, "they're all in favor of it, but there must never be peaceful coexistence in the realm of ideas. So why should we capitulate? The time to close this is when there will be a reasonably free press in Eastern Europe."

There is general agreement here that Fulbright is right in saying that the nations of Western Europe should participate in the financing of the stations. But they have been getting it for nothing, the view here goes, and it is even more difficult to persuade a government to start paying for something it already gets free than to create something new at its own expense. European support in the latest crisis has been expressed by most of the major newspapers of the Continent and Britain and by the many scholars of Soviet and Eastern European affairs who depend on research material provided by the stations.

"Send Senator Fulbright to Poland for a little," said Krystyna Milotworska, who came to Radio Free Europe in 1968 straight from Sztandar Mlodych, the Communist youth daily, "to write what they wouldn't let me write there."

"It depends on how you understand *détente*," said another staff member, Lucjan Perzanowski, who left the Polish Weekly Forum in 1967. "If you mean a better relationship between governments while borders remain practically closed, censorship fully in effect and contacts between people unfree, then Senator Fulbright's criticism has some justification. But I understand *détente* as a long-range process, involving the people at large. If nothing is done to keep the Western side alive, then this real *détente* will die. Radio Free Europe and Radio Liberty are factors keeping real *détente* alive."

Beneath the sarcasm and the optimism, one senses at Radio Free Europe a feeling of deep concern that a cause in which people believe—far beyond their concern for their jobs—is in danger of dying, that Senator Fulbright may succeed in doing what only Alexander Dubcek has come close to accomplishing. In 1968, when the Czechoslovak press and radio were free, serious thought was given to closing the Czechoslovak service.

That Prague spring did not last. The winter, the coldest war against the truth, that has been restored throughout the Soviet empire will be colder yet if the two major voices of uncensored news are stilled.

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## ADDRESS BY H. E. JOAO AUGUSTO DE ARAUJO CASTRO, AMBASSADOR OF BRAZIL TO THE UNITED STATES

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on the 11th of February, 1972, His Excellency H. E. Joao Augusto De Araujo Castro, Ambassador of Brazil to the United States, delivered a very able address before the University of California at Los Angeles Symposium on the "Semana De Arte Moderna" entitled "Brazil and the Community of Nations." The Ambassador of Brazil to the United States is one of the most learned men of our hemisphere. He is a scholar, a man of letters, a statesman, and a great spokesman for his country, indeed for the Western Hemisphere. When so great a country speaks through so distinguished a spokesman her message is a meaningful expression.

It is with particular pleasure, as an admirer of His Excellency the Ambassador and of his country, that I commend the Ambassador's outstanding address upon the part of his country in the Community of Nations, delivered on this significant occasion, to my colleagues and to my fellow countrymen.

I therefore insert the Ambassador's address immediately following my remarks in the RECORD.

BRAZIL AND THE COMMUNITY OF NATIONS

Mr. Chairman, first of all, I wish to extend to you and the other Members of the Organizing Committee of the UCLA Semana de Arte Moderna Symposium my heartiest appreciation for your kind invitation to address you today and to participate in the commemorations of two anniversaries, of two events, which are one hundred years apart in time, but which reflect, within the pattern of the history of Brazil, the same desire for independence, for authenticity and for the creation and preservation of a national identity. For better and for worse, we have decided in 1822—and we have reiterated this decision in 1922—to remain Brazilians; and we still insist on being Brazilians, even before we insist on being nationalist. Art and culture cannot be dissociated from life. They are not the outward trappings of a civilization. They are part of its spirit and of its very soul. It is thus only proper and fitting that chronological fortuitousness permit us to hold today a joint celebration. The Modern Art Week was a manifestation of youth at the respectable age of 100, decades before the rather recent assertion of the promises and wonders of geriatrics, which is the youngest of sciences still in the throes of immaturity.

It was an effort towards endowing art and literature with a richer social and national significance. It was, as I have indicated, an effort towards authenticity and towards identity, not an effort towards narrow nationalism or isolation. We believe in Brazil as part and parcel of the community of nations and, likewise, we believe in Brazilian culture as part and parcel of the culture of Man.

ON BEING HUMAN

Out of step with what is happening elsewhere, we are still absorbed by and obsessed with the problems of Man and the problems of the Earth. This explains why the cultural events of 1922 were both earthly and human. Brazil is a land of many races and many cultures, of unity and diversity, a melting-pot of ideas and conceptions, philosophies and prejudices, dogmas and heresies. Brazil grew and asserted itself as a nation, in spite of the gloomy prophecies and predictions of scholars and social scientists. Its economy developed in direct and open defiance of the accepted tenets of economic orthodoxy. It is a chapter by itself and, yet, it is a chapter of humanity. It is a land where you can still locate a fast disappearing species, the human being, with all his shortcomings and possibilities, his contradictions and his qualities, his liabilities and his assets. But of course you may enquire whether there is much to be said on behalf of the human being or on the merits of being human and this would necessarily reopen the whole question. This debate could carry us too far and it is safer to leave it at this point, for the sake of brevity and for the sake of prudence. My only purpose was to stress the basic humanism, for all it is worth, which permeates and helps to explain the history of Brazil. This accounts for 1822 and for 1922. And this accounts for today.

SUDDENLY, LAST SUMMER . . .

Before dealing specifically with the theme "Brazil and the Community of Nations", it might perhaps be helpful to try to characterize certain trends in today's international pattern. We have recently said that the Washington summer of 1971 might still be recorded in History as the Summer of Transition, inasmuch as it was a Summer in which many dogmas were broken or were altogether dispelled. Political dogmas, diplomatic dogmas, financial dogmas, monetary dogmas. July and August may have been little more than adjustments to realities, and it is only proper that we should strive towards defining, identifying and characterizing the realities of our present situation, the realities we are called to live in. The reasonings and assumptions of only six or seven months ago are no longer valid and no longer do they prevail; they have been superseded by the logic, the impact or the forcefulness of events. The new policies announced in July and August will determine not only political and economic consequences of far-reaching portent. They will precipitate—and have already precipitated—tremendous psychological changes, attitudes, postures and patterns of international behaviour. Dogmas have been broken and until new dogmas are erected—they eventually will—there prevails the impression that anything goes, that all is permissible and admissible in this age of transition. The world and the dollar will never be quite the same again.

THE END OF THE POST-WAR PERIOD

This may well be the end of a post-war period which had been protracted beyond measure, beyond expectation and even beyond reason, and the re-emergence of Japan and Germany as Major Nations, although not so in a strictly military sense, may well symbolize the end of this post-war period. We may well be going through the birth-pangs of a new world and we wish to make it a world of Hope. We may well be at a new pre-Dumbarton Oaks and at a new pre-Bretton Woods stage. Power is fluid and volatile by nature and Power is still the measuring-rod and the yardstick against which people are gauging the acts of men and the acts of nations. We may be entering a period that will bear a close resemblance to the period of 1945–1948, which laid the basis for the post-war period we are just quitting.

THE NEW PENTARCHY

Suddenly, last Summer, we were launched into a new cycle of History, perhaps into a cycle of Pragmaticism, which is a recurring human fantasy. Adam Smith and John Foster Dulles appear to have been relegated to to the past. China was again called to play a major role in world affairs and it might even be said that some consideration is now being given to the concept of a new Pentarchy of Power, which would no longer coincide with the present five Permanent Members of the Security Council. It even appears that some Professors think of a world concert, which could, on a world scale, follow the general pattern and fit into the broad mould of the old and outmoded European concert. We appear to be reviving and resuscitating theories and doctrines which have been proved illusory and self-defeating in the past, theories of Balance of Power which constitute the negation of the very Purposes and Principles of the Charter of the United Nations.

THE UNITED NATIONS AND THE FREEZING OF THE STRUCTURE OF POWER

On many occasions, in the United Nations and in other international bodies, Brazil has consistently stressed the dangers inherent to this new cult of Power, which appears to inspire some of the basic documents of our age, such as the Treaty on the Non-Proliferation of Nuclear Weapons. This Treaty institutionalizes the inequality of nations and establishes different categories of States: one category of adult and therefore responsible States and one category of non-adult and therefore non-responsible States. The over-heralded Non-Proliferation Treaty, which is interpreted as a complement of the Charter of the United Nations in the process of the Freezing of the Structure of World Power, is in direct violation, however, of several of the Purposes and Principles of the Charter, inasmuch as it accepts the premise that the strong countries will become ever stronger and the weak one will become ever weak. On the other hand, the Non-Proliferation Treaty extends to the fields of Science and Technology privileges and prerogatives which the Charter of the United Nations had conferred on the five Permanent Members of the Security Council in the exclusive domain of the maintenance of world Peace and Security. The Treaty is the most flagrant example of the whole process of the Freezing of the Structure of World Power. And when we say Power, we do not mean Military power alone. We are referring to economic, financial, scientific and technological power. Not only does the Treaty adhere to the philosophy that only five nations, which by the way include Red China, are adult and responsible enough to be granted licenses to carry certain weapons, but it appears inspired by the nation that access to knowledge and research, science and technology, should be controlled by a dependable Board of Nuclear Trustees, which may not be guided by educational and character-building criteria alone.

COLLECTIVE SECURITY IN THE ECONOMIC FIELD

The same purpose of stabilization and maintenance of Power have led the Great Powers to oppose tenaciously the efforts of the developing countries towards modifying the norms that still govern international trade. It is clear that some evolution has occurred in the attitude of the industrialized countries since March 1964, the date of the installation of the UNCTAD I. It happens, however, that the specific problems of the developing countries have become aggravated at a much faster tempo than that of the changes in question, and in consequence the problem of underdevelopment has never presented more somber and discouraging aspects.

It suffices to consider the following: the entire development program of the United Nations (UNDP) has at its disposal yearly a maximum of two hundred and thirty million dollars, representing one tenth of one percent of merely the world's yearly military expenditures. At one of the General Assemblies of the UN, Brazil advocated that a quantitative fund corresponding to one percent of such expenditures be allocated for the tasks of development, which would permit a tenfold increase in the effort actually undertaken. "We are only asking for one percent of human folly"—was the explanation then given by the Brazilian Delegation.

It should be noted that the attitude adopted by the USSR and the other socialist countries has been extremely negative in the matter of multilateral programs for economic development. In this field, the socialists paradoxically cling to outdated principles of economic liberalism and show themselves to be ultra-faithful followers of Jean Baptiste Say's "laissez faire, laissez aller." It has been said that when the socialist Delegates are preparing to attend any meeting of the Economic and Social Council or of the Second Committee of the UN General Assembly, they take the elementary precaution of leaving in the cloakroom all their books by Karl Marx.

Actually, what the developing countries are seeking to do is to transpose into the international field certain principles of social justice and redistribution of wealth that have been gradually gaining ground within the internal systems of the more politically advanced countries. Ultimately, the objective is to obtain international recognition and enforcement of the principle of "collective security in the economic field", similar to that which we are trying, gradually and slowly, to outline in the field of peace and international security. It must be admitted that the results to date have not been too promising. The First Decade of Development implemented by the United Nations was a failure and the prospects for the Second Decade are not very promising either. At bottom, it is a matter of determining whether the United Nations, or rather, the States comprising that Organization, are willing or not willing to accept a collective responsibility in the field of economic development.

THE DIVIDEND AND THE DIVISOR

There exist, however, other factors that are beginning to affirm themselves within this process of freezing of world power. We refer specifically to some tendencies which are emerging in the treatment of the problems of population and preservation of the environment. It is said that the "population bomb" can become more fatal and nefarious than the nuclear bomb itself and there is a growing tendency to handle the problem on uniformly universal bases, ignoring that the matter lies within the exclusive competences of each State, which, in the exercise of its full sovereignty, has to take into account facts and circumstances of an eminently national character. No one doubts that there are overpopulated States, just as no one should doubt that some States, such as Brazil for instance, with its ninety five million inhabitants—are requiring a demographic growth in line with their needs for full use of their natural resources and the effective occupation of their territories. To try to solve the problem in the abstract, on allegedly cold and statistical terms, without taking into account a series of factors of the greatest importance to the survey of the general problem of Development, strikes us as an attitude devoid of logic and surely

fated to political failure. It is argued that demographic growth neutralizes the advantages of the growth of the Gross National Product, in the evaluation of per capita income, held nowadays in a rather simplistic manner as the sole and absolute index of economic development. In short, instead of insisting on an increase in *dividend,* or in other words the GNP, insistence is being made on the immobilization of the *divisor,* that is, the population contingent. Still in other words: It is attempted to convert the grave problem of underdevelopment into a mere problem of stabilization, thus ignoring the fact that any attempt to stabilize the economies of many countries at their present levels would be tantamount to accepting extremely low levels as a target for stabilization.

AGAIN, THE HAPPY SAVAGE

On the other hand, in tackling the problems related to the preservation of the human environment, the tendency is to place an unduly strong accent on the dangers of rapid industrialization. Emphasis is laid on the dangers of pollution, certainly serious for the highly industrialized countries, while the larger part of the planet is still in a stage of pre-contamination, or, in other words, it has not yet had a chance to become polluted. Two-thirds of mankind are far more threatened by hunger and poverty than by the evils of pollution. For this same reason, much concern was felt over the recent statement by Mr. McNamara—contradicted by Brazil in the Economic and Social Council—to the effect that the World Bank henceforth would not authorize any project for economic development without a minute prior evaluation of possible repercussions on the environment. It is clear that the developing countries will not want to fall into the same errors incurred by the highly industrialized countries, but it is evident that we could not passively accept the resurrection, in the twentieth century, of Rousseau's theory of the "happy savage" which lent flavor and color to French romanticism. "Do not let happen to your cities what has happened to New York", "Preserve your beautiful landscapes" such warnings are constantly hammered into the ears of the representatives of developing countries. Now, these developing countries start from the premise that the preservation of the human environment ought to take into account the basic factors of Development, since underdevelopment represents by itself one of the worst forms of pollution of the human environment.

POLITICS AND TECHNOLOGY

At the moment the great Powers appear to be interested in "depolitizing" the United Nations, which is becoming really irrelevant in the matter of international Peace and Security. Every effort is now being centered on the so-called "new-tasks" (Non-Proliferation, Population Control, Narcotics, Environment etc.), which should be requiring new norms of international cooperation on *supra-national* terms. The Brazilian Delegation has consistently and openly opposed this tendency to transform the United Nations into a sort of "International Institute of Technology," or into a mere ineffective chapter of the International Red Cross. For this very reason, Brazil proposed, in a memorandum dated April 8, 1970, addressed to Secretary General U Thant, an entire process of "diplomatic reactivation of the UN", through the establishment of Ad-hoc Negotiation Committees within the scope and under the authority of the Security Council. More specifically, it proposed that one of those Committees be immediately constituted to explore the modalities of a peaceful solution of the question of the Middle East. Arabs and Israelis have, in principle, welcomed the Brazilian suggestion, which, to date, has been received coldly by the Great Powers. An effort is being made at the moment to "rationalize" the working methods of the General Assembly, with the concentration of all *technical* subjects in one of the Political Committees of the Assembly. Technical consideration of political subjects is one of the elements of this policy of Freezing of the World Power, it being well known that the developing countries are much less prepared for discussion on this terrain. Another method utilized by the policy of freezing consists in the idea of the constitution of Committees with memberships of experts or "wise men" instead of official and direct representatives of the Member States. Now, experience has shown that such scholars and wise men are, by the very reason of their wisdom, to defend the interests of the highly industrialized countries. The "depolitization" of the United Nations, a tendency that grows daily, is thus one of the main features of the whole process of the "freezing of the structure of World Power."

"MARE NOSTRUM"

On subjects relating to the Law of the Sea, the same tendency toward freezing is prevalent. The great maritime Powers are tenaciously opposed to the fixing of limits to territorial seas beyond the perfectly arbitrary distance of twelve miles. Here, also, it is argued that national sovereignty must yield ground to norms of a supranational character that should govern the subject on the basis of the principle of freedom of the seas, "for the common benefit of mankind". It is pertinent, however, to note that in regard to the utilization and exploitation of the resources of the sea, the Major Powers refuse to accept the logical consequences and implications of the thesis of the "common heritage of mankind". Through the initiative of the Brazilian Delegation, adoption by the XXIV General Assembly of the United Nations was obtained—actually by two-thirds of the membership—for a Resolution establishing a moratorium of freeze for the exploitation of the sea-bed pending an agreement on an international regime on the matter. The Great Powers not only opposed stubbornly the Resolution but declared expressly that they would not comply with the recommendations of a Resolution adopted against their will. They even held that Resolutions of this type could not be approved by a simple majority of two-thirds; on subjects of such a general scope they said, unanimity or consensus would normally be required. This signifies that for all practical purposes, the Great Powers now wish to extend to the UN General Assembly the right of veto—already in force within the Security Council. On this particular subject, of the free and unlimited right to exploit the resources of the seabed the Great Powers, holders of the monopoly over adequate technology, cling to the traditional right of sovereignty, which they try to discredit in other areas.

INDEPENDENCE AND INTERDEPENDENCE

In order to provide a better international regulation of these questions of nuclear non-proliferation, population control, preservation of the environment and restrictions to the free and unimpeded exploitation of natural resources, the Great Powers, who make not the slightest concession of a political character in regard to the major themes of International Peace and Security, now appear to favor a concept of interdependence, which would imply a sensible attention of the concept and practice of national sovereignty. No one doubts that the world tends to become ever more interdependent. No one doubts that any tangible progress in the international field will have to be stimulated by reciprocal concessions of sovereignty. All this is true. It is our standpoint, however, that interdependence presupposes the independence, economic emancipation and sovereign equality of nations as an indispensable prerequisite. We cannot declare that the Principles inscribed on Article 2 of the San Francisco Charter are superseded, before we apply them and transform them into reality. First let us be independent. Then let us become—and as rapidly as possible—interdependent.

DEVELOPMENT AS A NATIONAL RESPONSIBILITY

Brazil has taken a firm stand on such international matters and has emphasized the necessity of a more affirmative response and a more constructive cooperation on the part of the highly industrialized nations of the world. Nevertheless, we are deeply conscious and aware of the fact that *the development of Brazil is our national responsibility and our national goal.* Although prospects are pretty gloomy for the world-wide pattern of development, Brazil's gross national product has risen steadily at a rate of more than nine percent a year in the last three years. The rate of growth for the year 1971 has been estimated at eleven percent, which is amazing and exceptional for any country, with the possible exception of Japan. Only two decades ago, the exports of coffee earned Brazil about ninety percent of the country's foreign exchange revenues. Now, for the first time, diversity has become the rule and provides the basis for Brazil's current economic boom. Coffee is no longer the mainstay of the national economy and currently accounts for roughly thirty-three percent of the exports. In 1971, Brazilian exports reached a record total close to the three billion dollar mark and manufactured goods accounted for nearly twenty percent of the total. Inflation has been brought down to manageable proportions and foreign exchange reserves have moved upwards to a record total of 1.2 billion dollars. As a result of policies adopted and of the implementation of plans already in operation, the Gross National Product is expected to rise by 41 percent in 1974 as compared to 1970. In that four-year period, population growth is estimated at 12 percent. Per capita income should grow by 26 percent in the same period. Foreign investment pouring into Brazil now totals five billion dollars.

The fact that such progress and development were possible in the specific case of Brazil does not invalidate what we said as regards the failure of the United Nations multilateral plans. Nor does it counteract our disappointment at the lack of a more affirmative response on the part of the highly industrialized nations in willing to accept a common responsibility for the problem of development.

In Brazil, development was possible through a tremendous national effort and untold sacrifices and because of the existence of certain basic conditions in manpower and natural resources, which may not prevail elsewhere. The so-called "Brazilian Miracle" should be taken as an example and a stimulus, not used as a convenient excuse for inaction and lack of imagination. Miracles are becoming less and less frequent in the world of today and the case of Brazil is an illustration of effort, determination and self-sacrifice, helped by a particular set of circumstances.

NATIONAL INTEGRATION

The basic policies of encouragement of economic growth and of inflation control which had been so highly successful in Brazil in the late sixties remain the cornerstone of current economic planning. A new element, however, has received increased attention from the Government: National integration as a means of creating a strong and healthy internal market and fostering improvements in income distribution so as to promote the raising of the general standards of living. For the ultimate goal is not the economy as such. The ultimate goal is the Brazilian Man. We view social development as being inseparable from the concept of economic development. National Integration is to be achieved mainly through the National

Integration Program, a Government plan launched in 1970 and designed to speed up the development of the still depressed regions of the Northeast and to encourage development of the virtually unoccupied Amazon region. To this effect, Government planners aim at a 7% annual growth in overall agricultural production. In the Northeast the programs call for a transformation of farming methods through land redistribution and the establishment of agricultural incentives. In the Amazon region, the chief aim is the expansion of the agricultural frontier so as to incorporate the Amazon basin as an economically productive region. An all-important element in this effort is the construction of the Transamazonic Highway, running on a rough parallel line south of the mighty Amazon River. The highway will provide the physical basis for the orientation and resettlement of population contingents from the Northeast into the Amazon Valley. Development programs for the Amazon region provide for settlement of families in homesteads along a 16 mile-wide strip on both sides of the highway. The land, expropriated by Government decree, is being sold to the homesteaders through long-term financing.

Of course the Transamazonic Highway is an act of faith in the destiny of Brazil and represents a willingness to sacrifice present resources for the sake of future rentability. It is a high and costly investment in the future of Brazil, much as the new capital, Brasilia, was so in the late fifties. Some pessimists say that available resources being necessarily restricted they should be applied in areas and projects of sure and immediate rentability. Those who adhere to this line of reasoning do ignore the fact that a country with the size, population and resources of Brazil, is not viable as a small or even a medium nation. By circumstances, if not by nature, we are bound to think big. Mediocre and small-scale solutions are not applicable or effective to the Brazilian case. And, as we have tried to point out, the whole idea behind the Transamazonic Highway is the idea of National Integration. We are determined to see that the whole of Brazil will benefit from the progress of economic development. The Transamazonic Highway symbolizes the Road to the Future.

THE BRAZILIAN MODEL OF GROWTH

The national model of economic development aims at the creation of a modern, competitive and dynamic economy and at the achievement of economic, social, racial and political democracy. In a nutshell, it aims at national integration on a Brazilian model. Overall objectives envisage the transformation of Brazil into a developed country, within one generation, i.e., duplicating *per capita* income by 1980 and achieving, as early as 1974, economic dimensions which allow for self-sustained growth at a stabilized rate of seven per cent a year. This calls for an increase in the rate of employment expansion, a further reduction of the inflation rate and the implementation of international trade policies geared for development. Main cornerstones of the development process thus conceived are improved distribution of wealth generated by the process, through all income levels and all regions of the country, social changes designed to modernize institutions, to accelerate growth and to promote better income distribution, political stability and national security. This is the sense of the Revolution daily developing in Brazil today.

THE INTERNATIONAL POLICY OF BRAZIL

The International Policy of Brazil, such as it has been defined and expressed within the United Nations, has as its objective the removal of all obstacles whatsoever that may counter its full economic, technological and scientific development, the preservation of its cultural heritage and national identity as a sovereign country, and the affirmation and growth of its National Power. Pending the establishment of a system of distributive justice among Nations, each State has the right, and even the duty, of promoting the active defense of its national interests. And these Brazil has not renounced. In the development of its International Policy, Brazil must continue to oppose tenaciously any attempt at *containment*, all the more so since it is sure that with the country at the threshold of a full economic development, Brazil would be, among the countries in the world one of those that would suffer the most through the affirmation of a policy of Containment, or in other words, of a Policy of Freezing of World Power. Brazil cannot accept shackles and hindrances to its free takeoff towards a full economic development. Nor can it accept limitations to any aspect of its growth, whether economic or demographic, in defense to a doubtful principle of interdependence or of a supranationality. On matters of sovereignty, concessions are possible when nations feel strong enough to make them. The moment has not yet come for us to yield. This International Policy is authentic in the measure in which Brazil preserves its national identity and in the measure in which it can fulfill its needs for social and economic development.

FREEDOM AND DEVELOPMENT

This is how and where Brazil stands today in the community of nations, conscious of its rights and legitimate claims which it will not renounce, but fully aware of its duties and obligations, towards the people of Brazil, towards Latin America, towards mankind and towards the humanism and universalism which are inherent to Brazilian History, in 1822, 1922 and 1972. Nationalism pushes us to participation and dialogue, not to isolation and soliloquy. Brazil wishes to grow and to diversify in a community of equally sovereign nations, directed towards Peace, Development and Freedom, under the aegis of which it was established as a nation and to which it is determined to remain faithful.

## ADVANCE APPROPRIATION FUNDING FOR WATER POLLUTION CONTROL

(Mr. MAHON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MAHON. Mr. Speaker, unanimous consent having been granted, I insert in the RECORD at this point an amendment which I will offer to the bill H.R. 11896 now pending, as follows:

AMENDMENT TO BE OFFERED BY MR. MAHON

On page 245, in line 13, strike out all after the word "submitted"; strike out all of lines 14 and 15, and all of line 16 down to the period,

*and,*

On page 250, strike out all of line 18 after the word "shall"; strike out all of line 19; and strike out the words "for obligation" in line 20,

*and,*

On page 251, strike out the words "for obligation" in line 12,

*and,*

On page 254, add the following at the end of line 18:

To the end of affording eligible recipients of grants for costs of construction adequate notice of available Federal financial assistance therefor, appropriations pursuant to this section with respect to the fiscal years ending June 30, 1974 and June 30, 1975, respectively, are authorized to be included in the applicable appropriation Act for the fiscal year next preceding the fiscal year 1974 or 1975, as the case may be. Appropriations made pursuant to this section are authorized to be made available without fiscal year limitation.

Mr. Speaker, the amendment is a procedural one, striking out the 3-year contract authority language in the committee bill, substituting a 3-year direct appropriation authorization in the identical amounts but with language specifically authorizing 1-year advance funding.

The basic idea behind the 1-year advance appropriation authorization feature of the amendment is that when the advance appropriation is made, it provides advance notice for State and local planning purposes; some reasonable advance funding period on which they can rely; something tangible on which they can count, and plan, and move forward.

My amendment specifically provides that any appropriation made for waste treatment construction grants can be made available "without fiscal year limitation," that is, available until expended. So, whatever is appropriated would remain available as long as necessary—for as many years as necessary—to see through to completion whatever projects it funds.

When the administration approves an application for a construction grant for the Federal share of a project—for illustration, let me use a figure of $500,000—that amount would be chargeable to the State's allotment and to the appropriation available. It would thus be a firm obligation against the appropriation and would be so recorded on the books. It would remain open on the books as long as necessary to see the project to completion, because the appropriation itself would also remain open on the books "until expended."

Under section 203(b) on page 245 of the bill, the Administrator would "from time to time as the work progresses, make payments to the recipient of a grant for costs of construction incurred on a project."

The effect, then, of the amendment would be to keep Congress in the act year by year in dealing with the momentous problems of water pollution control. There would be no abdication of congressional authority.

Already, 71 percent of the 1973 spending budget is considered to be relatively uncontrollable under present law.

For the current fiscal year 1972, Congress, under the leadership of the House Committee on Appropriations, has already appropriated $2 billion for waste treatment construction grants, which is actually $350 million more than has thus far been authorized.

Some seem to feel that the contract authority approach guarantees full funding of authorizations. In that connection, let it be noted that a cumulative total—that is, over a period of years—of about $6.6 billion has been impounded in the Highway Trust Fund. According to the new budget, about $1.3 billion in fiscal 1973 is scheduled for impoundment in this contract authority-type program bringing the total to almost $8 billion.

Mr. Speaker, the direct appropriation procedure with 1-year advance funding with a no-year stipulation as to availability gives Congress the best plat-

form to get action in the fight against water pollution.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. VANIK, for 15 minutes, today; to revise and extend his remarks.

(The following Members (at the request of Mr. HILLIS), to revise and extend their remarks and include extraneous matter:)

Mr. ESCH, for 20 minutes, today.

Mr. ANDERSON of Illinois, for 30 minutes, today.

Mr. RUPPE, for 10 minutes, today.

Mr. HALPERN, for 5 minutes, today.

(The following Members (at the request of Mr. DENHOLM), to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. HÉBERT, for 10 minutes, today.

Mr. BRADEMAS, for 15 minutes, today.

Mr. BEGICH, for 10 minutes, today.

Mr. BURKE of Massachusetts, for 10 minutes, today.

Mr. DENT, for 5 minutes, today.

Mr. ULLMAN, for 30 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KEE and to include extraneous matter.

Mr. MCCLORY to extend his remarks prior to discussion of amendments on H.R. 11896.

Mr. RUPPE, prior to the vote on the first amendment offered by Mr. REUSS in the Committee of the Whole today.

Mr. DON H. CLAUSEN and to include extraneous matter.

(The following Members (at the request of Mr. HILLIS) and to include extraneous matter:)

Mr. FINDLEY.

Mr. CONTE.

Mr. DERWINSKI in three instances.

Mr. HORTON.

Mr. BLACKBURN in two instances.

Mr. WYMAN in two instances.

Mr. ESHLEMAN.

Mr. SNYDER in two instances.

Mr. MCDADE.

Mr. CÓRDOVA.

Mr. SMITH of New York in two instances.

Mr. MARTIN.

Mr. ZWACH.

Mr. ANDERSON of Illinois.

Mr. FRENZEL.

Mr. PRICE of Texas.

Mr. HOSMER in two instances.

Mr. SCHMITZ in three instances.

Mr. DELLENBACK.

Mr. WYDLER.

Mr. COLLIER in three instances.

Mr. BROOMFIELD.

Mr. LLOYD.

Mr. BAKER in two instances.

Mr. GUDE.

Mr. BRAY in two instances.

Mr. HALPERN.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. EDWARDS of California in three instances.

Mr. MURPHY of New York in two instances.

Mr. DINGELL in two instances.

Mr. EILBERG in three instances.

Mr. CARNEY.

Mr. JACOBS.

Mr. CORMAN in two instances.

Mr. ROONEY of New York in two instances.

Mr. BRASCO.

Mr. ROGERS in five instances.

Mr. DELANEY.

Mr. BURKE of Massachusetts in two instances.

Mr. MIKVA in eight instances.

Mr. METCALFE.

Mr. BYRNE of Pennsylvania.

Mr. MURPHY of Illinois in two instances.

Mr. HAMILTON.

Mr. PATTEN.

Mr. BEGICH.

Mr. PERKINS.

Mr. STOKES.

Mr. LENNON.

Mr. DAVIS of Georgia in five instances.

Mr. PRYOR of Arkansas.

Mr. DORN in three instances.

Mr. HANNA in five instances.

Mr. BADILLO in two instances.

Mr. VANIK in two instances.

Mr. HARRINGTON in three instances.

Mr. MILLER of California in five instances.

Mr. EDMONDSON in two instances.

Mr. GALIFIANAKIS.

## ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 9526. An act to authorize certain naval vessel loans, and for other purposes.

## ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, March 29, 1972, at 10 o'clock a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1795. A letter from the Director, Office of Legislative Affairs, Agency for International Development, Department of State, transmitting copies of Presidential Determination 72–12; to the Committee on Foreign Affairs.

1796. A letter from the Chairman, U.S. Tariff Commission, transmitting the 55th Annual Report of the Commission; to the Committee on Ways and Means.

1797. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of proposed actions to conduct certain programs at levels in excess of those authorized in the National Aeronautics and Space Administration Authorization Act, 1972, pursuant to section 4 of the act; to the Committee on Science and Astronautics.

## 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. POAGE: Committee on Agriculture, H.R. 13361. A bill to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended; with amendment (Rept. No. 92–957). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 914. Resolution providing for the consideration of H.R. 9552, a bill to amend the cruise legislation of the Merchant Marine Act, 1936 (Rept. No. 92–958). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 915. Resolution providing for the consideration of H.R. 13188, a bill to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard (Rept. No. 92–959). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 916. Resolution providing for the consideration of H.R. 13324, a bill to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce. (Rept. No. 92–960). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 917. Resolution providing for the consideration of H.R. 13336, a bill to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations. (Rept. No. 92–961). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Illinois:

H.R. 14132. A bill to amend the Welfare and Pension Plans Disclosure Act; to the Committee on Education and Labor.

H.R. 14133. A bill to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, by allowing deductions to individuals for personal savings for retirement, and by increasing contribution limitations for self-employed individuals and shareholder-employees of electing small business corporations; to the Committee on Ways and Means.

By Mr. BETTS:

H.R. 14134. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 14135. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes: to the Committee on the Judiciary.

By Mr. COLLIER:

H.R. 14136. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. DINGELL:

H.R. 14137. A bill to amend the Environmental Policy Act of 1969; to the Committee on Merchant Marine and Fisheries.

By Mr. DULSKI:

H.R. 14138. A bill to amend section 103 of title 23 of the United States Code relating to additional mileage for the Interstate System; to the Committee on Public Works.

By Mr. EILBERG:

H.R. 14139. A bill to eliminate racketeering in the sale and distribution of cigarettes and to assist State and local governments in the enforcement of cigarette taxes; to the Committee on the Judiciary.

By Mr. ULLMAN:

H.R. 14140. A bill to establish a new program of health care delivery and comprehensive health care benefits (including catastrophic coverage), to be available to employed, unemployed, and low-income individuals at a cost related to their income; to the Committee on Ways and Means.

By Mr. ERLENBORN:

H.R. 14141. A bill to amend the Davis-Bacon Act to raise the minimum size of the construction contracts to which such act applies; to the Committee on Education and Labor.

By Mr. GUBSER:

H.R. 14142. A bill to amend title 5, United States Code, to provide for additional minimum amounts to which Federal employees group life insurance may be reduced after retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HARRINGTON (for himself and Mr. PIKE):

H.R. 14143. A bill to provide for the establishment of an Office for the Aging in the Executive Office of the President, for the fulfillment of the purposes of the Older Americans Act, for enlarging the scope of that act, and for other purposes; to the Committee on Education and Labor.

By Mr. HORTON:

H.R. 14144. A bill to amend the Internal Revenue Code of 1954 to raise needed additional revenues by tax reform; to the Committee on Ways and Means.

By Mr. KYROS:

H.R. 14145. A bill to establish and implement a national transportation policy for the next 50 years, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LENNON (for himself, Mr. GARMATZ, Mrs. SULLIVAN, Mr. MOSHER, Mr. PELLY, Mr. ROGERS, Mr. KEITH, Mr. ASHLEY, Mr. GOODLING, Mr. DOWNING, Mr. MAILLIARD, Mr. CLARK, Mr. STEELE, Mr. JONES of North Carolina, Mr. FORSYTHE, Mr. LEGGETT, Mr. DU PONT, Mr. GRIFFIN, Mr. MILLS of Maryland, Mr. ANDERSON of California, Mr. GROVER, Mr. BIAGGI, Mr. RUPPE, Mr. KYROS and Mr. MCDONALD of Michigan):

H.R. 14146. A bill to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. McDONALD of Michigan:

H.R. 14147. A bill to amend section 121 of title 23 of the United States Code relating to payments to the States for construction on Federal-aid highways, in order to authorize such payments in certain cases where materials are not at the construction site; to the Committee on Public Works.

By Mr. MATSUNAGA:

H.R. 14148. A bill to amend title 5, United States Code, to authorize the payment of increased annuities to secretaries of justices and judges of the United States; to the Committee on Post Office and Civil Service.

By Mr. MORGAN (by request):

H.R. 14149. A bill authorizing continuing appropriations for Peace Corps and for other purposes; to the Committee on Foreign Affairs.

By Mr. ROONEY of New York:

H.R. 14150. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. RUNNELS:

H.R. 14151. A bill to establish the El Malpais National Monument, in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. VEYSEY:

H.R. 14152. A bill to amend title II of the Social Security Act to increase to $4,000 the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. CHARLES H. WILSON (for himself, Mr. DULSKI, Mr. UDALL, Mr. HANLEY, Mr. CHAPPELL, Mr. DERWINSKI, Mr. ROUSSELOT, and Mr. MALLARY):

H.R. 14153. A bill to amend title 13, United States Code, to assure confidentiality of information furnished in response to questionnaires, inquiries, and other requests of the Bureau of the Census, to provide for a mid-decade sample survey of population, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ZABLOCKI:

H.R. 14154. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary and/or secondary education of dependents; to the Committee on Ways and Means.

By Mr. ZWACH (for himself, Mr. ABOUREZK, Mrs. ABZUG, Mr. ANDERSON of Illinois, Mr. ANDREWS, Mr. ASPIN, Mr. CARTER, Mr. DELLENBACK, Mr. DINGELL, Mr. DOW, Mr. DUNCAN, Mr. FRENZEL, Mr. HELSTOSKI, Mr. MAYNE, Mr. NELSEN, and Mr. SCOTT):

H.R. 14155. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to establish an upland game conservation program; to the Committee on Agriculture.

By Mrs. ABZUG:

H.R. 14156. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes; to the Committee on Education and Labor.

By Mr. DUNCAN (for himself, Mr. J. WILLIAM STANTON, and Mr. ROY):

H.R. 14157. A bill to amend section 120 of title 23, United States Code, to provide that the Federal share payable for Interstate System projects shall be 100 percent, and for other purposes; to the Committee on Public Works.

By Mr. FISHER (for himself, Mr. RUNNELS, and Mr. BURLESON of Texas):

H.R. 14158. A bill to provide that the Secretary of Agriculture shall indemnify farmers and ranchers for certain farm animals and fowls which are killed by predatory animals; to the Committee on Agriculture.

By Mr. JOHNSON of California:

H.R. 14159. A bill to provide a sound physical basis and an operational system for predicting damaging earthquakes in heavily populated areas of California and Nevada; to the Committee on Interior and Insular Affairs.

By Mr. McCOLLISTER:

H.R. 14160. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide benefits to survivors of firemen and law enforcement officers killed in the line of duty; to the Committee on the Judiciary.

By Mr. MARTIN:

H.R. 14161. A bill to amend the Occupational Safety and Health Act of 1970 to exempt any nonmanufacturing business, or any business having 25 or less employees, in States having laws regulating safety in such businesses, from the Federal standards created under such act; to the Committee on Education and Labor.

H.R. 14162. A bill to amend the Internal Revenue Code of 1954 to provide that certain homeowner mortgage interest paid by the Secretary of Housing and Urban Development on behalf of a low-income mortgagor shall not be deductible by such mortgagor; to the Committee on Ways and Means.

By Mr. POAGE (for himself, Mr. MELCHER, Mr. DE LA GARZA, Mr. KAZEN, Mr. PURCELL, Mr. DENHOLM, Mr. ROBERTS, and Mr. ULLMAN):

H.R. 14163. A bill to amend the Agricultural Act of 1970, as amended, to indemnify farmers and ranchers whose domestic animals are killed by predatory animals; to the Committee on Agriculture.

By Mr. PODELL:

H.R. 14164. A bill to establish a Federal program to encourage the voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors; to the Committee on Interstate and Foreign Commerce.

By Mr. QUILLEN:

H.R. 14165. A bill to create a special tariff provision for imported glycine and related products; to the Committee on Ways and Means.

By Mr. RIEGLE (for himself and Mr. JAMES V. STANTON):

H.R. 14166. A bill to promote development and expansion of community schools throughout the United States; to the Committee on Education and Labor.

By Mr. RUPPE:

H.R. 14167. A bill to provide additional protection for the rights of participants in employee pension and profit-sharing-retirement plans, to establish minimum standards for pension and profit-sharing-retirement plan vesting and funding, to establish a pension plan reinsurance program, to provide for portability of pension credits, to provide for regulation of the administration of pension and other employee benefits plans, to establish a U.S. Pension and Employee Benefit Plan Commission, to amend the Welfare and Pension Plans Disclosure Act, and for other purposes; to the Committee on Education and Labor.

By Mr. SHIPLEY:

H.R. 14168. A bill to repeal the Gun Control Act of 1968, to reenact the Federal Firearms Act, to make the use of a firearm to commit certain felonies a Federal crime where that use violates State law, and for other purposes; to the Committee on the Judiciary.

By Mr. STUBBLEFIELD:

H.R. 14169. A bill to provide cost-of-living adjustments in retirement pay of Federal judges in the territories and possessions of the United States; to the Committee on the Judiciary.

By Mr. TIERNAN:

H.R. 14170. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of fair stained and better india ruby mica films first or second quality; to the Committee on Ways and Means.

By Mr. BLACKBURN:

H.J. Res. 1133. Joint resolution providing for the designation of the third week of October of 1972 as "National German Shepherd Dog Week"; to the Committee on the Judiciary.

By Mr. DELLENBACK:

H.J. Res. 1134. Joint resolution to proclaim the last Friday in April as Arbor Day; to the Committee on the Judiciary.

By Mrs. MINK:

H.J. Res. 1135. Joint resolution proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the offices of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. GOODLING:

H. Con. Res. 572. Concurrent resolution expressing the sense of Congress concerning the granting of amnesty to draft-evaders and deserters; to the Committee on Armed Services.

By Mrs. MINK (for herself and Mr. MATSUNAGA):

H. Con. Res. 573. Concurrent resolution to congratulate Waipahu, Hawaii, on its Diamond Jubilee; to the Committee on the Judiciary.

## MEMORIALS

Under clause 4 of rule XXII,

348. The SPEAKER presented a memorial of the Legislature of the State of Idaho, relative to the Salmon Falls Division project on the Salmon Falls Creek in Idaho; to the Committee on Interior and Insular Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. GREEN of Oregon:

H.R. 14171. A bill to incorporate in the District of Columbia the American Ex-Prisoners of War; to the Committee on the District of Columbia.

By Mr. O'NEILL:

H.R. 14172. A bill for the relief of Maria Fernanda Teodoro; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.R. 14173. A bill for the relief of Mr. Walter Edward Koenig; to the Committee on the Judiciary.

# EXTENSIONS OF REMARKS

## A PRESIDENTIAL CLASSROOM FOR YOUNG AMERICANS

### HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

*Tuesday, March 28, 1972*

Mr. METCALF. Mr. President, from time to time it has been my privilege to visit with young students from my home State who are here to participate in the program A Presidential Classroom for Young Americans.

The week they spend in Washington enriches their studies in class and provides them a unique experience to observe their Government firsthand.

For a Member of Congress, visits with these bright young leaders are refreshing and delightful.

Among Presidential Classroom students this year was Miss Lauren Larson, whose account of her week here appeared in the Monitor, a weekly paper serving her home town of Boulder, Mont.

I ask unanimous consent that Miss Larson's report on her week in Washington be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Monitor, Boulder, Mont., March 2, 1972]

MISS LAUREN LARSON REPORTS ON PRESIDENTIAL CLASSROOM

(By Lauren Larson)

I flew out of Helena on Friday although the actual classroom did not begin until Saturday. There are six different weeks of the classroom and I was scheduled for the first one.

Saturday was mainly spent just meeting your roommates and being introduced to the program and the staff. My roommates were from California, Missouri, North Carolina and Pennsylvania.

Sunday, I attended Mass at St. Matthew's Cathedral. That afternoon we went on a tour of Washington and although it rained, we did see most of the major sights.

All of the instructors were lent from various government agencies to work at the classroom for its six weeks. There was, of course, also the Board of Directors who mainly set up the program.

When we arrived, among other things, we received a Syllabus which contained information on the different branches of government which we were to cover. Every night we received a Presidential Daily which contained the next day's schedule, what each seminar was to be on, a bibliography on the speakers and some bibliographies on the staff. Some of our speakers were Congressman Pierre Du Pont from Delaware, Senator Ted Stevens from Alaska, a White House speech writer, a member of the press, lobbyists, Mr. Oleg Sokolor from the Soviet Union and a Brigadier General.

Tuesday was spent on Capitol Hill in meetings with our Congressmen. There were three of us from Montana and I was proud to stand up in the National Student Body and say that the Montana delegation had been welcomed warmly when many students had not been. On that day we visited with Senator Mansfield and Senator Metcalf. Congressman Shoup was in Montana on Tuesday, but on Friday two of us returned to see him.

One of the really educational parts of the week were the evening discussion group.

I spent a few extra days in Washington with some relatives and so I was able to see even more of D. C. All in all I had one of the most wonderful times of my life and would go back at any moment.

I would like to thank very much all the people who helped make my trip possible.

## SENATOR PAUL DOUGLAS

### HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 28, 1972*

Mr. JACOBS. Mr. Speaker, this is the excellent article about Senator Paul Douglas by Jean M. White which appeared in the Washington Post on Sunday, March 26, 1972.

I insert the article in the RECORD to remind America to remember that in Senator Douglas we have one of the authentic saints of our time:

PAUL DOUGLAS: REFORMER AT 80

(By Jean M. White)

A touch of mellowness, perhaps, that comes with the years, but the eyes are the same—the blue, piercing eyes the fixed evasive Senate witnesses; the same great shock of white hair; the same resonant voice that reached into the Senate galleries; the same mind—quick, lively, searching.

And still that same passionate concern for social justice and the righteous indignation at wrongs and chicanery.

"I say it because it is true," former Sen. Paul H. Douglas snapped tartly after he was gently reminded that perhaps an interview on the eve of his 80th birthday was not the time to recall bitter fights with two former colleagues over civil rights and reapportionment.

Sen. Douglas will be 80 today. It is a landmark in any man's life, but his birthday also is a landmark for the American liberal conscience.

Unlike Miniver Cheever, Paul Douglas was born too early, not too late. There were long, lonely years when he was a crusader for causes then unpopular to advocate, causes that came to be accepted in legislation touching the lives of every American—social security, tax reform, truth-in-lending, aid to education, area redevelopment, housing, minimum wage, and, above all and always, civil rights and liberties.

Fortunately, for us and the senator, he has lived long enough to become a prophet with honor.

Today a small circle of old friends will gather at the cheerful home at 2909 Davenport St. NW to share the 80th birthday with Sen. Douglas and his wife. Later will come a "queen's birthday" celebration in June when the sun warms the patio in the back.

A stroke 2½ years ago has left Sen. Douglas confined in a wheelchair, but only physically. The confinement does not extend to his mind or conscience.

The former Democratic senator from Illinois still percolates with stimulating ideas and questions, gets outraged at injustice ("I never knew a man who could get so outraged," a retired Senate reporter recalls), and talks vigorously about present problems and future needs—urban ills, federal-state-city relations, congressional reform. His wife, Emily Taft Douglas, a handsome, gracious woman, herself a former congresswoman, arranges the late-afternoon discussions that keep her husband in touch from his wheelchair.

Once the 80th birthday is out of the way, there are busy months ahead for Paul and Emily Douglas: Publication in mid-April of his 670-page autobiography, dedication of the Paul H. and Emily Taft Douglas Library building at Chicago State University and then perhaps a sentimental journey back to the Indiana Dunes country, that wild area along Lake Michigan where the Douglas family spent its summers, later to be saved by the senator as a national lakeshore park.

The autobiography—revised in longhand on yellow legal pads after the senator suffered his stroke in August, 1969—bears an apt title: "In the Fullness of Time: The Memoirs of Paul H. Douglas."

The memoirs of Paul Douglas should make quite a story as a reflection of American politics and life in the first seven decades of the 20th century.

It is the story of a professor in politics, a distinguished economist-scholar (the Cobb-Douglas Function, see economics textbooks) who ventured into the harsh reality of every-