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PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, March 29, 1972*

The House met at 10 o'clock a.m.

Jack P. Lowndes, president, Home Mission Board, Southern Baptist Convention, and pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

Let us not grow weary in well-doing for in due season we shall reap, if we do not lose heart.—Galatians 6: 9 RSV.

Our Father, we are thankful for the miracle of life. We are thankful for this season that reminds us of rebirth as we see green things springing up to leaf and flower. May we, who have been granted the swift and solemn trust of life, use it in the the light of Thy great promise of life eternal.

Today, we are grateful for this body and the emphasis given not only to temporal matters but also to spiritual values. In the spirit of the resolution passed by this body that this be a national week of prayer and concern, we pray for our Nation and our world. Give us peace on earth we pray. May the living presence of Christ be with the Members of this body as they travel home in the next few days. Bring them back renewed in spirit and hope.

Please, Lord, give us wisdom, give us courage for the facing of these days. In the name of the living Christ we pray. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title.

H.R. 8787. An act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

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

H.R. 13955. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13955) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. ELLENDER, Mr. INOUYE, Mr. COTTON, Mr. BROOKE, and Mr. YOUNG to be the conferees on the part of the Senate.

PERMISSION FOR SPECIAL SUBCOMMITTEE ON LABOR TO SIT WHILE HOUSE IS IN SESSION TODAY

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that the special Subcommittee on Labor may sit while the House is in session today.

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

There was no objection.

INEQUITY IN 235 HOUSING PROGRAM SHOULD BE CORRECTED

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

Mr. MARTIN. Mr. Speaker, yesterday I introduced H.R. 14162, a bill to correct an inequity in the 235 housing program which I feel never was the intent of the Congress.

Under the 235 plan, families within certain income limits may purchase homes with practically all of the interest subsidized by the Federal Government. The purchaser in many cases pays only 1-percent interest and the balance of the interest on the loan is subsidized by the taxpayers.

Now I find that the Internal Revenue Service has ruled that such a taxpayer may deduct the full amount of the interest even though he pays only 1 percent.

For instance, if the loan is at 8 percent, the purchaser pays 1 percent and the taxpayer 7 percent. But the Internal Revenue Service allows the purchaser to deduct the full 8 percent from his income tax.

This is a double subsidy. The Internal Revenue Service seem to be adamant in their position. I feel that this misinterpretation should be corrected by the legislative route. I trust that the Ways and Means Committee will give early consideration to this important matter.

NIXON ADMINISTRATION PROGRAMS FIGHT UNEMPLOYMENT

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

Mr. CONABLE. Mr. Speaker, all the attention focused on the President's phase II economic program tends to obscure the administration's determined efforts to fight unemployment. While the administration's programs to reduce unemployment are less dramatic than the anti-inflationary effort, they, nevertheless, carry an equally high priority.

In addition to the stimulative fiscal policies being pursued, the administration is also carrying out numerous programs which are directly providing employment. For example, the veterans employment programs have helped find jobs for more than 270,000 Vietnam-era veterans. The administration's public employment program has created 145,000 new jobs among more than 6,000 State and local jurisdictions at a cost of $2 billion over a 2-year period. The Department of Labor has announced that a record number of federally supported job opportunities for youth will be available this summer: Nearly 1.1 million jobs will be funded, 89,000 more than last year.

This administration is currently spending more than $4.3 billion on manpower programs, expanding enrollment to 2.3 million trainees. The Department of Labor has also financed computerized job banks to match available jobs with available manpower in 46 States, covering well over half of the Nation's labor force.

The administration's fiscal policies are designed to increase GNP by $100 billion over the last year and bring the unemployment rate down. Efforts to improve America's competitive position in world markets will increase our sales abroad and generate more jobs here at home.

In short, the administration is conducting a major effort to fight unemployment through its general public employment program as well as through the stimulative thrust of its general economics policies.

WHY ARE NOT OUR ANTITRUST LAWS WORKING?

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

Mr. MIKVA. Mr. Speaker, I hesitate to get into a "hissing" contest with the

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minority leader of the other body or the minority leader of this body, but in this morning's Washington Post, beneath a picture of those two distinguished minority leaders, appeared a story in which the Senator from Pennsylvania went into an epexegetic sesquipedalian attack on the Senate Judiciary Committee's ITT inquiry.

Senator SCOTT accused some Members of the other body of indulging in a form of "jackassry." I think he used the wrong animal. I think he ought to worry more about the elephantiasis of ITT, a group so immense that they have to have their own state department, their own CIA, their own health department, their own justice department, and apparently their own political convention. I think he ought to worry about the elephantiais of a Justice Department which allowed ITT to acquire a substantial number of more companies since the settlement.

But more seriously, he ought to worry about the thorough disgust of a body politic which does not trust its Government, its institutions, its elected officials, all with apparently good cause. The gentleman from Pennsylvania ought to worry about an antitrust policy that has developed arthritis either in the law or in its enforcement such that free enterprise and a competitive society have become terms only to be used in Fourth of July speeches but never to be taken seriously.

And this House of Representatives, Mr. Speaker, has to have similar concerns. I would hope that the Judiciary Committee, of which I am a member, will diligently pursue its investigation of conglomerate mergers and hold immediate hearings on Chairman CELLER's bill to improve and redistribute antitrust enforcement responsibilities. I refer to H.R. 12004. The importance of such concerns transcends the issue of the identity of the next Attorney General and perhaps even the identity of the President who designates the next Attorney General. Unless there is an antitrust policy which is aimed at achieving and maintaining a free economic society, the world will little note nor long remember who it was that followed Martha Mitchell's husband as Attorney General of the United States.

ITT

Mr. CEDERBERG. Mr. Speaker, I have listened with interest to the remarks of the gentleman from Illinois, talking about various types of animals and ITT. My only comment would be that ITT grew like an elephant when the jackasses were in charge.

CALL OF THE HOUSE

Mr. GROVER. 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. 96]

Abernethy	Edwards, La.	O'Hara
Abourezk	Gallagher	Patman
Anderson, Tenn.	Gaydos	Pryor, Ark.
Badillo	Goldwater	Rangel
Baring	Gray	Rarick
Blanton	Hagan	Rees
Bow	Hawkins	Reid
Brown, Ohio	Hays	Rogers
Celler	Hébert	Rostenkowski
Chappell	Hogan	Sandman
Chisholm	Hull	Saylor
Clark	Johnson, Calif.	Scherle
Clawson, Del	Keith	Scheuer
Clay	Kuykendall	Stokes
Collier	Landrum	Stubblefield
Davis, Ga.	Mills, Ark.	Stuckey
Dorn	Mills, Md.	Teague, Tex.
Dowdy	Mitchell	Van Deerlin
Dwyer	Morse	White
	Murphy, N.Y.	Yates

The SPEAKER. On this rollcall, 372 Members have answered to their names, a quorum.

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

PERSONAL ANNOUNCEMENT

Mr. CONTE. Mr. Speaker, on the recorded teller vote yesterday regarding the amendment offered by the gentlewoman from New York (Mrs. ABZUG), rollcall No. 93, I voted "no." I meant to vote "aye." I wish at this time to indicate my wholehearted support of this amendment.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Mr. JONES of Alabama. 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 Alabama.

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. Before the Committee rose on yesterday the Clerk had read the section 2 of the committee amendment in the nature of a substitute, ending on line 25, page 396, and it had been agreed that debate on all amendments to the bill would be limited to 2 hours.

Mr. THOMPSON of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

If I may have the attention of my distinguished colleague from Alabama (Mr. JONES) I have a question for the gentleman.

At section 204(b)(4) of the committee bill, at page 59, concerning the terms and conditions to govern the Administrator in making the financial grants authorized by the bill to the States and interstate agencies for the construction of "treatment works," the bill states, and I quote:

> Approved 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.

We have such an interstate compact agency in my district, the Delaware River Basin Commission, comprised of the States of Delaware, New Jersey, New York, and Pennsylvania as well as the Federal Government, which has substantial powers and duties pertaining to the control of water pollution.

With funds provided by the EPA's predecessor agency, the DRBC recently completed a regional waste treatment program for the protection and enhancement of the waters of the Upper Delaware Basin, including the authorized Tocks Island Reservoir project. The commissioner recently adopted a resolution committing itself to undertake construction of this regional system, if need be, in the interests of insuring the protection and enhancement of those basin and reservoir waters.

The commission's regional approach in this particular matter was commended by the Council on Environmental Quality on February 3, and the commission's specific plan to implement this regional system, that is, its so-called alternative V, was endorsed unreservedly by the Environmental Protection Agency in the DRBC's public hearing last February 22.

I now come to the point of my question: Last February 3 the Council on Environmental Quality stated that the Governors of the concerned Delaware River Basin States should make a committment or affirmation that their respective States will provide their share of the DRBC cost of implementing this regional plan. My question is, Does the committee's language at section 204(b)(4), intend that the Administrator may make a grant to the DRBC, of the full Federal share of from 60 to 75 percent, of the cost of this regional program for the protection of Upper Delaware Basin and Tocks Island Reservoir waters?

Mr. JONES of Alabama. The answer to the gentleman's question is "yes," provided, as he explained it, the EPA has endorsed the program, or that it meets the regional and other standards of the committee's bill. The intent of section 204(b)(4) is to make it clear to the States, and to their interstate compact agencies in the water pollution area, that the Federal Government will bear the bulk of the cost of these costly, necessary programs, and that the States or their interstate agencies may move ahead as quickly as possible, confident that the Federal Government is going to pay the lion's share of the way. That is the intent of section 204(b)(4).

Mr. THOMPSON of New Jersey. I thank the gentleman very much, and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. HEINZ

Mr. HEINZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEINZ: On page 350 following line 6:

"SEC. 319(a) It is the purpose of this Section to supplement the enforcement procedures of this Act by providing for desirable economic incentives to water users to conserve water and to minimize pollution through reduction in the quantity of waste products dumped into these waterways. It is also the purpose of this Section to encourage the formation of regional waste treatment management organizations pursuant to section 208(a) of this Act.

"(b)(1) In furtherance of the purpose of this Section, the Administrator and the Secretary of the Treasury shall prescribe such regulations as are necessary to establish and put into effect two years after the enactment of this Act a schedule of national effluent charges for all those discharges including municipal sewage which detract from the quality of the water for municipal agricultural, industrial, recreational, sport, wildlife, and commercial fish uses. These discharges shall include, but not be limited to, biochemical oxygen demand (BOD), suspended solids, thermal discharges, and toxic wastes. The charges shall be set at a level which will provide for the attainment of the standards and goals of this Act. Such regulations shall also provide for making available as public informtion all amounts collected pursuant to such charges.

"(2) Any person who willfully fails to pay any charge as required by regulations established pursuant to this Section or who willfully fails to make any return, keep any records, supply any information, or to do any other act required by such regulations shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than one year, or both, together with costs of prosecution.

"(3) The United States district courts shall, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States, have jurisdiction to restrain violations of regulations established pursuant to this Section.

"(c) Revenues collected by the Secretary of the Treasury pursuant to such charges shall be deposited in a trust fund (hereinafter referred to as the 'fund') in the Treasury to be available without further appropriation to the Administrator for use as prescribed in subsection (d).

"(d) Money from the fund shall be available for distribution by the Administrator in each year for the purpose of funding Section 106 of this Act (to assist water pollution control programs of States and interstate agencies), except that any owner or operator of a point source of pollution including publicly-owned treatment plants, who installs pollution abatement equipment or revises production methods to comply with standards shall receive a rebate of 50% of the aggregate amount of effluent charges paid prior to the installation or revision, such rebate not to exceed 100% of the cost of the pollution control facility. Money in the fund in excess of the amounts required to fund Section 106 shall be available for the general purposes of Title II, of this Act (grants for construction of treatment works).

"(e) Organizations established pursuant to Section 208(a) of this Act shall, not later than two years after the enactment of this Act, or, in the case of organizations designated two years or later after the enactment of this Act, not later than 180 days after they are designated, provide for a schedule of effluent charges covering all navigable waterways within the boundaries of the area designated pursuant to Section 208(a)(2). Charges may be set at or above the level and on substances in addition to those designated by the Administrator pursuant to subsection (b)(1) of this Section. After approval by the Administrator, the charges may be imposed by the State or interstate agency, and all revenues therefrom shall henceforth accrue to the State or interstate agency to be used for the purposes of attaining the standards and goals of this Act."

Mr. HEINZ (during the reading). Mr. Chairman, I ask unanimous consent to dispense with the reading of the amendment and ask that it be printed at this point in the RECORD.

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Chairman, reserving the right to object, I want to make a parliamentary inquiry.

The CHAIRMAN (Mr. SMITH of Iowa). The gentleman will state it.

Mr. HARSHA. Mr. Chairman, I intend to make a point of order against this amendment and, if the unanimous-consent request is granted, do I then waive my right to make that point of order at the appropriate time?

The CHAIRMAN. The gentleman will not wavie his right if he makes it immediately after the unanimous consent is granted.

Mr. HARSHA. I reserve a point of order against the amendment, and if the waiver of the reading of the amendment will not waive my right to a point of order——

The CHAIRMAN. The gentleman can make his point of order immediately following the granting of the unanimous-consent request.

Mr. HEINZ. I am willing, certainly, to let the gentleman reserve his point of order until after discussion.

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

There was no objection.

Mr. HARSHA. Mr. Chairman, I reserve a point of order against the amendment.

Mr. HEINZ. May the gentleman reserve his point of order?

The CHAIRMAN. The gentleman from Ohio reserves a point of order.

Mr. HEINZ. I thank the gentleman for reserving the point of order.

Mr. JONES of Alabama. Mr. Chairman, I would like to make the same reservation on the point of order against the amendment that the gentleman just offered.

The CHAIRMAN. The point of order is reserved.

The Chair recognizes the gentleman from Pennsylvania for 5 minutes.

Mr. HEINZ. Thank you.

Mr. Chairman, my amendment to add effluent charges to this bill, I believe, can effectively insure that the promise of clean water becomes a reality. It would provide the necessary incentive to industry and municipalities alike to halt the waste and degradation of this Nation's precious and irreplaceable water resources.

In effect, the effluent charge in the amendment I propose places part of the burden for a pollution clean-up where it belongs—on the polluter himself—and ultimately in the marketplace where the cost structure and price of the product or service can be judged by the consumer.

I support this bill and many of the strengthening amendments. I am well aware that a thorough job of investigation and preparation went into this legislation, and I applaud the committee, its distinguished chairman, and, especially, the gentleman from Ohio (Mr. HARSHA), for a sincere and generally successful attempt to protect our Nation's water. However, I see the effluent charge as a necessary and vital extension of this bill in order to save the taxpayers' dollars, to attack pollution at its source, and to provide a more responsive and flexible incentive to adopt innovative and less costly methods of pollution abatement.

My amendment requires that the Administrator of EPA establish a reasonable and appropriate schedule of effluent charges to be paid by polluters on all discharge, including municipal sewage, which detract from the quality and serviceability of using water for municipal, agricultural, recreational, wildlife propagation, and other important purposes.

As an added incentive to reduce the amounts of discharge to a point within and below the limits of the law, owners or operators may claim a 50-percent rebate of those charges after installing proper facilities, including changed production methods, to abate pollution. Rebates would at no time exceed 100 percent of the total cost of the capital expenditures.

I have just sent out a questionnaire to my constituents on the water pollution bill and have talked to a great many people about their willingness to spend the billions of dollars required by this bill. The returns are running overwhelmingly in the affirmative. They realize, as we all must, that generations of neglect of our water will not be inexpensive to reverse.

I contend, however, that there is a wiser way to implement this objective than simply through spending billions of dollars on vast public works projects to build water treatment facilities. I submit this is through the use of effluent charges.

Effluent charges can save taxpayer money in several ways.

First, and most important, I would like to emphasize that the increased incentive to industry, in particular, as provided by effluent charges and their partial rebate, will have the desirable and necessary effect on reducing the need to spend the very large amounts authorized to construct water treatment plants. This means a substantial savings in tax dollars. Second, half or more of the effluent charges paid would be used to fund section 106 and title II of this bill, which, as it stands now, would authorize the expenditure of $7 billion in the first year alone. We must either raise taxes or further increase the vast Federal deficit, unless we find another means to pay for this bill, and that is why I propose the self-financing vehicle of effluent charges. I am firmly convinced we must make

every effort to minimize or reduce the devastating tax burden the people of this country now bear.

The administration and effectiveness of this bill also are of concern to me.

I am aware that this bill and its amendments commit us to the principle of environmental restoration. But I believe there is also a crying need for an effective bridge between the administration of pollution control, as set by law, and the goal of a pollution-free environment.

Let us be as realistic as possible. It is not simply a question of passing laws that we face, but how to administer the law. The procedures of this bill are necessarily complex at both Federal and State levels. The effluent charge I propose will minimize the need to further expand the bureaucracy by applying to all polluters—across the board—a built-in and easily administered incentive to meet or surpass our water quality goals.

There is one final and additional concern that I believe we must take into account, and that is our economy and the effect of this legislation on jobs.

I would add that there is a real added benefit to be derived from my amendment, to add effluent charges to this bill, and that is that the economy of this Nation could well be greatly expanded by the creation of a whole new generation of technology, the role of which would be to realize the need for polluters to pay effluent charges by finding and applying the means to control pollution through the elimination of damaging discharges. Countless new jobs could and would be developed through the demand for the manufacture and installation of devices, and other capital equipment, to halt the free flow of effluents into our water. The creation of a new industry to employ our expanding work force is urgent business if this country is to avoid the specter of unemployment.

Mr. Chairman, I submit that my amendment complements and improves this bill, and I urge my colleagues who are interested in lower taxes, increased employment, a smaller bureaucracy, and meeting the goals of this legislation, to support this amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio insist upon his point of order?

Mr. HARSHA. I do insist upon my point of order, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, my point of order is as follows:

First, the amendment proposed is nongermane and therefore violates rule XVI, clause 7. The purposes of the amendment as contained in a letter circulated by the proponent on March 22, 1972, includes the purpose of producing revenues. Now, the production of revenues is completely alien to this committee, and is properly a matter for the consideration of the Committee on Ways and Means under rule XI. Moreover, another purpose stated in the letter is to permit industry to choose the most cost-effective means of reducing pollutants. This too is nongermane to the bill, which concerns itself with the control of pollution and enforcement. Another stated purpose in the letter is to encourage industry to sell products which take a smaller environmental toll. This too is not germane to the bill, as the encouragement of business practice is not necessarily related to any item within the bill.

Second, this amendment is not within the jurisdiction of the Committee on Public Works. It proposes a tax on effluents, and raises revenues, and therefore violates rule XI, which places jurisdiction of revenue raising in the Committee on Ways and Means.

Section 319(c), Mr. Chairman, categorically refers to revenues collected by the Secretary of the Treasury pursuant to such charges.

Third, the amendment violates rule XXI, clause 4 prohibiting appropriations in legislative bills. Section 319(c) and (d) of the amendment directs the action to be taken with the revenues raised in accordance with the amendment. In addition to the clear language of the amendment, the stated purpose of the amendment in the proponent's March 22, 1972, letter demonstrates the intent that these funds be used for a specific purpose in violation of rule XXI, clause 4.

Therefore, Mr. Chairman, I insist upon my point of order.

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, as many of us on the committee recognize, there are certain alternate methods of studying the means and values that might be available, and in so doing we did address ourselves to this proposition in section 317(a), wherein we state:

"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.

So we are addressing ourselves to that, and it is in the report, as well as part of the bill under section 317 for the financing of that.

Mr. HEINZ. Mr. Chairman, would the gentleman yield so that I may address an inquiry to the gentleman from California?

Mr. HARSHA. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, I wonder if the gentleman from California would state whether this subject is addressed to the National Academy of Scientists for the purpose of studying this?

Mr. DON H. CLAUSEN. My suggestion to the gentleman would be that he convey his ideas to the administrator during the course of the study.

Mr. HEINZ. I thank the gentleman.

May I speak to the point of order?

The CHAIRMAN. The Chair will hear the gentleman from Pennsylvania (Mr. HEINZ) on the point of order.

Mr. HEINZ. Mr. Chairman, I would argue, in response to the statement of the distinguished gentleman from Ohio (Mr. HARSHA) in urging his point of order, that effluent charges are basically user charges, and user charges are fundamental to the bill. The bill would not work without them; they are the primary means of financing the operation and construction of the water treatment works herein.

And I would add further that this in itself is an important consideration in ruling on this.

Also I would hasten to add that clearly under sections 204(b)(2) and 204(b)(3) that in fact the purpose of this bill is to raise revenues for the purposes of the bill, and without this we could not possibly construct any water treatment facilities.

Finally—and to be brief—there are two historical precedents that I believe are important that establish the principle that user charges are germane to the legislation.

Volume IV, section 4119 of Hinds' Precedents of the House of Representatives—no relation, I would add—state that on February 23, 1905, the River and Harbor Appropriations Bill was under consideration, and included in such bill was a section permitting the collection of tolls on freight and passengers. A point of order was made to that. The point of order was not sustained.

Similarly, at a later date, in Volume VII, section 1929 of the same precedents, a bill that included a provision calling for fines and penalties for offenses on lands of the public domain was reported from the Committee on Public Lands, now called the Department of the Interior, and it was determined that those charges might properly be considered by the Committee of the House as a Whole.

Mr. Chairman, I respectfully request that the Chair consider these precedents in ruling on the point of order raised by the gentleman from Ohio.

The CHAIRMAN (Mr. SMITH of Iowa). The Chair is prepared to rule.

The gentleman from Pennsylvania has submitted an amendment to which a point of order has been raised on the ground that it is not germane and that it violates rule XXI, clause 4 prohibiting appropriations on legislative bills.

The Chair has examined the amendment.

The gentleman from Pennsylvania states that the bill contains similar provisions. However, the rule under which we are operating specifically waives all points of order against sections 2, 8, and 12 of the committee amendment, but it does not waive such points of order against an amendment to the committee amendment.

So far as nongermaneness is concerned, the Chair finds in clause 3(c) of the amendment submitted a provision for collecting revenues or taxes. Also in section 3(d) it provides for money collected from the fund shall be available

for distribution—in other words, an appropriation.

So the Chair finds it is not germane for the reason that it provides for raising revenue, or a tax, and appropriates money. Therefore, the amendment is in violation of clause 7, rule XVI and also it is in violation of clause 4, rule XXI, prohibiting appropriations on legislative bills.

The Chair sustains the point of order.

AMENDMENT OFFERED BY MR. MAHON

Mr. MAHON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment 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.

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.

On page 251, strike out the words "for obligation" in line 12.

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. MAHON. Mr. Chairman, the amendment which has just been read appears in the CONGRESSIONAL RECORD, volume 118, part 8, page 10739.

I had hoped, Mr. Chairman, that the committee itself would offer this amendment. It is a procedural amendment which retains the full 3-year authorization in the committee bill, but provides for annual funding by the Congress—but on an advance basis—in lieu of the 3-year contract authorization proposed by the committee.

Thus the amendment would keep Congress where it ought to be—in the center of the action on this vital and momentous issue each year—annually, not once every 3 years.

Water pollution control activities are vital and will become more so from year to year. They require profound and lively debate and action by Congress each year.

My amendment provides for 1-year advance funding in order to accommodate sound planning by the cities and localities and to achieve the objectives of the bill. Under my amendment, the money would remain available from year to year until expended, further facilitating administration of the program. Funding by Congress each year—a year in advance—would provide maximum impact to keep the issue alive in Congress and among the people, and would have far more impact on the executive branch than the one-shot, 3-year contract authority.

The 3-year contract authority provided in the bill would tend to shelve the issue for 3 years. It would send it to the legislative graveyard rather than keep it alive and dynamic and before us an annual issue.

Some seem to think that contract authority will guarantee full funding of the authorization. Of course, nobody is so naive as to think that you can bypass the President or the executive branch. The President is the top official in all departments and agencies, and he would permit or not permit full-scale application of the contract authority—or appropriations, for that matter. But if we deal with the question annually, we in Congress can have maximum impact and we can better monitor the program.

The highway program is funded by contract authority, and on the matter of full funding there is no magic to it. In the current budget, the executive branch is proposing to impound about $1.3 billion of the 1973 amount, bringing the total accumulated impounding in the highway fund to about $8 billion. So there is no magic in a contract authorization. A 3-year contract authority just takes Congress out of the picture for the next two sessions, and puts the Executive in there with both feet.

I think experience shows that it is less painful for the Executive to impound contract authority. I say to you without fear of successful contradiction that Members who want to get something big and meaningful done—I mean really want to get something big and meaningful done—about water pollution should support a program of lively and profound debate on annual appropriations, keeping us in the act where we ought to be, where the people expect us to be. Yes, this would keep Congress in the picture, have a greater impact on the Executive and, importantly, tend to create national public sentiment to get an effective job done.

Congress, for the current fiscal year 1972, under the leadership of the Committee on Appropriations, has already appropriated $2 billion in the appropriations bill handled by Mr. WHITTEN—$2 billion for waste treatment construction grants—which is $350 million more than has even yet been authorized by law.

Why should we then abdicate for 3 years, my friends?

Take note of this: Already, 71 percent of the spending budget submitted in January for 1973 is classified as "relatively uncontrolled under existing law." This 3-year contract authority would put more of the annual budget in that category. What next?

Pollution is a big and a growing problem. Shall we further surrender our authority and power to annually work our collective will on Government spending?

The American people demean Congress for giving too much power to the Executive. Shall we continue to march toward congressional oblivion, surrendering our real authority to the Executive, or shall we take the ball and run with it? The power of the purse is our supreme power over government in behalf of the American people and annual review and control is at the very heart of that power.

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

(By unanimous consent, Mr. MAHON was allowed to proceed for 1 additional minute.)

Mr. MAHON. My amendment is a vital step toward preserving congressional prestige, dignity and power, and I urge you to support it. It would greatly improve the pending bill. It would fully facilitate carrying out the big program we have launched in recent years. While the amendment is procedural, it is also fundamental.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. MAHON. If I have time remaining, I yield to the distinguished minority leader.

Mr. GERALD R. FORD. As I understand the gentleman's amendment, the Committee on Appropriations would recommend full funding for fiscal year 1973 of $5 billion and the full funding for fiscal year 1974 of $6 billion. Thereafter it would only require one-year funding, because you have the advance funding in the one instance. Is that correct?

Mr. MAHON. The amendment specifically contemplates one-year advance funding, and the Congress itself would decide this year, next year, and every year how much the funding would be. Congress ought to be willing to trust itself to deal appropriately with this vitally important and expanding issue. We cannot of course say today with any certainty what the situation will be during the forthcoming 3-year period and thereafter. But the advance funding contemplated by the amendment is designed to give appropriate certainty and flexibility to the program.

I prefer to trust the Congress each year, not leave it entirely up to the executive branch for the 3 years.

Mr. GERALD R. FORD. But in the first year there would be double funding under the gentleman's proposal.

Mr. MAHON. Double funding is what the amendment contemplates.

Mr. ROE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am honored to follow the most distinguished gentleman from Texas, the chairman of the Appropriations Committee, Mr. GEORGE MAHON, in his eloquent presentation made in this House, but let me present something for the attention of the Members.

The moment of truth is at hand. The heart of the bill is involved: Whether or not this Congress is going to make a full commitment to the people of the United States or whether it is not. That is the point involved. We talk about priorities. Yes, there is ending the Vietnam war, as priority No. 1 but the second priority is the very health and safety of the people of the United States. We cannot live more than 3 minutes without air and we cannot live more than 4 days without water. It is not a question of what priority comes first. The first priority is the health and safety of the people of this country. That is what this commitment is all about.

Whether we make that commitment now or in the future is the question before this House. We know we are systematically poisoning ourselves. We know the situation we are faced with right now is literally involved in the survival of our society. The determination we make, the order of financial au-

thorization voted here today means the success or failure of this particular bill.

Previous water pollution legislation—every bit of it—failed, and it failed because of the fact that this Government, our Federal Government, built in acres and acres of redtape. The States cannot function under it and the municipalities cannot function under it. They are burdened with bureaucracy, bureaucracy, bureauracy. The people of America are tired of being had. They want the truth. They want the truth, and they want what they want as the citizens of this country.

The legislation before this House has been debated before this House and before the Senate.

Some people say the States are not participating and the States did not do anything and the States are to blame. This is not the truth. The State of New York voted a $1 billion bond issue, and the State of New Jersey voted a half billion dollar issue, and a half dozen other States have also acted.

The fact of the matter, as I see it, which must be said, is that the Federal Government has not appropriated the money to do the job and they are using the fiscal resources of every single State that is participating in the development of this vital water pollution control program. That is the truth.

When we talk about precontract authority, we are talking basically about paying the States back on the money they are providing to build the program, the Federal water pollution control program.

So to anybody who says the States are not doing their job, I have to reply that it is not true. The States are tired of taking the blame and being had and being the "black hats" in this issue.

I know the time is short and I know it appears we are saying we neel more money. But we give it with one hand and take it away with the other. We put our hand in one pocket and say, hooray, look at the testimony today, the headlines in the papers, see what a great job we did in the Congress of the United States—except for one thing. We did not provide the money to do the job. The States are bilked again. They cannot go any further.

Who is the servant and who is the master? Were we not elected from the States to serve the States of this country? Were we not elected to be the Representatives in the Congress of the United States of the people of this country? We are not here to fight the executive branch and the President of the United States. We are here to serve the people.

The priority No. 1 in this country of ours is the health and safety of the people of this country. They should not be manipulated politically as a counterpressure on the Executive. Every day we fritter away and waste our time, costs on construction will be going up. They go up year after year after year. Then who pays through the nose? It is the American taxpayer. Congress cannot fritter away time on this issue while the people of our country drown in their own swill.

Woe to any Member of this Congress who votes for this amendment, because if he does he will be voting against the health and safety of every man, woman, and child in his district and in this country, and voting against priority No. 1, against the health and environment and safety for our people. I say the precontract provision must be retained and this amendment should be soundly defeated.

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

Mr. ROE. I yield to the gentleman from New York.

Mr. GROVER. I want to compliment the gentleman on that statement. I do believe this amendment will indeed "gut" the spirit of the bill.

I do not believe that all the Members of the House realize the gentleman who just presented this statement is one of the most distinguished and knowledgeable persons in this field, as a former commissioner of conservation and economic development in New Jersey. I want to compliment him again on a very fine statement.

Mr. ROE. I thank the gentleman.

Mr. JONAS. I move to strike the last two words.

Mr. Chairman and members of the committee, I take this time to express my support of the amendment of the chairman of the Committee on Appropriations, the distinguished gentleman from Texas. I associate myself with the remarks he made in support of his amendment.

I am sure the gentleman from Texas is not parochial in his attitude, nor is he oversolicitous of the prerogatives of the Committee on Appropriations; but he is seeking to preserve the prerogatives of the House of Representatives and of the Congress. He just does not believe it would be wise for the Congress to vote $18 billion in a blank check to the executive branch of the Government. He feels that Congress should retain some oversight over this program, to see how it functions and to see what progress is being made.

There is not a word in the amendment that would reduce the total commitment.

The gentleman from New Jersey made a very eloquent speech about priorities. There was not one syllable uttered by the gentleman from Texas in support of his amendment, and there is not one line in the amendment that would take anything whatsoever off the total commitment to proceed vigorously with this program.

The gentleman from Texas believes, and I concur in that belief, that the Congress should not abdicate all of its responsibilities and all of its prerogatives to the executive branch of the Government.

We hear the charge made frequently that the Congress is surrendering prerogatives to the executive branch of the Government. This is an effort to retain some jurisdiction in the Congress of the United States to supervise and oversee the development of this program.

The language of the amendment itself is very clear. I should like to read the final part of it:

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.

I believe the position of the gentleman from Texas is sound. I concur in his argument in support of his amendment. I believe it ought to appeal to the good judgment of the House, and I believe it ought to be adopted.

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

Mr. JONAS. I am glad to yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman from North Carolina for yielding.

Anyone who has studied the evolution of the parliamentary process over 700 years knows that the power of the parliaments has arisen out of the control of the purse. If we give up this power of the purse—control authority feature of this bill is one more significant part of the erosion of that power—we might as well give up the idea that the American Congress is an equal and coordinate branch of the Government.

I support the amendment offered by the gentleman from Texas.

Mr. JONAS. The gentleman from Maryland is absolutely correct, and I was glad to yield to him to make a profound contribution in support of the Mahon amendment. I fully concur in the views he so eloquently expressed.

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

Mr. JONAS. I am glad to yield to the gentleman from Michigan.

Mr. CEDERBERG. I want to associate myself with the remarks of the gentleman from North Carolina and also those of the gentleman from Texas, and I share the sentiments expressed by the gentleman from Maryland.

We have been talking about many, many times—about how the Congress is abdicating its responsibility to the Executive—here we are going to have to make a decision as to whether or not we are going to take that step. In my opinion we should not do that. We have gone too far already.

Mr. JONAS. Mr. Chairman, in conclusion let me emphasize the language of the last sentence I read:

Appropriations made pursuant to this section are authorized to be made available without fiscal year limitation.

This means there is no limitation on the availability of the funds appropriated. They continue to be available until spent.

The Mahon amendment deserves support from all who believe in the doctrine of separation of powers and I urge the committee to adopt it.

Mr. JONES of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this is a rather useless discussion. The reason I think so is based on the letter of the gentleman from Texas. We have a 3-year program for the expenditure of $18 billion. The gentleman from Texas in his letter says that he does not object to those appropriations; that he is reconciled to the fact that we will pay $18 billion in the next 3 years. Consequently, I ask what are we talking about? If he is agreeable to these appropriations, why cannot the States in an orderly fashion then proceed, with his agreement, to schedule the works and make the plans and make the useful and necessary programs available?

Let me remind you of something. Since 1916 we have had contractual authorizations under the Federal-Aid Highway Act. There has not been a single dissent from the Committee on Appropriations to the fact that that was a contractual obligation. It was necessary in order that the States could make the necessary arrangements or that the contracts could be made for this construction, which was gigantic in nature.

We recognize this again in 1956 with the Federal Interstate highway program. This was a tremendous undertaking, to the extent of spending many, many billions of dollars on the part of the Federal Government. We invited the States to come in and make the appropriate plans as long ago as 1946.

Now, when they come to these conclusions, why are we here now talking about not giving the States the contractual obligations that they need in order to pursue a building program amounting to $18 billion?

A decade ago we made an estimate of the flood control and river and harbor projects, and we found out that they were 10 years and 2 months behind the authorization in the first appropriation that they received.

I do not understand why we need to have these consequential delays in programing and execution. The Committee on Public Works came back here in cooperation with the Committee on Appropriations and modified the basin authorizations in order to cut down the time, the delay, and the delinquencies on the approved projects.

Now do we want to go back to that same situation? Do we want to tell the people of this country we have established this high priority for these great needs and for the desirability of the people to have a high degree of water quality and then have them come back here every year in large groups as they do on flood control and river and harbor projects to attest to the validity of their claims?

Why of course not.

Here, Mr. Chairman, we are providing the same proposition that the gentleman from Texas (Mr. MAHON) suggests, that we are going to appropriate the money. We are authorizing it and providing contract authority which would accomplish the job.

Mr. Chairman, to adopt such an amendment is not a question of trespassing upon the constitutionality and the sovereignty of the people on the Appropriations Committee.

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

(By unanimous consent, Mr. JONES of Alabama was allowed to proceed for 1 additional minute.)

Mr. JONES of Alabama. Mr. Chairman, what we are trying to do in our bill is give assurances to the American people that we are dedicated to the proposition of action in preserving and enhancing the waters of our Nation.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

(By unanimous consent, Mr. WHITTEN asked and was given permission to proceed for 5 additional minutes.)

Mr. WHITTEN. Mr. Chairman, I happen to be the chairman of the Appropriations Subcommittee on Agriculture, Environmental and Consumer Protection which will handle the appropriations for this program.

Some of you will recall that when this jurisdiction was assigned to our subcommittee there were quite a number of eyebrows raised about the experience and objectivity of our subcommittee, wrongfully I feel. Luckily for me, in 1966 I had written a book, "That We May Live" a half chapter—page 176–81—of which is devoted to the absolute necessity that we do something to restore and protect the environment. In that book I pointed out many of the factors with which we have to deal to get the job done; the help, the cooperation we would need; the cost we would incur; the decisions we would have to make separating the undesirable from the downright dangerous; pointing out that we had to maintain our day-to-day business as we proceeded.

For instance, we could not ask the people of New York City to move out of town for a month while we clean up the Hudson River. We could not ask the factories to close down and thus throw many people out of work, for hungry people will not care about the environment. At the conclusion of my remarks I shall read to you the statements I made in that book, published in 1966.

Mr. Chairman, there is no finer group of Americans or a better informed group in this Congress than the members of the Committee on Public Works which brings this bill here today. There is not a harder working group that I know of than the chairman, the gentleman from Minnesota (Mr. BLATNIK), the gentleman from Alabama (Mr. JONES), the gentleman from Texas (Mr. WRIGHT), and all the rest. However in this bill heeding public clamor we are trying to do overnight that which cannot be done that quickly without proper plans but with purpose we commit billions of dollars—as though that alone will get the job done. We provide penalties as though we could force people to stay in business. The committee would lead us to believe you can write into any law provisions for self-execution.

May I say to the surprise of some, but not to those who know me, when our subcommittee held hearings on the request of the EPA and the various agencies for funds recommended by the Office of Budget and Management, we recommended those funds to the Congress after trying to tie them down to get maximum results.

So far as grants are concerned, our committee recommended, and Congress approved funds "to be made available when authorized." We did our part to ward carrying out all our commitments.

This $2 billion, to be available as soon as the appropriate legislative committee got the authorization through Congress shows our attitude, and our effective efforts.

As chairman of the subcommittee, I have met with Mr. Ruckelshaus, Mr. Train, and the others and we are working together. I sincerely believe we are making mistakes here in leaving too much latitude to the Administrator. Because the need is so urgent, the desire so strong and the press and news media so powerful in forming public opinion, we are trying to legislate to do by force that which cannot be done that way at least not successfully.

The Congress cannot force people to stay in busines, to stay on the farm, to stay away from the bathroom or to keep paying employees until the employer goes broke, if the purpose be to eliminate undesirable pollution.

If you were to bring together all the authority, all the responsibility you have give to William Ruckelshaus you would be amazed: He has the power of life and death over our economy.

As I told Mr. Ruckelshaus when he was before my subcommittee:

> Mr. Ruckelshaus, I feel sorry for you. Congress has given you far more power than a good man would want, or a bad man should have, or that any 10 men could handle.

I understand he has come to realize that fact. You all know the basic fact that you cannot change the sum total of matter. You can change its form. You can move from water to the land and bury it, you may move it from land, put it in the water, or in the air. You break it into its different parts but you cannot change the sum total of it.

Incidentally—and this is beside the the point—but my friend, the gentleman from New Jersey, which is in the vicinity of New York City, will remember that we had the representative from the State of New York who had the overall job of pollution control for New York State, come before our committee this past year.

I asked him:

> What can we as the Congress do, or what can our committee do to help you folks in New York?

He answered:

> Well, if you can find somebody to pick up the garbage it would do more good than anything I can think of.

I tell you we support the good intentions of the Committee on Public Works. We should support their overall program but we can proceed only at a practical rate to get the most done to restore and protect the environment.

To this end we need the most complete annual reviews by our committee.

We need to know that contracts are necessary; that the contractors are qualified and the plans sound.

I tell you—and I say this to my friend, the gentleman from Minnesota—there are not 10 men who together could carry out this act and discharge responsibly the authority that is given under it to the Administrator of the Environmental Protection Agency.

But in addition to that we have the other environmental acts which have given additional duties, powers, and responsibilities to one man whom most of you don't know. The EPA is still trying to get organized so that one branch knows what the other is doing and we keep adding all this power and all this money without thought or at least without proper restriction for its use.

The fact is that we cannot move as fast as the press, the extremists and some organizations would like us to; we can only move as far as we can on a sound basis. The bill without the Mahon amendment, lessens our opportunity to review, to recommend or to require sound progress in an orderly manner.

It is not humanly possible to move as fast as we all want to or, as I say , as the public wants us to do. We need to do the day-by-day hard work, taking detailed testimony, to find out just how best we can possibly help Mr. Ruckelshaus to meet the terrific responsibility that is his. I repeat, our subcommittee and the full committee for the current year appropriated $2 billion in advance of authorization, so that there would be no delay in meeting commitments to the cities. And may I say that notwithstanding that fact that $350 million have never been authorized yet.

So I am just saying let us not surrender the obligation that we have to conduct annual hearings so that we can go over their problems with the different departmental witnesses so that we can work out together how we can do the job most effectively. We could change this law and make it 10 times as strong, but you would still have the job of administering it. You would still have to find out where qualified engineers and other experts are. You would still have to find out who is doing what, and where, and you would still have to find out what laboratories we have, what they are doing and can do and work out plans for carrying out the act. All of those things involve long, hard, and grueling work, but your committee and, indeed, the subcommittees, are willing to do this. The Environmental Protection Agency does not have this information now.

Whatever we do we want to do our best. But I say let us reserve full commitment until we can find out; until Mr. Ruckelshaus can find out. Let us retain the annual review so necessary in every other area on how much can be done in the coming 2 years.

Mr. CASEY of Texas. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. CASEY of Texas. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Mississippi (Mr. WHITTEN).

I would also like to ask the gentleman if it is not true that if we do not adopt this amendment we will have no means in the future to control this program; we will not have the oversight or the ability to hold hearings after the program is started, once we pass this bill without this amendment, and in fact we are just turning it all over to the executive branch.

Mr. WHITTEN. The gentleman makes a sound point. With all due deference to the Administrator, neither he nor any 10 people could set up a sound organization or fully understand all the responsibilities we have given to him. The Administrator needs us to review with his proposed program annually as much as Congress needs to do so. For this Congress to push all this power on him and wash our hands of it is not to get the job done but can waste billions of dollars and get less than half the relief from water pollution we need.

Mr. CASEY of Texas. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. CASEY of Texas. I am sure most Members agree with me. I want Congress to say each year where the emphasis should be put. This we can do with an annual review, but not otherwise. I want us to have that opportunity.

Mr. WHITTEN. I thank my friend and colleague from Texas. He is right.

Let us wake up to the fact that we could waste half of the money provided in this bill, money we do not have, and lose half the benefits we so badly need.

I think the gentleman's amendment is reasonable in that funds will not lapse, and if we appropriate for a full year in advance, which means 2 years, we thereby provide for forward planning.

Let us keep all the supervision that is possible. Let us keep all the review that is possible in order that we may reap the maximum results from our efforts and really get ahead in eliminating pollution.

I hope that you will vote for this amendment. I think the records show that our committee will use its position to go over the record each year with those who are charged with the responsibility to make this program work effectively.

It is easy to pass this law and say that it does everything in the world. It will not unless we work to make it work.

Mr. Chairman, I repeat my words written in 1966 in my book "That We May Live":

EXCERPT FROM "THAT WE MAY LIVE," WRITTEN BY JAMIE L. WHITTEN, MEMBER OF CONGRESS, PUBLISHED 1966

This is not to say that pollution of air and water does not exist, for, of course, it does. Pollution is part and parcel of man's unplanned and unthinking change of his environment; and particularly is it a part of the subject under discussion in *Silent Spring* and here. Public opinion here seems to be on the move toward action. This public temper can be good if held in balance. It can do more harm than good if not kept on an even keel.

Pollution comes from many sources and becomes greater as our population increases; unless we take corrective action, it will become worse as we become more and more industrial. We do have pollution of the air and water and apparently are going to do something about it. These facts lead me to point to some of the factors with which we must deal as we attempt to meet this problem.

The fact that air is essential to life is as old as knowledge. The fact that polluted air can cause discomfort is probably just as old. As soon as primitive man moved his fire into his cave, he certainly became aware of air pollution in the form of smoke. He also probably soon learned to reduce the smoke in his cave by careful placement and stoking. He then decided to accept some smoke in return for the warmth and convenience of the fire nearby.

We have been weighing pollution against convenience ever since. Now we are beginning to realize that more than convenience is involved and that the air around us is not a limitless sea into which we can continue to pour waste without serious consequences.

Our health and our well-being are threatened.

Thus did the *Agriculture Yearbook of 1963, A Plea To Live*, describe one of the serious problems of our day, air pollution.

The increasing pollution of our water unquestionably is a threat to fish and health. This became a matter of public concern in the United States in the late nineteenth century, when virulent typhoid epidemics appeared in various cities. The then new science of bacteriology identified many of these outbreaks as the result of contaminated water supplies. The public outcry against pollution was great. Public health officers attempted to meet this challenge in two principal ways.

The first was to select certain streams for waste disposal and to reserve other, and protected, streams for municipal supplies. This is the method followed by communities fortunate enough to own or control adequate watersheds. However, with our increasing population, it is virtually impossible today for one city to live separately and apart from another. While one city may protect its water supply, it will be adversely affected if those in adjoining areas do not do likewise.

The other method was the filtration and disinfection of water. This has permitted many cities to have reasonably safe and palatable water, even from such heavily polluated sources as the Missouri, the Mississippi, and the Ohio rivers.

While these systems have worked for many years we now face a period when we must give full attention to water pollution, or else pay substantial penalties in the future. We have some 30,000 sewerage systems and industrial complexes pouring waste into our streams. Included are 10,00 municipal sewerage systems, serving more than 100 million people, which dump sewage into the waterways. Twenty-five per cent of this load is without any treatment whatsoever.

Pollution degrades the physical, chemical, biological, and esthetic qualities of the water. The degree depends upon the kind and amount of pollution in relation to the extent and nature of reuse. Pollution can be just as effective as a drought, or excessive withdrawals, in reducing or eliminating water resources.

Over 2600 new or enlarged sewage treatment works are needed to serve 27.8 million persons living in communities presently discharging untreated or inadequately treated sewage. Another 2598 new sewage collection systems and treatment works are required to serve a population of 5 million living in urban areas where individual disposal systems have failed to function properly.

By the year 2000, thirty-four years from now, we will be around 330 million Americans as against today's 194 million. We will have nearly doubled the quantity of sewage go-

ing into our streams and protecting the public health will really be a problem.

Today's 194 million Americans are abusing our resources so far as our use and handling of water is concerned. Our lakes and rivers have become catch basins for the residues of our factories, automobiles, household and agricultural chemicals, for human wastes from thousands of villages, towns, and cities. How well we clear up this situation and learn to handle it without restricting man's means of providing our high standard of living may well determine the future of our nation.

As we approach this problem we must keep in mind that the power to control water quality or quantity is not only the power to make or break business but is a power over the life of the nation itself.

Since water is an absolute essential to health and to all man's activities, any group we set up to control water on any basis, by restrictions for protection of its quality or quantity and use, must have not only the cooperation and co-ordination of all departments and agencies, but all interests must be represented. The Department of Agriculture and the Department of Health, Education and Welfare, whose interests are tied together, should have a place in any such group, as should the Department of Commerce; but these are not enough. The states and municipalities must be represented so that the varied interests of all our citizens may be recognized and provided for, including riparian rights, established use, and the determination of priority to use. All this need carries with it the problem of built-in bureaucracy, of too many cooks, yet there is seldom an easy answer to a difficult problem.

If we closed all our manufacturing plants, that would greatly improve the purity of the water in our streams; if we stopped driving automobiles, just think what that would do to improve the atmosphere—and a single departmental head could have done that under several bills; if we could return to the 800,000 population level of this country at the time it was discovered by Columbus, nature would be able to largely eliminate the pollution problem. But with 194 million people we could never live in the simplified way of that day. Neither can we ask nor could we force the residents of New York City to quit eating, quit living, and quit breathing while we clean up the Hudson. The same is true for Washington and the Potomac, as well as the people of thousands of towns and villages. The power to set standards is the power to control, yet some Members of Congress have urged that such power be granted to a single government department.

Agriculture's claims and responsibilities for the use of water are second to none, for agriculture provides our food, clothing, and shelter, the basic necessities for life. In addition, agriculture has a great responsibility in the use of water, for land is the great gathering place and reservoir for storage of water. Just a few years from now we will need three times the water we use today, all of which points up the need to protect and manage the quality and quantity of our water supply.

In our work with the Appropriations Subcommittee for Agriculture, we find the close cooperation and coordination of efforts by both the Corps of Engineers and the Soil Conservation Service are necessary in watershed and flood control programs, both of which are highly essential to water protection. We would not expect a skilled surgeon to use only one instrument for all operations, nor a mechanic to fix our car with a sledge hammer. Thus it is with water pollution; we must use the tools required for the job; and most importantly, we must keep the factory running in the process and not turn the surgeon's scapel over to the mechanic or vice versa.

To do the cleaning up job on pollution, we must call on industry, on the federal, state, and city governments, and on individuals. We need financing and regulations, in the meantime, we must maintain a sense of balance, so that we do not tear up more than we correct. We are not merely limited to the practical but to the possible.

I believe all of you agree on that. My presentation is here today. My efforts shall be along that line.

Mr. COLLINS of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, never during my public life have I seen a more dedicated and well-directed committee than the House Committee on Public Works.

We have throughout our deliberations on this bill taken into account as many problems as were presented and resolved them, in my opinion, in a most satisfactory arrangement.

I take pride in our accomplishments for the Great Lakes, the interceptor sewer systems, and all the other necessary devices to deal with water quality.

Our problems in Chicago and Illinois, through neglect and inattention as in other parts of the country, have come to a pitiful state of affairs. Unless we have this contractual authority, this bill with its magnificent forward thrust will not be very meaningful.

If the contractual authority is removed, as the amendment proposes, we would raise great doubts as to the sincerity of the Congress to meet our obligations for the improvement of our Nation's waters.

We must reject the amendment.

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

Mr. COLLINS of Illinois. I yield to the gentleman.

Mr. RAILSBACK. I want to commend my colleague for his remarks and I join with him in his remarks. As the State of Illinois has, I think, been extremely progressive in trying to do something about the serious problems that confront communities, not only the Chicago area but also literally hundreds and hundreds of small towns that have been attempting to meet their responsibilities. The States come up with their fair share, but the Federal Government, which has mandated the programs by law, has not done its fair share. It is about time that we did something so that cities could rely on the Federal Government, which did mandate them to come up with these clean-water programs. I agree 100 percent. It seems to me the amendment would be bad.

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

Mr. COLLINS of Illinois. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I rise in reluctant opposition to the amendment, but I rise also to drive a deal or a bargain. It would take a tremendous amount of appeal for me to depart from my colleagues on this great Public Works Committee and to support the amendment offered by the eminent chairman of the full Appropriations Committee. But I would do so if I thought for 1 minute that what is good in this Chamber for the goose will also be good for the gander.

Last fall a military appropriation of $21.5 billion was proposed. Some of us wanted to know where $2.5 billion of that request was to be spent. We never were able to find out. Later last fall we were again asked to appropriate moneys in a "continuing resolution" bill, a relatively new procedure to me, and at which time we discovered that we were unable to separate the hundreds of millions of dollars requested for the Pentagon from money requested for the George Washington Bicentennial Commission, of all things, and a dozen other wholly unrelated expenditures proposed at the time.

If I thought the principle of making multiannual appropriations for the Pentagon was responsible for the waste that we have there in the last 10 years, and that it was going to be repeated in this water pollution program, then I would be constrained to follow the chairman of the full committee.

If we could be given some assurance that what would be good in relation to this program would apply to every military dollar that we spend and that we will have the right to look into it instead of being told, as my colleague from Ohio (Mr. SEIBERLING) was told last year that you cannot do that, that it had to be voted up or down, I would be constrained to vote for it.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Texas is recognized.

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

Mr. WRIGHT. I yield to the chairman.

Mr. BLATNIK. Following the speech by the gentleman from Texas and the very able leader of the committee, can we get an agreement to have a time limitation of 10 minutes on the amendment following the conclusion of his speech.

Mr. SIKES. I object.

Mr. BLATNIK. I should like to attempt to come to some understanding. I regret even suggesting a time limitation, but we have less than 1 hour and we have how many more amendments on the table?

The CHAIRMAN. Fourteen.

Mr. BLATNIK. That is correct. I would like some other Members to be heard on their amendments in the time available, which has been limited. That is why, with great reluctance, I made the proposal.

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

Mr. WRIGHT. I yield to the gentleman.

Mr. GROSS. Would it be possible for a Member who is not a member of the Public Works Committee or the Appropriations Committee to get 1 minute on this subject?

Mr. BLATNIK. That is what I am trying to provide. I was trying to get some agreement.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. WRIGHT. Mr. Chairman, some of the amendments offered yesterday were predicated upon the argument that

the bill is too weak, that it does not do enough.

Now, interestingly, we have an amendment deriving from the premise that the bill is too strong, that it goes too far and does too much.

My wonderful friend and colleague (Mr. MAHON) is concerned—and understandably so—with protecting the jurisdiction of the Appropriations Committee of which he is the very able chairman.

He fears that the obligational authority contained in the bill will commit the Congress in advance to appropriate moneys sufficient to complete the construction of multiyear projects once they are approved and undertaken by the cities and towns of this country.

And that is in truth what the bill sets out to do. Some comprehensive pollution abatement projects, particularly area-wide projects and those in our larger metropolitan sectors, may require as long as 3 or even 4 years to complete.

Your committee takes the position that we have a responsibility in good faith to give solid assurance to the municipalities of this country that we shall not lure them out onto a limb only to saw it off behind them for want of available funds.

The bill requires that by 1976 every publicly owned plant in the Nation must provide at least secondary treatment, and that by 1981 it must employ as a minimum "the best practicable technology."

The bill promises that the Federal Government will contribute its pro rata share of the cost.

But what good is that requirement, and what good is that promise, if we do not absolutely intend to deliver upon our part of the bargain?

Why should advance obligational authority be necessary? The events of the last few years suggest the answer.

The authorization for fiscal 1969 was $700 million, but the appropriation was only $214 million—less than one-third—and the amount actually spent was only $134 million.

For the 4 years, 1968 through 1971, the shortfall of appropriations below the amounts held out in the authorization bill totaled approximately $1.2 billion. And because of periodic administrative freezes on construction grants, the shortfall in the amounts actually granted came to approximately $1.6 billion.

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

Mr. WRIGHT. Mr. Chairman, I cannot yield to the gentleman until I have finished my statement.

Mr. RHODES. Will the gentleman yield? The gentleman is making a misstatement.

Mr. WRIGHT. I cannot yield until I have finished my statement. But I am certain of the facts that I am quoting and, if I had sufficient time, I would be glad to enter into a colloquy with the gentleman from Arizona.

Mr. Chairman, I ask unanimous consent that I may have 2 additional minutes, so that when I conclude, I may yield to this gentleman.

Mr. GROSS. Mr. Chairman, I object to that.

Mr. WRIGHT. Then I am sorry, Mr. Chairman, I cannot yield. I have 5 minutes in which to say all this, and I am quoting the facts.

Mr. Chairman, many municipalities, faced with truly critical water pollution problems and intent on solving those problems in a timely fashion notwithstanding the failure of the Federal Government to live up to its part of the bargain, went ahead on their own and built the plants.

Obviously it would not be our intention to penalize those communities for having demonstrated the initiative and the determination to move ahead. And so this bill authorizes more than $2 billion to reimburse them for that portion of the authorized Federal share that was withheld from them.

But other communities waited, because they were unsure of the strength of the congressional commitment. And because they waited, the cost both to them and to the Federal Government is considerably greater today than it would have been had they been encouraged to proceed 4 years ago.

So this is the acid test. We decide right now just how serious we are about cleaning up the streams of this country. Do we mean it, or do we not? Are we certain, or are we uncertain?

I for one am certain. I believe that most of the Members are. I am ready to make that commitment. I think the Public Works Committee is certain, and the majority of the House is certain. We can prove it by voting down this amendment and saying to the communities of this Nation that once they put their hands to the plow, they need not turn back.

PREFERENTIAL MOTION OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. FINDLEY moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Illinois is recognized for 5 minutes in support of the preferential motion.

Mr. FINDLEY. I thank the chairman, and I thank the gentleman from Iowa for coming through with proper language forthwith.

I rise in support of the amendment offered by the gentleman from Texas. I believe it is an important step for the House to take in order to retain some semblance of fiscal responsibility.

I know it is perhaps considered in bad taste to talk about budget control and deficits at a time like this, when we are considering a bill that does have such attractive and universally appealing label as clean water, getting rid of pollution in water, but it was not too long ago that the President sent forth this budget that showed a deficit of $25 billion.

During the course of consideration of this bill I looked up the item in the President's budget that had to do with clean water. The President asked for just a bit more than $2 billion in respect to water quality control for fiscal year 1973.

As I understand the first year cost of this bill, it will be in the neighborhood of $7 billion to $8 billion, at least $5 billion for the grants and about $2 billion or more for research and development.

I hope the amendment offered by the gentleman from Texas does prevail. I believe it is an important step forward. But it would certainly be a serious mistake for anyone to conclude that the acceptance of that amendment will really bring us to the point of fiscal responsibility in dealing with the Federal budget.

The gentleman from Texas heads the important Appropriations Committee. We heard from the gentleman from Mississippi (Mr. WHITTEN) the chairman of the subcommittee which would ordinarily deal with appropriation matters like clean water.

If we accept the amendment of the gentleman from Texas and report out a bill with about a $8 billion first year price tag, that request will go to the gentleman's subcommittee of the Appropriations Committee. How in the world will he adjust that figure to fit in to even the President's budget, which is already $15 billion out of whack?

I would be glad to hear from the chairman of the Appropriations Committee or from the chairman of the subcommittee of the Appropriations Committee as to how they would deal with the dilemma they will face when and if this amendment is adopted and when and if the appropriations request does come before the Appropriations Committee.

You will face a tough problem. How are you going to meet it? What are we going to do to bring this runaway budget under control?

As the gentlemen will recall, I have been urging that the House change its procedures to require that we first adopt a budget for the Federal Government before we can appropriate any money.

I believe it is a mistake for us to assume that the price tags on authorization bills have no importance whatever, that we can go ahead and authorize virtually without limit and assume that the Appropriations Committee will take care of the problem. We seem glad to shift responsibility to the Appropriation Committee. But is that really any solution at all?

Can the gentleman from Mississippi (Mr. WHITTEN) shed any light on how he will resolve the dilemma that soon may come before that subcommittee? Are we not really feeding the lion of inflation by passing out a bill like this that has an $8 billion price tax for the first year, four times the President's request?

I am glad to yield to the gentleman from Mississippi.

Mr. WHITTEN. May I say to my colleague, I hope I may shed some light, but so far as solving the dilemma is concerned I do not know how I can do that here.

I am certain the Congress has passed so much legislation requiring so many things, and granting so much power that if we give to the Administrator of the Environmental Agency billions of dollars to enter into contracts, companies will be organized to accept the money, many times without firm plans and a new organization. This may be through the cities and it may be otherwise.

Of course, our subcommittee will do its best through our hearings, through

our reports and through our bill to see that projects are sound, that they are planned and that Congress gets a look before hand.

If the Mahon amendment is not adopted our job will be just that much harder, for Congress by denying the Mahon amendment will limit our ability, to get full value for a dollar spent.

Mr. MICHEL. Mr. Chairman, I rise in opposition to the preferential motion.

The CHAIRMAN. The gentleman from Illinois is recognized for 5 minutes.

Mr. MICHEL. Mr. Chairman and members of the committee, I am glad to have the gentleman who preceded me in the well (Mr. FINDLEY) raise the very important questions about how we are going to pay for this bill. Everybody has been talking about bestowing all of these goodies, these benefits, upon the American people, but I have heard very little about how much it is all going to cost the taxpayer.

The gentleman from New Jersey talked about being truthful. We also want to be truthful with the people, and we think we can be just that by making these amounts appropriated more visible each year.

As a matter of fact, if his is such a popular issue, just think of the points that you can make back home by going to the well every year and appropriating bigger and bigger amounts of money to get this job done.

But, Mr. Chairman, we are only talking about water here today. Just think what additional sums will be required to clean up the air and solid waste disposal?

We have been talking today and in the previous 2 days about a multi-multi-billion-dollar bill. There is no question about the popularity of the cause, but it is expensive.

I said in our Republican conference the other morning and will repeat it here that to be really fiscally responsible we should be down here saying truthfully to the people, "We have to have a Federal tax increase." I say that because we are talking about $18 billion here in this bill over and above, as the gentleman said, a $25 billion deficit this year. Where are we going to get the money for this? Well quite obviously it has to first come out of the taxpayer's hide.

Mr. HARSHA. Will the gentleman yield?

Mr. MICHEL. In a minute I will.

With no more congressional control than what is inherent in contract authority, I do fear the consequences. That is why I support the chairman's amendment. We should retain our power to fund by appropriating for this program in an orderly fashion. As the chairman indicated, his amendment provides for forward funding of 1 year. We have been doing this in the field of education. We can do that also in this bill. The chairman's amendment also says "no year funds," which means that once appropriated they do not lapse. So you will not be short-circuiting your constituents by supporting this amendment. By taking the route advocated by our chairman, these expenditures will be made much more visible.

As a matter of fact, if we have to have a tax increase, would it not be better to have a vehicle, a popular vehicle like this as a means for getting the tax increase to fund it? Somebody has to pay for it.

The gentleman from Illinois mentioned our environmental bond referendum passed in Illinois of $1 billion. We are paying for it by raising our own taxes. I do not think we should go back and reimburse my State because we recognized the problem earlier than others, because the job is so big that it will take billions and billions upon additional billions of dollars, to complete the job. Before long expenditures in this clean-up effort will rival all of the health activities and conceivably the Department of Defense budget itself.

The chairman of the full committee (Mr. JONES) made mention of the contract authority in the highway program. Bear in mind that in this case there is a trust fund. People are being taxed for it with a cent a gallon on gas and it is going into a trust fund and then is disbursed by contract authority. We have to face up to the fact that we are talking about untold billions of dollars here and there ought to be some oversight of it.

How many times have we said that the legislative committees ought to recognize their responsibility and engage more in oversight as we do on a yearly basis in our Committee on Appropriations.

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

Mr. MICHEL. Yes, I yield to the chairman of the committee.

Mr. BLATNIK. The gentleman is right in his statement to the effect that there should be oversight, and I pledge that there will be such oversight.

First of all, the Committee on Appropriations justly should have jurisdiction over the program of appropriations, and it is with reluctance that I get into this question of jurisdiction. I would point out that the bill authorizes $24 billion. Over $8 billion would still be subject to the annual appropriations procedure.

However, the EPA is working with the States and municipalities in planning waste treatment works. We know that in the next 3 years in order for the States and municipalities to assemble the necessary data and to submit specific projects they will have to have assurance that the Federal grant money will be available. But to match that provided by the local governments each year, EPA will have to come before the Committee on Appropriations and make a thorough accounting with reference to their use of this grant money, and to submit a progress report. In addition to this, we are going to have our own House Investigating Committee involved in reviewing the manner in which the program is operating and whether funds are being spent effectively.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Illinois (Mr. FINDLEY).

The preferential motion was rejected.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one must either have an overabundant supply of intestinal fortitude or be foolhardy to get up here and oppose the distinguished Appropriations Committee, but because I feel so strongly about this issue, I am willing to take that risk.

Now, certainly, there is a lot of money involved. We heard this from the two gentlemen from Illinois who referred to the deficit. I must point out that under this amendment the gentleman from Texas would now appropriate the $5 billion for 1973 and would also advance for 1974 another appropriation of $6 billion. In other words, he would appropriate $11 billion, if I understand his amendment correctly. Add that to the budget deficit and then you can see that this would enormously expand our budgetary problems.

However, under contract authority, all that would be obligated for 1973 is $20 million and for fiscal 1974, $250 million.

Thus, if you are worried about the effect of this bill on the deficit, the much better route is contract authority. This is because in these years when the deficit is so great we would have very small obligations, because the construction program would be stretched out over a number of years.

Because of the magnitude of this program, it is essential that the States, the interstate agencies and the cities have both the ability for and a basis for long-range planning, construction scheduling and financing waste treatment plants, including the sale of bonds that they have to sometimes negotiate.

Now, this can only be accomplished if there is assured availability of Federal grant funds for future years. This necessary assurance is not provided by merely advancing appropriations for 1 year. That will not meet the needed assurance of long-term planning. This is a continuing program.

We must at this time, right now, set up the mechanism for future year financing. Congress is not abdicating its authority. It has control over the program, because this bill provides that we must approve a needs estimate on the odd year, and every 2 years thereafter.

Next year we are coming back to the Congress and asking the Congress to approve a needs report, and at that time we can review it. We will have some control over it. Then we have to come back under this legislation every 2 years thereafter. So we will have some control and some jurisdiction over it as the program progresses.

In addition to that, we are coming back here in 1974 after the National Academies of Science and Engineering have completed their studies, and we are going to have to take whatever action is necessary at that time to further implement the program. We will again have an opportunity to review it.

The construction of a waste treatment plant consists of planning; economic and engineering feasibility studies; preliminary engineering for the preparation of plans, specifications, and estimates; the acquisition of land where appropriate; and the actual physical construction of the building itself. Under this legislation each one of these steps is ordinarily a

separate project, a separate contract, and it is funded as completed or as work progresses. This is not the case under existing law where 25 percent of the total project must be completed before any payment can be made.

At the time any one of these preliminary steps is taken, such as the plans, specifications, and estimates, there is no assurance that appropriated funds would be available for subsequent projects for land acquisition and the actual building of this plant for which the plans, specifications, and estimates are being prepared. This, therefore, makes the orderly continuous planning and scheduling of work impossible.

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

Mr. HARSHA. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 2 additional minutes.

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

Mr. GROSS. Mr. Chairman, reserving the right to object, does it mean that everybody else is going to be locked out from being allowed to speak on this bill by virtue of these continual extensions of time?

Mr. BLATNIK. Mr. Chairman, if the gentleman will yield, I am not asking for any extension of time.

Mr. GROSS. I understand that, but the gentleman happens to be the chairman of the committee, and the one who will be up here asking to cut off debate.

Mr. BLATNIK. I would like to say that following the conclusion of the remarks of the gentleman in the well that I would like to get some agreement on a time limitation.

Mr. GROSS. That is exactly what I thought.

Mr. BLATNIK. But that is only because of the reason that we have some 20 other amendments with less than an hour's time, and I would like to be able to give a few minutes to each of the sponsors of those amendments.

But that is the situation we are faced with.

Mr. GROSS. Let me say that very few of the committee members have been permitted to speak on these amendments, practically only members of the Committee on Appropriations have had any time, and I would like to have a little assurance that some members of the committee will receive a minute or two on this amendment.

Mr. BLATNIK. I understand that, but as the chairman of the committee I do not have the authority to recognize the gentleman.

Mr. GROSS. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

Mr. HARSHA. Mr. Chairman, I would like to call the attention of the House to the President's environmental message which the President sent up in February of 1970, requesting legislation to implement a forceful water quality control program.

In the message that he sent up he requested contract authority—the President of the United States in February of 1970 requested contract authority.

I read from his environmental message supporting the legislation that he sent up. He said:

> By thus assuring communities of full Federal support, we can enable planning to begin now for all needed facilities and construction to proceed at an accelerated rate.

That was the President of the United States.

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

Mr. HARSHA. Not at this time. I further point out that the Secretary of the Interior, Mr. Hickle, testified before the Congress in favor of contract authority.

Now, here in 1972 I am advised that the administration is opposed to the provisions for contract authority. I am also advised the administration opposes all amendments. I submit that the position of the administration is untenable. If this was a good proposal in 1970 it is a better proposal in 1972.

The administration sent up legislation requesting contract authority. I point out to my friends on this side of the aisle, which 143 Republican Members introduced including 12 Republican members of the Committee on Appropriations. I have the bills here. If you would like to see them, and if you would like to be identified, just ask me and I will read out your name. I can show you where you committed yourselves to contract authority.

Twelve members from the Committee on Appropriations on this side of the aisle asked for contract authority.

I rest my case, Mr. Chairman.

Mr. BLATNIK. Mr. Chairman, I ask unanimous consent that debate on this amendment, and any amendments thereto, conclude in 15 minutes.

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

There was no objection.

(By unanimous consent, Messrs. McEWEN and MARTIN yielded their time to Mr. RHODES.)

The CHAIRMAN. The gentleman from Arizona (Mr. RHODES) is recognized.

Mr. RHODES. Mr. Chairman, I congratulate the Committee on Public Works on bringing out this bill, which I support. However, I also support the amendment offered by the gentleman from Texas to take contract authority out of this bill and substitute therefor authorization for appropriations which will assure that every community in this country will know without a doubt how much money it can spend for the very important purpose of insuring clean water for everyone.

We are all for clean water. But it just happens that the Members who are in favor of this amendment feel that there is another important issue before the House today. That is whether or not you are going to keep the Committee on Appropriations in business to order the priorities on expenditures.

If this amendment does not succeed and we get a bill with contract authority, I can imagine that those who have their favorite programs, whether they be in education, health, or whatever, and who ask for full funding on these programs, will now ask for contract authority to completely bypass the appropriations process. If we do that, we might just as well abolish the Appropriations Committee. I think it would be much more merciful if you do it openly in one fell swoop instead of trying to do it in degrees the way you have been doing for the last several years.

To me, it is very necessary and very important that this amendment be adopted. Otherwise, I do not know how it is going to be possible for us ever to make any fiscal sense in this country.

I suggest that we need fiscal sense just as much as we need clean water.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. HENDERSON).

Mr. HENDERSON. Mr. Chairman, this is a tough bill. This bill is tough on American industry. We are saying to the business and industry of our Nation in this bill that they have to spend billions of dollars to clean up their effluent. So our commitment to clean up pollution in the public sector ought to be as strong as the bill is on industry, and for that reason, I am opposed to the amendment that is presently before the committee and I support the committee bill.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. SIKES).

(By unanimous consent, Mr. EVINS of Tennessee yielded his time to Mr. SIKES.)

Mr. SIKES. Mr. Chairman, I want it understood that I support the bill. I feel that the Committee on Public Works under its distinguished chairman (Mr. BLATNIK) and the chairman of the subcommittee, Mr. JONES of Alabama, have done a very creditable job of restoring realism to a major program, a necessary program, but one which must be a workable program. We want the Nation to achieve water quality standards at the highest possible level at the earliest practical date consistent with technological advancement. I think this is possible under the House bill. I feel that we would be courting serious danger if we were to follow the procedures set up under the Senate bill. That program could be unworkable and it could certainly be excessively costly in dollars and in damage to the economy.

I support the proposed amendment for it is most important that we reverse the trend of delegating to the administration our responsibility for the annual review and control of Federal expenditures.

The language of the committee bill authorizes the administration to make commitments over the next 3 years for $18 billion worth of waste treatment works without further control by the Congress. It takes Congress out of the picture for the next 3 years, and yet leaves flexibility to the administration as to the level of the program to be carried out. The language of the committee bill seeks to delegate the determination of the rate of obligation under the program to the administrator of the act. It provides that the administrator shall act upon project plans submitted by applicants "as soon as practicable after the same have been submitted,"

and his approval shall be determined a contractual obligation of the United States. "As soon as practicable" leaves great latitude as to when the contract commitments are made.

There is nothing to prevent the administration from impounding the funds, or slowing down the rate of obligation under the program and yet the Congress as a practical matter would be powerless, for it would have delegated its authority in this regard for the next 3 years.

The main reason set forth for granting the contract authority is to provide State and local interests with adequate notice of funding levels for their planning purposes. The pending amendment would assure such advance notice by providing for 1 year advance funding of the grant program on a direct appropriation basis. For example, in the appropriation bill for fiscal year 1973 we would fund the grant program not only for fiscal year 1973, but also for fiscal year 1974. States would know more than a year in advance the level of funding that they could depend on in planning their projects. Yet this revised funding procedure assures that Congress retains its prerogatives to take annual action on this major grant program.

The track record of Congress in support of this program is excellent. At the end of fiscal year 1970 there was a carryover balance of $440 million and at the end of last fiscal year there was a carryover balance of $211 million. I believe this is ample evidence that we have provided a funding level more than adequate to meet the local abilities to participate in the grant program.

By adoption of this amendment we can meet the local requirements for advance funding and, at the same time, retain in the Congress our responsibility for exercising an annual review and control of the program.

In other words, the Mahon amendment proposes only to retain congressional control on expenditures for water pollution control. We are embarking upon a gargantuan program in an effort to insure clean water for America. It is going to be a costly program. It will touch every corner of the Nation.

Unless there is congressional control, it should be obvious the program could get completely out of hand as unchecked bureaucracy builds itself a huge new empire.

The Mahon amendment would not injure the program for clean water or hinder the orderly operation of any contract. It would simply insure year by year congressional funding. Once projects are authorized and funded, the money would remain available until each project is completed.

We have all heard of the evils of "back-door spending." Without the curbs contained in the Mahon amendment, I believe the bill represents an invitation for back-door spending.

I had felt that the committee would accept this amendment for it is intended only to help control the flow of taxpayers' dollars into sound areas under the control of Congress. Now I urge the approval of the amendment.

The CHAIRMAN. The gentleman from Illinois (Mr. MICHEL) is recognized.

Mr. MICHEL. Mr. Chairman, I just want to clear up one point that was made here, that if we go the appropriating route rather than a contract authority route, we would bring the budget that much more out of balance. The two are treated the same, whether it is authorized on a contract basis or under an appropriation. There is no difference in the budget picture itself. But more importantly is the fact that it makes visible what we are really spending in this particular area, and I think that is a point to be made here in support of the Mahon amendment.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. JACOBS. Mr. Chairman, I support the Mahon amendment. I request that the various Members of this House ask yourselves, When is the last time you were invited to a meeting at the White House? Now, let me read to you an old political formula: Reduction in the number of White House meetings with Members of the Congress is in direct proportion to the amount of constitutional authority surrendered to the White House by the Congress. One of these days, if Congress keeps on this path of authority giveway, this body might just wind up with all the authority of the Saigon Legislature.

The CHAIRMAN. The gentleman from New York is recognized.

(By unanimous consent, Mr. DON H. CLAUSEN yielded his time to Mr. TERRY.)

Mr. TERRY. Mr. Chairman, I rise in reluctant opposition to the distinguished and competent Mr. MAHON'S amendment to strike contract authority from H.R. 11896.

Over the years, a great deal of misinformation about the States' needs has been generated.

Just recently, for example, I was advised that, as of the end of 1971, the States had used only $200 million of their allocations for the first $650 million which had been made available to them through October 31, 1971. New York, it was asserted, had used only $2 million of its $54 million allocation; Pennsylvania had used only 3 percent of its $35 million allocation, and so on.

In checking for the reasons, I learned that New York had submitted applications to EPA to use all but a fraction of its funds, and the State was negotiating with municipalities to use its fractional balance. Pennsylvania had submitted 25 applications last August to use its entire allocation; by January, EPA had given final clearance to only $2 million for New York's projects, and 3 percent of Pennsylvania's request—the remainder of the applications were pending in EPA's regional offices, and neither New York nor Pennsylvania could get them to budge on giving further final approvals.

Now, when it comes to fiscal year 1973 funds, the EPA has budgeted $2 billion. In spite of the needs of the States, and the demands being made upon them to step up their antipollution efforts, we can expect to hear considerable justification for staying within the $2 billion figure. If the justification is to stay within a budget, that is one thing, but if the justification is based on alleged States' needs, that is quite another matter.

I would like to give a short summary of New York's immediate needs.

The State recently withdrew 45 projects that had a total eligible cost of $546 million. If the Federal share of these costs is to be 75 percent, as provided in H.R. 11896, New York will require $410 million in Federal funds to resubmit all these projects.

In addition, New York has 112 projects in the pipeline, ready to be submitted to EPA for approval, with a total eligible cost of $937 million. With Federal financing at the 75-percent level, New York will require $563 million in Federal funds to finance these 112 projects.

In summary, New York could go ahead immediately on all these 157 projects if $873 million in Federal funds were available.

But, let us look at the $2 billion budgeted for fiscal year 1973. Depending upon the allocation formula finally to be agreed upon, New York will receive an allocation as little as $160 million, but no higher than $220 million.

A $11 billion appropriation for fiscal year 1973 would be required if New York were to receive an allocation of $873 million.

With a $2 billion Federal budget for fiscal year 1973, New York could be able to submit, at the most, only three or four projects over the next year—the number of projects would depend upon their size. We have a large project in Niagara Falls, another in New York City, ready to go now—they have a high priority, since raw sewage is being dumped in both areas. Both projects together would consume our entire allocation from the $2 billion allocation.

Mr. Chairman, if we are going to require the States to move at a faster pace with their antipollution efforts, we must do all we can to keep the faith with them that we in Congress are facing up to the costs that will be required.

The States have not known from year to year what the appropriation will be, so that they will be able to some reasonable degree to know what kind of Federal funds they will be receiving. Without some kind of assurance, such as contract authority as provided in H.R. 11896, the States will continue to be called the "laggards." Let us give them the assurance they must have.

The CHAIRMAN. The gentleman from Connecticut (Mr. GIAIMO) is recognized.

Mr. GIAIMO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas (Mr. MAHON). What is at issue here is not the question of more or less money. Those who oppose this amendment seem to think that they are automatically going to get the whole amount of the contract authority set forth in the bill. Do not you believe it. You are going to get as much money as the administration and the Office of Management and Budget gives you each year. What you are doing by having contract authority rather than an appro-

priation procedure is that you are cutting out congressional control, not Appropriations Committee control, but congressional control over a program, and turning it over to the bureaucrats and the Office of Management and Budget. I, for one, do not want to give up congressional contact and I urge support of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. GRAY).

(By unanimous consent, Mr. BLATNIK yielded his time to Mr. GRAY.)

Mr. GRAY. Mr. Chairman, I think what we must ask ourselves here today is whether or not we want a smooth rolling program or a stumbling program. If the Members have ever driven an automobile with water in the gasoline tank, they know the car hesitates when it gets to that water, and there is not a smooth running motor.

As the gentleman from Connecticut just pointed out, it is not just a question of more or less money. It is a question of the communities, the States and industry who are in this partnership arrangement knowing what they can expect in the way of money for this program. Contract authority gives them that smooth running operation. That is all we are trying to do. I have great respect for the Committee on Appropriations, but we know some years it is September, October or later before appropriations are made for a fiscal year that begins on July 1. In most cases it is the fault of the other body, however, the year is almost gone before a community will know how much money this Congress is going to appropriate.

Let us do this in a smooth-running fashion and get on with the job of cleaning up the Nation's waters. I can assure you we will save both time and money for the taxpayers.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I rise in strong support of the amendment offered by the chairman of the House Appropriations Committee, the gentleman from Texas (Mr. MAHON).

This bill provides a further vast delegation of power at a time when we cannot have too many checks and balances as between Congress and the White House. Why should we deliberately write ourselves out of oversight in this matter of expenditure? I am surprised that the Public Works Committee did not accept this amendment in the first instance for the committee has no crystal ball by which it can gage the future as to the financial and economic health of the Nation.

If I have any criticism of this amendment, it is that it does not go far enough and place full responsibility on the Appropriations Committee. Not a single Member of this House knows what the situation will be a year from now, much less 5 to 10 years, with respect to revenue and with respect to deficits and debt.

Mr. Chairman, the total cost of this program for only 5 fiscal years, as estimated in the report accompanying the bill, is $24,623,000,000—twenty-four billion, six hundred and twenty-three million dollars.

That is a huge amount of money and yet the Appropriations Committees of the House and Senate, charged with the responsibility of guarding the purse strings of the Federal Government, are, under the terms of the bill, relegated to the role of rubber stamps. For all practical purposes they will simply supply the money—no questions asked; no answers given.

Meanwhile, no such restrictions apply to the White House, its Office of Management and Budget, and the bureaucracy which will dish out the billions under contracting authority.

Mr. Chairman, every Member of the House wants every section of this Nation to have an adequate supply of clean water. No one wants pollution of any nature. But there is no such thing as instant salvation from the neglect and mismanagement of the past. In view of the financial crisis now confronting the country, the greatest prudence must be exercised in the spending of these billions. In fact, no one has bothered to even suggest from what source the billions here authorized are to be obtained.

It is because I believe this legislation goes far beyond reason, and because it denies the proper oversight to the House Appropriations Committee that I must vote against it.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, both the Public Works Committee and the Appropriations Committee, I think, are kidding themselves about the effect of the pending amendment. No matter what we decide on this particular amendment, the agency that is going to run the business of Congress is the Office of Management and Budget. Every Member listening to me knows the heavy hand of the Office of Management and Budget and knows what they do to control all appropriations. We had a project in Texas which had money authorized and appropriated for a basinwide survey in the Colorado River, but it is 8 months later and the OMB has not released those funds. This type of delay has happened to every Member of this House. Until the Appropriations Committee can address itself to who does control the appropriations, we will have this debate again and again. The OMB must be harnessed, and we the Congress must give some time to that debate later and in full measure.

The OMB has set itself up to be both judge and jury on how all appropriations are handled. That is for the Congress to decide.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GROVER).

Mr. GROVER. Mr. Chairman, I have seen a badly needed multibillion dollar bond issue for a badly needed treatment plant voted down because the taxpayers were uncertain about whether the Government share was going to be there and forthcoming. Hundreds of our communities around the country have charters which require the taxpayers to saddle themselves with this burden through direct referendum, and they simply are not going to do it if the Congress does not defeat this amendment, because it is going to be known as the "uncertain funding amendment" passed by an uncertain funding Congress.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, all of us here, of course, seek the same objectives, the objectives as outlined in the bill itself. This is not a new problem, the problem of contract authority, and annual funding. These halls reverberate with the arguments between the great Member from Alabama, Al Rains and the late beloved Member from Texas, Albert Thomas. We have fought this battle before, and the Congress has won the fight. This is not the first time we have been engaged in a problem of contract authority. When bills were brought to the floor in the past for housing and for urban renewal and for grants in airways and airports, they were all brought to the floor under contract authority, and the Congress exercised its own will.

We want to do that here. The power of the purse rests here, and if we give it away, we give away the most important power this body has.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I yield back my time.

Mr. EVINS of Tennessee. Mr. Chairman, I have great respect for the distinguished chairman of the Committee on Public Works and for the members of his committee, but rise in support of the amendment of the gentleman from Texas (Mr. MAHON), chairman of the Committee on Appropriations.

Under the present procedure Congress appropriates annually—and generously—for waste treatment grants—including a $2 billion appropriation in the bill this year.

As a matter of fact, there have been large carryover balances of $440 million for fiscal year 1971 and $211 million for fiscal year 1972—a total of more than $650 million in carryover funds.

This demonstrates that the funding level for this program has been adequate and substantial.

Under the committee bill, contract authority for 3 years would be authorized.

This represents another effort to evade the appropriations process and meaningful congressional oversight.

There is constant pressure from many agencies and departments to circumvent Congress in the matter of direct appropriations—and approval of this bill would open another hole in the dike.

This program needs review and oversight and Congress must continue to exercise oversight and control through its constitutional appropriations process.

Under the Mahon amendment, advance funding will be provided for 2 years—1973 and 1974—1 year of advance funding thereafter. This should be sufficient.

Advance funding will assure the continuity desired—and at the same time Congress will retain its control and oversight authority.

Congress should not continue to delegate its authority and responsibility to executive administrators—as capable as they may be. This blank check endorsement procedure should be stopped.

I urge the adoption of the Mahon amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. MAHON. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. MAHON. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered: and the Chairman appointed as tellers Messrs. MAHON, ROE, JONAS, and RHODES.

The Committee divided, and the tellers reported that there were—ayes 161, noes 232, not voting 39, as follows:

[Roll No. 97]

[Recorded Teller Vote]

AYES—161

Abbitt	Gross	Poage
Addabbo	Gubser	Poff
Alexander	Hagan	Powell
Andrews	Haley	Price, Tex.
Archer	Hall	Purcell
Arends	Hansen, Idaho	Quillen
Ashbrook	Hansen, Wash.	Randall
Aspinall	Harvey	Rhodes
Belcher	Hathaway	Robinson, Va.
Bennett	Hébert	Robison, N.Y.
Betts	Heckler, Mass.	Rooney, N.Y.
Bevill	Hosmer	Roush
Biaggi	Hungate	Rousselot
Blackburn	Hunt	Roybal
Boland	Hutchinson	Runnels
Bray	Ichord	Ruppe
Brinkley	Jacobs	Ruth
Brown, Ohio	Jarman	Satterfield
Burke, Fla.	Johnson, Pa.	Schmitz
Burleson, Tex.	Jonas	Schneebeli
Burlison, Mo.	Jones, N.C.	Scott
Byrnes, Wis.	Keith	Sebelius
Byron	King	Shipley
Camp	Kyl	Shoup
Casey, Tex.	Landrum	Shriver
Cederberg	Lennon	Sikes
Clancy	Lent	Skubitz
Collins, Tex.	Lloyd	Slack
Colmer	Long, La.	Smith, Calif.
Conable	Long, Md.	Smith, Iowa
Conte	Lujan	Springer
Crane	McClory	Staggers
Daniel, Va.	McClure	Steed
Danielson	McCollister	Steiger, Ariz.
Davis, Wis.	McDade	Stubblefield
Delaney	McEwen	Talcott
Dellenback	McFall	Teague, Calif.
Dennis	McKay	Teague, Tex.
Derwinski	McKevitt	Thompson, Ga.
Devine	McMillan	Veysey
Dowdy	Mahon	Waggonner
Edwards, Ala.	Mailliard	Wampler
Erlenborn	Mann	Ware
Evans, Colo.	Martin	Whalley
Evins, Tenn.	Mathias, Calif.	Whitten
Findley	Mathis, Ga.	Wiggins
Fisher	Michel	Williams
Flood	Mills, Md.	Wilson, Bob
Flynt	Montgomery	Wilson,
Ford, Gerald R.	Myers	Charles H.
Giaimo	Natcher	Winn
Goodling	Patten	Wyatt
Griffin	Pelly	Wydler
Griffiths	Pirnie	Wyman

NOES—232

Abourezk	Anderson,	Barrett
Abzug	Tenn.	Begich
Adams	Annunzio	Bell
Albert	Ashley	Bergland
Anderson,	Aspin	Biester
Calif.	Badillo	Bingham
Anderson, Ill.	Baker	Blatnik
Boggs	Grasso	Nix
Boiling	Gray	Obey
Brademas	Green, Oreg.	O'Hara
Brasco	Green, Pa.	O'Konski
Brooks	Grover	O'Neill
Broomfield	Gude	Pepper
Brotzman	Halpern	Perkins
Brown, Mich.	Hamilton	Pettis
Broyhill, N.C.	Hammer-	Peyser
Broyhill, Va.	schmidt	Pickle
Buchanan	Hanley	Pike
Burke, Mass.	Hanna	Podell
Burton	Harrington	Preyer, N.C.
Byrne, Pa.	Harsha	Price, Ill.
Cabell	Hastings	Pucinski
Caffery	Hechler, W. Va.	Quie
Carey, N.Y.	Heinz	Railsback
Carney	Helstoski	Rees
Celler	Henderson	Reuss
Chamberlain	Hicks, Mass.	Riegle
Clausen,	Hicks, Wash.	Roberts
Don H.	Hillis	Rodino
Clay	Hogan	Roe
Cleveland	Horton	Rogers
Collier	Howard	Roncalio
Collins, Ill.	Johnson, Calif.	Rooney, Pa.
Conyers	Jones, Ala.	Rosenthal
Corman	Jones, Tenn.	Roy
Cotter	Karth	Ryan
Coughlin	Kastenmeier	St Germain
Culver	Kazen	Sarbanes
Curlin	Keating	Schwengel
Daniels, N.J.	Kee	Seiberling
Davis, Ga.	Kemp	Sisk
Davis, S.C.	Kluczynski	Smith, N.Y.
de la Garza	Koch	Snyder
Dellums	Kyros	Stanton,
Denholm	Landgrebe	J. William
Dent	Latta	Stanton,
Diggs	Leggett	James V.
Dingell	Link	Steele
Donohue	McCloskey	Steiger, Wis.
Dorn	McCormack	Stephens
Dow	McDonald,	Stokes
Downing	Mich.	Stratton
Drinan	McKinney	Stuckey
Dulski	Macdonald,	Sullivan
Duncan	Mass.	Symington
du Pont	Madden	Taylor
Eckhardt	Mallary	Terry
Edmondson	Matsunaga	Thompson, N.J.
Edwards, Calif.	Mayne	Thomson, Wis.
Eilberg	Mazzoli	Thone
Esch	Meeds	Tiernan
Eshleman	Melcher	Udall
Fascell	Metcalfe	Ullman
Fish	Mikva	Vander Jagt
Flowers	Miller, Calif.	Vanik
Foley	Miller, Ohio	Vigorito
Ford,	Minish	Waldie
William D.	Mink	Whalen
Forsythe	Minshall	White
Fountain	Mitchell	Whitehurst
Fraser	Mizell	Widnall
Frelinghuysen	Monagan	Wolff
Frenzel	Moorhead	Wright
Frey	Morgan	Wylie
Fulton	Mosher	Yatron
Fuqua	Moss	Young, Fla.
Galifianakis	Murphy, Ill.	Zablocki
Garmatz	Murphy, N.Y.	Zion
Gettys	Nedzi	Zwach
Gibbons	Nelsen	
Gonzalez	Nichols	

NOT VOTING—39

Abernethy	Gaydos	Pryor, Ark.
Baring	Goldwater	Rangel
Blanton	Hawkins	Rarick
Bow	Hays	Reid
Carter	Holifield	Rostenkowski
Chappell	Hull	Sandman
Chisholm	Kuykendall	Saylor
Clark	McCulloch	Scherle
Clawson, Del	Mills, Ark.	Scheuer
Dickinson	Mollohan	Spence
Dwyer	Morse	Van Deerlin
Edwards, La.	Passman	Yates
Gallagher	Patman	Young, Tex.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCLOSKEY: on p. 241 add new section as follows:

"SEC. (115) (a) The Administrator is authorized, in consultation with the Tahoe Regional Planning Agency (established pursuant to an interstate compact approved in Public Law 91-148, 83 Stat. 360, hereinafter referred to in this section as 'Agency') and other Federal and State agencies, to design and carry out projects to develop and demonstrate comprehensive water pollution control programs in areas subject to the jurisdiction of the Agency. Such demonstration programs and projects shall provide controls over nonpoint sources and shall maintain and enhance water quality within the Lake Tahoe Basin, and may include—

"(1) the preparation of detailed plans for development and conservation of the region's water resources, accompanied by a study of possible alternative sources of water for municipal uses;

"(2) the development of reliable and economical programs for recycling of pollutants and reclamation of water for municipal and recreational purposes within the interstate area;

"(3) the development of comprehensive programs for storm water collection and treatment;

"(4) the development of data on the impact of urban development in the area on regional water quality through soil siltation and other runoff; and

(5) assist the Agency in the development of plans for meeting the demands of user populations with the limits imposed upon the area by its fragile ecology.

(b) With respect to the area subject to the jurisdiction of the Agency, the Administrator shall review, in consultation with the Agency, any Federal or federally assisted public works project, any expenditures of Federal funds, any Federal licenses or permits, any Federal insurance, and Federal guarantees of loans where in the judgment of the Administrator such projects, licenses or permits, or activities may result directly or indirectly in discharge or runoff into the navigable waters of such area. No such project shall be undertaken, no such funds shall be expended or licenses or permits granted and no such insurance, guarantees or loans shall be provided in the area subject to the jurisdiction of such Agency until the Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any Federal action to which section 102(2)(C) of Public Law 91-190 applies. Such written comment shall be made public at the conclusion of any such review. In the event the Administrator determines that any such action is unsatisfactory from the standpoint of public health or welfare or environmental quality he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

(c) The Administrator shall report to the Congress, within one hundred and eighty days after the date of enactment of this Act and annually hereafter, on (1) the environmental impact of development in the Tahoe Basin; (2) the adequacy of plans developed by the Agency and the status of implementation of such plans; and (3) demonstration projects authorized by this section, including an analysis of the results.

(d) There is authorized to be appropriated $6,000,000 to carry out the provisions of subsection (a) of this section, which sum shall be available until expended."

Mr. McCLOSKEY (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with, and that it be printed in the RECORD.

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

There was no objection.

Mr. McCLOSKEY. Mr. Chairman, this amendment relates to Lake Tahoe, which

is the location of the single successful federally supported tertiary sewage treatment system in the United States. With respect to the details of this amendment, I defer and yield to my colleague, the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Chairman, I thank the gentleman for yielding me this time.

I had introduced the amendment which is known as the Tahoe amendment, but because of the restrictions on time, the gentleman from California (Mr. MCCLOSKEY) agreed to introduce the amendment so that it might be debated on the floor.

What this amendment seeks to do is to prevent what happened to Lake Erie from happening to Lake Tahoe. You will note that in the bill there is a great deal of attention paid to Lake Erie by the provisions of the bill to attempt to restore Lake Erie to a situation where it is tolerable.

Lake Tahoe is one of the two lakes perhaps in the world presently that is unique in the clarity and quality of the water it contains. If prompt, efficient and effective measures are not taken, Lake Tahoe is confronted with the same fate every lake and every body of water in this Nation is presently experiencing, massive deterioration.

This amendment was heard in the other body, and was supported by both of the California Senators, by both of the Nevada Senators, and by the Governor of Nevada, and was voted upon and acted upon unanimously.

What it does is to recognize that Lake Tahoe is presently jeopardized by sources of pollution that are essentially what are described as non-point pollution, the major part of that pollution being siltation from construction projects.

This amendment will permit the Administrator of the Environmental Protection Agency to support the efforts being made locally to protect Lake Tahoe from pollution.

There is at the present time, by reason of an inter-State compact, a body known as the Tahoe Regional Planning Agency comprised of 10 members, three of whom are from local government divisions that surround the lake, from Nevada and California, and four of whom are appointed, two each, by the respective Governors of Nevada and California. They have done a reasonably good job in protecting the lake, but this bill recognizes that the protection of Lake Tahoe is not solely and exclusively the responsibility, nor is it within the purview and province, of local authorities.

Lake Tahoe is an asset that belongs to others than those who own land surrounding the lake. It is an asset so unique and so priceless that it has attained national stature. Therefore, a national interest in its preservation ought to be implemented into this act.

This amendment which was adopted by the Senate imposes a national interest in terms and provisions that are aimed to protect the lake from further pollution.

The national control, very frankly, is expressed as a very, very light national interest that has no authority whatsoever to overrule or change any decision of the Tahoe Regional Planning Agency, the local body that has presently control of the administration of the problems of pollution of the lake.

What this bill does is to say that any Federal activity that in any way threatens pollution of that lake, and most of the activity around the lake is Federal activity, will be required to have an environmental protection statement filed by the Administrator of the Environmental Protection Agency. That statement shall be published and publicly disclosed.

It is hoped that if an environmental impact statement is sufficiently adverse as to polluting the lake that the local agency will refrain from what acts it might contemplate contrary to that environmental impact statement.

But if they do not, there is not a single thing the Administrator can do to compel them to change their decision. All they can do with the environmental impact statement is to forward it to the Environmental Quality Council where it can come to the attention of the President and, conceivably but unlikely, the President could reverse the decision of the Tahoe Regional Planning Agency if the President felt those decisions were inconsistent with the interest of the Nation in preserving the lake.

So it would be very difficult to suggest that this amendment in any way limits and curtails the local control of pollution of Lake Tahoe.

Mr. EDMONDSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, everybody recognizes that Lake Tahoe is a beautiful lake. Everybody recognizes that every lake that is beautiful and unique in its beauty has special ecological and environmental problems associated with it.

But this amendment would authorize a special allocation of $6 million for demonstration programs and development of plans to protect the Lake Tahoe basin and would authorize EPA to review and to comment on all actions by Federal agencies affecting the ecology of the Tahoe basin.

The bill we have before us allots water pollution grants to the States on the basis of actual waste treatment needs and it should adequately meet the problems associated with water pollution in the Lake Tahoe region which originate from point sources.

The other needs which include real estate development and the environment should be undertaken by the Tahoe Regional Planning Agency in cooperation with other Federal programs dealing with land and with air. There is no justification for dealing with problems not associated with water pollution in this bill.

There is no justification to go into this particular authorization to get $6 million for what is an overall and comprehensive program going far beyond a mere water pollution problem.

We do have research studies on nonpoint sources authorized in this bill which should aid in arriving at a solution, but we hope that the basic approach under this bill dealing with the States alike and giving to the States responsibility for their allocation of resources within the States and to the municipalities as well will be kept intact and will not be disturbed by this amendment.

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

Mr. EDMONDSON. I yield to the gentleman.

Mr. HENDERSON. Mr. Chairman, I would like to address myself to the gentleman from Texas (Mr. WRIGHT) in order to inquire about the "point source" definition in section 502(15).

In section 502(15) which defines "point source," we find the language "concentrated animal feeding operation."

I have had some inquiries about the extent of the definition of this term as it relates to a "point source."

It is my understanding that only those concentrated animal feeding operations which would collect and concentrate waste for discharge through a definite point source outlet are covered under this definition and that it does not apply to nonpoint source discharge, associated with a feedlot operation.

Mr. EDMONDSON. I yield to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, in response to the question of the gentleman from North Carolina, the gentleman is exactly correct. It does not apply to nonpoint source discharge.

I would like to point out that subsection 304(e) does call for the development of guidelines, processes, procedures, and methods to control nonpoint sources of pollutants including those from agricultural activities. That would include discharge from livestock operations other than the "point source" discharge covered in section 502(15).

Mr. HENDERSON. Mr. Chairman, I thank the gentleman for his response and I thank the gentleman from Oklahoma.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. VANIK. Mr. Chairman, I take this time to ask the chairman of the committee whether section 7 of this bill in its present form gives the President the authority to enter into international agreements affecting the Great Lakes.

Mr. JONES of Alabama. I am sorry. I did not understand the gentleman.

Mr. VANIK. My question is whether section 7 in its present form gives the President of the United States the authority to enter into international agreements affecting the Great Lakes.

Mr. JONES of Alabama. Yes, the President has ample constitutional and statutory authority at the present time to negotiate and enter into such international agreements such as the gentleman proposes.

Mr. VANIK. I thank the gentleman.

Mr. Chairman, my distinguished colleague from Ohio, the Honorable JOHN F. SEIBERLING, and I intended to introduce the following amendment to section 7 of this bill:

Page 402, strike lines 2 through 12, and insert the following:

"SEC. 7. The President shall undertake to enter into international agreements for the control of the discharge and emission of pollutants into the oceans and the Great Lakes. Such agreements should endeavor to control not only existing pollutants but activities including, but not limited to, oil, gas, sand, and mineral exploration, drilling, development, extraction, and transportation which have the potential for producing or allowing a discharge of pollutants. For this purpose, the President should encourage the use of existing international organizations including the International Joint Commission and shall negotiate treaties, conventions, resolutions, or other agreements and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums."

The principal purpose of this amendment was to give the President the express authority to enter into international agreements to curb pollution of the Great Lakes not only by the discharge of pollutants but by the extraction and transportation of oil, sand, and other minerals.

During the debate on this bill, I asked the Chairman of the House Public Works Committee whether the language of Section 7 of the bill, in its present form, gives the President the authority to enter into international agreements on the Great Lakes.

In view of the assurances given by the gentleman from Alabama (Mr. JONES) and the legislative history which it establishes—the fact that the bill, in its present form, gives the President the authority to enter into such international agreements—Mr. SEIBERLING and I decided not to offer our amendment.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words.

I take this time to ask the gentleman from Ohio (Mr. HARSHA) a question: Section 312(f)(3) of section 2, H.R. 11896 states:

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.

The language is identical in both Senate and House bills.

Would the gentleman from Ohio (Mr. HARSHA) give me his interpretation of the meaning of the new language of section 312(f)(3) of section 2 of H.R. 11896 in order to establish to what extent it can be used to grant exemptions for waters within a particular State?

Mr. HARSHA. The gentleman will remember that the purpose of Congress in enacting vessel pollution laws is to establish uniformity among the States. When the House considered this legislation during the 90th Congress, it was very reluctant to include small boats used for recreational purposes in the same category as larger vessels. During the 91st Congress extensive hearings were held from which it became clear that the wide variety of State laws presented a very difficult problem interfering with the movement of those vessels in interstate commerce. It was for that purpose that we enacted in the Water Quality Improvement Act of 1970 legislation to provide for a uniform Federal law for vessel pollution control.

The no discharge exception was, of course, necessary to protect sensitive waters within a State. These included from the drinking water supply, shellfish beds and areas designated for body contact, and the legislative history clearly limited the law in that regard.

The language in the form we have before us today retains that basic concept by limiting the exceptions to "specified waters." In addition, it requires that the Administrator find that the protection and enhancement of the quality of these waters requires such a prohibition.

The intent of this language is clear on its face and does not go beyond it. The suggestion that a State may receive a blanket prohibition for all of its waters—its rivers, its lakes—its coastal waters—clearly would act to negate not only the preemptive clause contained in 312(f)(1) and (2), but, indeed the entire section dealing with vessel pollution control. The purpose and intent of section 312(f)(3) is to provide a safeguard for those waters which do, in fact, as determined by the Administrator, need special and extra protection, and is not a blanket authority for a State to impose its requirements on all vessels that enter its waters.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. MILLER of Ohio. Mr. Chairman, the committee is opposed to the amendment because the general provisions of the pending bill are sufficient to carry out any pollution control involving Lake Tahoe. There are present efforts being made in the Lake Tahoe area for pollution control which specifically the Lake Tahoe regional planning agency is involved in, a pollution control program for the Tahoe area.

The Committee recognizes the natural wonder of Lake Tahoe, and it is our firm intent to enhance its natural beauty and repair any involvement done by discharge of pollutants into the lake. We believe the general provisions under the pending bill will adequately take care of Lake Tahoe. It is the committee's intent to allow the States to receive the grants on the basis of need.

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

Mr. MILLER of Ohio. I yield to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, we on this side of the aisle rise in opposition to the amendment offered. I would just like to point out this amendment singles out a special problem in the entire United States and gives preferential treatment to it. We think the language we have, setting forth studies and demonstration projects and authority of the Administrator, can cover it without giving preferential treatment to one particular area or pinpointing it.

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

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. WALDIE. Mr. Chairman, the problem is not unique to this bill. The bill has singled out and properly so, the tremendous problem presented by Lake Erie. All this amendment seeks to do is to take care of Lake Tahoe. The millions of dollars which will be necessary to restore Lake Erie may not be necessary to restore Lake Tahoe if we act now. I think it is utterly consistent with what we have done with Lake Erie.

Mr. MILLER of Ohio. The committee feels that under section 104, research, investigations, training, and information; and section 105, grants for research and development; and section 106, grants for pollution control programs; and section 314, clean lakes; and the entire title II, the grants title, that Lake Tahoe will be protected.

Mr. WALDIE. Mr. Chairman, if the gentleman will yield further, I appreciate the gentleman's assurances. I only suggest to the gentleman that those who are deeply concerned with the preservation of Lake Tahoe in the other body, as well as the Governor of the State of Nevada, though, unhappily, not the Governor of California, did not feel the bill places sufficient emphasis on the effort to protect Lake Tahoe.

Mr. JOHNSON of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, we have members of the Committee on Public Works and Committee on Government Operations who have been out to Lake Tahoe on two different occasions in order to try to make some assessment of the injury or pollution in that lake. We have had, I think, very intimate knowledge about the problems with Lake Tahoe. We have not been indifferent to those problems. In this bill I think we are trying to make the necessary repairs that will bring Lake Tahoe up to the same standards of the rest of our streams and lakes.

Mr. JOHNSON of California. Mr. Chairman, I thank the chairman of our committee for his statement.

I merely want to say, Mr. Chairman, to all the Members here in the Committee of the Whole that I have been acquainted with Lake Tahoe since I was 10 years old. I have served now for 24 years in State and Federal Government. We have had many studies authorized and many studies made of Lake Tahoe. Recently there was an action taken by the State legislature, ratified by the Congress of the United States, to set up a Tahoe Regional Planning Agency. That was perfected and signed into law by the President. The memberships were appointed within the authority. They are working very well, and just recently they have adopted their first master plan.

Certainly I want to do everything I possibly can to save the beauty and the purity of Lake Tahoe. It has now become a year-round resort area. It used to be just a summer resort prior to the advent of the snowplow, but today it is

a year-round recreation area. We have about 30,000 people living within the area at the present time year-round. We have a maximum population there of 150,000 in the summertime and probably 70,000 in the wintertime.

At the present time, the National Science Foundation, through the University of California, is making studies there. The California State Division of Highways is making several studies there as they relate to the transportation grid.

The California Fish and Game Department is making studies. Save the Lake Tahoe League, a private organization, is funding many foundations and private enterprises to come in and make certain studies. The Forest Service and the Soil Conservation District are studying all of their lands.

I might say that the Federal Government owns a major part of the lands surrounding Lake Tahoe. The need for additional acquisition of lands is much more important than anything here, and we are going to ask the Congress again for a sum of money to acquire private lands, so that it will balance out 85 percent public in the area and 15 percent private.

Now, the Secretary of Transportation is also making a study, along with the Bureau of Public Roads, as to the relocation of highways throughout this area.

When we passed the Environmental Control Act of 1969, we brought into being the Commission and the Environmental Protection Agency. They have been working with all the groups at Tahoe in previous studies, and they have effected a very fine control there on many of the problems at the present time.

With the Water Pollution Control Act of 1972 and its provisions they are going to follow up and do away with all source point pollution at Lake Tahoe. This is a mandate on the area of Lake Tahoe as well as it is throughout the rest of the Nation.

There is $18.350 billion in the bill for construction. There is a sizable amount of money for planning. There is a sizable amount of money for studies. We have asked the National Academies of Sciences and Engineering to make these additional studies.

We are coming to Congress to require a huge sum of money for land acquisition, but I believe as far as source point pollution is concerned, the bill before us, which comes from the committee, will do the job. I ask all Members to vote down the amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

This is a very difficult amendment for those of us, who come from California, to comment on what appears to be a desirable amendment, because we all recognize the beauty of Lake Tahoe and want to preserve that unique beauty, but I want to point out that the committee has not ignored the problem of water quality of our lakes.

Under section 314, which is a section of the bill on page 345, there is language devoted to clean lakes specifically.

Because of the fact that we are moving in the direction of adopting a new needs formula study, by the time we could gear up for an action program under the new allocation formula, I am convinced Lake Tahoe would be more than adequately taken care of in any instance. This needs formula study, based upon estimates, is also to be considered because of the language contained in section 314(b), wherein it relates to "methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes." It says:

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

Then we go to the final subsection (2), which says:

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.

With the above stated provisions in the legislation before us, coupled with the new needs study allocation formula, I will do everything within my power to assist the Tahoe regional area compact, created by this Congress and approved as Public Law 91-148, to control pollution in Lake Tahoe—in addition to restoring and/or enhancing the water quality and environment of the lakes in my congressional district and others throughout the Nation.

I look forward to working with my California colleagues toward this worthwhile objective and am pleased to provide this legislative history.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and on a division (demanded by Mr. WALDIE) there were—ayes 16, noes 65.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WRIGHT: Page 251, line 17, strike out "1971," and insert "1972,".

Page 251, line 25, after "lack of" insert "authority or of".

Page 252, line 10, after "and" insert "authority for and".

Mr. WRIGHT. Mr. Chairman, this is a corrective amendment and I offer it in behalf of the committee.

This amendment has been cleared with both sides. There is an inadvertence in which we left the date of 1971 in as the cut-off date for reimbursement, and we are simply correcting that.

Mr. HARSHA. Mr. Chairman, if the gentleman will yield, we accept this amendment on this side.

Mr. JONES of Alabama. Mr. Chairman, if the gentleman will yield, the purpose of the amendment, as the gentleman from Texas has stated, is corrective in nature, and we accept it.

Mr. EDMONDSON. Will the gentleman yield?

Mr. WRIGHT. Yes. I yield to the gentleman.

Mr. EDMONDSON. Mr. Chairman, I appreciate the gentleman's offering this amendment.

The State Department of Health of the State of Oklahoma has been very much concerned about implications of this particular date, and the corrections are very, very helpful. I hope it will be unanimously approved.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer a second amendment in the nature of a committee amendment.

The Clerk read as follows:

Amendment offered by Mr. WRIGHT: Page 389, strike out lines 17 through 22 and reletter succeeding subsections and references thereto accordingly.

Mr. WRIGHT. Mr. Chairman, this, too, is a corrective amendment which I understand has been cleared on both sides of the aisle. It would make the Fish and Wildlife Act applicable in every respect that it applies by its own terms to all sections of the bill. There was an inadvertence by which this particular section was put in the bill that renders the Fish and Wildlife Act inapplicable in certain instances. This was not the intention of the committee to do this.

Mr. DINGELL. Will the gentleman yield?

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

Mr. DINGELL. This is one of the amendments my colleagues and I were going to offer although in slightly different form. It is eminently satisfactory to us. I thank the committee and commend them for it and rise in support of it.

Mr. HARSHA. Mr. Chairman, I join with the distinguished gentleman from Texas in urging the adoption of this amendment. We on this side of the aisle support it wholeheartedly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RONCALIO: Page 372, section 502(6), after line 24 insert the following:

"(E) As used in Sections 301(a), 302 and 402, this term does not mean irrigation water which is introduced into water from a point source when such irrigation water has been used solely for agricultural irrigation purposes."

Mr. RONCALIO. Mr. Chairman, I, too, have submitted this amendment to both sides and it meets with the approval of both sides of the committee.

I offer my amendment so that a serious omission to H.R. 11896 can be corrected before we end up with a law that would be virtually impossible to enforce. My amendment would specifically exempt irrigated agriculture from sections 301

(a), 302 and 304 of the Federal Water Pollution Control Act.

I think my colleagues will agree that the type of salinity problems created by irrigation runoff are simply not as alarming as the more common pollutants discharged by industrial and municipal facilities. Substantial salinity concentrations have little effect on recreational use of water or its suitability for the propagation of fish.

My amendment is necessary, Mr. Chairman, because at the present time we could not enforce pollution control on irrigation systems. It is virtually impossible to trace pollutants to specific irrigation lands, making these pollutants a nonpoint source in most cases. Second, we do not have the technology to deal with irrigation runoff (as contrasted to industrial pollution and if we begin making laws to control something that cannot be handled with our given technological knowledge, we will be doing many thousand farmers and ranchers a great disservice. In fact, we will be doing the Federal Government a great disservice if we actually pass a Federal water pollution control bill that cannot be fully enforced.

Furthermore, Mr. Chairman, I sincerely believe that our constituents in rural areas are fed up with Federal controls. I know this is the case with my Wyoming constituents. We have tried to do too much in too short of time. During the three short months of 1972 my constituents have been hit with the following: First, the beginning of the enforcement of the Occupational Safety and Health Act which was passed in 1970 when I was not a Member of Congress, but which has resulted in a profusion of Department of Labor inspectors running around the countryside issuing fines for violations even before the Department has gotten around to supplying each and every person who is affected by the act with information on what he must do to comply with the new law; second, a Bald Eagle Protection Act passed by the House of Representatives which would not allow a farmer or rancher to shoot an eagle even if he should see one in the process of attacking his livestock; and third, a White House ban on predator control on all Federal lands, without any consideration to alternatives such as a Federal insurance plan that would at least reimburse a stockman for losses suffered by predators.

Mr. Chairman, a Federal water pollution control bill that would include irrigation runoff, when it is unrealistic to even meet the law, would be the last straw in my State of Wyoming.

Even though I wholeheartedly support effluent control as the best method of controlling pollution contributed by industrial and municipal waste, I submit that it is not now, at the present time, a practical method of controlling irrigation runoff.

If you have any irrigated farming in your State, whether on a reclamation project or otherwise, my amendment is vital to your constituents. I urge my colleagues to exclude from the definition of "pollutant" irrigated water which is introduced into water from a point source when such irrigation water has been used solely for agricultural irrigation purposes.

I respectfully ask all Members of the House of Representatives to support this amendment.

Mr. BLATNIK. Mr. Chairman, I rise in support of the amendment. I am in full agreement with the gentleman's statement, and we urge its adoption on this side.

Mr. WALDIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time in order to ask a question of the gentleman from Wyoming relative to the amendment.

In California there is a vast irrigation basin that collects all the waste resident of irrigation water in the Central Valley and places it in a drain—the San Luis Draining—and transport it several hundreds of miles and then dumps it into the San Joaquin River which flows into the estuary and then into San Francisco Bay.

It is highly polluted water that is being dumped in waters already jeopardized by pollution.

Will the gentleman's amendment establish that as a nonpoint source pollution or will it come under the point-source solution discharge?

Mr. RONCALIO. Mr. Chairman, if the gentleman will yield, my amendment would not require Federal permits to remove that water. I do this to try and avoid irreparable harm to one part of the country from laws welcomed in another.

Mr. WALDIE. I suggest not only to the Members from California but to Representatives of other States that have massive irrigation waste drains that are dumped into navigable waters, if you do not require that as a point-source pollution and require a permit, you will jeopardize those waters.

This residue that is dumped into the San Joaquin River is desperately polluting the river and the bay, and if a permit is not required to dump it, you will have no control over the quality of water that you are dumping into rivers and lakes from these sources.

Mr. RONCALIO. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman's concern, but if you are going to impose upon the small agricultural farmers of Wyoming, Montana, Idaho, and Colorado, Federal permits on top of the other Federal inspections, and agents prevalent today, we are presenting small irrigation farmers a matter with which they cannot cope.

Mr. WALDIE. That was not the question I asked.

The permit is not for the individual farmer who dumps it into the drain but the question I asked is at the end of that drain with hundreds of thousands of farmers dumping into it, does the drain itself require a permit to dump that into the water?

Mr. RONCALIO. Most discharge as the result of irrigation damage is a most difficult thing to handle and is a nonpoint source discharge, but is percolation.

Mr. WALDIE. I understand the gentleman's amendment. What he says is that these hundreds of thousands of farmers that will be dumping their residue into a pipe and that pipe transports it out of the basin and dumps it into a waterway, you no longer will require a permit for the waterway dumping of that material? I think that is desperately dangerous to every one of our States.

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

Mr. WALDIE. Yes, I yield to my colleague from California.

Mr. WIGGINS. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from California (Mr. WALDIE).

This is potentially a very dangerous amendment and at least it is entitled to the careful and mature consideration of a legislative committee. It should not be enacted too hastily on the floor at this time.

I would urge that this amendment be voted down and that the legislative committee give careful consideration to the problem of irrigation runoff as a source of pollution.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Will this come under the effluent limitation provisions of the bill?

Mr. RONCALIO. Mr. Chairman, if the gentleman will yield, let me say to the gentleman that this amendment does not do what has been indicated. It does not remove irrigation waters from the provisions of this bill, except in those two specific instances, one, from the effluent water quality standards and, second, from the Federal permit section.

It is still in the study program, there still has to be the methodology developed to remove high salinity from such water after its use and re-use for irrigation purposes, and this would be continued under this legislation, without wrecking havoc in California or other areas where you have huge irrigation programs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming (Mr. RONCALIO).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA: On page 397, lines 3 and 4, strike out "$6,000,000", and insert in lieu thereof "$11,000,000".

Mr. HARSHA. Mr. Chairman, I have cleared this amendment with the majority side, and they are willing to accept it in the nature of a committee amendment.

This is at the request of the administration. The money has already been appropriated.

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

Mr. HARSHA. I am glad to yield to the gentleman from Minnesota.

Mr. BLATNIK. Mr. Chairman, the gentleman from Ohio had good justification for offering his amendment, and we certainly accept it on this side of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HARSHA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WILLIAM D. FORD

Mr. WILLIAM D. FORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM D. FORD: Page 384, between lines 7 and 8, insert the following:

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. 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 Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this Act."

Page 385, line 21, after the comma, insert the following: "or carrying out section 507 (e) of this Act,".

Mr. WILLIAM D. FORD. Mr. Chairman, this amendment is designed to free workers from the fear that an employer or corporation may cite environmental standards and orders as a reason for threatening to close their plants or reduce employment. It is also designed to protect environmental protection legislation from being rendered partially ineffective due to misguided or self-serving threats by any employer or corporation. And finally, it is designed to protect communities from any adverse economic effects which might also arise from these types of threats.

In other words Mr. Chairman, the purpose of this amendment is to insure that the burdens and sacrifices resulting from legislation designed to protect our environment and benefit all Americans shall not be borne disproportionately by some Americans.

Our amendment simply provides a mechanism to determine whether or not an employer or corporation is threatening to discharge employees or curtail its activities because of alleged results which might possibly arise from an effluent limitation or order which may be issued under the provisions of this act. I want to emphasize that it provides only for a determination of this issue. It does not involve any cease and desist powers and it does not involve any civil or criminal penalties.

The amendment states that any person discharged or threatened with discharge may request the Administrator to conduct a full investigation of the matter. Following such a request the Administrator is merely required to conduct a public hearing and review the information relating to the actual or potential effect of any limitation or order on employment and to inquire into the reasons for any alleged discharge or lay-off.

Upon receipt of this information the Administrator is required to make findings of fact and make any recommendations which he deems appropriate. These findings and recommendations would then be available to the public.

Mr. Chairman, in offering this amendment we are only seeking to protect workers and communities from those very few in industry who refuse to face up to the fact that they are polluting our waterways, and who hope, that by pressuring their employees and frightening communities with economic threats, they will gain relief from the requirements of any effluent limitation or abatement order.

We need only recall, I am sure, how one company—Union Carbide—in West Virginia, threatened massive job loss if EPA insisted that it comply with air pollution control standards. But when public pressure was brought to bear, the company finally admitted that it could comply without such job loss occurring. It is our contention that if a mechanism exists to investigate actions such as this, and make the findings available to the public, we will be able to achieve similar results in the future and therefore avoid the enactment of more stringent Federal regulations in this area.

This amendment has received widespread support from many civic-minded organizations, as well as the environmental groups and labor organizations such as the United Auto Workers, the United Steelworkers, and the AFL–CIO.

Mr. Chairman, I urge the adoption of this amendment.

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

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. DULSKI. Mr. Chairman, I rise in support of the amendments offered by my colleague from Michigan (Mr. WILLIAM D. FORD).

In the pending bill, we have the opportunity to deal once again—and more effectively as a result of experience—with one of the great domestic problems of our day: Water pollution.

Because of years of neglect and a refusal to recognize the many warning signs, our Nation's waters have reached the crisis stage. We are forced to take drastic steps to try to bring the situation under control as fast as possible.

We have had laws on the books as far back as the end of the 19th century. Of more recent vintage is the current comprehensive Federal Water Pollution Control Act. This latter act—the current basic law—has given us an excellent start on modern control mechanism. We have gained broad experience, and now we are moving forward with necessary refinements and adjustments.

Water pollution control is expensive—indeed, to a degree often not easily understood. For the homeowner who finds it necessary, he finds it plenty costly to install a septic tank in his backyard or to hook up to a new municipal sewage system.

As one might suspect, the outlay rises in direct proportion when industrial firms are required to install treatment works to handle their huge volume of waste.

No longer can industry be allowed to dump raw sewage into our Nation's waters. Neither can we any longer accept halfhearted or partial attempts to treat waste.

Corrective steps not only are expensive, but also are disruptive in long-established major industrial installations. Old-style plants, although they may still be able to do an acceptable production job, often do not adapt easily to efficient pollution control systems and devices. As a result, management understandably is required to face up to changing circumstances. In particular, management must look at the broad-range factor of economics and the likely effect on the company balance sheet.

For me, these industrial facts of life are very fundamental. They strike home in a very practical sense. The Niagara frontier is one of the older and foremost industrial areas in our country. My congressional district is entirely urban and contains much of the basic industry which has become the backbone of our highly developed Niagara frontier over the years.

There is no question about the need to halt water pollution of all kinds, including industrial pollution. Effective pollution control is essential if we are to protect our vital water supply and rescue our lakes and rivers from stagnation beyond repair.

In dealing with industrial pollution, we must recognize that some industries are going to use the pollution control rules as an excuse for phasing out or sharply curtailing certain operations. Either action would cost jobs. We can ill-afford more unemployment—particularly in my home area of Buffalo, N.Y., where the current rate already is half-again larger than the national average.

The pending amendments deal with industrial pollution. In particular, they deal with employee protection. Certain employee protections are included in the bill as it came from the committee. But those protections unfortunately do not go far enough.

The committee bill deals only with protections for those employees who face loss of their jobs or discriminatory action for having filed pollution complaints against their employers. We have no quarrel with these provisions as far as they go.

But there is no protection provided for industrial employees who are laid off or threatened with layoffs because their employers claim they must cut back or close shop as a result of pollution control requirements.

What we are proposing in simplest terms is that the Environmental Protection Agency constantly monitor the economic effect on industry of pollution control rules. In this way, hopefully, the Agency can anticipate trouble spots.

Further, when an industry claims it must cut back or close down because of pollution control regulations, an employee can ask the Agency to conduct a full study of the facts on the industry decision.

Perhaps, even more important, this study can be expanded to include public hearings on the request of the employee or any other party so that all the facts can be spread upon the public record for everyone to see. In other words, answers to the question as to exactly why a shutdown or cutback was ordered.

It seems to me vital that the "employee protection" section of the pending bill be expanded to provide protection for employees facing loss of their jobs through plant shutdown as well as protection for the employees who face firing or discrimination because they filed or participated in a complaint against their employer.

Mr. Chairman, these pending amendments are essential to the "employee protection" section of the bill before us. I urge their adoption as a simple matter of equity for the workers who may become the "job or no-job" pawns in the antipollution drive.

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

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. MEEDS. Mr. Chairman, I rise in support of this amendment. The major city of my congressional district has just received the announcement of a pulp mill shutdown. The company in question announced that the shutdown was "strictly environmental." A closer examination of the facts shows that environmental requirements played only a small part in the closure decision. Other factors including obsolescence, source of market, source of supply, and labor costs all added up to a hard decisive decision based on economics.

The effect upon our community has been almost disastrous. People are engaged in the windmill tilting exercise of attempting to roll back the pollution efforts thus far advanced. This company is being required to meet standards which any pulp mill, anywhere in the United States will be required to meet. Yet they have convinced the citizenry that they are somehow being discriminated against.

When this situation arises, or is threatened, the workers and other people of the community have a right to know the truth. If indeed, the closure is caused by pollution controls, there should be no difficulty in establishing that fact. If, on the other hand, there are other factors involved, pollution controls ought not to be made the scapegoat for an unpopular decision.

The amendment of the gentleman from Michigan (Mr. WILLIAM D. FORD) furnishes a forum for a disclosure of the facts. Hopefully it will place industry on notice that if pollution controls are to be blamed, they had better be prepared to substantiate that fact.

Mrs. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentlewoman.

Mrs. ABZUG. Mr. Chairman, I am pleased to rise in support of the amendment, which would require the Environmental Protection Administration to study and evaluate, on a continuing basis, the effects of effluent limitations upon employment.

One argument commonly raised in opposition to strong antipollution efforts is the claim that enforcement of antipollution laws will lead to the closing of manufacturing facilities and a resulting loss of jobs. I believe that this argument is little more than a red herring, suggested by industry as a device to play upon the economic concerns of working people and I lead them to join with corporate interests in their fight against cleaning up the environment.

It may be that there are instances in which corporations have moved their facilities to avoid compliance with antipollution requirements; to combat this, we should have national minimum standards, leaving their ecological blackmailers with no place to go. Alternatively, there is the suggestion of Leonard Woodcock that employers who move to avoid environmental protection requirements be required to pay the workers who suffer as a result.

This amendment will allow the Congress to get a close look at the effects on employment of legislation such as this, and will thus place us in a position to consider such remedial legislation as may be necessary to ameliorate those effects. This is a good amendment and I urge its adoption.

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

Mr. WILLIAM D. FORD. I yield to the chairman of the committee.

Mr. BLATNIK. Mr. Chairman, though I do not speak in opposition to the intent of the amendment, I do hope it will not be adopted at this time and in this manner. The problem is a real one. There is no question about that. The Public Works Committee is presently holding hearings on legislation concerning economic development and the Economic Development Administration. The entire matter of employee protection brought about by the need for industry to comply with environmental standards requires a comprehensive examination. This matter will definitely be considered, and I assure you that we will come up with a measure to take care of the problem which the gentleman has noted.

Mr. MILLER of Ohio. Mr. Chairman, I rise in opposition to the amendment.

The effect of the amendment would be merely to authorize public hearings regarding threatened plant shutdowns or worker layoffs resulting from pollution control requirements. The committee is presently conducting hearings on the Public Works and Economic Development Act, as amended, and is in the process of drafting a bill to extend this act. The committee has purposefully left these hearings open so that following action on the pending bill we may look into the problem of potential plant shutdowns and worker layoffs due to pollution control requirements. It is the committee's intention to include a comprehensive section regarding layoffs, plant shutdowns, and other economic hardships to communities resulting from the pending Water Pollution Control Act amendments.

The committee realizes that some economic hardship, especially in smaller communities who rely on single, older plants, may result from the requirements of the pending bill. Since economic relief properly comes under EDA, it would be more appropriate to include comprehensive language in the EDA extension to take care of this matter. It is not the intent of the committee to establish within EPA an office to deal with economic impact, a subject property belonging within EDA. The committee and I personally, does stress its sympathy and support for the intent of the amendment.

Mr. FRASER. Mr. Chairman, I rise for the purpose of clarifying the intent of the amendment.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. FRASER. As I understand it, the purpose of the amendment is to provide for a public hearing in the case of an industry claim that enforcement of these water-control standards will force it to relocate or otherwise shut down operations. I do not understand that it has to do with economic adjustment assistance, which would or might properly come up under another legislative area. Since this deals just with the public hearings, I would hope that the amendment would be adopted.

I think too many companies use the excuse of compliance, or the need for compliance, to change operations that are going to change anyway. It is this kind of action that gives the whole antipollution effort a bad name and causes a great deal of stress and strain in the community.

I would think that this is the right place for the amendment to be adopted. It is a very limited amendment. I strongly urge that it be supported.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

The question was taken; and the Chairman 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. WILLIAM D. FORD, BLATNIK, HARSHA, and FRASER.

The Committee divided, and the tellers reported that there were—ayes 274, noes 118, not voting 40, as follows:

[Roll No. 98]

[Recorded Teller Vote]

AYES—274

Abourezk	Frenzel	Natcher
Abzug	Fulton	Nedzi
Adams	Galifianakis	Nelsen
Addabbo	Gallagher	Nix
Alexander	Gibbons	Obey
Anderson, Calif.	Gonzalez	O'Hara
	Goodling	O'Konski
Anderson, Ill.	Grasso	O'Neill
Anderson, Tenn.	Green, Oreg.	Pelly
	Green, Pa.	Pepper
Andrews	Griffiths	Perkins
Annunzio	Gude	Pettis
Arends	Halpern	Peyser
Ashley	Hamilton	Pickle
Aspin	Hanley	Pike
Badillo	Hanna	Poage
Barrett	Hansen, Wash.	Podell
Begich	Harrington	Poff
Bell	Harvey	Preyer, N.C.
Bennett	Hathaway	Price, Ill.
Bergland	Hechler, W. Va.	Pucinski
Betts	Heinz	Quie
Bevill	Helstoski	Railsback
Biaggi	Hicks, Mass.	Randall
Biester	Hicks, Wash.	Reuss
Bingham	Holifield	Rhodes
Boland	Horton	Riegle
Brademas	Hosmer	Robison, N.Y.
Brasco	Howard	Rodino
Bray	Hungate	Roe
Brooks	Hunt	Rogers
Broomfield	Hutchinson	Rooney, N.Y.
Brotzman	Ichord	Rooney, Pa.
Brown, Ohio	Jacobs	Rosenthal
Broyhill, N.C.	Johnson, Pa.	Roush
Broyhill, Va.	Jonas	Rousselot
Buchanan	Jones, Tenn.	Roy
Burke, Fla.	Karth	Roybal
Burke, Mass.	Kastenmeier	Runnels
Burlison, Mo.	Kazen	Ruppe
Burton	Keating	Ryan
Byrne, Pa.	Kemp	St Germain
Carney	King	Sarbanes
Chamberlain	Koch	Schneebeli
Clancy	Kyl	Sebelius
Clausen, Don H.	Kyros	Seiberling
	Landgrebe	Shoup
Clay	Lennon	Shriver
Cleveland	Lent	Skubitz
Collins, Ill.	Link	Smith, Iowa
Conable	Long, Md.	Smith, N.Y.
Conte	Lujan	Staggers
Conyers	McCloskey	Stanton, J. William
Corman	McClure	
Cotter	McCollister	Steed
Coughlin	McCormack	Steele
Culver	McDade	Steiger, Ariz.
Daniels, N.J.	McDonald, Mich.	Stratton
Danielson		Stubblefield
de la Garza	McEwen	Sullivan
Dellenback	McFall	Symington
Dellums	McKay	Talcott
Denholm	McKevitt	Taylor
Dent	McKinney	Teague, Calif.
Derwinski	Macdonald, Mass.	Terry
Devine		Thompson, Ga.
Diggs	Madden	Thompson, N.J.
Dingell	Mahon	Thomson, Wis.
Donohue	Mailliard	Tiernan
Dow	Mallary	Udall
Downing	Mathias, Calif.	Ullman
Drinan	Matsunaga	Vanik
Dulski	Mayne	Veysey
Duncan	Mazzoli	Vigorito
du Pont	Meeds	Waldie
Eckhardt	Melcher	Wampler
Edwards, Calif.	Metcalfe	Ware
Eilberg	Michel	Whalen
Erlenborn	Mikva	Whitten
Esch	Miller, Calif.	Widnall
Eshleman	Mills, Md.	Wiggins
Evans, Colo.	Minish	Williams
Fascell	Mink	Wilson, Bob
Findley	Minshall	Wilson, Charles H.
Fish	Mitchell	
Flood	Monagan	Winn
Foley	Moorhead	Wolff
Ford, Gerald R.	Morgan	Wydler
Ford, William D.	Morse	Wylie
	Mosher	Yatron
Forsythe	Moss	Young, Fla.
Fountain	Murphy, Ill.	Young, Tex.
Fraser	Murphy, N.Y.	Zablocki
Frelinghuysen	Myers	Zwach

NOES—118

Abbitt	Fisher	Mathis, Ga.
Albert	Flowers	Miller, Ohio
Archer	Flynt	Mizell
Ashbrook	Frey	Montgomery
Aspinall	Fuqua	Nichols
Baker	Garmatz	Patten
Belcher	Gettys	Pirnie
Blackburn	Giaimo	Powell
Blatnik	Gray	Purcell
Boggs	Griffin	Quillen
Bolling	Gross	Rees
Brinkley	Grover	Roberts
Brown, Mich.	Gubser	Robinson, Va.
Burleson, Tex.	Hagan	Roncalio
Byrnes, Wis.	Haley	Ruth
Byron	Hall	Satterfield
Cabell	Hammer-schmidt	Schmitz
Caffery		Schwengel
Camp	Hansen, Idaho	Scott
Carey, N.Y.	Harsha	Shipley
Carter	Hastings	Sikes
Casey, Tex.	Hébert	Slack
Cederberg	Henderson	Smith, Calif.
Celler	Hillis	Snyder
Collier	Hogan	Spence
Collins, Tex.	Jarman	Springer
Colmer	Johnson, Calif.	Stanton, James V.
Crane	Jones, Ala.	
Curlin	Jones, N.C.	Steiger, Wis.
Daniel, Va.	Kee	Stephens
Davis, Ga.	Kluczynski	Teague, Tex.
Davis, S.C.	Landrum	Thone
Davis, Wis.	Latta	Vander Jagt
Delaney	Leggett	Waggonner
Dennis	Lloyd	Whalley
Dorn	Long, La.	White
Dowdy	McClory	Whitehurst
Edmondson	McMillan	Wyatt
Edwards, Ala.	Mann	Wyman
Evins, Tenn.	Martin	Zion

NOT VOTING—40

Abernethy	Hays	Reid
Baring	Heckler, Mass.	Rostenkowski
Blanton	Hull	Sandman
Bow	Keith	Saylor
Chappell	Kuykendall	Scherle
Chisholm	McCulloch	Scheuer
Clark	Mills, Ark.	Sisk
Clawson, Del	Mollohan	Stokes
Dickinson	Passman	Stuckey
Dwyer	Patman	Van Deerlin
Edwards, La.	Price, Tex.	Wright
Gaydos	Pryor, Ark.	Yates
Goldwater	Rangel	
Hawkins	Rarick	

Messrs. BROOKS, STEIGER of Wisconsin, and YOUNG of Texas changed their votes from "no" to "aye."

So the amendment was agreed to.

Mr. GUBSER. Mr. Chairman, within the next two hours we will be voting upon one of the most significant bills of all time. For more than two centuries the balance of nature in this continent has been violated by man. Today we will take a meaningful step toward correcting the wrongs we have committed in the past hundreds of years. Because this bill does so much for the environment and because it is well within the bounds of reason, I intend to vote for it.

Like any hallmark legislation, some will think the bill before us goes too far while others will believe it does not go far enough. I sincerely hope the American public in its serious concern for our environment will not look upon the limitations of reason which we have written into the bill as less than a complete dedication by this Congress to improving the environment in which we live. I hope the public will never lose sight of the positive things which this bill accomplishes. It is a meaningful and far-reaching step which we take today.

GOALS AND POLICY

H.R. 11896 establishes for the first time a national goal in removing pollutants from our water supply. It establishes an interim goal for 1981 to achieve water quality suitable for recreation purposes and the propagation of marine life in all waters. It establishes a 1985 goal of "zero discharge" of pollutants into the nation's waters. The bill sharply increases Federal grants for municipal waste treatment facilities in the amount of $18,000,000 for the next 3 fiscal years. It preserves the right and responsibility of the States to prevent pollution and in so doing, it preserves the considerable expertise available at the State level. It allows States which are ahead of the national standards to remain ahead. It does not allow any State to drag its feet but provides national standards which each State must meet if it is to retain its right to issue discharge permits.

RESEARCH, TRAINING, AND RELATED PROGRAMS

The bill grants the Environmental Protection Agency broad authority to participate in and encourage research in pollution. It provides for demonstration projects aimed at developing new pollution control and waste treatment techniques. For fiscal year 1974, $315,000,000 is authorized for these programs.

GRANT ASSISTANCE FOR CONSTRUCTION OF PUBLIC WASTE TREATMENT FACILITIES

For fiscal year 1973, $5 billion, $6 billion for fiscal year 1974, and $7 billion for fiscal year 1975 is authorized for construction of municipal waste treatment works. Under this legislation the Federal share of such project costs will be 75 percent instead of 55 percent as at present. Retroactive payments of between 30 percent and 55 percent are authorized for local communities which have already constructed waste treatment works.

EFFLUENT LIMITS AND PERMIT PROGRAMS

This landmark bill establishes a national discharge permit system and requires that by 1976 the "best practical control technology" be utilized by private industry. A further requirement is that industry achieve zero discharge by 1981 or utilize the "best available demonstrated technology" if the cost of achieving zero discharge is unreasonable.

EVALUATION OF ZERO DISCHARGE GOAL

The bill quite reasonably calls for a study by the National Academies of Science and Engineering on the effectiveness of the 1981 and 1985 water quality goals so that future congressional action can be taken on the basis of scientific data. Though some feel that the Congress should have sailed blindly into the scientific unknown and mandated goals which might prove unrealistic, I feel that the authorized study is one of the bill's strongest features. If the study is not made and if the future goals prove to be unrealistic, Congress would be floundering in scientific ignorance. The National Academies are well qualified and we need the information which their study will produce. Personnel of the National Academies are as dedicated to a clean environment as anyone. I have no fear of the truths they will develop.

STATE ROLE

As I have previously stated, this bill does not abdicate responsibility for pollution-free water by handing it over to the States with no strings attached. The

States must submit acceptable plans and demonstrate a capacity to administer their program of issuing permits effectively. The EPA can terminate the delegation of this authority to the States if the State program is not run in accordance with EPA regulations.

Many of us remember the concern of Californians when national legislation to prevent air pollution was far behind the steps California has already taken. California Congressmen of both parties fought and won the right to exceed national standards. This bill will allow State discharge standards more stringent than those required by Federal law.

ENFORCEMENT

Penalties for those who violate the act are provided up to $10,000 per day and criminal penalties of $2,500 to $25,000 per day and/or 1 year imprisonment are provided for. This shows what a tough antipollution measure we are passing today.

OTHER PROVISIONS

Citizens will be allowed to bring a civil action against individuals or government agencies who violate the act. The fact that suits must be brought by residents of the geographical area affected by the violation is not an unreasonable diminution of the right to sue. Conservation groups should experience no difficulty in finding a qualified local citizen to bring a suit. On the other hand, harassing lawsuits which would glut court calendars could not be filed across the entire Nation by individuals from areas not affected.

Of great significance is the portion of the bill which provides an environment financing agency to purchase municipal bonds to finance the local share of waste treatment plant construction projects. Also important is the authorization of $800 million assistance to small businesses to help them meet the pollution abatement requirements of the act.

No person could deny the fact that this bill is a wholesale attack upon pollution. By going further than anything we have ever passed, it truly reflects the proper concern for our environment, which has swept the Nation.

Some have argued for exclusive Federal responsibility for administration and enforcement of the water pollution program and say the bill is deficient in this regard. This is a false issue. As I have previously stated, the bill assigns overriding authority to the Federal Government and gives administration responsibility to the States only when they demonstrate the ability and reliability to live up to their responsibility. When a State fails to discharge its responsibility, the Federal authority can take complete charge of that State's program.

I have already addressed myself to the objections raised by some conservation groups to the 2-year study by the National Academies of Science and Engineering. So I will only ask the question—what is there to fear from learning scientific truth from the groups most qualified to seek it out? Had we such knowledge years ago, perhaps we could have avoided the current level of pollution of our environment.

The fact that Congress must take affirmative action following completion of the study is certainly not a weakness in the bill. What Congress passes today, it could repeal next year. But with the scientific facts before it, Congress will be in a strong position to take affirmative action to protect our environment and to rebut the arguments of those who place profit above a clean environment.

The House bill is estimated by some to involve a price tag of at least $300 billion. Governor Rockefeller has estimated the cost of the Senate bill to exceed $2 trillion. Others estimate the 25-year cost will be $2.34 trillion. Testimony before the Public Works Committee was received indicating that it would cost $700 million per incremental percentage point to remove 85–90 percent of pollutants. To achieve the last percentage point of removal or no discharge would cost $317 billion and raise the total cost from $700 million per incremental percentage point to $66 billion. Let us hope that by 1985 science will have drastically reduced these costs but, in the meantime, we must recognize current reality.

Objections to the House bill are simply not realistic. We must remember that we are passing a law which people must live with. I want to go full speed ahead in cleaning up our environment, but to vote for something which ignores reality is to run the risk of sabotaging responsible, long-range action.

Even though H.R. 11896 is an excellent bill, it nevertheless could have been improved had certain amendments been adopted.

I voted for the Hechler amendment that required a recycling of mine waste water.

I voted for the Abzug amendment to eliminate the provision that compliance with the National Environmental Protection Act could be certified by States. Personally, I believe that compliance with a Federal law should be determined by the Federal officials responsible for administering that law.

I also voted for that provision in the so-called Dingell-Reuss clean water package, which would have prevented a transfer of authority to issue discharge permits prior to the time that national standards are developed. This same amendment would have allowed 60 days for the Environmental Protection Agency to review discharge permits granted by the States. It would also have eliminated immunity until 1976 from national standards. I feel that this amendment would have improved the bill.

I also voted for an amendment by Representative ASPIN which would have applied the same standards to water discharged into the underground as apply to surface discharge. I come from an area which depends completely upon storage of water in the underground basin and I would like to see that type storage given equal protection.

I felt the amendment to do more about cleaning up Lake Tahoe should have passed and there were others which could have improved the bill.

But despite the fact that I voted for these strengthening amendments, and I was on the losing side, I still say that the bill we will pass today is a great and a meaningful step toward the goal of providing clean water for this and future generations. This is a proud moment in the history of the U.S. House of Representatives.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to direct a question to the gentleman from Alabama (Mr. JONES).

Mr. JONES, I understand that during hearings before the Rules Committee, the gentleman from Alabama stated that the allocation of funds under title II would be based on the most recent study conducted by the Environmental Protection Agency.

The bill, as reported, allocates grants under title II according to a 1970 needs survey. The Senate bill allocates grants according to population.

Am I correct that in conference, the managers of the House bill will make every effort to use the EPA study conducted in 1971 as the basis for the allocation of grants under title II, and not the outdated 1970 study?

Mr. JONES of Alabama. Mr. Chairman, if the gentleman will yield, the gentleman is correct. We are making every effort to bring up to date the figures and calculations for the 1971 needs survey and that information will be submitted to us.

Mr. ANDERSON of California. I am sure that the gentleman is aware that the substance of the 1971 needs survey has been released to the Public Works Committee.

According to a response that I received from the White House regarding the 1971 survey, "the substance of the report containing the survey of State needs to implement clean water measures has been released" to the Public Works Committee.

Even if the formal report is not available by the time H.R. 11896 is considered by conference, I would anticipate that the House conferees would base title II allocations on the 1971 survey, the substance of which they now possess.

The CHAIRMAN. Under the unanimous-consent agreement of yesterday, all time has expired.

Are there further amendments to this section of the bill?

AMENDMENT OFFERED BY MR. VANDER JAGT

Mr. VANDER JAGT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANDER JAGT: Page 241, between lines 23 and 24 insert the following:

"(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

"(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture or aquaculture products, or any combination thereof;

"(2) the confined and contained disposal of pollutants not recycled;

"(3) the reclamation of wastewater; and

"(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

"(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment

and recycling with facilities to treat, dispose of or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

"(f) The Administrator shall encourage waste treatment management which combines 'open space' and recreational considerations with such management.

Page 241, line 24, strike "(d)" and insert "(g)".

Mr. VANDER JAGT. Mr. Chairman and members of the committee, I am delighted that the committee has finally recognized that there is no bill so perfect that it cannot be improved upon at least a little bit.

Mr. Chairman, this amendment is designed to ask the Administrator to encourage the development in areas of resources management system the recycling of pollutants into resources, thereby producing income rather than just incurring operating costs.

Actually, in my opinion, of the package of three amendments I plan to offer, this is the easiest one to support and the most difficult to oppose.

It simply asks people to take a look at the problem as to whether it is technically feasible and economically beneficial to recycle our wastes. Who could be opposed to that? Certainly not the administration which is supporting this system with the largest demonstration grant in its history, and certainly not the committee, because throughout the committee report the language of the report indicates this approach to be a desirable one.

Mr. Chairman, this will enable us to do something about the split personality in the bill before us, because in the opening section of this bill we proclaim the goal of zero discharge of pollutants by 1985, but then we turn around and make this an open-ended program of billions and billions of dollars through the use of conventional equipment which can only give us dirty water, in effect a goal of dirty water by 1976.

This conventional equipment will be virtually useless to us if we ever decide that we meant anything when we talked about the clean water goal of 1985 If we do mean that, then we will have to start from scratch and write off most of the money that we will have spent between now and then as wasted billions of dollars of the taxpayers' money.

If that proclamation of 1985 is to mean really to stop pollution by 1985, if it is to mean anything more than the wishful dream of a drunk lying in a gutter who mutters that he is going to stop getting boiled by some certain day, then we ought to take a much more careful look at the alternative systems.

The committee also contends, on page 83 of the report, that if the goal of zero discharge is to be attained, then land treatment systems will be necessary. So then what is wrong with encouraging just taking a look at land treatment system costs, as long as we are trying to reach a zero discharge of pollutants, when we can only wring out of the nack of conventional equipment those systems which probably will cost hundreds of billions and even trillions of dollars?

Let me point out that in my congressional district in Muskegon we are constructing a system that will provide zero discharge of pollutants today for all the industries and municipalities in that entire county, and we are doing it at a lower unit cost than a convention system being constructed now just 20 miles away.

The Corps of Army Engineers in an extensive 2-year study has conducted feasibility studies for Boston, Cleveland, Detroit, Chicago, and San Francisco, and concluded that land treatment systems were feasible in all of these regions. At my urgent request 43 days ago the Corps of Army Engineers did an in-depth study with respect to the Chicago region and its 8 million people, and the conclusion of that study is that this system can provide substantially cleaner water than any alternative at significantly lower cost than any alternative.

To those who are concerned about costs, I would say can we not just take a careful look at this system? In addition the Corps of Engineers study in Chicago said that because of the likelihood of a location of a nuclear plant there, because this system solves the thermal pollution problem, that just by paying normal user charges to the system for the cooling water services rendered it would be possible to retire a bond issue far in excess of the total cost of the construction. Can we not strongly encourage a look at the possibility of the total elimination of pollutants now, through the use of a system which in effect will not cost anything?

The concept of clean water for America is a new concept, and we need to encourage our people all we can to look at anything that is new and promising.

James Russell Lowell told us years ago that:

> New occasions teach new ideas; we
> Cannot make their creed our jailer.
> They must forever onward sweep,
> and upward,
> Who would keep abreast of truth.
> Nor attempt a future's portal with
> A past's outdated key.

Today we stand before the future's portal of a new America. To open that door we should not automatically pass one of nature's own keys. Can we not choose the key of tomorrow? If it does not fit then nothing is lost, but if it does fit then for heaven's sake let us open the door and walk into the future of clean water for America.

Is that too much to ask this House to encourage? I hope not, for the House's sake as well as America's.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in this bill we are doing everything that the distinguished gentleman from Michigan asks for. We recognize the system—we recognize its merits. We require that every grant application must have considered the method that the gentleman is interested in. It is a fine method. The only problem is that it is not applicable to every area in the United States.

We provide that every application for a grant must consider the method that the gentleman is describing. We further provide that every application must contain an analysis that the proposed system is the most cost efficient—the most cost efficient system under the intent of this act over the life of the project. So thus, if it should develop in the analysis of the various systems to be employed that the system of the gentleman from Michigan is the most cost efficient system, then grant applications cannot be approved unless that system is utilized.

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

Mr. HARSHA. I yield to the gentleman.

Mr. GROVER. Is it not true that the very mesmerizing persuasion of the gentleman from Michigan before our committee impelled us to put language in the bill which you refer to which does give access to this Muskegon type of innovative technique.

Mr. HARSHA. That is quite right. The gentleman came before the committee and made a very persuasive argument, as he did here today. As a matter of fact, because of his interest and concern for this type of method, we changed the definition of treatment plants so that you can include the cost of the land necessary to dispose of the sludge or the spray irrigation system that he has up in Michigan.

In addition to that, we provide in this bill that the Corps of Engineers shall design and describe a pilot project for the entire Lake Erie region to see if that is one of the most workable and effective systems to eliminate pollution.

Thus, we have recognized everything the gentleman says about this legislation. His amendment is unnecessary.

Mr. Chairman, I urge the defeat of the amendment.

Mr. JONES of Alabama. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the Muskegon approach to the treatment of water pollution has far-reaching possibilities for the future. I congratulate the Congressman for the interest and support that he has given to this approach.

The committee devoted extensive time to hearing testimony by those who were knowledgeable regarding the Muskegon plan. However, research has not yet been completed and demonstrated technology established. Until this has been done, the committee does not believe that a special priority should be given to any one method of treatment as contrasted with others.

The committee firmly believes that applicants must in the future examine a much broader range of alternatives for the treatment of pollutants than they have heretofore typically done. Research must be encouraged by EPA to insure the development and application of new treatment technologies which must give full consideration to the impact of a proposed technology not only on the water but also on land and air resources.

The committee has incorporated in the bill a requirement that the consideration of all alternatives for the treatment of pollutants must be fully considered in connection with any application for a

waste treatment grant. The bill also includes specific language which would authorize grants to be made for waste treatment systems which adopt the Muskegon technology.

Accordingly, I see no need for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. VANDER JAGT).

PARLIAMENTARY INQUIRY

Mr. VANDER JAGT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. VANDER JAGT. Mr. Chairman, if the statement of the ranking minority Member about the 10-percent Federal contribution went to a second amendment to be offered, but did not relate in any way to the amendment that is before the House and we are voting on, would there be any way that I could get time to make that clear for the record.

The CHAIRMAN. The gentleman does not state a parliamentary inquiry.

The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. VANDER JAGT. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. VANDER JAGT. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. VANDER JAGT, JONES of Alabama, HARSHA, and MCCLOSKEY.

The Committee divided, and the tellers reported that there were—ayes 251, noes 130, not voting 51, as follows:

[Roll No. 99]

[Recorded Teller Vote]

AYES—251

Abbitt	Chamberlain	Flood
Abourezk	Clancy	Flynt
Abzug	Clay	Foley
Adams	Collier	Ford, Gerald R.
Anderson, Calif.	Collins, Tex.	Ford, William D.
Anderson, Ill.	Conable	Forsythe
Andrews	Conte	Fraser
Archer	Conyers	Frelinghuysen
Arends	Cotter	Frenzel
Ashbrook	Coughlin	Frey
Aspin	Crane	Galifianakis
Badillo	Culver	Goodling
Belcher	Daniel, Va.	Grasso
Bell	Davis, Wis.	Green, Pa.
Bennett	Dellenback	Gross
Bergland	Dellums	Gubser
Biaggi	Denholm	Gude
Biester	Dennis	Hall
Bingham	Dent	Halpern
Blackburn	Derwinski	Hamilton
Brademas	Devine	Hammer-schmidt
Brasco	Diggs	Hanley
Bray	Dingell	Hanna
Brinkley	Dow	Harrington
Broomfield	Dowdy	Harvey
Brotzman	Downing	Hastings
Brown, Mich.	Drinan	Hechler, W. Va.
Brown, Ohio	Dulski	Heckler, Mass.
Broyhill, N.C.	Duncan	Heinz
Broyhill, Va.	du Pont	Hicks, Mass.
Buchanan	Eckhardt	Hicks, Wash.
Burke, Fla.	Edwards, Ala.	Hillis
Burton	Edwards, Calif.	Horton
Byrnes, Wis.	Eilberg	Hosmer
Byron	Erlenborn	Hungate
Camp	Esch	Hunt
Carney	Eshleman	Hutchinson
Carter	Fascell	Ichord
Cederberg	Findley	Jarman
	Fish	Johnson, Pa.
	Mosher	Schmitz
	Moss	Schneebeli
	Murphy, Ill.	Sebelius
	Murphy, N.Y.	Shoup
	Nedzi	Shriver
	Nelsen	Skubitz
	Obey	Smith, N.Y.
	O'Hara	Spence
	O'Konski	Springer
	O'Neill	Staggers
	Pelly	Stanton, J. William
	Pepper	Steed
	Pettis	Steele
	Peyser	Steiger, Ariz.
	Pike	Steiger, Wis.
	Pirnie	Stokes
	Poage	Stratton
	Podell	Stuckey
	Powell	Talcott
	Preyer, N.C.	Teague, Calif.
	Price, Ill.	Teague, Tex.
	Price, Tex.	Thompson, Ga.
	Pucinski	Thomson, Wis.
	Quie	Udall
	Railsback	Vanik
	Randall	Veysey
	Reuss	Vigorito
	Rhodes	Wampler
	Riegle	Ware
	Robinson, Va.	Whalen
	Robison, N.Y.	Whalley
	Rodino	Whitehurst
	Rogers	Widnall
	Rooney, N.Y.	Williams
	Rooney, Pa.	Wilson, Bob
	Rosenthal	Wilson, Charles H.
	Rousselot	Winn
	Roy	Wyatt
	Roybal	Wylie
	Runnels	Wyman
	Ruppe	Yatron
	Ruth	Young, Fla.
	Ryan	Young, Tex.
	St Germain	Zablocki
	Sarbanes	Zion
	Satterfield	Zwach
	Schmitz	

NOES—130

Addabbo	Giaimo	Myers
Alexander	Gonzalez	Natcher
Anderson, Tenn.	Gray	Nichols
Annunzio	Green, Oreg.	Nix
Aspinall	Griffin	Passman
Baker	Griffiths	Patten
Barrett	Grover	Perkins
Begich	Hagan	Pickle
Betts	Haley	Poff
Bevill	Hansen, Idaho	Purcell
Boggs	Hansen, Wash.	Quillen
Boland	Harsha	Roberts
Bolling	Hathaway	Roe
Brooks	Helstoski	Roncalio
Burke, Mass.	Henderson	Roush
Burleson, Tex.	Holifield	Schwengel
Burlison, Mo.	Howard	Seiberling
Byrne, Pa.	Jacobs	Shipley
Cabell	Johnson, Calif.	Sikes
Caffery	Jonas	Slack
Casey, Tex.	Jones, Ala.	Smith, Calif.
Clausen, Don H.	Jones, N.C.	Smith, Iowa
Cleveland	Jones, Tenn.	Snyder
Collins, Ill.	Kazen	Stanton, James V.
Colmer	Kee	Stephens
Corman	Kluczynski	Stubblefield
Curlin	Kyl	Sullivan
Daniels, N.J.	Landrum	Symington
Danielson	Lennon	Taylor
Davis, Ga.	Long, La.	Terry
Davis, S.C.	Long, Md.	Thompson, N.J.
de la Garza	McCormack	Thone
Delaney	McFall	Tiernan
Donohue	McKay	Ullman
Dorn	McMillan	Waggonner
Edmondson	Mahon	White
Evans, Colo.	Mann	Whitten
Fisher	Martin	Wiggins
Flowers	Mathis, Ga.	Wright
Fountain	Mayne	Wydler
Fulton	Miller, Ohio	Young, Tex.
Fuqua	Mills, Md.	Zablocki
Gettys	Mizell	
	Monagan	
	Moorhead	

NOT VOTING—51

Abernethy	Chisholm	Gaydos
Ashley	Clark	Gibbons
Baring	Clawson, Del	Goldwater
Blanton	Dickinson	Hawkins
Blatnik	Dwyer	Hays
Bow	Edwards, La.	Hébert
Carey, N.Y.	Evins, Tenn.	Hogan
Celler	Gallagher	Hull
Chappell	Garmatz	Keith
	Kuykendall	Rarick
	Miller, Calif.	Rees
	Mills, Ark.	Reid
	Mollohan	Rostenkowski
	Morse	Sandman
	Patman	Saylor
	Pryor, Ark.	Scherle
	Rangel	Scheuer
		Scott
		Sisk
		Van Deerlin
		Vander Jagt
		Waldie
		Wolff
		Yates

Messrs. ARCHER and TEAGUE of California changed their votes from "no" to "aye."

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: Page 377, line 24, strike the word "citizen" and insert the word "person".

Page 379, line 5, strike the word "citizen" and insert the word "person".

Page 379, line 14, strike the words "issued by the Administrator".

Page 381, strike lines 1 through 6; and in line 7, change "(h)" to "(g)".

The CHAIRMAN. Did the gentleman have the amendment printed in the RECORD?

Mr. McCLOSKEY. It is printed in the CONGRESSIONAL RECORD, volume 118, part 8, page 9690, Mr. Chairman.

The CHAIRMAN. The gentlemen from California is recognized for 5 minutes in support of his amendment.

Mr. McCLOSKEY. Mr. Chairman, this is a simple amendment, which is intended to clarify the citizen litigation section of the bill.

I commend the distinguished committee for placing in this bill a very strong provision for citizen litigation, but I point out that the bill, in the language in which it is framed, adds a new definition of "citizen" for the first time in history.

I invite the Judiciary Committee to comment upon this. In my judgment, I believe the distinction made between citizens who can sue under the bill and citizens who cannot, to be an improper, if not an unconstitutional distinction.

In all other actions where this House has recently provided for citizen litigation we have provided that any "person" may bring suit. In the Clean Air Act Amendments of 1970, passed less than 2 years ago, we described the standing to sue precisely:

Any person may commence a civil action on his own behalf . . .

When we enacted the Noise Control Act 2 months ago we said again: "Any person" can sue. Yet in this bill the committee attempts to say that only a citizen can sue and then defines a citizen in terms that are extremely strained. Instead of using the simple language based on a body of evolving law over the last 100 years as to who has standing to sue, the committee put in the bill the limitation that suit can be brought only by a citizen who is "a citizen of the geographic area and has a direct interest which is or may be affected," or by "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." These terms are susceptible of different interpretation by reasonable men.

When we complicate legislation by attempting to define a simple term in new

and complex language we invite litigation. If there is one area where we lawmakers should feel an obligation, it is that of clarity in the language we write into law so that such language can be clearly understood and does not require lawsuits to define or interpret.

The bill uses the term: "a citizen of a geographic area." Does this mean a citizen of a county, a State, or of a watershed? The citizen "who has a direct interest;" does that mean a man who lives alongside of a waterway or a man who lives within sight of the water or one who swims in it or one who drinks the water? I suggest that it will require lawsuits to determine the interpretation of this kind of language.

When we talk about a group of persons who "has been actively engaged in the administrative process," it may be that no one is actively engaged in the administrative process other than administrators themselves.

What this law does is to take a simple area of law which is well known to citizens and attorneys, the question of who has standing to sue, and make a complex definition which can be interpreted differently by different judges.

In our other enactments, the Clean Air Act and the noise control bill, any person can sue.

Moreover, when the administration gave its approval to this bill, if you will look at page 169 of the report, when the Environmental Protection Agency submitted its letter of approval to the committee bill, it said:

Section 505 provides that any person may commence a civil action.

Yet when the bill was finally drafted several weeks later, the bill's language had been changed to say that only a citizen may sue, and defined a citizen in this strange way.

I think, if we have any obligation to our constituents, it is to pass laws that use clear language and do not invite litigation.

As a matter of fact, I think this particular law will hurt the orderly processes of justice. I can understand, of course, the committee being concerned somewhat with the fact that someone 3,000 miles away might come into an area and bring a lawsuit. Yet by its terms the bill requires that nonprofit corporations such as the Sierra Club or the Audubon Society cannot sue unless there has been an administrative process in which they were one of a group of persons actively participating in such process. This section of the bill may well be unconstitutional both for vagueness and for making a classification between individuals which cannot reasonably be sustained.

Mr. WIGGINS. Will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. WIGGINS. I intend to support the gentleman's amendment and I do so although I frankly oppose the expansion of citizen suits in class actions. This is an abuse that we will have to deal with one day, but we will have to do it in a constitutional manner.

This section creates a cause of action in favor of some plaintiffs and denies it to others without any apparent good reason for it. The record of the committee's deliberations is completely absent of any justification for that classification.

For example, the only plaintiffs permitted to sue here are natural persons, as I read the act. I do not understand—a corporate plaintiff will not be permitted to maintain a cause of action even though he may be as seriously and genuinely aggrieved as an individual. That classification to me is at best constitutionally suspect, and the gentleman's amendment has the virtue of removing that error.

Mr. McCLOSKEY. I may say in conclusion that all my amendment does is to put in the act the same language which we carefully considered and which we put in the clean air amendments and the noise pollution control bill. The term "person" is a term that has been carefully defined by the courts; it is understood by citizens and courts alike and we as lawmakers can take pride in the fact that it will not further burden an already overburdened judicial system with a variety of problems of definition which can easily be avoided.

Mr. EDMONDSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me say this: I make no claim to being a constitutional lawyer. The gentleman from California (Mr. McCLOSKEY) has in one portion of his amendment a provision that in my opinion has some appeal because I can see some justification for substituting the word "person" for the word "citizen" in this language used by the committee. But when the gentleman says that you can adopt his amendment and not have any major effect one way or the other upon this legislation and upon the scope of the rights of citizens provided in it, I think he neglects to consider at all the second part of the amendment which he has offered. The second part of the amendment which he has offered—and I have it here before me—would strike from the bill the language appearing at the top of page 381, lines 1 through 6. That is the language that requires that the plaintiff maintaining one of these citizen suits or "person" suits if you want to call it that, must be a citizen of the geographic area having a direct interest which is or may be affected, and second, any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographical area in controversy.

These are words of definite limitation and if you remove these words—while the gentleman says he does not propose to have someone 3,000 miles away bring a lawsuit, he certainly will open the door to anyone 3,000 miles away who wants to come in and file one of these lawsuits. That is what he is going to do if he eliminates this language.

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

Mr. EDMONDSON. Yes, I yield to the gentleman from California.

Mr. HOSMER. I thank the gentleman for yielding. The gentleman has stated the situation precisely as it is. We already have itinerant intervenors who go around the country and persons meddling in problems that have significance locally and not nationally for purposes where they are worthy. However, if this amendment were adopted, they could take over an installation and hold it for ransom because of the delay in time involved in the litigation and cause the expenditure of millions of dollars while this litigation is going on.

This kind of provision is really required for the protection of the country.

Mr. EDMONDSON. I thank the gentleman for his contribution.

I am a lawyer and I do not want to do anything that unfairly takes the fees out of the pockets of lawyers, but I am telling you that if you do not keep these words of limitation—and I do not care whether you call the litigants "persons" or "citizens"—you will have some people making a business of traveling all over the country and going into your part of the country when they do not live within 1,500 or 3,000 miles of you and intervening in matters that do not directly concern them, but who will try to block the development of these water-treatment plants, who will try to block the development of sewage-treatment plants and thus interfere with the orderly development of this program.

Mr. Chairman, we have a door open as wide as a barn door for the intervention in these lawsuits by persons or citizens, whichever you want to call them, who are in the area or who have become involved in the administrative process and who want to take it into court. But we are trying to put some reasonable limitation upon the scope of the right to bring these citizen suits.

That is the intent of this language and I hope the gentleman's amendment will be defeated.

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

Mr. EDMONDSON. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

I understood the gentleman to state that he was not a constitutional lawyer. I do not claim to be the greatest expert in this field, but I know of no other case in America where we have attempted to segregate those who can sue and those who cannot sue on one of these questions.

Is the gentleman familiar with any constitutional law or precedent which would justify defining who could bring this kind of lawsuit and who could not?

Mr. EDMONDSON. I could call the attention of the gentleman to two cases in which the limitation theory is mentioned by the court as a theory with validity: 354 F. 2d 608 (2 cir. 1965), the case of *Scenic Hudson Preservation Conference* v. *Federal Power Commission*, and the case of *Smith Hill Neighborhood Association* v. *Romney*, 421 F. 2d 454, 1969.

Mr. McCLOSKEY. I will say to the gentleman that those two cases do not stand for the kind of limitation placed in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WILLIAM D. FORD

Mr. WILLIAM D. FORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM D. FORD:

On page 338, amend lines 4 through 25 to read as follows:

"(f) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such state require greater environmental protection, such State may completely prohibit the discharge from a vessel of any sewage, whether treated or not, into such waters."

The CHAIRMAN. The Chair will ask the gentleman from Michigan whether the amendment just offered by the gentleman has been printed in the RECORD?

Mr. WILLIAM D. FORD. Yes, Mr. Chairman, it has, at page 10045 on March 23.

The CHAIRMAN. The gentleman from Michigan is recognized for 5 minutes in support of his amendment.

Mr. WILLIAM D. FORD. Mr. Chairman and members of the committee, this is a simple amendment designed to preserve the rights of individual States to prohibit discharge of sewage from vessels. I might attempt to explain it on the basis of a lengthy argument in defense of States rights. Some of my distinguished colleagues might find it surprising that my cosponsor, the distinguished gentleman from Minnesota (Mr. FRASER) and I would be making an argument on the basis of States' rights, but I think the States' rights approach would be appropriate at this point.

I could also make, I believe, a strong argument on the basis of the overall wisdom of this approach to pollution control. But I would like to make a more direct approach, and that is, to ask you to consider the Detroit River, which is a major connection between the Great Lakes, and realize that now with the St. Lawrence Seaway open we carry more tonnage of shipping through that river in its short season than the annual tonnage which passes through the Panama and Suez Canals combined.

Then I would like you to think about what happens to our drinking water in Michigan each time somebody flushes a toilet on one of those ships. If you do this, I am sure you will understand the kind of appeal that I am making to you here today and I think you will want to support this amendment.

It is not necessary to talk about States rights in order for you to understand, and you do not need, as has been suggested, a Geiger counter to tell you what kind of pollution contamination is going into the water supplies of some 4 million people in the immediate area of my congressional district.

Twenty of the States, particularly around the Great Lakes, and along the Mississippi River, have now adopted and have in effect stringent regulations with regard to equipping all boats that carry toilet equipment with them, so that they will retain on board their sewage and waste and take it to the shore, and have it pumped out. If we do not adopt this amendment these existing statutes will, in effect, be wiped out.

Mr. Chairman, I know my time is running out, but I would like to close by reading a telegram from Governor William Milliken, of Michigan, which shows very clearly what the dilemma is for these States:

Concerning H.R. 11896 which is now before you, we have not been able to obtain assurances from the EPA that Michigan's position concerning marine pollution would be protected under the new Federal Water Pollution Act. Therefore: I support amending the bill as reported to preserve the right for a State under a State law to adopt restrictions which are more stringent than those adopted by the Federal Government. This is important to the maintenance of Michigan's "no-discharge" boat pollution law.

The other Governors are joining with Governor Milliken of Michigan in asking us not to bar their right to enforce such legislation in the future, or enact legislation which can bar programs already underway, and not, by virtue of the provisions of this act, suspend these State laws for any length of time.

As I read the act, unless we adopt this amendment, laws like Michigan, Minnesota, and Wisconsin laws could become automatically suspended until such time as the EPA decided to write regulations to replace it and that could be up to 5 years. There are 45,000 boats registered in the State of Michigan now and we expect 75,000 by the end of the next 5 years—boats that are big enough to be equipped with toilets or, as some of my Navy friends say—have "heads" on them.

Mr. Chairman, by adopting this amendment we will simply be permitting Michigan and other States which determine the necessity, to enforce as they see fit, the control of vessel discharges within their own lakes and rivers.

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

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. FRASER. Mr. Chairman, I want to join the gentleman in urging support for this amendment, permitting States to completely prohibit the discharge from a vessel of any sewage, whether treated or not.

The bill before us marks a new and much needed approach to water pollution abatement. It sets admirable goals, provides generous funds, and employs some genuinely innovative and effective administrative procedures, such as the practices of "contract authority" and "user charges." Why then, does it take a backward step with regard to State regulation of marine sanitation devices?

We are still waiting for the final issuance of the Federal regulations required under existing law—Federal Water Quality Act of 1970, section 13f. When issued, these regulations will become effective 5 years after promulgation for existing vessels, and 2 years after promulgation for new vessels. States have had to act. They could not wait 5 years from some indefinite date in the future to stop waterborne polluters from dumping sewage.

Some have traditionally opposed State sanitary codes, health regulations, factory inspections, and such, on the grounds that it interfered with interstate commerce. Federal courts have, just as traditionally, upheld the right of States to protect the health and safety of their citizens.

The most recent Federal District Court decision, *New York State Waterways Ass'n* v. *Diamond*, F. Supp. (W.D.N.Y. Jan. 12, 1972) has found that "there is no merit to the claim of the plaintiffs that the statute—New York's law banning sewage-discharge from boats—constitutes an unconstitutional burden on interstate commerce."

The argument is raised that a no-discharge requirement is impractical inasmuch as pumpout facilities do not exist. Pumpout facilities have sprung up wherever and whenever there was a need for them. Michigan, which had 75 pumpout facilities a year ago, has 175 today. On the St. Croix River, within 12 miles of a spot where I have a summer place, there are six pumpout stations, with charges ranging from $3 to $4.50. In addition, "midstreamer services" on the Mississippi are beginning to add pumpout facilities to their other services. They can service vessels on the move. Pumpout facilities are economically viable. When a boatowner stops to have his holding tank pumped out, he probably gets fuel and possibly provisions as well.

As to the cry of "chaos," the amendment I am proposing will not permit 50 gradations of standards. It will permit only two—a no-discharge policy for those States that need it, and whatever standards the EPA sets for others.

Without the threat of Federal preemption, I am convinced that many other States will follow the example of the 20 or so which already prohibit dumping sewage from boats.

The States I refer to are the States of Arizona, California, Colorado, Illinois, Indiana, Maine, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Oregon, Texas, Utah, Vermont, and Wisconsin.

We need this amendment to preserve the right of the States to require holding tanks, otherwise those State laws are going to be wiped out and boats are going to be dumping into the waters that we swim in.

In a way, the struggle over this small issue is a microcosm of the larger struggle to clean up our environment. We all realize the gravity of the water pollution problem. It may already be too late in the case of Lake Erie. But the temptation is still to put off the personal commitment that is necessary if we are to succeed in averting the doom being predicted so graphically by such authorities as Dr. Commoner and the Club of Rome.

Our amendment will cost the Federal Government nothing. But it will require some effort and expense on the part of individual boatowners. It is easier, after

all, to eject wastes into the water. The facts are that the actual costs for boatowners to avoid polluting the waters upon which they navigate are within reason. For larger commercial vessels the Ford Motor Co. has set an example. It took only 4 weeks to install a $20,000 retention system in each of its six Great Lakes vessels in order to comply with Michigan law.

If we back down on this one—take this step backward in the struggle to clean up our waters, we will have done a double harm. We will have undone the good work of those States which have had the courage and initiative to pioneer in this field, and we will have indicated to an administration already subject to much pressure that the Congress is willing to go along with weaker regulations.

I urge you to support the marine sanitary devices amendment.

Mr. JONES of Alabama. Mr. Chairman, I will not belabor the point of the gentleman's amendment, but I would like to point out that we here in 1970 did exactly what the gentleman from Michigan, the author of this amendment, asked us to do. That was to preempt the States' rights in these circumstances in order that we could have some uniform approach to this problem.

So it seems to me we are coming back here today and saying: "Well, in 1970 you were not correct in your judgment of voting for the Water Quality Act and you want to come back and preempt the Federal Government and give it back to the States."

So it seems to me, that is a total inconsistency with what we are dealing with here in this proposition.

The committee recognizes that after the Federal preemption goes into effect, there could be such situations where the need for prohibiting discharges in certain bodies of waters outweighs the need for uniformity among the States.

Where those circumstances occur, subsection F3 of section 312 permits the Administrator, at the request of a State, to require a complete prohibition of discharge from a vessel of any sewage whether treated or not into any portions of the waters within the State.

Mr. Chairman, I regret to oppose the gentleman's amendment, but in all good conscience I do not see how we can march in here one day and take a position and come back and renege on it the next day.

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

Mr. JONES of Alabama. I yield to the gentleman.

Mr. WRIGHT. Mr. Chairman, I can sympathize with what the gentleman from Michigan seeks to achieve. Surely a State should not be prevented from improving upon the quality of its navigable waters. It is clearly the intention of the committee that the standards to be promulgated by the Administrator for marine sanitation devices shall be strong and forceful standards, coming as near as technology will permit to zero discharge. It also is the intention that the Administrator shall give full and due consideration to the application of any State, as set forth in the committee bill, to require no discharge within its own waters wherever available on-shore treatment and disposal warrant it.

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

Mr. JONES of Alabama. I yield to the gentleman.

Mr. PIKE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, everyone is for pure water, but I expect those who use it most care most about it.

No one needs, appreciates, or is more willing to make sacrifices to achieve clean water than the boatmen who use it and love it.

But enough of generalities—here are some specifics. There were 428,114 boats registered in New York last year. All of them combined contribute less sewage to the waters of our State in 2 years than the city of New York does in 1 day. The Army Engineers tell me that approximately 450 million gallons of raw sewage is dumped into New York Harbor by New York City every single day. But boats shall have holding tanks.

In my own county there were 58,993 boats last year—and all of them combined contributed less sewage to the waters of my county than just one State institution—the State University at Stormy Brook. The State, nevertheless, says boats must have holding tanks.

Because they are an easy target—a cheap shot—the State has singled out the boatowners. Not the huge ocean liners or cargo ships. New York would not think of enforcing its holding tank law against them—just the private boatowners and fishermen and clamdiggers. Sewage is neither better nor worse when it comes out of a boat instead of a house or an apartment or a school. It should be treated exactly the same way. When we are ready to stop sewage or put stringent controls on—fine, hallelujah! But let us not create the illusion of a solution by whipping a scapegoat.

Finally, of course, there has to be uniformity. We who live on Long Island like to sail across Long Island Sound to Connecticut and across Block Island Sound to Rhode Island. But these States have a different law, so when I comply with the law in New York I cannot take my boat on a vacation across the sound for they have no facilities for pumping out the holding tanks. I have a boat—and I also have a car. I use my boat in interstate trips in the same manner I use my car or a train on interstate trips. For each State to use its own judgment, not on effluent, but on boat effluent alone, not on sewage treatment equipment, but on boat equipment alone, makes no more sense than to have 50 different gages of railroad tracks or 50 different requirements for automobile carburetors. This amendment should be defeated.

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

Mr. JONES of Alabama. I yield to the gentleman.

Mr. TERRY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the present law, which we enacted in 1970, and the regulations promulgated thereunder are so strict that at the present time the only item that would be approved would be a holding tank.

The intent of Congress was set forth when we passed the Federal preemption which was established in 1970. We would be totally repealing that if we would adopt the amendment that is before us.

Those provisions were passed by the Congress because we recognized that vessels in interstate commerce and also many pleasure boats were faced with changing laws from one State to another.

I remember my own State of New York where we first passed the holding tank provision and then did not have holding tanks on certain lakes in order to accommodate the effluent.

We cannot afford to go back to the point of having situations where it cannot be a pleasurable experience to pass from one State to another.

Mr. Chairman, this amendment should be defeated.

We recognize that this amendment is unnecessary. We see nothing that the gentleman has proposed that will not be contained in the new law. The administrator has the right, and as the gentleman from Alabama stated, he can exercise that right where they find a situation that is not covered within the present exemption.

Mr. JONES of Alabama. Mr. Chairman, I should like to make one observation in relation to the attitude of Governors. There has not been a single Governor of any State who has not advocated passage of this bill.

Mr. WILLIAM D. FORD. I agree.

Mr. JONES of Alabama. So I do not think that any petition on behalf of any Governor to change any portion of our bill should cause us to do so. If the National League of Cities, the Governors and county government agencies come in asking us to pass this bill without amendment, why should we now hear about Governors requesting a change in one portion of this bill?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. FRASER. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. FRASER. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. WILLIAM D. FORD, GROVER, WRIGHT, and FRASER.

The Committee divided, and the tellers reported that there were—ayes 210, noes 173, not voting 49, as follows:

[Roll No. 100]

[Recorded Teller Vote]

AYES—210

Abourezk	Ashley	Brinkley
Abzug	Aspin	Broomfield
Adams	Badillo	Brotzman
Anderson, Ill.	Bell	Brown, Mich.
Anderson, Tenn.	Bergland	Brown, Ohio
	Bingham	Broyhill, N.C.
Andrews	Blackburn	Broyhill, Va.
Archer	Brademas	Buchanan
Arends	Brasco	Burke, Fla.

Burke, Mass.	Helstoski	Podell
Burlison, Mo.	Hicks, Mass.	Poff
Burton	Hicks, Wash.	Price, Ill.
Byrnes, Wis.	Hillis	Price, Tex.
Byron	Hogan	Quie
Carney	Hunt	Railsback
Carter	Hutchinson	Randall
Cederberg	Jacobs	Rees
Chamberlain	Johnson, Pa.	Reuss
Clancy	Karth	Rhodes
Clay	Kastenmeier	Riegle
Collier	Keating	Rodino
Conte	Kemp	Rogers
Conyers	Koch	Rooney, Pa.
Corman	Kyl	Rosenthal
Cotter	Kyros	Roush
Coughlin	Landgrebe	Rousselot
Crane	Leggett	Roybal
Culver	Lent	Ruppe
Daniels, N.J.	Link	Ryan
Danielson	Lloyd	Sarbanes
Davis, Wis.	Long, Md.	Schmitz
Dellenback	Lujan	Schneebeli
Dellums	McCloskey	Seiberling
Dennis	McClure	Shipley
Derwinski	McDade	Shoup
Diggs	McDonald, Mich.	Shriver
Dingell	McKay	Smith, Calif.
Donohue	McKevitt	Smith, Iowa
Dow	McKinney	Spence
Downing	Macdonald, Mass.	Springer
Drinan	Madden	Steele
Dulski	Mailliard	Steiger, Wis.
Duncan	Mallary	Stokes
du Pont	Mann	Stuckey
Edwards, Calif.	Mathis, Ga.	Sullivan
Esch	Matsunaga	Symington
Fascell	Mazzoli	Teague, Calif.
Fish	Meeds	Thompson, Ga.
Foley	Melcher	Thomson, Wis.
Ford, Gerald R.	Metcalfe	Tiernan
Ford, William D.	Michel	Udall
Fraser	Mikva	Ullman
Frelinghuysen	Mills, Md.	Vanik
Frenzel	Minish	Vigorito
Frey	Mink	Waldie
Fulton	Mitchell	Wampler
Gallagher	Mizell	Ware
Gibbons	Monagan	Whalley
Goodling	Morgan	White
Green, Pa.	Murphy, Ill.	Whitehurst
Griffiths	Nedzi	Widnall
Gross	Obey	Williams
Gude	O'Hara	Wilson, Charles H.
Hagan	O'Konski	Winn
Halpern	Pelly	Wyatt
Hamilton	Pepper	Wylie
Hanna	Pettis	Yatron
Harrington	Peyser	Young, Fla.
Harvey	Pickle	Zablocki
Hechler, W. Va.	Poage	Zwach
Heckler, Mass.		

NOES—173

Abbitt	Curlin	Haley
Addabbo	Daniel, Va.	Hall
Albert	Davis, S.C.	Hammer-schmidt
Alexander	de la Garza	Hanley
Anderson, Calif.	Delaney	Hansen, Idaho
Annunzio	Denholm	Harsha
Ashbrook	Dent	Hastings
Aspinall	Devine	Hathaway
Baker	Dorn	Henderson
Barrett	Dowdy	Holifield
Begich	Eckhardt	Horton
Belcher	Edmondson	Hosmer
Bennett	Edwards, Ala.	Howard
Betts	Eilberg	Hungate
Bevill	Erlenborn	Ichord
Biaggi	Eshleman	Jarman
Biester	Evans, Colo.	Johnson, Calif.
Boggs	Evins, Tenn.	Jonas
Boland	Findley	Jones, Ala.
Bolling	Fisher	Jones, N.C.
Bray	Flood	Jones, Tenn.
Brooks	Flowers	Kazen
Burleson, Tex.	Flynt	Kee
Byrne, Pa.	Forsythe	King
Cabell	Fountain	Kluczynski
Caffery	Fuqua	Landrum
Camp	Galifianakis	Latta
Casey, Tex.	Garmatz	Lennon
Celler	Gettys	Long, La.
Clausen, Don H.	Giaimo	McClory
Cleveland	Gonzalez	McCollister
Collins, Ill.	Grasso	McCormack
Collins, Tex.	Gray	McEwen
Colmer	Green, Oreg.	McFall
Conable	Griffin	McMillan
	Grover	Mahon
	Gubser	Martin
	Quillen	Stanton, J. William
Mathias, Calif.	Roberts	Steiger, Ariz.
Mayne	Robinson, Va.	Stephens
Miller, Calif.	Robison, N.Y.	Stratton
Miller, Ohio	Roe	Stubblefield
Minshall	Roncalio	Talcott
Montgomery	Rooney, N.Y.	Taylor
Moorhead	Roy	Teague, Tex.
Mosher	Runnels	Terry
Myers	Ruth	Thompson, N.J.
Natcher	St Germain	Thone
Nichols	Satterfield	Waggonner
Nix	Schwengel	Whalen
O'Neill	Scott	Whitten
Passman	Sebelius	Wiggins
Patten	Sikes	Wilson, Bob
Perkins	Sisk	Wolff
Pike	Skubitz	Wydler
Pirnie	Slack	Wyman
Powell	Smith, N.Y.	Young, Tex.
Preyer, N.C.	Snyder	Zion
Purcell	Staggers	

NOT VOTING—49

Abernethy	Hawkins	Rangel
Baring	Hays	Rarick
Blanton	Hébert	Reid
Blatnik	Heinz	Rostenkowski
Bow	Hull	Sandman
Carey, N.Y.	Keith	Saylor
Chappell	Kuykendall	Scherle
Chisholm	McCulloch	Scheuer
Clark	Mills, Ark.	Stanton, James V.
Clawson, Del	Mollohan	Steed
Davis, Ga.	Morse	Van Deerlin
Dickinson	Moss	Vander Jagt
Dwyer	Murphy, N.Y.	Veysey
Edwards, La.	Nelsen	Wright
Gaydos	Patman	Yates
Goldwater	Pryor, Ark.	
Hansen, Wash.	Pucinski	

Mr. GALLAGHER changed his vote from "no" to "aye."

So the amendment was agreed to.

Mr. MAHON. Mr. Chairman, the vote on my amendment to the pending water pollution control bill has been taken. The amendment did not prevail, although a very substantial number of Members of the House voted for it—in fact, 161 Members.

It was, as I said, a procedural amendment, but as I pointed out in my remarks on the amendment—and otherwise on Monday and Tuesday of this week—it involved a very fundamental question: the orderly processes of legislative consideration and actions annually. Not every few years, but each year, each session of each Congress.

I had hoped—indeed planned—to support the pending measure, especially since in many respects it is, in my opinion, far superior to the Senate version of the bill. On further consideration of the whole matter, and especially in view of the defeat of the procedural and yet fundamental amendment which I offered, I feel reluctant to vote to approve a 3-year, $18-billion expenditure program without requiring further action by the Congress.

In the debate today, reference has been made to a letter which I wrote on Monday of this week to all Members of the House. In view of the references made, I submit the letter for the RECORD at this point:

CONGRESS OF THE UNITED STATES,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., March 27, 1972.

DEAR COLLEAGUE: Let me make two points very clear about the pending *Water Pollution* Control Bill, H.R. 11896:

1. I have not had the remotest thought of offering any amendment to alter the dollar figures for waste treatment construction grants or any other program involved in the bill. It is within the province of the Committee on Public Works to recommend whatever levels of authorization it deems appropriate.

2. My concern arises over the *multi-year contract authority* provision. I have now decided to offer an amendment to substitute *one-year advance appropriation* funding for the three year contract provision. With multi-year contract authority we downgrade Congress—abrogate our annual authority—more or less write the next two congressional sessions out of the act. To me it makes no sense for us to abdicate our power.

One-year advance funding of the waste treatment grant program with direct appropriations would assure that State and local interests would have adequate notice for their planning purposes. Congress would act every year and be solidly in the picture from the standpoint of our people. Why detract from the power and prestige of the Legislative Branch by vesting authority for a 3-year period in the Executive Branch? Why surrender the right and—as I see it—the duty of annual action on this momentous issue?

Just prior to World War II, 18% of the spending budget was classified as relatively uncontrollable. The current budget classifies 71% of spending as relatively uncontrollable under present law! Contract authorizations for waste treatment would continue to move us toward almost complete abdication to the Executive Branch. This is unnecessary. Let's not do it!

Please give this problem your best attention and let's work out an approach which will be acceptable to the House and retain the power and dignity of Congress.

Sincerely,

GEORGE MAHON.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The Speaker resumed the chair.

The SPEAKER. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

The SPEAKER. The Committee will resume its sitting.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

The Committee resumed its sitting.

AMENDMENT OFFERED BY MR. GALLAGHER

Mr. GALLAGHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GALLAGHER: Page 254, immediately after line 12 insert the following:

"(e) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1952, but before June 30, 1956, as a result of a court order, or a ruling by an interstate agency, or both, shall qualify for payments and reimbursements of State or local funds used for such project from sums allocated to such State under this subsection 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 total cost of such project. There is authorized to be appropriated to carry out this subsection not to exceed $17,000,000."

Mr. GALLAGHER. Mr. Chairman, my amendment was printed in the RECORD.

The CHAIRMAN. The gentleman from New Jersey is recognized for 5 minutes.

Mr. GALLAGHER. Mr. Chairman, I appreciate the long hours and hard toil of the Public Works Committee that went into the bill before us today. It is an altogether impressive legislative accomplishment, and I intend to support H.R. 11896 on final passage.

Viewed in the context of this $24.6 billion package my amendment designed to provide equal treatment under the law for Bayonne and Jersey City may seem like small potatoes. But I assure the House that this amendment matters a great deal to these two communities in my district.

What my amendment does is to enable Bayonne and Jersey City to receive Federal reimbursements for sewage treatment plants they constructed prior to the June 30, 1956, cutoff as a direct result of governmental mandates.

The background is straightforward enough. Bayonne initiated its sewerage facility in November 1952—and Jersey City did likewise in September 1954. In moving out in front in responding to the needs of their citizens these two communities showed commendable public spirit.

By the same token, these communities could have dragged their feet in responding to the imperative of water pollution control. And that is the irony. By being early birds in meeting their obligations in the water pollution field, Bayonne and Jersey City merit commendations. But instead they are being penalized cruelly by being cut out altogether of reimbursements under subsection 206(b) of this bill.

Moreover, it is not as if either city had a meaningful choice in the matter. Each community, of course, wanted to do its best for its citizens. But this high motivation was reinforced by governmental mandates that neither Bayonne nor Jersey City could ignore.

The Interstate Sanitation Agency ordered both cities to invest in modern sewerage systems. And the agency's orders were backed by court orders.

Thus once again we encounter a deplorable breach of faith between the Governors and the governed. Bayonne and Jersey City responded to orders of the Government to start in on modern sewerage facilities at a prematurely early date. But instead of being rewarded, these two communities are penalized for obeying the orders of their Government.

How does one explain this anomaly to the communities involved? Bayonne raised $16 million through a bond issue. That is $16 million that is now not available for improving Bayonne schools, hiring more police and judges, upgrading hospitals, and so forth.

Jersey City raised $39.4 million through three bond issues. That is $39.4 million that is now not available for drug rehabilitation programs for youthful addicts, dealing with other water as well as air pollution problems in the community, and doing something about traffic snarls.

The fact is that my amendment will not be especially costly. It provides just $17 million as the 30-percent Federal reimbursement for the two communities that would otherwise be available under subsection 206(b).

This $17 million, moreover, is especially important for Bayonne and Jersey City. Both are hosts for Federal installation, and this has had the effect of shrinking their tax bases.

Were these installations not there, Bayonne and Jersey City would have significantly greater tax revenues available for public works projects. But as it stands, both sewage treatment facilities had to be financed from bond issues rather than tax revenues.

For these reasons I urgently ask that the House grant appropriate relief to Bayonne and Jersey City by approving my amendment.

Quite apart from the fate of this amendment, however, it appears to me that Jersey City is entitled to partial reimbursement under subsection 206(b) for its sewage treatment facility. I refer specifically to the $4.4 million that Jersey City committed for this project after June 30, 1956.

An examination of the language of subsection 206(b) is instructive. In both the House and Senate bills the pertinent language is the same. This subsection does not talk in terms of projects "initiated" after June 30, 1956, but rather in terms of projects "constructed or eligible for assistance" between June 30, 1956, and June 30, 1966. This suggests strongly that the legislative intent was to finance both projects—and segments of projects—that were constructed after the June 30, 1956, cutoff.

The first rule of legislative interpretation is to look at the language of the bill itself. Subsection 206(b) could have been drafted in terms of projects "initiated" after June 30, 1956. But it was not. By way of contrast, subsection 206(a) in both the Senate and House versions talks in terms of projects "initiated" after a particular date.

If "initiated" was used in subsection 206(a), why was it not in subsection 206(b)? Apparently, the legislative intent was to provide under 206(b) for projects underway as well as projects initiated after June 30, 1956. Otherwise, why not use "initiated" in both subsections?

The only other likely explanation is inconsistency in legislative drafting. But given the many hours of expert draftsmanship involved in this omnibus bill, this seems improbable.

What I would urge, therefore, is that in the conference report the managers address themselves to this inconsistency in language between the two subsections, and furnish an authoritative interpretation of the inconsistency. I hope and trust this interpretation will hold that segments of projects underway after June 30, 1956, are eligible for reimbursement.

Mr. JONES of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with reluctance that I oppose the gentleman's amendment because I can appreciate the great difficulties which the gentleman has described with reference to these two cities located in the gentleman's congressional district which was occasioned by the fact that they did not have ample money.

However, under our bill we go back to the 1956 act in making retroactive payments. If they had made an application and had received approval of a plan prior to 1956, we would not have a grant program. Prior to 1956, we did not have a grant program. We had a very meager loan program.

So, consequently, there were no applications for loans which were made.

Now, at this time we could not have any reliance on any kind of figures if we are going to make some kind of reasonable estimate to reimburse every community that has improved and has carried out the construction which the gentleman has described out of their own resources.

Accordingly, as I say—I am reluctant to oppose the amendment. I hope the amendment is not adopted.

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

Mr. JONES of Alabama. I yield to the gentleman from New Jersey.

Mr. GALLAGHER. I would like to point out, Mr. Chairman, that we have made a study and there are no other communities affected. If there are some at a future point, the limitation of $17 million would apply.

Actually, if this amendment is voted down it means that these two cities that complied with the court orders—while all the other cities along the Hudson River did not—will, in effect, be penalized for complying with the law.

I hope that the committee will understand the equity involved here, so that these two cities might benefit as the rest of the country will from this $24 billion program.

Mr. JONES of Alabama. As I explained yesterday in our conversation to the gentleman, the author of the amendment, the committee would be glad to make an inquiry into the subject matter. However, we have not had an opportunity to go back retroactively and consider anything beyond the 1956 act.

So, I hope the gentleman realizes that we have not made a study and we would not know how to bring in an amendment of $17 million in order to accommodate the two cities. Further, we do not know the other municipalities throughout the country which are in a similar situation. It may be that there is an equal need for it in other locations.

Mr. GALLAGHER. Mr. Chairman, if the gentleman will yield further, I would say to the gentleman that my amendment limits the amount that could be distributed to all cities who may qualify. These are the first two cities in the country where a Federal court ordered them to pay for their sewerage systems out of their own funds—funds, incidentally, that should have been used for many other important purposes.

Mr. JONES of Alabama. I do not see how the committee could have been more generous. If you examine the bill, you will see that there is $2,750,000,000 for reimbursements from 1956 up until the pres-

ent time. We did not have an opportunity to go into the matter to which the amendment offered by the gentleman from New Jersey's amendment gives rise to, so that our committee is not informed upon this; we have not had the opportunity to make a total examination of the problem the gentleman poses. I would hope that the gentleman would not insist upon his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. GALLAGHER).

The question was taken; and on a division (demanded by Mr. GALLAGHER) there were—ayes 16, noes 72.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 2? If not, the Clerk will read.

The Clerk read as follows:

AUTHORIZATIONS FOR FISCAL YEAR 1972

SEC. 3. (a) There is authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $6,000,000 for the purpose of carrying out section 5(n) (other than for salaries and related expenses) of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(b) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $350,000,000 for the purpose of making grants under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(c) The Federal share of all grants made under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from sums herein and heretofore authorized for the fiscal year ending June 30, 1972, shall be that authorized by section 202 of such Act as established by the Federal Water Pollution Control Act Amendments of 1972.

(d) Sums authorized by this section shall be in addition to any amounts heretofore authorized for such fiscal year for sections 5(n) and 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

Mr. JONES of Alabama (during the reading). Mr. Chairman, I ask unanimous consent that section 3 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 Alabama?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to section 3? If not, the Clerk will read.

The Clerk read as follows:

SAVINGS PROVISION

SEC. 4. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendment made by section 2 of this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Federal Water Pollution Control Act as amended by this Act.

(c) The Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall remain applicable to all grants made from funds authorized for the fiscal year ending June 30, 1972, and prior fiscal years, including any increases in the monetary amount of any such grant which may be paid from authorizations for fiscal years beginning after June 30, 1972, except as specifically otherwise provided in section 202 of the Federal Water Pollution Control Act as amended by this Act and in subsection (c) of section 3 of this Act.

Mr. JONES of Alabama (during the reading). Mr. Chairman, I ask unanimous consent that section 4 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 Alabama?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to section 4? If not, the Clerk will read.

The Clerk read as follows:

OVERSIGHT STUDY

SEC. 5. In order to assist the Congress in the conduct of oversight responsibilities the Comptroller General of the United States shall conduct a study and review of the research, pilot, and demonstration programs related to prevention and control of water pollution, including waste treatment and disposal techniques, which are conducted, supported, or assisted by any agency of the Federal Government pursuant to any Federal law or regulation and assess conflicts between, and the coordination and efficacy of, such programs, and make a report to the Congress thereon by October 1, 1973.

INTERNATIONAL TRADE STUDY

SEC. 6. (a) the Secretary of Commerce, in cooperation with other interested Federal agencies and with representatives of industry and the public, shall undertake immediately an investigation and study to determine—

(1) the extent to which pollution abatement and control programs will be imposed on, or voluntarily undertaken by United States manufacturers in the near future and the probable short- and long-range effects of the costs of such programs (computed to the greatest extent practicable on an industry-by-industry basis) on (A) the production costs of such domestic manufacturers, and (B) the market prices of the goods produced by them;

(2) the probable extent to which pollution abatement and control programs will be implemented in foreign industrial nations in the near future and the extent to which the production costs (computed to the greatest extent practicable on an industry-by-industry basis) of foreign manufacturers will be affected by the costs of such programs;

(3) the probable competitive advantage which any article manufactured in a foreign nation will likely have in relation to a comparable article made in the United States if that foreign nation—

(A) does not require its manufacturers to implement pollution abatement and control programs,

(B) requires a lesser degree of pollution abatement and control in its programs, or

(C) in any way reimburses or otherwise subsidizes its manufacturers for the costs of such programs;

(4) alternative means by which any competitive advantage accruing to the products of any foreign nation as a result of any factor described in paragraph (3) may be (A) accurately and quickly determined, and (B) equalized, for example, by the imposition of a surcharge or duty, on a foreign product in an amount necessary to compensate for such advantage; and

(5) the impact, if any, which the imposition of a compensating tariff or other equalizing measure may have in encouraging foreign nations to implement pollution and abatement control programs.

(b) The Secretary shall make an initial report to the President and Congress within six months after the date of enactment of this section of the results of the study and investigation carried out pursuant to this section and shall make additional reports thereafter at such times as he deems appropriate taking into account the development of relevant data, but not less than once every twelve months.

INTERNATIONAL AGREEMENTS

SEC. 7. The President shall undertake to enter into international agreements to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean. For this purpose the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums.

LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITIES

SEC. 8. (a) Section 7 of the Small Business Act is amended by inserting at the end thereof a new subsection as follows:

"(g)(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting 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 requirements established under the Federal Water Pollution Control Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

"(2) Any such loan—

"(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b)(5) of this section, except as otherwise provided in this subsection;

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act.

"(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and not later than one

hundred and eighty days thereafter, promulgate regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection.

"(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 solely for the purpose of carrying out this subsection."

(b) Section 4(c)(1)(A) of the Small Business Act is amended by striking out "and 7(c)(2)" and inserting in lieu thereof "7(c)(2), and 7(g)".

ENVIRONMENTAL COURT

SEC. 9. The President, acting through the Attorney General, shall make a full and complete investigation and study of the feasibility of establishing a separate court, or court system, having jurisdiction over environmental matters and shall report the results of such investigation and study together with his recommendations to Congress not later than one year after the date of enactment of this Act.

NATIONAL POLICIES AND GOALS STUDY

SEC. 10. The President shall make a full and complete investigation and study of all of the national policies and goals established by law for the purpose of determining what the relationship should be between these policies and goals, taking into account the resources of the Nation. He shall report the results of such investigation and study together with his recommendations to Congress not later than two years after the date of enactment of this Act. There is authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this section.

EFFICIENCY STUDY

SEC. 11. The President shall conduct a full and complete investigation and study of ways and means of utilizing in the most effective manner all of the various resources, facilities, and personnel of the Federal Government in order most efficiently to carry out the objective of the Federal Water Pollution Control Act. He shall report the results of such investigation and study together with his recommendations to Congress not later than two hundred and seventy days after the date of enactment of this Act.

ENVIRONMENTAL FINANCING

SEC. 12. (a) This section may be cited as the "Environmental Financing Act of 1972".

(b) There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

(c) The purpose of this section is to assure that inability to borrow necesary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

(d)(1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such executive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

(e)(1) The Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act.

(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act; and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations.

(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section.

(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

(f) To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this subsection without fiscal year limitation.

(g)(1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitation, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States.

(h) The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to subsection (e) of this section.

(i) The Authority shall have power—

(1) to sue and be sued, complain and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible, or intangible, in aid of any of the purposes of the Authority;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Fed-

eral, State, and local taxation to the same extent as the obligations of private corporations are taxed.

(k) All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

(l) In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

(m) The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

(n) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by insertnig "or obligations of the Environmental Financing Authority" immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

(o) The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 846) shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations.

(p) Section 3689 of the Revised Statutes, as amended (31 U.S.C. 711), is further amended by adding a new paragraph following the last paragraph appropriating moneys for the purposes under the Treasury Department to read as follows:

"Payment to the Environmental Financing Authority: For payment to the Environmental Financing Authority under subsection (h) of the Environmental Financing Act of 1972."

SEX DISCRIMINATION

SEC. 13. No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act, the Federal Water Pollution Control Act, or the Environmental Financing Act. This section shall be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

Mr. JONES of Alabama (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to the other sections of the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. DINGELL. Mr. Chairman, I am deeply concerned that H.R. 11896 as reported by the committee has not been amended to take care of the many serious weaknesses in the bill, particularly:

Elimination of the unreasonable and unnecessary provision in section 315 of the bill which calls for a delay in establishing, in the next decade, a requirement for the use of the best available technology, taking into consideration costs, by all polluters.

Failure to adopt the clean water amendment, which would have deleted this backward provision, was a mistake. I sincerely hope that in conference the Senate's more progressive version of the law establishing the 1891 requirements will prevail.

Moreover, even in providing for a study I believe it is essential that we insure a mechanism which will provide a broader based study by organizations and institutions other than just the National Academy of Sciences and the National Academy of Engineering. The study provision in the committee's bill was placed there at the insistence of the National Association of Manufacturers—NAM.

The provision in the bill relating to the establishment of the permit program.

It is my firm belief that we must provide, as Governor Anderson of Minnesota strongly recommended last December to the Public Works Committee, that EPA be given an opportunity for a veto over individual permits, where appropriate. It is incomprehensible to me that the only way that the Federal Government can review a permit program, once it has been transferred to the State, is by totally taking back that program. It seems to me that any State Governor would be opposed to such a Federal takeover provision except in the most dire of circumstances. It seems much more reasonable to me to have EPA review the permit applications that it will, after all, be receiving even under the committee bill, and to make comments and recommendations on those permit applications, when appropriate.

The present Federal Refuse Act permit program is far superior to the one included in the committee bill and I hope that, if a more workable solution cannot be reached on section 402 of the bill which provides greater Federal control over individual permits, section 402 will be deleted from the bill and that the present and very successful Refuse Act permit program established in December 1970 be retained.

The provisions in the bill for the issuance of subpenas.

It seems unfortunate, as I have stated before, that the House committee bill would not adopt a recommendation of the Senate by providing for the issuance of subpenas in support of enforcement actions under the bill. Certainly such subpena power should be included in the bill on final passage.

Provisions in the bill for citizen suits quite obviously must be revised to conform with the more realistic provisions of the Clean Air Act and the Noise Control Act.

It is unfortunate that the committee saw fit to restrict the rights of citizens to bring suits against polluters when they violate the law and against EPA when it fails to comply with the law. It is also unfortunate that in employing restrictive language in the definition of citizen, the committee bill used such vague and ambiguous terms. Again, I hope that the conferees will resolve this matter in favor of the Senate version of the citizen suit provision of the bill which leaves the question of "standing" to the courts where it belongs.

There are many other provisions of the bill which I and my colleagues have pointed out in the debate on this bill in the last 3 days, and in the additional views by Represetnatives ABZUG and RANGEL, that deserve careful study by the conferees and substantial revision if we are to have a truly clean water bill.

I am, however, particularly pleased that both the House and Senate versions of the bill have recognized that the Refuse Act of 1899 should be continued as an antipollution tool. I note with great pleasure that Mr. ROE said on page 10662 of the CONGRESSIONAL RECORD of March 28 that—

The Refuse Act is continued without modification as a valuable enforcement tool.

I know that all environmentalists join with me and Representative REUSS in praising the committee for retaining this important statute.

At this point in the record, I would like to insert a statement by the assistant U.S. attorney for the southern district of New York, Mr. Ross Sandler, who last January explained how valuable and important the Refuse Act is:

PROSECUTING WATER POLLUTION CASES

(By Ross Sandler)

For persons genuinely interested in the environment and the abatement of pollution, the last year or possibly two years must surely look like the dawning of a new age. Never before, at least in recent history, have as many people been motivated to do something to save our environment; never before have so many candidates for political office run on platforms calling for massive abatement of water pollution; and never before has so many enforcement agencies at various levels of government been actively and methodically prosecuting polluters.

The distinction in my opinion between today's relatively optimistic picture, and the past, is the emerging concensus that government must use its enforcement powers to bring a halt to pollution and to reclaim our natural environment. By enforcement I mean simply the power to order that something be done, and that, if not done, the imposition of sanctions. A few examples might help explain the distinction.

It is one thing for the federal government to purchase or retain ownership of forest land for recreation and protection of a watershed—it is quite another to enforce pollution abatement by criminally indicting an otherwise reputable industry for using a watershed for its private waste disposal system. It is one thing for the government to spend millions of dollars to build sewers and plants to treat the waste of industries, and homes as well—but it is quite another to enforce sewer codes by cutting off a company's water until the company installs adequate and costly pre-treatment facilities. It is one thing

for the government to give industry a tax break for installing pollution control equipment—and it is quite another to enforce pollution abatement by seeking an injunction against the company halting full operation of its plant until the adequate pollution control machinery is installed.

Although bills currently pending in Congress would give the Federal government a comprehensive and detailed scheme of enforcement, the actual work of enforcement currently being carried out by the federal government through the Department of Justice, the Environmental Protection Agency and the Army Corps of Engineers is built upon what is almost a common law of water pollution abatement. The Primary federal statute remains the Refuse Act of 1899. That statute says simply, in language that approaches a Biblical commandment, that no one may discharge refuse into the navigable waters of the United States. While there is some legislative history to the contrary it is fairly clear that the refuse to which the statute referred to was primarily the type of refuse which would tend to affect navigation, and not refuse causing pollution. Even as late at 1970, J. Clarence Davies in his book *The Politics of Pollution* could dismiss the Refuse Act with one sentence stating that the 1899 Act was designed only to prevent impediments to navigation, "not to clean up the water." (page 38).

But the Refuse Act has emerged as the primary pollution abatement statute on the federal level for the simple reason that it, alone, has proven enforcible.

In my law school criminal class, the professor repeatedly taught that in criminal law, it was the certainty of being caught and punished that caused people to conform to the law, even more than the harshness of the penalty.

The professor gave as his example of the rule the reputed fact that the Norwegian people during the World War II would engage in the most dangerous partisan activities, but would not turn on their lights during blackouts to lead in Allied aircraft. While there is of course many differences, the analogy holds true; The Refuse Act of 1899 has emerged as the premier anti-pollution statute because of the certaintly that persons violating its simple command will be caught and punished.

The certainty is not seen entirely by even a careful reading the statute. It has taken the courts and imaginative litigation by numerous prosecutors to round out the full meaning of the statute. Let me list some of the clauses which have been judicially read into the statute and which have made real enforcement possible.

1. The Refuse Act appears on first reading to create nothing more than a misdemeanor penal provision and is therefor a statute essentially lacking in a credible punishment. The statute provides that if convicted, a defendant can be fined a minimum of $500 and a maximum of $2500, and, if a natural person, can receive a term of imprisonment of not less than 30 days nor more than one year. Yet the statute has ample teeth, since prosecutors may charge defendants with multiple counts based on the actual workings of the defendant's plants. Thus, if a plant has one shift a day, and the polluting discharge virtually stops with the ending of that shift, each day becomes a separate count in the indictment or information.

Recently in the Southern District a defendant felt the full impact of this aspect of the Refuse Act. Anaconda Wire & Cable Co., a division of Anaconda Company, routinely discharged large amounts of copper from its plant in Hastings-on-Hudson. The metal, which is highly toxic to virtually all life, was discharged from the plant as traces in its process water. After hearing the evidence our Special Grand Jury charged Anaconda with 100 counts—an alleged violation of the Act on practically every working day in the first half of 1971. Anaconda pleaded guilty to the indictment, and was fined $2000 per count for a total fine of $200,000. There is no doubt that a fine of such severity has the desired impact of deterrence. The fine, of course, buys no capital equipment, and the corporation must still pay for and install abatement equipment. Other fines in the Southern District have been relatively as severe, running on the order of $25,000, $50,000 and, in the case of Standard Brands, $125,000.

2. The Refuse Act makes no provision for civil relief. It reads as if it were only a criminal provision. It would appear that the statute was defective as the corner stone of federal enforcement in that it contains no provision for the federal government to require a polluter to abate his pollution. But judicial interpretation has entirely filled that void. Relying on Supreme Court cases under companion sections of the Rivers and Harbors Act which held that the government could sue to enjoin violations, the Department of Justice brought, in March, 1970, the first two cases seeking civil relief under the Refuse Act—one in Florida against Florida Power and Light, and the second in the Southern District of New York, against Oceana Terminals. In both cases the courts upheld the federal government's right to sue to enjoin pollution. Since March of 1970, the Department of Justice has brought 90 additional civil actions. These suits were often brought in conjunction with a criminal action. In all of the approximately fifteen criminal cases brought in the Southern District, we initiated a civil action calling for abatement of the pollution. The only exceptions were cases where the pollution resulted from a one time operation or accident, or where the State or local agencies stepped in with an adequate abatement order.

The civil relief obtained has been designed to abate the particular pollution at issue. In Oceana Terminals, where the problem was oil leaching into the East River from an oil saturated shore, the defendant was required to maintain an adequate boom and to continuously clean the oil from the water, while at the same time he was required to repair the underground leaks from his tanks. In Marathon Battery, the defendant was required to install pre-treatment equipment to clean the toxic metal cadmium from its effluent.

Marathon Battery is a particularly interesting case. Marathon and its predecessor companies operated a cadmium-nickel battery plant at Cold Spring, and routinely discharged waste water into a sluggish tidal marsh area in Foundry Cove. The cadmium and nickel built up in the area over a 20-year period, so that today, in some areas the bottom muds are almost 16% cadmium. We have asked the Court to order Marathon and its predecessors to dredge the bottom muds—virtually cadmium ore—out. The issue is still in litigation; but if we are successful we will have firmly established the principle that a polluter can be held to correct the damage he has caused.

3. The Refuse Act appears defective because it has no standards of any kind written into it. It merely states that it is unlawful to discharge refuse. The absence of fixed standards bothers many people, and in large measure the so-called Muskie Bill is an attempt to create standards. But I really doubt that the Muskie Bill in fact says more in the way of standards than that which has already been developed as standards under the Refuse Act. There have been no Court decisions to deal directly with this problem, yet the prosecutor in enforcing the Refuse Act, works with the only standards that as a practical matter can work—the maximum feasible abatement under the present technology. That is the standard for the relief that we seek in our civil suits; and that is the abatement sought by the EPA, as I understand it, in evaluating permit applications.

While I do not wish to seem too cavalier about standards, there really is to my mind much too much made of the fact that no one has precisely stated as law what standards are applicable to each and every discharge under each and every condition. It is ludicrous to observe responsible enforcement officials discussing whether 5 parts or .5 parts per million of copper, for instance, should be the standard for industrial discharge. The fact is that many companies are discharging 50 and 100 parts per million, and that technology exists which can reduce the discharge down to about 5 parts per million or less without exorbitant costs.

In my judgment, the absence of absolute standards is, and has been, no bar to adequate enforcement. As Martin Lang, the Commissioner of Water Resources of New York City stated recently, the only certainty about standards is that they are going to get tougher. Logic and practicality dictate, as a result, that the only acceptable standard for abatement, is the maximum feasible abatement under the present technology.

4. The Refuse Act appears defective in another regard. It creates no laboratories, no investigative arms and no enforcement machinery. No administrative program is included to process and evaluate permit applications. These defects were, of course, in large measure corrected with the executive order establishing the Refuse Act Permit Program and by the creation and reorganization of the EPA. But one of the strongest tools of enforcement comes directly from the Refuse Act itself without special proclamations or funding. The Refuse Act is a criminal statute and violation of it may be investigated in same manner as any criminal conduct—by Grand Jury investigation. In the Southern District of New York we have had a Special Grand Jury sitting since September, 1970. It has indicted 15 companies, and investigated many more. It has the power to subpoena anyone it wishes to hear testify. This is a significant power. Most potential defendants are corporations, and do not enjoy a Fifth Amendment privilege. In the past, and even today, much of the investigative work by the Corps of Engineers begins and ends with a boat ride and the dipping of a glass jar into some noxious smelling liquid. But the Grand Jury can circumvent that procedure of evidence gathering entirely. It simply subpoenas the corporation's responsible officials before it and asks them to explain under oath just what chemicals and other refuse the plant discharges.

The actual investigation may well take many months, however, since often detailed laboratory tests must be made by the defendant before it can adequately report to the Grand Jury the content of its discharge.

This method of investigation has, for the prosecutor, the added advantage that the defendant cannot readily challenge the evidence against him. Most indictments are based on admissions by corporate officials in the Grand Jury, or on tests made by the defendant at the request of the Grand Jury. By the end of the investigation, there is little left for the defendant to dispute, and, as has been our experience, practically all defendants enter guilty pleas.

It should be obvious that I am of the opinion that the Refuse Act has developed into a superior enforcement tool for the betterment of our environment. An examination of the record of enforcement bears this out.

Criminal indictments are increasingly being voted by Grand Juries around the country. In the two years ending July 1, 1969 a total of 87 criminal cases were brought under the Refuse Act. In the next two years ending July 1, 1971, almost four times as

many criminal actions were brought—a total of 320. Once convicted, defendants can expect a substantial fine. As Judge Croake stated when he imposed the $200,000 fine upon Anaconda, no longer can pollution fines be viewed as merely a cost of doing business.

Such actions by the Department of Justice and the United States Attorneys bring credibility to the commitment to clean up. Without the certainty of being caught and punished, there is little left to that commitment, no matter how grand the administrative machinery or how stringent the standards. Business Week magazine reported in its first issue of this year that Dow Chemical spent $30.5 million on capital equipment and operations in 1971 for pollution abatement. GM reported to the Southern District that it was spending $43.7 million on abatement equipment to be completed by 1973. These kind of expenditures will only be made when strong enforcement action creates a climate in which businessmen sense that they must abate or face even sterner action by the government.

Strong enforcement of the Refuse Act, along with the growing momentum brought on by knowledgeable and concerned private citizens and organizations, has in addition created the climate in which local and state governments must now emphasize enforcement to a greater extent than ever before. Practically every municipality running a sewage treatment plant has enacted codes which, if enforced, would reduce the amount of toxic metals and oils passing through these plants into the water.

The State has vast powers and resources both for preventing direct pollution and indirect pollution of the waterways. A United States Attorney who vigorously enforces the Refuse Act, such as has Whitney North Seymour, Jr., in this District cannot help but cause the competitive fires to ignite in these local and state agencies. The same competition works between the EPA and the United States Attorney offices, as well as between United States Attorneys in neighboring districts. While it may not be obvious to even the most well informed people, this has been one of the most important products of the Refuse Act. Competition in the form of concurrent jurisdiction is of course not unusual in law enforcement. But there is probably no other area where the competition fostered by concurrent jurisdiction had a more beneficial effect. The Refuse Act is necessary and has been successful on this basis alone—actions under it have proven enforcement is possible and desirable, and have made others uncomfortable if they were not being equally as tough.

If I were to grade the importance of the Refuse Act and enforcement under it I would list these things as the most important, above even the significant successes of individual cases:

It has and is creating a climate in which industry—the potential defendants—now feels a growing certainty that it can no longer pollute with impunity, and;

It has and is creating a climate in which local and state agencies can become more stern in their enforcement policies.

Much remains to be done. But in my opinion, there could not be a more explicit mandate than is now found in the Refuse Act; nor could that be a more workable scheme of enforcement than has evolved under the present statute.

Finally, Mr. Chairman, I bring to the attention of the Committee a matter of utmost importance which will need study by the conferees. It relates to the definition in the bill of the term "contiguous zone."

In 1970 Congress passed the Water Quality Improvement Act. Among other things, that law provided for the prevention and removal of oil spills. The provisions of that law are restated in section 311 of title III of the committee bill.

The 1970 law applies to the contiguous zone of the United States which is the 9-mile belt extending from our territorial seas seaward.

When we enacted that law, we all understood from the State Department and other executive branch witnesses that this zone had been established pursuant to article 24 of the Convention on the Territorial Sea and the Contiguous Zone. Thus, the 1970 law defined the term "contiguous zone" to mean "the entire zone established or to be established by the United States" under the Convention.

The committee bill also contains that same definition, section 311, for oil spills and the spills of hazardous substances. The committee bill also makes other provisions of the bill applicable to the zone, and thus repeats this definition in section 502 of the bill.

A few days ago Congressman REUSS and I learned from the Coast Guard that this zone has not been established. They told us that, in August of 1970, Secretary Volpe had sent a proposed Presidential Proclamation to the Office of Management and Budget which, if issued, would establish the contiguous zone. The Transportation Department letter to OMB and proposed proclamation follow:

UNDER SECRETARY OF TRANSPORTATION,
Washington, D.C. August 24, 1970.

Hon. GEORGE P. SHULTZ,
Director, Office of Management and Budget, Washington, D.C.

DEAR MR. SHULTZ: Enclosed for your approval is a draft of proposed regulations which provide procedures and reporting requirements for the expenditure of funds from and the collection of monies for deposit into the revolving fund, established by the President on May 20, 1970 in accordance with the provisions of the Water Quality Improvement Act of 1970. The President announced on May 20, 1970 that he was delegating responsibility for the administration of the fund to the Secretary of Transportation and that he will forward to Congress a request for $35 million to finance its operations as soon as regulations governing the operation of the fund are completed. The regulations are to be codified in Subchapter O (Pollution) of Title 33, Code of Federal Regulations and have been tentatively included in Part 150.

Also enclosed for your approval is a proposed Presidential Proclamation which establishes the contigous zone of the United States, in consonance with the provisions of Article 24 of the Convention on the Territorial Sea and Contiguous Zone. The formal establishment of the contiguous zone is necessary since it is specifically referred to in the Act and has not been previously established.

It is requested that the two enclosures be reviewed for your approval.

Sincerely,

J. M. BEGGS.

A PROCLAMATION ESTABLISHING THE CONTIGUOUS ZONE

(By the President of the United States)

Whereas the Proclamation of September 8, 1964 did proclaim and make public the Convention on the Territorial Sea and Contiguous Zone to the end that the same and every article and clause thereof shall be observed and fulfilled with good faith by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof; and

Whereas the enactment of certain statutes by the Government of the United States of America to control pollution of the sea by oil and other hazardous polluting substances, as well as for other purposes, contemplate the exercise of control by the United States of America in a zone of the high seas contiguous to its territorial sea as provided for in the Convention on the Territorial Sea and Contiguous Zone;

Now therefore be it known that I, Richard M. Nixon, President of the United States of America, do hereby proclaim and establish a zone contiguous to the territorial sea of the United States of America extending twelve miles from the baseline from which the breadth of the territorial sea is measured, in consonance with the provisions of Article 24 of the Convention on the Territorial Sea and Contiguous Zone in which the United States of America shall exercise the control necessary to prevent infringement of its customs, fiscal, immigration and sanitary regulations within its territory or territorial sea.

In testimony whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this —— day of —— in the year of our Lord one thousand nine hundred and seventy and of the Independence of the United States of America the one hundred ninety-fifth.

The OMB has failed to act on that proclamation. Once more, the executive branch has apparently failed to tell Congress that the zone has never been established. Thus, today we are including in the bill, according to the executive branch, what amounts to a defective definition of the zone.

On March 23, Congressman REUSS wrote to Secretary Volpe and asked:

First, if he still believes, despite strong legislative history to the contrary, that the zone has not been established as yet, and

Second, why OMB failed to act on the proclamation for nearly 2 years.

Secretary Volpe responded late Monday afternoon.

He told Congressman REUSS that the 1970 Act "does not thereby set the outer limits of such zone for enforcement purposes as has been the practice of Congress" in other legislation for fisheries and customs.

He concludes therefore that:

This Department is of the opinion that an outer limit must be established to assure enforcement of sanctions and other measures.

Mr. Chairman, Congressman REUSS and myself believe that the zone is established. But the fact is that the Coast Guard and the executive branch does not agree. I urge the conference committee to consider this problem. We cannot and should not let this opportunity pass to correct this situation.

At this juncture I insert the letter of my colleague, HENRY S. REUSS, to the Secretary of Transportation, John A. Volpe, dated March 23, 1972:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 23, 1972.

Secretary, Department of Transportation, Washington, D.C.

DEAR MR. VOLPE: On February 2, 1972, we requested the Coast Guard to provide us

data on its actions in enforcing the Refuse Act of 1899 (33 U.S. Code 407) and the Water Quality Improvement Act of 1970 (Public Law 91–224) concerning the discharge of oil into navigable waterways and the waters of the contiguous zone.

On March 7, 1972, Vice Admiral T. R. Sargent of the Coast Guard replied that there were more than 10,000 recorded oil spills into these waters in the period from September 11, 1970 to November 30, 1971. He also said that the Federal Government had spent, as of May 31, 1971, over $170,000 to remove spilled oil and had not recovered any of this sum.

In subsequent discussions with Coast Guard officials, we were informed (a) that nearly one-third of all oil spills occur in ocean waters between the 3-mile limit and the 12-mile limit (here referred to as the contiguous zone), and (b) that the Coast Guard has not assessed civil penalties, as authorized under the 1970 Act, against anyone responsible for any spills in the contiguous zone.

Upon further inquiry, we learned that the Coast Guard apparently assumes that it lacks authority to assess civil penalties for spills into the contiguous zone, on the ground that the contiguous zone has not been established. Acting on this assumption, Under Secretary of Transportation J. M. Beggs sent to the Director of the Office of Management and Budget, on August 24, 1970, for his "approval", (a) a draft of a proposed Presidential proclamation to "establish the contiguous zone", and (b) a draft of proposed regulations to provide procedures for using money from the revolving fund to contain and remove spilled oil, and for collecting money from oil dischargers to deposit into that fund, as authorized by the 1970 Act. The fund was established by the President on May 20, 1970 (H. Doc. 91–340).

We understand that the Office of Management and Budget has not approved the proclamation. The Coast Guard, on the assumption that it lacks authority in the contiguous zone until that proclamation is issued, has apparently suspended its efforts to enforce in the zone the oil pollution provisions of the Water Quality Improvement Act of 1970 which is now almost two years old. We doubt whether any Member of Congress knows that the Coast Guard is failing to enforce the 1970 Act on the assumption that the contiguous zone had not yet been established.

Article 24 of the Convention on the Territorial Sea and the Contiguous Zone simply states the powers of each coastal nation in that zone and specifies that the contiguous zone may not extend beyond the 12-mile limit. It does not expressly require a Proclamation to make the contiguous zone come into being.

Section 11(a)(9) of the 1970 Act defines the "contiguous zone" to mean:

"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 Zones."

The legislative history of the 1970 Act clearly indicates that the Congress thought then that this zone had already been established.

The Senate Committee on Public Works stated in its report (S. Rept. 91–351) p. 66), as follows:

"The definition of a 'contiguous zone' is the zone established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone (TI AS 5639). The authority under which the United States may regulate, with regard to pollution by oil, the conduct of foreign vessels beyond the territorial sea and impose sanctions for violation of such regulations is contained in article 24 of the Convention on the Territorial Sea and the Contiguous Zone. Article 24(a) allows the coastal State "in a zone of the high seas contiguous to its territorial seas" to exercise the control necessary to 'prevent infringement of its . . . sanitary regulations within its territory or territorial sea.'

"Article 24 1(b) allows the State to 'punish infringement of the above regulations committed within its territory or territorial sea.' The Department of State, in testifying before the Senate Foreign Relations Committee, took the position that article 24 confirmed the U.S. practice of exercising customs jurisdiction in a zone beyond the territorial sea and extended such jurisdiction to fiscal, immigration and sanitary matters as well. (Hearing before the Committee on Foreign Relations, U.S. Senate, 86th Cong., second sess., Jan. 20, 1960, pp. 82, 93). Such customary practice included the right to arrest and impose criminal sanctions for violations of U.S. customs laws in the zone beyond the territorial sea."

The report of the House Committee on Public Works (H. Report 91–127) refers to the "contiguous zone" as the "zone *established* by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone" (p. 10). An identical statement was also made in the Conference report (H. Rept. 91–940, p. 34).

It is our understanding that the words "to be established" were included in the law to allow for future expansion of the contiguous zone through possible future changes in the Convention.

The Coast Guard, despite the above legislative history, apparently has chosen to ignore the first part of that definition which states that the zone has already been "established", and has assumed that the contiguous zone must be established by some further proclamation. That assumption is inconsistent with the views of the Navy Department. In a letter to the Director of OMB, dated October 19, 1970, the Navy Department pointed out that, in the six years since the United States ratified the Convention on the Territorial Sea and Contiguous Zone, the Navy has "clearly demonstrated adherence to and compliance with Article 24 of the Convention." The Navy Department's letter commented on the proposed proclamation as follows:

"Execution of the proclamation will in no way enhance the position of the United States in international law under Article 24 of the Convention. Neither international nor domestic law requires that the United States establish a contiguous zone by Executive proclamation. Perhaps the reason for offering this proclamation can be found in section 11(a)(9) of the Water Quality Improvement Act of 1970. That section indicates that the contiguous zone is to be defined as the entire zone established or to be established by the United States under Article 24 of the Convention. Use of the phrase "to be established" is unfortunate. It appears to require domestic implementing action. As earlier indicated, this is not the case. Since there are potential detriments if the proclamation is in fact made, issuance of the proposed proclamation creates unnecessary problems. Accordingly, the Department of the Navy, on behalf of the Department of Defense, opposes the issuance of the proposed Executive proclamation." (Emphasis in Navy's letter.)

We agree with the Navy's view that the proclamation is unnecessary.

Moreover, the Coast Guard Commandant on March 31, 1971 approved regulations governing the administration of the pollution revolving fund (presumably the regulations which had been forwarded in August 1970 to OMB for its review and approval). These regulations, printed in the Federal Register of April 13, 1971 (36 F.R. 7009) specifically state in section 153.303(a)(1) that the fund may be used to contain or remove oil discharged "into or upon the waters of the contiguous zone". Furthermore sec. 153.315 specifically directs "the cognizant District Commander" to assert claims against the responsible party for the costs of these actions, and sec. 153.317 directs him to deposit in the fund all moneys received as payment for fines, civil penalties, and claims for reimbursement of the Coast Guard's costs in containing and removing oil spills.

It is evident that this regulation constitutes ample directive to the Coast Guard's operating personnel to enforce the oil pollution laws and regulations "in the contiguous zone". We do not understand how or why the Coast Guard's operating personnel now fail to enforce the law in the contiguous zone.

But even if the Coast Guard is correct in its interpretation of the law—and we think it is not—the public interest in assuring effective enforcement of our laws against oil pollution, and in the collection of fines and penalties and moneys owed to the government, was certainly not served during the period that the OMB pigeon-holed the Transportation Department's proposed proclamation. It is apparent that our country's oil pollution enforcement program is being frustrated until either OMB approves the proposed proclamation, or the Coast Guard re-examines its assumption that it has no authority to enforce these laws in the contiguous zone and adopts our view that it does have such authority.

Next week the House is scheduled to vote on H.R. 11896—the Federal Water Pollution Control Act Amendments of 1972. That bill makes a number of changes in the oil pollution control provisions of existing law and is applicable to the contiguous zone. In doing so, the bill uses the current definition of the term "contiguous zone."

We are unable to discover, in the testimony last year by the Administration officials, any reference to the problem raised by the proposed proclamation. Apparently, it is the intention of your Department and OMB to allow the House to vote on this bill, in full belief that the contiguous zone is already established.

If the Coast Guard's previous assumption is correct, it seems imperative to amend the pending bill to clarify the Coast Guard's authority. If the Coast Guard's previous assumption is erroneous, it is imperative that it promptly begin enforcing the law in the contiguous zone.

We request that you provide to us by noon Monday, March 27, 1972:

(a) Your views on whether or not further executive or legislative action is needed to establish the contiguous zone; and

(b) If no such action is needed, please state when the Coast Guard will begin enforcing the law in the contiguous zone.

Sincerely,

HENRY S. REUSS,
Chairman, Conservation and Natural Resources Subcommittee.

At this point in the RECORD I insert matters of significant importance to this legislation:

[From the New York Times, Mar. 26, 1972]

CLEAN WATERS

The water-pollution control bill, which Senator Muskie sponsored and his colleagues long ago approved by a vote of 86 to 0, is even more far-reaching and hence in worse trouble. Between heavy fire from industry and moderate fire from the Administration the Senate bill may be shot down, or existing controls may be seriously weakened in the name of improvement.

Of the changes made by the House Public Works Committee, one of the sharpest setbacks is the drastic modification of the Senate's objective to decrease effluents into the nation's waters for the next thirteen years,

by which time (at least this is the goal) they would be eliminated altogether. The House committee, while theoretically retaining the goal, would subject the plan to a study by the National Academy of Sciences, to be followed by a second vote in Congress—by which time a lot of foul water will have flowed under the bridge. Not content to weaken the Senate bill, the committee would also reduce the effectiveness of the EPA by shifting primary responsibility for the issuing of effluent permits to the states, a grave backward step.

Representatives Reuss of Wisconsin and Dingell of Michigan are striving to reverse these stultifying changes with a "clean-water package" of amendments. Unless the efforts of these two outstanding conservationists succeed, there may be no clean water legislation in this Congress at all—a disastrous setback to a cause that cannot afford any delay.

[From the Grand Rapids Press, Mar. 22, 1972]

NO SUBSTITUTE FOR S. 2770

What happens on the federal level to curb water pollution will be determined by whether the Senate or House has its way. Last November the Senate passed a bill (S2770) that has been described as the toughest water pollution control measure ever written in Congress, although even this bill leaves some things to be desired. But the House bill (HR11896) isn't even a pale shadow of the Senate measure.

The most important feature of the Senate bill is that it would set a date—1985—for achieving zero water pollution, although the senators (they approved the bill 86–0) were realistic enough to recognize that this might be beyond achieving. The important point is that the Senate bill has a goal—and goals can be changed if time and experience prove them beyond reach.

The House bill would actually have no goal. Instead, it would in effect call a halt for two years while still another study was being made of the problem. Meanwhile water pollution, which some estimate is causing losses amounting to $13 billion a year, would continue except where states were making a stern effort on their own to eliminate it.

That brings us to another vital difference between Senate and House bills. The Senate bill would not in effect nullify the stringent antipollution laws written by Michigan and some other states but would make their provisions generally applicable on a national basis. As an example, under Michigan law any citizen, whether directly affected or not, can bring suit against an alleged water-polluter. The Senate bill would extend this powerful deterrent to all states. But the House bill would give the separate states extraordinary latitude in dealing with the water pollution problem. Under this kind of setup, some states would be sorely tempted to adopt weak antipollution bills to entice polluting industries away from those states—such as Michigan—that have strong laws.

All citizens would suffer from this kind of rank competition; pollution might well be encouraged rather than discouraged in some states for the sake of temporary economic gain. We say "temporary" because by now everyone should realize that the long-range costs of water pollution not only can totally offset any economic savings or advantages that may result from it—that, in fact, pollution can destroy waterways for recreational and scenic attractions, can make them carriers of disease and permanently alter the environment for the worse.

No citizen who views the protection of the enviroment as one of our most urgent duties or who wishes to see our natural assets preserved for his children and those who come after them should be content with accepting anything less than the Senate bill. The House bill is an outrage and a fraud on the public.

[From the New York Times, Mar. 28, 1972]

RARE OPPORTUNITY

The House of Representatives will decide, perhaps today, whether to support or to undermine the Senate's unanimous and unequivocal move to clean up this country's waters. A Senate bill aims to eliminate all discharge of pollutants by 1985. It would give the Federal Government enough authority, through a veto power over discharge permits issued by the states, to assure uniformity and thus to prevent industries from shopping around for indulgent regulations. And it would allow any citizen to sue polluters, and even the authorities themselves, where standards are not enforced.

The corresponding measure that came out of the House Public Works Committee would eliminate or gravely compromise all of these objectives, although it does have the merit of providing more money than the Senate bill for waste treatment plants. Led by Representatives Dingell of Michigan and Reuss of Wisconsin, a large contingent of Congressmen is pressing on the House a "clean water package" of amendments that would rid the committee bill of its deficiencies, giving the 92d Congress a rare chance to score a historic achievement.

A look at the poisonous Potomac before the final voting should be enough to stiffen the resolve of any Congressman to do right not only by that decaying river but by all the rivers, lakes and streams of America that once sparkled in the sun and now, in polluted gray, offend the eye, the nose and the very spirit of man.

[From the Wall Street Journal, Jan. 7, 1972]

LEAKY LEGISLATION: AN ANTIPOLLUTION PLAN CONTAINS A BIG LOOPHOLE FAVORING OIL COMPANIES

(By John Pierson)

WASHINGTON.—The oil industry has drilled itself a loophole in the clean water bill that Congress is due to pass early in its 1972 session.

Down this loophole, some pollution-fighters fear, could flow enough contaminants to foul water and water-bearing rock in oil-producing states for centuries to come.

Oil's loophole is tucked away near the end of the pending Federal Water Pollution Control Act amendments in a harmless-sounding section called "general definitions." The section resembles the fine print on an insurance policy. Section 502(F) says that the term "pollutant," as used in the bill, means "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes" and a lot of other dirty things. But it does *not* mean:

". . . 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."

WHAT THAT PARAGRAPH MEANS

That's a lawyer's way of saying that while the federal government is going to crack down on other industries, it will let oil producers continue to dump all sorts of chemicals—some of them harmful to humans—as well as very salty water into the ground. Only the states are left to watch out for trouble, and by the oil industry's own admission, some states watch less sharply than others.

When carefully done, even environmentalists agree, these oil operations are safe. Carelessly done, they can poison, and have poisoned, well water and the rock formations through which water creeps.

Democratic Rep. Les Aspin of Wisconsin urged the House Public Works Committee to treat oil like other industries. "I don't want to change that (oil) process. I think the process is right," Rep. Aspin told the committee. "I just want to protect the groundwater in the process."

"You want to subject the oil and petroleum industry to regulation by EPA," snapped Rep. Ray Roberts, a Texas Democrat. The EPA is the Environmental Protection Agency, the federal government's anti-pollution arm.

The Roberts view prevailed. Just before the Christmas recess, the committee, 31 of whose 37 members hail from oil states, okayed the bill, loophole intact. The full House will take up the legislation soon, and the loophole is expected to remain. The Senate passed a similar measure in November, 86-to-0.

"A LITTLE BIT OF WEAKNESS"

Oil's exemption was largely the work of another Texas Democrat, Sen. Lloyd Bentsen, and of industry representatives, including officials of the American Petroleum Institute. Ron Katz, Sen. Bentsen's pollution specialist, defends the exemption largely on the ground that oil wells are already regulated under state law, and oil industry spokesmen hammer on the same point.

"The states exercise extremely close control over the thousands of wells into which materials are injected," contends P. N. Gammelgard of the petroleum institute. "These states feel they have things in hand." He stresses that they require producers to get permits for injection operations and that they deploy hundreds of field inspectors to watch for trouble.

An EPA official says that behind the exemption for oil is "the presumption that the states are doing a good job." But he concedes that the exemption is "a protection of existing practices in oil-producing states" and "perhaps a little bit of weakness."

Groundwater, the stuff that Rep. Aspin wants to protect, is the water beneath the earth's surface that supplies wells and springs. There's more water underground than on the surface in the U.S., and groundwater is usually purer than surface water.

According to Jack Keeley, an EPA water expert, about 20% of the nation is entirely dependent on groundwater. About a third of the 100 largest U.S. cities get all or part of their drinking water from wells. Nine of 10 rural families drink groundwater. More than half the water used for irrigation and livestock comes from underground. Industry consumes more than seven billion gallons of groundwater a day.

Unlike surface water, groundwater once polluted stays polluted long after the source of contamination has come under control, Mr. Keeley told a Senate Public Works subcommittee. "The restoration of a polluted groundwater resource is very expensive, very lengthy and very difficult," he said.

"POLLUTED FOR CENTURIES"

In its report on the antipollution bill, the Senate committee said that polluted groundwater, because it lacks living organisms and flows slowly, "could remain polluted for centuries."

The loophole in the bill exempts a number of oil operations from the kind of federal-state supervision that other industries will face. In drilling a well, for example, oil men lubricate the drill bit with "muds," which can contain phosphates, caustic soda, formaldehyde and other chemicals. Once a well is drilled, oil geologists explain, they may pump hydrochloric acid down it to enlarge the little spaces in the oil-bearing rock. Often, when a well appears to have stopped producing, they'll force oil, gas, water or chemicals down to flush out more oil.

Finally, when a well is deemed dry, it may be used for disposal of the brine that often comes up a well along with oil. Oil-field brine is a lot saltier than sea water and may contain lithium, potassium, bromine, sulphur

and iodine in amounts that exceed acceptable levels for drinking water.

Oil men used to get rid of brine by putting it in evaporation pits on the surface. But according to Mr. Gammelgard, state officials saw long ago that this was fouling lakes and streams. Many states then told oil producers to put their brine wastes deep underground. Now, each day some nine million gallons of brine are pumped into 40,000 wells.

These methods of producing oil and disposing of brine are recognized as useful and legitimate. The EPA's Mr. Keeley told the subcommittee that all other ways of getting rid of brine are "less satisfactory." David Evans, a geologist at the Colorado School of Mines, recently wrote that injecting brine back into the rock formation from which it came helps keep the ground above from sinking.

Nevertheless, these operations risk polluting the groundwater, environmentalists say. Brine, acid, chemicals and other things are pumped down wells under great pressure to force them out into the rock formations at the bottom. In most places, groundwater lies at a shallower level than oil and is separated from it by layers of impenetrable rock. Still, when an oil well is improperly constructed or when the tubing gets rusty, pollutants can escape into the groundwater on their way down to the deeper oil layers.

Because groundwater moves so slowly, it may be a long time before pollution shows up in a water well—20 to 30 years, according to Jay Lehr, executive director of the National Water Well Association.

SOME ACCIDENTS

Some oil men pooh-pooh the danger. Rep. Roberts of Texas told the House committee that "there is no way" leaks could happen "in any of the reasonable oil-producing states." Wilson Land, director of the Petroleum Institute's committee on exploration, said that each of the nation's 33 oil-producing states regulates brine injection. But in some states, he conceded, regulation "is probably not as stringent as in some of the other states."

And accidents do occur. In a statement submitted to the Senate subcommittee last year, the National Water Well Association said that "instances of water pollution . . . have been reported in operations involving injection of oil-field brines." EPA experts say brine has polluted groundwater in Texas, Kansas, Arkansas, Ohio, California and Oklahoma.

According to a U.S. Public Health Service study, about 10 brine-injection failures are reported to Kansas state authorities each year. Ralph O'Connor, a geologist with the Kansas Board of Health, says there have been "some instances" of groundwater pollution from brine injection wells, usually older wells that lack an inner tubing providing extra safety.

AN AMBIGUOUS APPROACH

Mr. Evans of the Colorado School of Mines reports that injected brine has erupted from the ground "like geysers" in Michigan, Texas and Kansas. And Frank Conselman, past president of the American Association of Petroleum Geologists, while stressing that underground injection of brine is safe if properly done, says the process can cause trouble if precautions aren't taken to insure that the brine gets to its destination. Monitoring is essential, he adds.

Despite these warnings, Congress' approach to the groundwater problem has been ambiguous at best.

Acting on behalf of the Nixon administration, Republican Sen. John Sherman Cooper of Kentucky introduced a bill that would have set up a program of federal-state water quality standards for groundwater as well as navigable waters. The Senate Public Works Committee rejected this approach because "the jurisdiction regarding groundwaters is so complex and varied from state to state."

Both the pending Senate and House clean water bills establish a federal-state system of permits for the discharge of pollutants "into the navigable waters" but not into groundwater. In the next breath however, both bills say that the permits must "control the disposal of pollutants in wells"—to protect groundwater, according to the Senate committee's report.

And elsewhere the legislation requires the EPA to prepare programs for "eliminating pollution of navigable waters and groundwaters." It requires states and localities by 1974 to develop areawide waste-treatment management plans that control the "disposal of pollutants on land or in subsurface excavations . . . to protect ground and surface water quality."

The EPA is required to publish information on how health and welfare are affected by "the presence of pollutants in any body of water, including groundwater," and to issue information on how to control pollution resulting from "the disposal of pollutants in wells or in subsurface excavations."

This is bad news for chemical, steel, paper and other companies that have a small but growing number of waste-injection wells. They'll have to meet federal or federally approved standards. But the oil industry won't have to. For oil, the saving word is "pollutant"—defined as not including the stuff oil producers put in the ground.

[From the Cleveland Plain Dealer, Mar. 22, 1972]

FOR CLEAN WATER AMENDMENTS

A group of environmental-minded legislators in the U.S. House of Representatives has mounted a campaign for a "clean water package" of amendments to a water pollution bill written by the House Public Works Committee.

The bill, much weaker in its present form than the water pollution bill that cleared the Senate last fall, is tentatively scheduled for House vote next Monday.

The environmentalists, who include U.S. Rep. Charles A. Vanik, D-22, Cleveland, hope to bring it nearer to the Senate version with a package of floor amendments. We hope other Ohio congressmen will join in the effort.

The amendments seek to correct four major weaknesses in the House bill.

One—It abdicates to the states nearly all federal authority over water pollution control. Both Senate and House versions establish a national pollution permit system to be operated by the states, but the Senate bill allows the federal Environmental Protection Agency to veto a permit issued by a state; the House bill does not, except in very limited circumstances. This veto power should be retained to discourage industries from "shopping around" for a state that is soft on pollution control, and to encourage uniform standards around the nation.

Two—It fudges on the target date for eliminating water pollution. Each bill fixes 1981 as the year when all discharges must cease unless it is technically impossible, in which case polluters are required to use the best available technology to minimize pollution. The House bill, though, adds two qualifiers: a two-year study by the National Academy of Sciences, and what in effect is reenactment by a later Congress of the 1981 requirements. The House "clean water package" would go along with the study, bill eliminate the requirement for reenactment. This requirement would only encourage polluters to procrastinate in solving pollution problems in the hope that a later Congress would eliminate the tough deadline.

Three—Its language on the citizens' right to sue EPA or polluters is vague and restrictive. It would bar suits by citizens who do not live in the "geographic area" of the pollution, who do not have a direct interest at stake and who have not been "actively engaged" in any administrative proceedings related to the pollution. This seems to be designed to hit at environmental groups whose legal activities have achieved much of the progress that has been attained in recent years in environmental cleanup.

Four—It weakens the National Environmental Policy Act by exempting many federally licensed activities, such as the construction of power plants, from its requirements (so does the Senate bill). This is the act that requires environmental impact statements from federal agencies. It should not be weakened with exclusions.

[From the Cleveland Press, Mar. 27, 1972]

FOR STRICT CLEAN WATER BILL

Environmental groups are waging their first major battle since they helped defeat the SST.

This time they have their eye on the water pollution bill reported out of the House Public Works Committee. Environmentalists maintain the House version is considerably weakened from the version passed 86–0 by the Senate.

They hope to have the weaker bill strengthened when it comes up before the full House, probably next week.

The Dingle-Reuss-Saylor Clean Water Package, sponsored by congressmen whose names it bears, is what they are plugging. And rightfully so.

Probably the worst element in the doctored bill is its almost total reliance on state water pollution agencies to control issuance of permits to waste dischargers.

The sorry history of state control is strong evidence of the need for a strong federal presence. The Government should have the right to veto individual permits where necessary as in the Senate bill.

The Senate set goals of zero discharge of pollutants by 1985 and best available treatment by 1981. The House version calls only for a study—not good enough for a country with such seriously threatened waters as those of Lake Erie.

The limitation on citizens who may file waste pollution lawsuits in the House Bill is wrong. Any person may sue under the Senate bill. And properly so.

It's unfortunate, too, that the House proposes in effect to repeal the 1899 Refuse Act which has proven to be the only potent tool against industrial polluters.

The Dingle-Reuss-Saylor Clean Water Package would correct these and other deficiencies in the legislation that will help govern this nation's environmental future. It deserves and should get the support of congressmen from Cleveland, from Ohio and from the rest of the U.S.

FURTHER CONGRESSIONAL STUDIES NEEDED

Why should the 1981 "best available" technology requirements for industry and the 1985 goal of eliminating discharges of pollutants into the navigable waters be established in this legislation, rather than requiring further Congressional action after the Section 315 study?

I. Astronomical cost estimates for the implementation of the 1981 best available technology requirements of section 301 are misleading in light of the bill's specific requirement that State and Federal officials take costs into account in setting control requirements. The 1985 date for the elimination of all discharges into the navigable waters is not a rigid legislatively enforceable deadline, but rather a target date for planning purposes.

Section 101 declares it a "national goal" that "the discharge of pollutants into the navigable waters be eliminated by 1985." This

is not enforceable, but is a target to stimulate research and planning.

Section 301(b)(2) requires industries to eliminate their discharges of pollutants by 1981, provided they can do it at a "reasonable cost." If zero-discharge can't be achieved at a reasonable cost by a particular industrial polluter, then that industry must use the "best available demonstrated technology," which is to be determined "taking into account the cost of such controls."

Section 304 lists the factors to be taken into consideration in determining what is "best available" technology in 1981 as including "the age of equipment . . . engineering aspects of the application of various types of demonstrated control techniques . . . the cost . . . foreign competition . . . and such other factors as the Administrator deems appropriate." Section 302's requirement that, by 1981, controls for point sources provide for water of high enough quality for swimming and fish propagation is qualified by a cost-benefit balancing requirement. This section specifically provides that if the costs of going to that level of control are greater than the benefits, then these high water quality requirements do not go into effect.

Thus, even without the provisions of Section 315, the bill bends over backwards to insure that any unreasonable costs are avoided. But Section 315 then provides that none of these basic requirements take effect unless Congress enacts them in new legislation, after a feasibility study by the National Academy of Sciences and the National Academy of Engineering.

The requirements are all reasonable ones—each containing specific provisions to guard against exorbitant costs—and they should be established now, as in the Senate version.

II. The "zero discharge" provisions are aimed at stimulating recycling, which will produce net benefits in the long run. Low cost recycling techniques are available now which were ignored by the administration in making their inflated estimates of cleanup costs.

Administration cost projections were based on traditional treatment technology which filters wastes out of the water by physical, chemical and/or biological means before dumping the partially cleansed wastewater stream back into the lake or river. The aim of the policy of elimination of discharges is not to promote finer and finer technological filtering prior to dumping (which, it is true, becomes increasingly more expensive with the removal of each additional percentage point of waste), but rather to stimulate entirely new ways of looking at the waste disposal problem, so that wastes and wastewater can be reused and recycled where possible rather than simply discarded. The goal of eliminating discharges is, in other words, intended to spark a search for, and the implementation of, ecologically sound waste disposal methodology.

Recycling waste control methods—methods that the Administration and other critics of the "zero discharge" policy ignored in making their cost projections—are already available. One alternative is spraying wastewater on the land; the wastewater is purified by the soil (typically to drinking water quality) before it joins the groundwater. A recently-completed survey of land disposal methodology contains detailed descriptions of 27 of these systems in this country alone (Green Land—Clean Streams: The Beneficial Use of Waste Water Through Land Treatment. Temple University, 1971). Many of these systems have been operating for twenty years or more. The land disposal systems reviewed are, in general, much more cost-effective than the conventional treatment systems the Administration and other critics had in mind in making their projections of exorbitant costs. Note also that, unlike conventional treatment, a land treatment project can provide benefits to offset the costs. The land treatment system in Muskegon County, Michigan, for example, will fertilize the land and provide new crops and new jobs. The phosphates in detergents (a fertilizer) become a blessing instead of a curse. It is planned that an electric power plant will locate on the waste water lagoon. The thermal discharges improve the biological treatment process while the power company saves the cost of cooling towers.

Another waste control method which avoids the heavy costs of increased percentage removal prior to dumping is the closed cycle system, in which "waste" products are reclaimed from the wastewater stream, which is then reused. Because the products retrieved from the stream are often valuable, this kind of system has achieved cost savings for a number of companies. Dow Chemical expects to make a profit from it. (Business Week, January 1, 1972). Closed cycle systems are becoming available to most industries in this country. (Hearings of Senate Subcommittee on Air and Water Pollution, March 1971, Part 1; Lacey and Cywin and George, "Industrial Water Reuse: Future Pollution Solution," Environmental Science and Technology, Vol. V, 1971).

Another system which uses wastes for constructive purposes is controlled aquaculture, using "waste" nutrients to support underwater farming, with "crops" and "livestock," under confined and controlled conditions.

All of these systems avoid the problem of exponentially increasing costs with higher percentage removal.

The point is not that one or more of these control methods which can provide "zero discharge" is currently available "at a reasonable cost" (in the language of the House and Senate bills) to use in every single situation, though they may be. The point is rather that we need to begin to apply these methods and improve upon them where they are available at a reasonable cost and to begin looking hard for new ones.

III. By not establishing the post-1976 requirements of the Senate bill, the House committee version perpetuates indefinitely the existing water quality standards approach to water pollution control, under which streams are given different use classifications which are then supposed to be reflected in the amount of pollution that is permitted.

Numerical standards are, in many cases arbitrary (since we don't know enough about our complex ecosystem), deal with only a few of the many pollutants and combinations of pollutants, and do not provide for sufficient protection of our sensitive estuarine areas. In addition, relating a given level of water quality to the specific discharge levels needed to attain it is difficult; where it can be done, it places a tremendous technical burden on the government to make these complicated computations before imposing control requirements, a burden the government has not been capable of meeting.

IV. Establishing 1981 and 1985 requirements and goals now, as the Senate bill does, will save money by stimulating rational long-run planning: Postponing a decision, as the House version does, will waste money. Polluters will be encouraged to install minimal treatment equipment now which would not be compatible with future recycling systems that will become mandatory sooner or later.

Up to now, polluters have tightened their controls on pollution increment by increment, not anticipating even more stringent controls that growth in our population's industrial capacity would necessitate further down the road. Each incremental improvement (e.g., installing a device that will strain out an additional percentage point of waste) may look like the cheapest way to meet the control requirement of the moment. When the cost of a series of these short-run incremental improvements is added together, however, it begins to add up to a great deal more money than would have been spent had the polluter shifted over to a better methodology (e.g., recycling) to begin with. If we push polluters along that incremental path to cleanup, they will not only have to bear the heavy cost of straining fine and finer particles out of their wastewater, but also will have to bear the wasteful cost of eventually scrapping their expensive old-technology treatment facilities anyway. Telling polluters to shift to recycling ("zero discharge") systems when they can make the shift at a reasonable cost is aimed at avoiding these excessive costs that will otherwise occur.

Thus by postponing a decision to go ahead with tougher controls until after the NAS study, the House committee is increasing the costs of eventually cleaning up (since polluters will be encouraged to install minimal treatment equipment now which they will have to get rid of later on when higher control requirements are imposed.) Similarly, research by polluting companies and by the "pollution control industry" which could reduce the costs of "zero discharge" waste handling methodology will not really begin to take place in earnest until the requirement to eventually shift to "zero discharge" is a firm one. In other words, by putting off making the decision, as the House committee version does, we will forego savings which research and planning for the future could otherwise produce. Industry needs to know what will be expected of them later on, to avoid making wasteful expenditures.

Note that immediate establishment of the 1981 and 1985 requirements and goals would make many industries see that it is in their advantage to join together with municipalities in regional treatment systems. On the other hand, if industries face only low control requirements and can see no higher ones on the horizon, many of them will think they can handle their wastes more cheaply by themselves, thus forcing our municipalities to operate alone in these regional systems and sacrificing savings that can come with larger scale operation. Thus by relaxing controls on industry, the House committee version forces higher cost on municipalities.

V. Postponing the establishment of the Senate bill's goals and requirements also biases the NAS study itself in the wrong direction. The cleanup costs the study projects will be higher because of our indecision. We should give the environment a fair chance to come out on top by deciding now, and letting the results of the study alter our course later if need be.

VI. The burden of proof should not be on the public to prove that eliminating pollution is feasible: the burden should be on the polluters to prove why they should not have to install the most pollution-free systems.

The public should not have the burden of proving that the polluters can afford to clean up before making them do it. The polluters should have to make their own case, since it is they who have all the data (about their cleanup costs, for example) under lock and key. We should start with the presumption that polluters must eliminate their pollution and place the burden on them to demonstrate that the social and economic costs are so great that the requirements should be temporarily relaxed.

Setting high cleanup requirements now rather than later, as the Senate bill does, would help force heretofore tightly-guarded cost information out into the open, by placing the burden of producing it on those who have it—the polluters. By waiting to give

the go-ahead until after a National Academy of Science study of the costs involved, the House committee bill would, on the other hand, give the public, in effect, the burden of proving that we can afford cleanup before we require it. Under this approach, industries will have the same incentive they have always had to exaggerate the costs of cleanup and keep information which might show that waste handling can be accomplished at lower costs concealed.

If we really want our NAS/NAE study to produce accurate information about the costs of cleanup, we should establish the requirements and goals now. Congress will respond if the study shows there is any need for change.

[From Business Week, Feb. 5, 1972]

THE STORMY DEBATE OVER "ZERO DISCHARGE"

When Senate bill S. 2770 came to a vote last Nov. 2, it roared through on a rollcall vote of 86-to-0. Such Senatorial unanimity is usually reserved for nonbinding resolutions in support of motherhood, and the casual observer might well have thought that S. 2770 was an innocuous piece of legislation. He would have been dead wrong. S. 2770, the Federal Water Pollution Control Act, now stands as the toughest, most controversial environmental legislation. It states unequivocally that no one has the right to pollute, and establishes a tight timetable to achieve an ambitious goal; the total elimination of all effluent discharges into the nation's waterways by 1985.

This month, as the legislative action shifts to the House floor, a belated fight has erupted, focusing on the 1985 goal, popularly known as "zero discharge." Arrayed against the bill are the Nixon Administration, some economists, and virtually all business groups. Supporting the bill are the environmentalists and, as the Senate vote indicates, large sectors of the public. And since the bill's principal author happens to be Senator Edmund Muskie, the issue is smack in the middle of election-year politics.

The critical barrage, like a high-powered fusilade, is well under way. New York Governor Nelson Rockefeller calls zero discharge "totally impossible." Allied Chemical Chairman John T. Connor says "the Muskie bill . . . raises hopes on which it can't possibly deliver." Paul McCracken, recently departed head of the Council of Economic Advisers, warns that the benefits of zero discharge are not worth the multibillion-dollar costs. And Willard Rockwell, chairman of North American Rockwell, recently proclaimed that the cost of achieving zero discharge is "enough to shake the economic foundations of this country."

Industry groups, too, have weighed in with dire predictions. The American Paper Institute says that zero discharge would cause plant closings, create unemployment, and drive paper prices up by 50%. The American Iron & Steel Institute estimates that zero discharge would add $1-billion to the industry's $3.5-billion cleanup bill over the next few years. And the chemical industry figures it would cost $25-billion in capital equipment by 1985, plus $10-billion a year for operating expenses.

But judging from the language and intent of the Senate bill, much of this gloomy outlook seems unwarranted. Though the legislation is indeed tough, it sets zero discharge as a goal, not a legal requirement. And every step toward achieving that goal is clearly circumscribed by cost considerations.

The bill has two stages. During its first phase ending in 1976, all companies must apply the "best practicable" technology to control water pollution. In its second phase companies must achieve zero discharge by 1981 unless they can show it cannot be done at "reasonable cost." In that case, they must employ the "best available" technology. The aim: to achieve water clean enough for swimming and fish propagation by 1981 and to eliminate all effluents by 1985.

But the language of the bill is careful not to eliminate affluence along with effluents. The phrases "best practicable" and "best available" are defined to consider the ages of the plants, their sizes, their processes, and the cost of controls—thereby ruling out ruinously expensive techniques. Furthermore, the bill requires the Environmental Protection Agency to study the cost and feasibility of zero discharge. If the costs outweigh the benefits, Congress is charged with making a "midcourse correction" by 1976, eliminating zero discharge as a national goal altogether.

A PHILOSOPHIC SHIFT

So why the fuss? Why is industry so adamantly opposed to a bill that safeguards its economic interests? With all those constraints, why did the Senate bother postulating the zero discharge goal? The answers lie in the bill's shift away from the philosophy embodied in the last major water pollution law, enacted in 1965. Under that law, each state is allowed to determine how it wants its rivers and lakes used. Some waterways might be zoned for industrial use, others for swimming. The states next set water-quality standards consistent with the intended uses, then translate these standards into specific effluent limits for all polluters. The effluent limits would vary from stream to stream, depending on its intended use, its assimilative capacity, the nature of the pollutant, and a host of other factors. No company would have to go to zero discharge unless that were necessary to achieve the desired water-quality standard.

In theory, the water-quality approach is sensible. It focuses not on means but on ends: the cleanliness of a river or lake. And by linking cause (effluent) to effect (water quality), it directly relates abatement costs to benefits. But in practice, as experience with the 1965 act shows, the scheme is hard to implement. It is ecologically difficult to link water-quality standards to scores of discharges, and even more difficult to sustain such tenuous links in court. After six years, many states still have not set water-quality standards, while others are still struggling to establish complex relationships between pollutants and water use.

Faced with these difficulties, the Senate Committee on Public Works decided to shift from water-quality standards to direct effluent limits, with the ultimate goal of zero discharge. That was a radical change, for it ended the longstanding policy assumption that one legitimate use of water ways is to assimilate waste. Thou shalt not pollute became the committee's commandment, constrained only by the availability of suitable control technology. It is this basic shift that both the Administration and industry oppose.

To apply the system of effluent limits, the bill requires all polluters to apply for a discharge permit from the EPA. In the second phase, for example, every company would have to show in its permit application that it could not achieve zero discharge at reasonable cost. Thus, the system shifts the burden of proof from the regulator to the polluter, which will probably ease the enforcement task.

The committee also decided that strict effluent limits were needed to spur the development of recycling technology. With water-quality standards, the traditional approach has been "treat and dump"—treat the wastes partially and dump the rest. In the long run, this is ecologically unsound, for what is dumped eventually causes pollution somewhere. Says a committee staffer. "What we want is 14 years of R&D based on the assumption that closed-cycle systems are the norm, not waste discharge."

BALANCING COSTS AND BENEFITS

The Administration, however, does not want a complete shift to effluent limits. It argues that pollution legislation should balance costs against benefits and not impose an arbitrary goal of zero discharge on every stream. It is economically wasteful, the Administration believes, to make the Houston Ship Channel clean enough for swimming. Implicit in this reasoning is the very assumption the Senate rejected: that waste disposal is a desirable, use of at least some waterways. Conceding that progress under the 1965 act has been slow, the Administration nonetheless believes the water-quality approach has worked on some waterways and can work elsewhere.

Like industry, the Administration fears the high cost of strict effluent limits. Russell Train, head of the Council on Environmental Quality, points out that cleanup costs rise exponentially with the degree of cleanliness sought. "The last 1% of treatment costs as much as the first 99%," he says. Preliminary CEQ data estimate the current water program, aimed at reducing pollution by about 85%, would eventually cost $60.8-billion. To achieve a 95% to 99% reduction would nearly double the tab to $118-billion. And to go that last effortful step to zero discharge would escalate the cost incredibly to $316-billion—or some $21-billion a year between now and 1985.

Senator Muskie counters that these estimates, admittedly based on scanty data, are meaningless. "To apply a price tag to a 100% elimination of pollution can serve no purpose other than to frighten the people and intimidate the Congress," he said angrily on the Senate floor. If the costs prove too high, Muskie emphasizes, the goal will be abandoned. But he insists that the nation must move in the direction of zero discharge.

While no one knows precisely what zero discharge would eventually cost, there are signs that the price tag will not be as high as some fear. Several companies, including Dow Chemical and Hercules, are already operating plants that have achieved zero discharge through recycling. And General Motors plans to convert a Chevrolet assembly plant on the Hudson River to complete recycling of waste water. Since no one has compelled these companies to eliminate pollution, the costs are obviously not prohibitive. Indeed, as Dow has found (bw—Jan. 1), it is often cheaper to recycle wastes than to build expensive treatment facilities. With recycling, the waste water need not be purged of all pollutants; it need only be treated to a quality sufficient for the plant's own manufacturing use. The EPA, despite its objections to the Muskie bill, stated that the technology for closed-loop recycling seems within reach for many industries.

The toughest problems of all will confront municipalities. Under the bill's first phase, they are required to have secondary treatment plants under way by 1974. Then they face the same second-phase requirements as industry. But strapped for funds and unable to recoup costs through higher product prices, cities must rely on federal subsidy. The Senate bill authorizes $14-billion over four years, but even if the entire sum were budgeted, it would still fall far short of the cities' needs.

THE LAND DISPOSAL ANSWER

One hope is a land disposal system soon to be built in Muskegon County, Mich. Municipal waste—and some industrial effluent, too—will be routed through relatively simple treatment, stored in holding lagoons, then sprayed on 10,000 acres of nearby farmland. Ecologists have long favored land disposal, for it returns valuable nutrients to the soil, replenishes ground water tables, and minimizes the amount of sludge dumped from treatment plans. Perhaps more important, the costs look reasonable. The Muskegon system is contracted for $34-million, compared with $43-million for a conventional system of smaller size now under construction in suburban Chicago.

Can land disposal be applied in large metropolitan areas? Dr. John Sheaffer, who helped design the Muskegon system and is now a consultant to the Corps of Engineers, says yes, based on studies of San Francisco, Chicago, Boston, Detroit, and Cleveland. The EPA is more skeptical, estimating that versions of the Muskegon system adapted nationally to really large cities would require 7.7 million acres, assuming the land could be found. But Sheaffer says that is only 1% of total farmland. "Everywhere we looked for available land, we found it," he says.

As matters now stand, the House will vote on its version of the zero-discharge bill this month. The House bill also includes the shift to effluent limits and the zero discharge goal. But it calls on the National Academy of Sciences to prepare a detailed cost study in 1974, then requires new legislation to implement the second phase. The House bill also gives more enforcement power to the states at the expense of the EPA, but ups the municipal ante to $20-billion. Environmentalists are hoping to strike the new legislation requirement; the Administration is fighting to preserve some form of water quality standards. The likely outcome: Both effluent limits and the zero discharge goal will remain, but the new legislation requirement may have to be resolved in a House-Senate conference.

Ultimately, zero discharge, or anything close to it, may end up costing more than the nation is willing or able to pay. In that case, both bills provide for a policy shift. For now, though, the goal will spur both industry and municipalities in the direction they must go if the nation is to purge pollution from its waterways.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, Va., March 21, 1972.

Hon. DAVID E. SATTERFIELD III,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR DAVE: The Virginia State Water Control Board has actively followed the proposed water pollution legislation, and I have been kept advised of the progress of both H.R. 11896 and S. 2770. Virginia supports the concept of this ambitious legislation.

I would like to pass on to you the consensus of the State Water Control Board as to this legislation:

"Specifically, we think that the requirements of 'best available technology' as passed by the Senate should be established in the legislation now. Postponing the establishment of this goal will result in continued confusion and groping for a national policy.

"It is likewise imperative that contract authorization be provided for the municipal grant program of Title II. Unless state and local governments are assured that matching funds will be available, pollution abatement efforts will be seriously impaired. The $20 billion authorized in H.R. 11896 should be retained. The proposed House authorization is much more realistic than the smaller authorization in the Senate legislation.

"Finally, a strong permit program is absolutely essential to the fulfillment of the goals of this legislation. Virginia has an effective permit program, but has no objection to the empowering EPA to review selected permits. A review procedure seems preferable to EPA's being required to revoke an entire state permit program."

If you have any questions on these or other aspects of the bill, I suggest that you contact Mr. Noman Cole, Chairman, State Water Control Board, 5917 River Drive, Lorton, Virginia 22079; Mr. Andrew W. McThenia, Jr., State Water Control Board, 604 Marshall Street, Lexington, Virginia 24450; Mr. Gerald L. McCarthy, Governor's Council on the Environment, Eighth Street Office Building, Richmond, Virginia 23219.

Best wishes.

Cordially,

LINWOOD HOLTON.

STATE OF CONNECTICUT,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
Hartford, Conn., December 7, 1971.

Hon. JOHN A. BLATNIK,
Chairman, Committee on Public Works,
House of Representatives, Washington, D.C.

DEAR SIR: Your proposed "Federal Water Pollution Control Amendment of 1971", H.R. 11896, represents a major step towards restoring the integrity of the nation's water. I, as Commissioner of the Department of Environmental Protection for the State of Connecticut, strongly support the concept of nationwide effluent standards as the most effective and equitable means for abating water pollution. Yet I am concerned over the lack of a veto provision of specific state permits at the Federal level.

Failure to include the veto provision not only weakens the Federal bill, it undermines our program in Connecticut. I am proud of that program. While still a beginning, it is, I believe, among the best in the country. The State of Connecticut now requires municipalities and industry to install the best feasible control technology. We fully expect to further define and tighten our requirements wherever appropriate in the future. But as we press forward, we are sometimes told that if we require additional effort, polluters will move their operations to areas where environmental laws are nonexistent or not enforced. Citizens in our state—and all citizens—deserve an assurance that an industry seeking to abdicate its environmental responsibilities by moving elsewhere will find no havens of lax enforcement anywhere in this country.

H.R. 11896 would deprive the Environmental Protection Agency of the power, provided in the Senate-passed version of the bill, to review and reject any permits for industrial discharge proposed to be issued by a state. The enforcement mechanism contained in Title IV of both versions of the bill is a permit system under which Environmental Protection Agency authority to issue industrial discharge permits would be delegated to any state whose own program conforms to Federal requirements. Under both versions, EPA could withdraw its approval of a state program—and reassume responsibility for issuing all permits within that state—if the overall program were not administered in accordance with such requirements. But that awkward authority to withdraw total approval which will obviously be invoked as a last resort, if at all as in the House bill is no substitute for the precise power to reject any permit which is inconsistent with Federal policy, as in the Senate bill. It is unwise and unnecessary to limit EPA to a choice between ignoring a state's error and discarding that state's entire permit program.

I urge that the Administrator of the Environmental Protection Agency be empowered to veto any permit within 60 days of his notification under Sec. 402(d)(1) that a state proposes to issue such permit. I believe that to be a workable means of promoting consistent enforcement of effluent standards across the nation.

Finally, I strongly endorse the authorization levels and methodology of disbursement which will allow Connecticut, included present levels of state funding, to complete its presently planned treatment programs on schedule. For the moment, we are at a standstill due to uncertainty in Federal funding; thus I urge immediate passage of this Act.

Sincerely,

DAN W. LUFKIN,
Commissioner.

[From the Washington Evening Star, Mar. 26]

NADER CLAIMS MUZZLING OF CLEAN-WATER STUDY

(By Roberta Hornig)

Ralph Nader yesterday accused the Nixon administration of muzzling a government report containing "convincing evidence" that it is economically feasible to aim for zero discharge of pollutants into the nation's navigable waters.

The House tomorrow begins debate on its version of a clean waters bill—a less stringent measure than the one the Senate passed by a unanimous 86–0 vote.

In a 3½-page letter to Office of Management and Budget Director George Shultz, Nader urged that the report, compiled by the U.S. Army Corps of Engineers, be released tomorrow.

"A MAJOR BOOST"

The information it contains, he said, "could give a major boost to House proponents of tougher controls on industrial pollution."

"By withholding this information from the public at the very time the Congress and the American people most need it to make rational legislative decisions for the future, the administration again demonstrates its willingness to place the interests of corporate polluters ahead of the public's interest in a clean and healthy environment," Nader charged.

The "convincing evidence," he said, is that the cost of eliminating water pollution is but a small fraction of earlier administration estimates and even less than the cost of using present-day inadequate control systems. The administration, in fighting the Senate-passed water pollution bill, had projected a price tag of $316 billion for its attainment.

The corps study, Nader said, was based on how much it would cost to eliminate all discharges of pollutants in waterways in the Chicago metropolitan area and came up with a price tag of $2 billion.

He called the keeping of the report from the public ". . . a most serious example of the invisible and illegitimate controls the Office of Management and Budget and the White House have begun to extend over information developed by federal agencies."

Nader said the first details concerning the report came out, Wednesday at a meeting between representatives of several environmental groups and Environmental Protection Agency Administrator William D. Ruckelshaus. He said the corps defended the accuracy of its price figures but made it clear "that they had been muzzled at the instructions of the White House and the OMB."

"REVIEW" OF REPORT

According to Nader, both corps and EPA officials have reported the study has been undergoing "review" by Don Crabil of OMB and White House officials, including presidential aide John Whitaker, for one week.

"Placing this report under wraps constitutes a continuation of administration efforts to defeat those strong elements of the Senate version of the water pollution bill by throwing up a smokescreen of confusion concerning control costs," Nader wrote Shultz. He also sent a copy of his letter to Speaker Carl Albert.

In its present form, Nader charged, the House bill "is designed to protect industrial polluters."

"It has been rendered so full of loopholes that the corporate lobbyists, far from opposing it, are working hard to preserve its swiss cheese characteristics fully intact," he wrote.

A fight on the House floor is expected when the House Public Works Committee bill comes up tomorrow. Several congressmen led by Rep. John Dingell, D-Mich., and Rep. Henry Reuss, D-Wis., will offer at least seven amendments to bring the measure more in line with the Senate bill which was sponsored by Sen. Edward Muskie, D-Maine.

THE IZAAK WALTON LEAGUE OF AMERICA, INC.,
March 19, 1972.

To: Honorable John Brademas, William Bray, Andrew Jacobs, Earl Landgrebe, John Myers, Elwood Hillis, David Dennis, Ray Madden, J. Edward Roush, Lee Hamilton, Roger Zion.

HONORABLE SIRS: The Board of Directors and members of the Indiana Division, Izaak Walton League urge your support of the Dingell-Reuss proposals which will greatly strengthen the 1972 amendments to the Water Pollution Control Act. The Indiana Izaak Walton League fully supports the version adopted unanimously by the Senate, and urges your opposition to Administration attempts to undercut the strong features of this bill. Specifically, we urge:

(1) Restoration of the 1981 requirements for national effluents standards, and 1985 requirements for zero discharge of pollutants. We see no need for an intervening period of "study" by the National Academy of Sciences. Pollution had already been "studied" to death, and even the Senate version will allow nine years for the effluent standards and thirteen for zero discharge;

(2) Restoration of individual review and veto of proposed permits under the Refuse Act by the Environmental Protection Agency. The House Public Works Committee version would for all practical purposes necessitate EPA rejection of a state "package" of permits when only a few might warrant rejection. The effect would be to make a rubber stamp out of EPA, and virtual repeal of the 1899 Federal Refuse Act;

(3) Restoration of the Senate feature giving legal standing to all citizens to sue polluters in the public interest. The Committee version would severely limit this right to those who could show specific damage to their interests. The 1970 Clean Air Act establishes citizens' legal rights, and so should the water pollution amendments;

(4) Restoration of the full intent of the 1969 National Environmental Policy Act. The Committee version would greatly restrict the outstanding value of NEPA. We especially support the requirement for Environmental Impact Statements under Section 102 of this Act, and oppose any impairment of this principle;

(5) Restoration of employee protection features and national standards which will prevent any "shopping" advantages for a polluting industry seeking a state where pollution enforcement is more permissive; and

(6) Full review and veto power under provisions of the Fish and Wildlife Coordination Act of the Department of the Interior.

The Izaak Walton League deplores the efforts to destroy the effectiveness of the 1972 water pollution control amendments passed in the Senate, and we expect to stay aware of every action of the Congress through enactment of a version at least as strong as that approved by the Senate.

We will thank you for your support of the Dingell-Reuss amendments.

Very truly yours,
KAREN GRIGGS *and 21 others.*

CITIZEN'S CRUSADE FOR CLEAN WATERS,
Washington, D.C., February 14, 1972.

Hon. JOHN A. BLATNIK,
2449 Rayburn House Office Building, Washington, D.C.

DEAR MR. BLATNIK: Many members of the Citizens Crusade for Clean Waters have been following the work of the House Public Works Committee to extend and expand the Federal Water Pollution Control Act. We are pleased with the attention and time you have given this program and we appreciate your leadership in our joint concern for cleaning up our nation's water resources.

However, since the bill was ordered reported on December 16, we have had difficulty in obtaining specific proposals to be contained in the final version of the legislation. We are concerned that the bill which is finally reported out of committee will not, in fact, strengthen present water pollution control efforts, but weaken them.

We understand that there is before the Committee language which would seriously limit the application of the National Environmental Policy Act, the Fish and Wildlife Coordination Act, and the Refuse Act of 1899. These laws have been basic to the protection of environmental qualtiy and have provided an important avenue for citizen participation in clean-up activities. To remove the opportunity for citizen participation seems contrary to the public interest. We feel that it is not appropriate to deal with these Acts in proposed water pollution control amendments. Instead we believe there are other issues which are important to labor, environmental, consumer and other public interest groups in this legislation. Any of us would be pleased to meet with you to discuss these matters.

Sincerely,
RUTH CLUSEN and 10 others.

Finally, I insert in the RECORD an example of the intense pressure put on Members of Congress, under the direction of the White House, by the big industrial polluters of the Nation:

YOU MUST ACT NOW ON THIS WATER POLLUTION CONTROL BILL

NATIONAL ASSOCIATION OF MANUFACTURERS,
New York, N.Y., March 21, 1972.

This concerns a matter of vital importance to every manufacturing company which uses water—whether or not it has its own waste treatment facilities, or discharges into a municipal system.

The Senate has passed a water pollution control bill, S. 2770, which would require elimination of the discharge of industrial pollutants by 1985. The related costs to manufacturers would be considerable, to say the least. The House is now debating a bill (H.R. 11896) which will provide a more sensible approach. The House bill would make the so-called "zero discharge" requirement contingent on a two-year study by the National Academy of Sciences (NAS) and on added Congressional action.

Strong efforts are being made on the House floor to fight the NAS study approach. You must wire or telephone today to urge your Representatives in Washington to support the sensible NAS study provision and vote to defeat any efforts to eliminate this study or otherwise revise the House bill.

H.R. 11896 would establish a tough, but realistic program for progress in water pollution control, whereas S. 2770 could actually impede such progress through shifting and unrealistic requirements imposing tremendous costs to manufacturers. For this reason, H.R. 11896 is highly preferable to S. 2770.

Tomorrow is too late. It is important that you contact your Congressman today on the House water pollution control debate.

Sincerely,
M. P. GULLANDER.

P.S. Obviously, the pressures on Congress to enact added unrealistic legislation will continue and NAM will be calling on companies across the nation to speak up to their Representatives in Washington. You could help us speed future actions by giving us, on the enclosed self-addressed card, the name(s) of the person(s) in your company responsible for pollution control.

Mr. HANLEY. Mr. Chairman, I rise in support of H.R. 11896, the 1972 amendments to the Federal Water Pollution Control Act. While I sincerely believe that this proposal, painstakingly prepared by the Public Works Committee, is a sound and progressive bill, there are areas in the measure which I feel can and should be strengthened. I intend to support a number of the various clean water amendments.

With regard to the committee bill, I am particularly pleased with the intent to commit the Federal Government to a program of paying back to States and municipalities those funds which have been used to prefinance the promised but undelivered Federal share of waste treatment facilities. To be sure, the real battle over reimbursement funds will be fought out in the appropriations process, but the clear language of H.R. 11896 gives States like New York a good headstart toward gaining repayment of funds advanced to cover the Federal share. The New York share of the reimbursement funds is nearly $1.3 billion.

I am pleased with the provisions in the House bill which will shift the emphasis in water pollution control from the idea of classifying bodies of water to the idea of placing standards on the effluents dumped into those bodies of water. It seems to me to make sense to deal with pollutants at their source.

The committee's increased authorization for the construction of wastewater treatment facilities is vitally needed, and the increase in the percentage of the Federal share should ease the burden on financially hard-pressed local communities who are finding it very difficult to produce the needed funds from local property taxes.

Mr. Chairman, I have one overriding concern about the committee bill which I see being eased by the clean water amendments. I am very much disturbed by the uneven progress in the 50 States toward controlling and abating water pollution. The citizens of New York State have expended or committed $1.4 billion in State funds for water pollution control facilities. Local government financing within the State has amounted to $1.2 billion, and both figures include the $1.3 billion prefinancing of the Federal share. The actual Federal commitment of funds has been $273 million. These figures clearly indicate a massive financial commitment by the people of New York.

Industries in New York State have also borne a heavy burden in terms of complying with State pollution standards and enforcement actions. Many New York workers have lived with the threat of plant closings should pollution standards be enforced. Plants in the State have closed down and moved elsewhere because of the necessity to comply with State water pollution control standards.

The citizens of the State, and the industries on which so many of them depend for their economic livelihood, have made great sacrifices. I want to make sure that the citizens of our sister States, and their industries, are moving ahead at the same pace New Yorkers are. I want them to bear the same burdens we are. I want to guarantee that the Federal Government will insist that all of the States measure up to the same mark. I feel that the power to set national standards for effluent control must be main-

tained by the Federal Government, and the power to enforce those standards must be kept at the national level.

In New York these days, with our highest unemployment rate in a decade, and with no real signs of bustling economic development on the horizon, one hears about the "high costs of doing business in the State." What this really means is that it is less costly to do business in other States, and I want to make sure that in every State in the Union, industry will be required to make equal sacrifices in behalf of pollution control. Industries have left New York for other States and even foreign countries, leaving the worker stranded and without a job. National standards and national enforcement ought to remove water pollution control as a factor in the competition among the States for industry.

In conclusion, Mr. Chairman, I want to comment on the matter of the national goal or policy of no pollution by 1985. It seems right and proper to me to seek such a goal. There are tremendous fears abroad in the land over this provision and not a little hysteria. It seems to me that the path to this goal is carefully marked with full considerations of costs. The matter of best available or best practicable technology is and must be tempered by considerations of cost. This point must not be overlooked. It is clearly stated that the age of the equipment and facilities involved is a factor to be considered. The nature of the industrial process employed is to be taken into account. So also are questions of the economic, social, and environmental impact of achieving effluent reduction. The matter of foreign competition is specifically set out as a consideration.

The clean water amendments call for cities, towns, and industries to do the best they can. No more and no less. I support this invitation to participate in the restoration of the waters of the United States.

Mr. ANDERSON of California. Mr. Chairman, as coauthor of H.R. 11896, the Federal Water Pollution Control Act of 1972, I rise in support of this historic bill which is designed to clean up the Nation's waters in this decade.

This bill is not perfect. Seldom, if ever, does a bill of this magnitude meet all of the objections of the various States and the various groups.

However, I do not criticize the committee, simply because I do not agree with every provision in the bill's 414 pages. Rather, I commend the committee, especially Mr. BLATNIK, our chairman, Mr. JONES and Mr. HARSHA for producing what I believe to be the best water pollution control bill ever introduced in the Congress.

GOALS

The bill, H.R. 11896, establishes a national goal to eliminate the discharge of pollutants into the waters by 1985 and to achieve water quality capable of supporting fish and wildlife and capable for safe water recreation by 1981. In addition, the bill would prohibit the discharge of toxic pollutants in dangerous amounts.

In implementing the bill, the agencies are required to consider all potential impacts relating to land, water, and air to insure that in enhancing the water quality, other significant environmental problems are not created.

However, the stated requirements and goals would not go into effect until further congressional action is taken. Thus, I supported the clean water amendment introduced by Mr. REUSS which would require industry to use the best available technology to eliminate pollutants by 1981. But, in requiring industry to meet this standard, the Administrator is required to consider the cost of pollution control equipment, its effect on prices and foreign competition, and the age of the industrial facility.

The clean water amendment would have allowed the 1981 effluent standards to go into effect without further congressional action and, thus, would have allowed industry to undertake long-range planning and avoid wasteful expenditures. In addition, this amendment would have given industries an added incentive to join with municipalities in regional treatment systems and, therefore, provide economies of scale.

STATE PERMITS

For years, those of us from California have fought to allow the California authorities to establish more stringent pollution control regulations than those established by the Federal Government. In addition, we feel that California can best regulate and control activities in order to meet the local needs and conditions.

The bill before us today allows California to establish a water pollution control program, subject to general Federal guidelines, and it allows the States to regulate the program. If a State is not adequately enforcing the law, then the Environmental Protection Agency would take over the responsibility.

ALLOCATION OF FUNDS

Under the bill, H.R. 11896, Federal funds will be allocated to the various States on the basis of a survey of States' needs conducted by the Environmental Protection Agency in 1970. Using this formula, California would receive $645 million in Federal funds in fiscal year 1973 and 1974.

This level of funding is completely inadequate for California. According to State officials, California would be required to spend $1.42 billion over the next 2 years to clean up the State's waters. Thus, to construct needed treatment facilities, the local taxpayer would be called upon to pay the difference between $645 million and $1.42 billion.

In order to correct this inequitable situation and to base the formula for allocating funds on a more recent study, I have urged the committee to allocate funds according to the 1971 Environmental Protection Agency survey.

Using the most recent 1971 survey, California's share of Federal pollution control funds would be $1.078 billion, instead of the $645 million which would be California's share under the 1970 survey. Thus, under the 1971 survey I have advocated, the local California taxpayers would be called upon to pay $342 million, instead of $775 million.

At this point, I would like to place in the RECORD the two surveys conducted by the EPA. First, I am including the 1970 survey which will be used as the basis for allocating funds if H.R. 11896, as reported, is enacted into law. Second, I am including the more recent 1971 survey which I believe should be used as the basis for allocating funds.

1970 survey—Estimated cost of construction of municipal sewage treatment works for the period December 1970 through June 1974***

[Million dollars]

Totals	$12,565.2
Alabama	27.0
Alaska	28.1
Arizona	51.0
Arkansas	42.0
California	737.5
Colorado	47.4
Connecticut	229.5
Delaware	62.0
Dist. of Columbia	347.2
Florida	444.2
Georgia	74.0
Hawaii	50.8
Idaho	14.5
Illinois	1,043.6
Indiana	174.8
Iowa	111.9
Kansas	52.7
Kentucky	117.0
Louisiana	132.7
Maine	$157.4
Maryland	349.7
Massachusetts	422.6
Michigan	788.8
Minnesota	295.2
Mississippi	34.1
Missouri	268.2
Montana	31.4
Nebraska	49.0
Nevada	47.2
New Hampshire	137.8
New Jersey	1,308.7
New Mexico	19.6
New York	1,721.0
North Carolina	125.3
North Dakota	8.4
Ohio	733.5
Oklahoma	69.8
Oregon	78.6
Pennsylvania	616.4
Rhode Island	37.7
South Carolina	57.6
South Dakota	13.5
Tennessee	88.9
Texas	398.7
Utah	22.6
Vermont	38.0
Virginia	280.1
Washington	216.3
West Virginia	51.4
Wisconsin	190.8
Wyoming	1.7
Guam	9.7
Puerto Rico	93.0
Virgin Islands	14.6

*Based on 1970 dollars.

**Excluding Storm Water Overflow Facilities.

1971 Survey—Estimated construction cost of sewage treatment facilities planned for the period fiscal year 1972–76

[Million dollars]

Totals	$14,557.2
Alabama	52.7
Alaska	32.8
Arizona	19.6
Arkansas	51.5
California	1,429.7
Colorado	46.1
Connecticut	244.8
Delaware	95.6
Dist. of Columbia	103.6
Florida	528.1

1971 Survey—Estimated construction cost of sewage treatment facilities planned for the period fiscal year 1972–76—Continued

Georgia	141.7
Hawaii	48.1
Idaho	31.7
Illinois	909.9
Indiana	490.1
Iowa	168.3
Kansas	54.5
Kentucky	96.2
Louisiana	137.2
Maine	140.9
Maryland	620.1
Massachusetts	547.2
Michigan	1,162.2
Minnesota	295.9
Mississippi	57.3
Missouri	241.0
Montana	24.3
Nebraska	54.1
Nevada	41.8
New Hampshire	121.0
New Jersey	1,122.0
New Mexico	30.8
New York	1,610.4
North Carolina	134.4
North Dakota	6.8
Ohio	840.9
Oklahoma	67.1
Oregon	123.6
Pennsylvania	789.5
Rhode Island	71.2
South Carolina	94.0
South Dakota	13.9
Tennessee	169.0
Texas	408.4
Utah	20.5
Vermont	32.3
Virginia	$424.9
Washington	129.7
West Virginia	72.8
Wisconsin	253.6
Wyoming	3.9
Guam	12.7
Puerto Rico	128.8
Virginia Island	13.0

I was pleased that the gentleman from Alabama (Mr. JONES) gave his assurance that the Public Works Committee would support the most recent needs formula, if available, when the bill goes to conference with the Senate to iron out the differences in the two versions of water pollution control legislation. I would like to point out that, according to a response I received from the White House regarding the 1971 survey, that "the substance of the report containing the survey of State needs to implement clean water measures has been released" to the Public Works Committee.

At this point, I place in the RECORD the correspondence I received from the White House in response to my request that the formal 1971 EPA study be released to Congress by March 28:

THE WHITE HOUSE,
Washington, D.C., March 25, 1972.

Hon. GLENN M. ANDERSON,
House of Representatives,
Washington, D.C.

DEAR MR. ANDERSON: I wish to acknowledge and thank you for your March 24 telegram to the President asking that the report of the Environmental Protection Agency, "Cost of Clean Water," be released by March 28.

I have been advised that the formal report has not been completed but that it should be available in the not too distant future. However, I have been told that the substance of the report containing the survey of state needs to implement clean water measures has been released to the Interior and Insular Affairs and the Public Works Committees.

With cordial regards,
Sincerely,

MAX L. FRIEDERSDORF,
Special Assistant to the President.

REIMBURSEMENT

For those States and localities which have constructed publicly owned treatment works for which the full Federal contribution has not been received, H.R. 11896 authorizes the Environmental Protection Agency to reimburse those States and localities for a portion of their expenses.

These progressive jurisdictions have acted in a commendable manner to expedite the cleaning of the Nation's waters and they deserve sufficient and timely reimbursement. However, there is a flaw in the bill which does not allow reimbursement to States and localities for projects that they began after June 30, 1971.

Thus, unless this flaw is removed, California would lose at least $23 million because of projects which were begun after June 30, 1971, and, therefore, are not eligible for reimbursement.

STATE RESEARCH PROJECTS

Mr. Chairman, many jurisdictions recently have undertaken studies in order to determine the principle causes of pollution, the effects of discharges, and the cost of implementing new systems.

In southern California, the local agencies have formed and funded the Southern California Coastal Water Research Project Authority to conduct a comprehensive study of the effect of treated waste water on the off-coast marine environment. This study is scheduled to be released in October of this year.

Mr. Chairman, it is my belief that any proposal requiring an expensive change in the current southern California outfall discharge system should be based on the conclusions of the $951,180 study. I would be most disturbed if the Environmental Protection Agency required the city or county of Los Angeles to undertake an expensive project that was not based on the best, most current, scientific data.

CONCLUSION

Mr. Chairman, this is a good bill which deserves our support. It was not hastily conceived, nor was it hastily considered.

I was proud to participate in the forming of this bill and I am proud to support it.

I urge all of my colleagues to vote for the passage of H.R. 11896, the Federal Water Pollution Control Act of 1972.

Mr. MOLLOHAN. Mr. Chairman, the last 5 years have witnessed a rising tide of concern and resentment across this Nation about the continued and alarming rate of the pollution of our rivers, lakes, ground waters, and the poisoning of our environment.

What was once the concern of a few environmentalists, conservation groups and some public officials has now developed into a national movement. And in my opinion, there are no real substantive disagreements on this issue. We are all against water pollution. We all want government and industry to act against it. We may disagree about techniques, about levels of funding, or about time sequences, but our ultimate goal is identical—to use the best technology we have or can develop, to invest an effective amount of public resources over the next 3 years, and to create a close local-State-Federal partnership which will bring us clean rivers, clean lakes, and pure drinking water to support animal and human life and recreate national pride in America as a land of beauty and health.

The excellent bill before us continues a cycle of impressive clean water and antipollution legislation which dates back to 1956, and was expanded in 1961, 1965, and 1970. But H.R. 11896 goes far beyond its predecessors. It launches a massive and comprehensive fight for improved water quality, sets up strict enforceable tough standards with penalties for violations, and backs this up with a $24.6 billion appropriation—$18.350 billion of which would be used over the next 3 years for grants for the construction of local and regional water treatment plans and for upgrading municipal sewer systems.

The bill contains money for research on new control systems. It contains money for rural areas and for regional planning. It provides funds to help small businesses meet the cost of upgrading pollution controls. In short, it touches every vital area of water pollution control.

One of the more attractive features of the measure for me as a representative of a smaller State such as West Virginia which in some areas is heavily industrialized, is that the bill delegates a good deal of authority to the States. Congress can legislate on important national issues. It can allocate large sums of money. But if its programs are not realistic, and if they do not fully involve local governments, then they are merely going to add to the Federal bureaucratic structure without discernible results.

I like the idea of the States having primary responsibility for issuing permits under this bill so that a State can determine whether its own industries or public facilities are meeting the new pollution standards. If we are serious in our effort to strengthen State government; and if we are serious in wanting to decentralize the powers of the Federal Government to pinpoint responsibility and accountability at the grass roots level, then the House measure should be adopted without significant change.

If we want to be realistic and practical in helping industry meet its commitments to reduce, abate, and possibly eliminate pollution of navigable waterways, then we should retain the provision in this bill calling for a 2-year study of the technological, economic, and social consequences of reaching for our 1981 and 1985 pollution-free goals.

Somehow there is a public misconception that the House version of the Water Pollution Control Act is a weak measure which would let polluters—both private and public—off the hook. Nothing could be farther from the truth. H.R. 11896 is not only realistic in its goals, but it is one of the toughest and far-reaching water pollution control measures ever to emerge from a congressional committee.

First, it establishes a strict State-Federal permit system for any private or public source wishing to discharge waste into navigable waters. If the Federal Government does not feel that a State is being stringent enough, the Environmental Protection Agency has the power to step in and enforce standards.

Second, this bill establishes for the first time the concept of the user charge. This will compel an industry or facility using a public water treatment plant to return a certain portion of construction costs by way of a user charge. User fees would be retained by the local body to underwrite a share of the cost and improvement of the public water treatment facility. This is an effective and fair method of properly allocating costs of public water treatment facilities. Simply stated, those who use will have to pay.

Third, the House bill would base the amount of Federal construction grants on the proven and established antipollution needs of a State, rather than on its population. Coming from a State which has a smaller population than most, I believe the "needs" formula would give smaller States a better chance for grants if they can document their needs. This would apply particularly to some highly industrialized areas in West Virginia, for example, which though small in population has a significant water pollution problem because so many private industries and municipal governments discharge wastes into navigable waterways like the Ohio River.

Fourth, the House bill would provide total grants over 3 years in excess of $18 billion for the construction of waste treatment plans. This is three times the $6 billion proposed by the Nixon administration. The House version would also provide as much as 75 percent in Federal construction grants if State governments provided 15 percent toward costs. This could mean that the matching share for a local government pollution project could be as low as 10 percent—if local-State-Federal cooperation became a working reality rather than a stated ideal.

Fifth, there is a strong emphasis in the present bill on assistance to small businesses to help them meet the increased costs of pollution control without going bankrupt. There is also a call for the establishment of a new Environmental Financing Authority which help local communities borrow their matching share of local capital funds at greatly reduced interest rates. Such an Authority is long overdue and would serve as a vital shot-in-the-arm for many local governments which have tremendous water pollution problems but may have reached the limits of their borrowing capacity.

Sixth, this bill would continue current law which provides funds for pilot projects in the area of acid mine drainage pollution control, and for mining States like West Virginia, this is a provision I am happy to see retained in the law.

Finally, there has been a great deal of controversy raised over one provision—section 315—which would authorize the National Academy of Science and Engineering to undertake a 2-year evaluation of the technological ability and social and economic effects of pollution-free goals set for 1981 and 1985. I believe the provision is fair and realistic. We do not know the costs involved in moving toward zero pollution by a certain date. We really do not know all the implications of what is involved in getting there. The committee in its own report said:

> The differential in the cost of 100% elimination of pollutants as compared to the cost of removal of 97–99% of pollutants in an effluent, can far exceed any reasonable benefits to be received.

For example, cost estimate figures supplied by the Environmental Protection Agency indicate the following cost-benefit ratio:

Municipal costs—capital and operating—to reach 95 to 99 percent pollution reduction would be about $54.9 billion. Municipal costs to reach 100 percent pollution control would be almost three times as much: $141.8 billion.

Industrial costs—operating and capital—to reach 95 to 99 percent reduction would be about $63.9 billion. The costs for zero pollution by industry would be about $174.7 billion, or three times as much.

No bill is perfect. Certainly a water pollution control measure as comprehensive as this one will have some defects. But I would remind you that over a 7-month period, the House Public Works Committee held 38 days of hearings, listened to 294 witnesses, and received 135 additional statements for the record. It seems to me that we have a good bill which strikes at the heart of the water pollution problem. I urge the House to adopt it without significantly altering its thrust, its proposed appropriation, or its basic language. When it becomes law, it will form part of a record of achievement which we can carry proudly to all the people.

Mr. WILLIAM D. FORD. Mr. Chairman, not all of us have been directly affected by plant closures in our own districts. It is difficult to say how we would respond if we were. One Member, Mr. MEEDS, of Washington, has had this happen. His response has been to work with me and cosponsor the amendment we passed today providing a hearing when pollution control is blamed for closure. Additionally, he has written and sent to his constituency a newsletter which "tells it straight." Mr. Chairman, I commend Mr. MEEDS on his position and insert at this point the text of his newsletter:

YOUR CONGRESSMAN—LLOYD MEEDS REPORTS TO THE PEOPLE

"If we could first determine where we are, and whither we are tending, we could better judge what to do, and how to do it."—Abraham Lincoln, 1858.

THE RIGHT ROAD TO RECOVERY

President Lincoln's "House divided" speech quoted above applies to Snohomish County today. Our economy has gone from prosperous to pitiful. Now comes the searing shock of the Everett pulp mill closures. People are lashing out at the pollution control regulations. They are aiming at the wrong target. Efforts to promote economic recovery can't succeed until we face reality.

Prior to delivery, Lincoln showed his "House divided" speech to his advisors. They told him not to give it. Fortunately for our country, he rejected their advice. I have pondered this newsletter for many weeks and have been advised by my older colleagues in the House not to write it. "Never take on such an emotion-charged issue", they counseled.

But getting people back to work is our most important priority. We cannot move ahead by pretending reality doesn't exist. People have been misled. You placed your confidence in me and now I must return it, regardless of political consequences. I intend to give you the facts and help point the way to positive actions our community can take to get on the road to economic recovery. Using Lincoln's common sense formula, let us proceed:

BAD NEWS IN MILL TOWN

Where We Are: Three hundred and thirty people, many of whom I know personally, will lose their jobs at the Weyerhaeuser sulphite mill in Everett. Already crippled by the Boeing layoffs, the Snohomish County economy was jolted by the pending loss of 330 Weyerhaeuser jobs, 750 jobs at Simpson-Lee, and 100 jobs at Scott Paper.

Scott said that it was laying off men due to a surplus in certain kinds of pulp. The Simpson-Lee mill was built in 1892 and was losing $100,000 a year, according to plant manager Ken Perkins. Its fate was sealed in late 1971 when the company bought a larger, more modern mill from Kimberly-Clark in Anderson, California.

Weyerhaeuser, on the other hand, blamed the pending death of Mill A solely on pollution control requirements. "Strictly an environmental closure," said Mr. George Weyerhaeuser on January 14. They said it would cost $52 million to build a new mill or $10 million to install a recovery process to meet environmental standards.

Whither we are tending: Shock and disbelief spread rapidly. "Just change the pollution laws and Weyerhaeuser will stay open," people said. But that would require changing the pollution control efforts of the entire United States. Weyerhaeuser was asked only to meet standards required of every pulp mill in the nation. To make an exception for Weyerhaeuser would be unfair to all the companies that are meeting cleanup schedules.

As John Biggs, director of the State Ecology Department, said, "The environmental laws in the State of Washington are no harsher nor less harsh than any other state. They are literally the same laws as any other state."

Attacks on these uniform standards are aimed at the wrong target and serve no useful purpose. This sort of windmill-tilting distracts our energies from working on economic recovery. In our anxiety we could make Washington State a Shangri-la for polluters. This must not happen.

What to do: We must correct the misleading notion that our economy can recover or survive only if we go easy on polluters. To do that, we must understand the truth behind the Weyerhaeuser closure. Our best long-range interest lies in attracting industry and payrolls. But it must be industry that respects pollution control and is willing to be an environmental good citizen.

How to do it: With leadership and imagination our community can cushion the immediate shock of lost jobs and work toward long-range prosperity. Together with Senators Warren G. Magnuson and Henry M. Jackson, Everett Mayor Bob Anderson, labor leaders, and the Snohomish County Economic Development Council, I am helping sponsor an Economic Recovery Conference aimed at self-help.

But this conference cannot succeed if we continue to delude ourselves that our salvation lies in softening our pollution control laws. To understand why, it is necessary to understand the regulations themselves, what

they seek to prevent and why Weyerhaeuser is really closing Mill A. Here are the facts:

The Regulations and why: The Water Quality Act of 1965 required states to devise and enforce clean water standards. Washington State's regulations were approved by the Federal government in 1968. The state uses a water discharge permit system to enforce the standards.

Mill A and the Scott mill discharge a fluid known as sulphite waste liquor. According to a 473-page report released in 1967 at a Federal-State Enforcement Conference, . . . "the prevailing water quality of Everett harbor, the lower reach of the Snohomish River, and the surface waters of the broad reaches of the study area has been found to be injurious, or less than satisfactory for many marine forms . . . such damages derive almost wholly from the weak pulping wastes discharged by the Scott and Weyerhaeuser mills." State official Jerry Harper puts it more graphically: "The beaches within two miles of the Everett mills are completely void of any clam population."

The waste liquor kills in two ways. First, it is highly toxic to shellfish, oyster larvae, and small salmon. Second, it 'feeds' the water and produces bacteria which consume oxygen needed by marine life. This latter pollution is called BOD—biochemical oxygen demand. An official of the U.S. Environmental Protection Agency estimates that the BOD level of Port Gardner Bay is equal to that from the wastes of 5 to 6 million human beings. Each day the two mills dump 19,631 tons of waste liquor into the water.

Earlier this year, Mr. Weyerhaeuser said, "We stand by our statement that water studies have proved and will continue to prove that the closure was needless from an environmental standpoint." The company seems to have done quite a bit of research to alleviate effects of this "harmless" discharge.

Mr. Oliver Morgan, Technical Director of the Weyerhaeuser mill in Springfield, Oregon, wrote an article for Pulp and Paper magazine about the company's efforts at Kamloops, B.C. Said Mr. Morgan: "The primary purpose of the treatment facilities at Kamloops is to protect salmon during the fresh water periods of their life by removing possible toxicity from the effluent. Removal of 60% of the BOD was found to render the effluent non-toxic to salmon. . ."

Weyerhaeuser said that the regulations would force Mill A to burn waste material and "add to Everett's air pollution load". But ample technology exists to combat pulp mill air pollution. The most common devices are called 'mechanical dust collectors', 'scrubbers', and 'electrostatic precipitators.' Weyerhaeuser pioneered by developing the 'vaporsphere', 'black liquid oxidation', and the magnesium oxide pulping process.

The Weyerhaeuser mill in New Bern, North Carolina, eliminates 99.6% of the air pollution particles. At Valliant, Oklahoma, the company's new plant emits about as much pollution as a large apartment house with a coal furnace. It is rated 99.7% effective.

Crown Zellerbach in Port Townsend spent $14 million on a new Combustion Engineering recovery boiler that virtually eliminates the smoke and "rotten egg" smell of a kraft mill. The mill's emissions are now less than the state regulations require. Air pollution will be reduced under standards of the Clean Air Act of 1970.

The Weyerhaeuser sulphite mill in Everett was built in 1936. It is obsolete because of its pulping process and other factors. Sulphite is a dying technology. Compared to the kraft process, it is high cost, low yield. Mill A is one of the least efficient sulphite mills because it uses the calcium base to cook the pulp. This costly method does not permit recovery of the cooking chemicals. Many sulphite mills, including Scott in Everett, have converted to the newer and much more efficient ammonia or magnesium methods.

The Council on Economic Priorities, a private research group, did a massive, eight-month study in 1970 on pulp and paper pollution. The study said that:

"Everett is the only one of the company's three sulphite mills still using the non-recoverable calcium process . . . Weyerhaeuser has taken no visible pollution control activity and will probably close it rather than convert to magnesium . . . The lack of any investment at this plant indicates that Weyerhaeuser has long planned this action."

"UNITS" MUST BE PRODUCTIVE

"The basic problem which we—all of us—face, is the national productivity crisis . . . Neither industry nor government has paid enough attention to the technological innovation essential to increasing productivity per unit of labor."—George H. Weyerhaeuser quoted in Jan. '72 issue of Pulp and Paper.

Weyerhaeuser Pulp Mill (date built):

Everett Sulphite (1936) 330 employees, daily production 300 tons.

Grays Harbor (1957) 250 employees, daily production 400 tons.

New Bern, N.C. (1969) 440 employees, daily production 800 tons.

Valliant, Okla. (1972) 450* employees, daily production 1,600 tons.

WHICH STORY TELLS IT STRAIGHT

During a strike against Weyerhaeuser last summer, the company placed an ad in the Seattle P–1. Among other things that ad said,

"Those familiar with the Everett mill know that it exists principally because of one major pulp contract with a large eastern customer (65% of the total Everett sulphite production goes to this customer.) One more day of closure would jeopardize that business. Its loss could mean that the mill would move into an even more marginal position than it already is in. Conceivably, its closure."

"Even more marginal." But on January 14, 1972, six short months later, we were told by Weyerhaeuser that:

"The closure of our Everett sulphite mill, which has and continues to contribute a significant amount to our annual operating profit, is strictly an environmental closure, it is, in fact, the mill that we would be least likely to close if economics were the reason."

It is difficult to understand how so "marginal" a plant can become so "significant" a profit-maker in six short months—especially after losing its "exclusive contract" with duPont.

Perhaps Mr. Weyerhaeuser was referring to Mill A when he told the stockholders on April 15, 1971: "But the pressure which environmentalism has brought about has had one salutary effect which outweighs all of the occasional exercises in irrationality. It has forced industry to face up to the obsolescence of some of its technology and many of its mills. . . . we will have several closures. . . . The mills which will be forced to close are almost without exception not only poor environmental performers, but the least productive of our mills."

Weyerhaeuser said it would cost $10 million to clean up Mill A. Scott's program in Everett may cost $60 million. But let's consider the tax laws. All plant equipment can be depreciated against the company's federal taxes. It can be written off. For pollution control equipment, section 704 of the Tax Reform Act of 1969 allows much faster depreciation. That's not all. Congress has just voted to let industry subtract 7½ percent of the cost of new equipment from federal corporate taxes. Pollution abatements devices are exempt from the Washington State sales tax and can be depreciated over 25 years against our business and occupation tax.

THE BILLION-DOLLAR DECISION

In 1968 Weyerhaeuser had a 75% increase in net profits over 1967. A year later the company announced that it was going to spend $1 billion on new production capacity. The expansion involves ten new facilities in the south, plus six more on the East Coast, Canada, Oregon, and overseas. Unfortunately the Weyerhaeuser expansion came at a time when the recission was beginning. Cost cutting became very important.

Mill A in Everett makes a special "dissolving" pulp. It is used to make products such as rayon, cellophane, film, and acetate yarn. The market for dissolving pulp is mainly on the East Coast. Weyerhaeuser has contracts with DuPont and Olin.

Closer to these markets is the new mill in New Bern, North Carolina. It is a computerized mill that produces a wide range of products, including dissolving pulp. My office spoke with a New Bern employee who can't be identified for obvious reasons. He revealed that he had seen the company's records and that it cost millions of dollars every year to ship the pulp from Everett to the East Coast. "Weyerhaeuser started hiring men in 1969," he explained. "They told a lot of the guys that the old Everett sulphite mill was to be phased out and replaced with our plant here." The New Bern mill turned out its first batch of dissolving pulp on February 15, 1972, about a month after the company announced it was closing the Everett mill.

Pollution controls which will meet at least the standards required in Everett cost $6 million at New Bern. Question: Why spend $10 million to keep Mill A in Everett going when it is further from the markets and much less efficient?

LABOR LAWS ARE HELPFUL

Like textiles and steel, the pulp and paper industry is moving south. One advantage is faster timber growth. Ten of Weyerhaeuser's new facilities are in the Southern or border states. Section 14(b) of the Taft-Hartley Act allows state option on the union shop. Eighteen states, including North Carolina, have barred the union shop with these "right to work" laws.

According to the U.S. Department of Labor, the average weekly wage in the lumber and forest products industry in Washington State in December of 1971 was $168.66. For the same period, North Carolina averaged $98.70.

Importantly, Section 13(A) (13) of the Federal Wage and Hour Act says that a logging crew or any forestry operation with fewer than 8 persons does not have to pay overtime over the federal minimum wage of $1.60 an hour.

Testimony on this law was given by sworn affidavits in 1965 from several loggers. Mr. James Roberts of McClain, Mississippi said that he worked 60 hours a week and got $35. Wilson Gulby of Warren, Arkansas, said that he worked 60 hours and earned $30. In 1972, James Simpson, a pulpwood cutter from Mississippi, said he formed a labor union after the lumber companies refused to pay the minimum wage or provide Social Security and workmen's compensation.

Don't lose perspective: Is the pending death of Mill A "strictly an environmental closure"? No. We have seen other factors. Now let's ask ourselves a simple question: If the pollution regulations are so unreasonable and unnecessary, then why are the other pulp mills in the United States on schedule in meeting them? They are the minimum standards required of any pulp mill in this country.

The inherent danger of the Weyerhaeuser

*Estimate given by plant's Personnel Supervisor for when the Valliant mill reaches full production in April or May.

ploy is obvious. The pulp mill closures could become Exhibit A in industry's fight against pollution rules. "Don't let Everett happen again," they would tell us. We might then forsake efforts toward a cleaner place to live. To industry we would plead, "Do what you want. Just stay."

The main goal of the Weyerhaeuser Board of Directors is to maximize profits. That makes it easier to understand why they decided to close the Everett sulphite mill. It was a hard business decision based on economics. Sure, environmental controls played a part, but a small part, and a part necessary to run any pulp mill in America.

TO FIND OUR FUTURE

You don't find your way out of the forest by sitting down and bawling. One pulp mill nearing death is not going to be revived by changing pollution control laws. Abandoning these regulations would injure our water quality and be unfair to the vast majority of Pacific Northwest pulp mills that are cleaning up. Nor is one pulp mill the only employer in Snohomish County. The county's quarter-million residents work at a host of pursuits.

Economic recovery depends on the spirit of the people. Other communities have been shell-shocked but have come back. We've been bitter before too, but being negative never brought in a new payroll. That's why we have to count our blessings, not our miseries. Let's stop staring hopelessly at the ground and start looking ahead. We must follow new paths toward economic development. We need a new, positive view of the future. We need hard work, ingenuity and above all, staying power.

We can be more optimistic about the economy. We were badly hurt by the Administration's tight money, high interest rates policy, coupled with its "hands-off" posture toward inflationary increases by business and labor. Now the President has reversed his economic policies. Price stability is returning, and interest rates are lower. Washington State's lumber and plywood business is in better shape. Nationally, the unemployment rate is dropping.

In surveying our assets we see first the people of Snohomish County. We have one of the best educated populations anywhere in the United States. We have good schools, a fine place to live, ample land, and very useful transportation resources.

Senator Magnuson, Senator Jackson and I have worked to clear away red tape blocking local development of the now surplus Paine Field complex. The final obstacles are nearly conquered. Paine Field offers superb possibilities as an industrial park as well as a site for education and recreation. The federal government could help local officials implement a comprehensive plan they draw up for the site.

Don't underestimate the job-creating possibilities of Puget Sound shipping and the Port of Everett. Today's vessels increasingly require deep water ports like Port Gardener Bay. Already the Port has constructed an aluminum-loading facility. Other plans in progress will create additional jobs. Firms throughout the county will benefit. Then there's China and the Far East. Not only are the markets of Japan growing rapidly, but President Nixon's China trip may bring increased trade with Peking.

The Air Force intends to update its aerial command posts. Boeing wants to sell its new EC-747, and the Washington State Congressional delegation is working to secure the necessary funds. Another Air Force project for the future, AWACS, could mean 40 to 100 Boeing planes.

A door manufacturer in Everett announced recently that it was expanding by 300 new jobs. A mining firm interested in a site near Sultan may create 800 environmentally sound jobs.

ALASKA MEANS JOBS

Unemployment is the cruelest environment. It saps a person's vitality, corrodes his pride, takes food from his kids. Like massive physical pollution, it degrades and injuries. "Environment" means the whole of man's surroundings: his job, his health, his neighborhood, the air, land and water he uses.

Building the proposed Trans-Alaska Pipeline system can create at least 6,000 jobs in the Puget Sound region by 1980, not counting jobs in existing and future oil refineries.

Just as Weyerhaeuser's decision to close Mill A brought an unwise reaction against pollution control, so has the prospect of Alaskan oil brought an over-reaction against industry. Like the people who would scrap pollution regulations to save jobs, the extreme environmentalists are also negative. They are unrealistic. They would like to kill the pipeline and "keep oil tankers out of Puget Sound."

Some of these extremists would ignore the economy and turn the United States into a museum. Senator Jackson had it right when he said: "Any fool can bring about clean air by shutting down the economy and going fishing. It's fine for the people who have it made to say that we won't have any more economic growth."

The Alaskan oil is coming out. Period. We will have to live with it, just as the pulp companies must accept clean up schedules. Steps are being taken to make oil more compatible with our physical environment. As required by the Environmental Policy Act of 1969, the government has written step-by-step regulations to accompany the building of the pipeline. A 1970 law makes oil companies liable for any petroleum they spill. New legislation that I have sponsored will give the Coast Guard vast new powers to regulate shipping.

MOVING TOWARD RECOVERY

Our Economic Recovery Conference will be held soon. The idea is to help the county help itself. Local leadership is the only path to recovery.

The conference has three objectives: (1) cushion the shock of unemployment, (2) create jobs now and (3) take long range actions to attract clean, diversified industry. To be frank, not all Snohomish County officials and business leaders have been aggressive in seeking new industry. Up in Bellingham, for example, a community team went out and looked for companies. Result many new jobs.

We're going to bring in a federal team of experts to advise on how to bid for government contracts. High-jobless areas get certain preferences. Above all, the team's purpose is to spark local leaders into action with constructive suggestions.

Because of the budget deficit and other factors, federal governmental help is limited. The Emergency Employment Act has already created 6,416 direct jobs in the state. I helped write this law and am trying to expand the program and improve its administration. Congress may also pass an Economic Disaster Relief Act providing a wide variety of limited aid, including unemployment compensation and mortgage assistance.

Public works projects, business development loans, job training assistance, and ship construction are just a few of the aids available. But they can't be had until the community works for them and for itself.

In the short run, we can explore debt counseling and mortgage payment waivers for the unemployed, expand knowledge of veteran's benefits and Social Security, start job retraining, and complete the county's water and sewer plan.

Our local economy hummed along for a long time without much effort on our part. But now we're suffering. And while we're hurting, we aren't trying hard enough to get moving again. We're wasting time condemning pollution control laws when we should be seeking out new industry to replace the Simpson-Lee and Weyerhaeuser mills. There's no point in trying to put toothpaste back into the tube.

I grew up in Snohomish County. I know the potential of our county and its government, business and labor leaders. We've got to seize the initiative now, and develop possibilities into realities. The Economic Recovery Conference will seek clean jobs. We can have clean jobs. But we won't get anything but trouble by sitting around and whining. Lethargy is the enemy of progress. Working together today can bring a better tomorrow.

BUT WE'VE ALWAYS RECOVERED

"The Panic of 1893, which was a panic of lost confidence, crumbled cities like Everett for which confidence was the only adhesive in the foundation of comunity life . . . In December, 1921, mass meetings were again held in Everett, but there were no questions of unions or militancy, of villains or moderation, of peace or conflict. With quiet voices men talked of how they might feed hungry children as the face of winter grew dark and cold."—Norman H. Clark, *Mill Town*.

JOBS GONE, JOBS GAINED

"Edward Hartley also found that his grandfather, as he extracted every dollar of profit the system would yield, had worked the machines beyond obsolescence and to the brink of ruin . . . He then dutifully supervised the junking of the saws, belts, and engines that had once kept the skies dark with smoke and cinders, and he sold the land to the Scott Paper Company, which soon commanded the waterfront with the largest sulphite pulp mill in the world. Closing out the past, Edward Hartley turned away from what was done and finished to find a new and and uncertain future."—Norman H. Clark, *Mill Town*.

Mr. ROBISON of New York. Mr. Chairman, as we approach the moment of decision on this historic bill—the Federal Water Pollution Control Act Amendments of 1972—I am inescapably reminded of Abraham Lincoln's story of the weary nighttime traveler, stumbling on horseback through a thunderstorm-torn woods, who prayed:

Oh, Lord, if it's all the same to you, send us a little more light and a little less noise!

There has been a great deal of noise here, Mr. Chairman—and precious little light—as we sought, those of us who had not worked on this bill in its formative stages, to ascertain who was right and who was wrong in the debate that raged around us.

But, one thing is crystal clear. This is an historic measure—at the very least—insofar as environmental legislation is concerned. It is a complex and confusing measure as well, presenting us as it does with a bill in the form of a committee amendment that is, itself, 216 pages long, and is accompanied by a 425-page report written in some of the most technical language I have ever seen. Talk of "Philadelphia lawyers" as you might—however that figure of speech developed—but here the conscientious legislator faced a situation, truly, where all the lawyers in Philadelphia might be of little help to him.

In such a situation, the simplest thing to do—the obvious political decision to make—would have been to go with the environmentalists, to vote for that clean water package of amendments in support of which my office is presently being inundated by a floodtide of letters, postcards, and telegrams. Those letters,

cards, and telegrams come from members of a temporary coalition of at least some 25 environmentalist organizations, labor unions—or the leaders thereof—and consumer and public-interest groups, and basically they all say the same thing: "Give us the 'strong' Senate water-pollution bill, and not the 'weak' House version thereof."

Is the House bill, as now finally before us, a weak water-pollution bill?

Surely, it is not—and most certainly not if it were here standing on its own merits.

If that were more clearly the case—by which I mean, if this House bill had emerged before its Senate counterpart—I have no doubt but that its present critics among the organized environmentalists would be singing its praises and would, quite literally, be enraptured over its scope and reach.

Why?

Well, the reasons why have been enumerated, over and over again by members of the committee and others, both on Monday and on yesterday and today. At the risk of being redundant, let me just briefly enumerate, again, some of those major reasons.

First—and, perhaps, foremost—this bill would shift the principal means of water pollution control from water-quality standards, the measuring tool we have used thus far, to effluent limitations. Water quality standards, as already determined, would remain—to be used in tandem with the shift toward the new emphasis on effluent limitations on point discharges—but the stronger measurement in this dual approach would prevail. By contrast, the Senate bill would have us go at once to point discharge limitations, abandoning water quality standards altogether—and the unknowns, and the inevitable delays that would accompany those unknowns in such a precipitate reversal of course, would clearly seem to make this an impractical, if not unworkable, ambition. In that sense, then, the House bill, one can argue, is "stronger."

Like the Senate bill, this House measure sets up certain new national anti-pollution goals—although in the Senate version these are referred to as representing new, national policies. The difference would seem to be largely semantical, but it may be of some value to here restate the nature, as I understand them, of these national goals as set forth in the House bill. First, from the water quality standpoint, by 1981 an interim water quality goal must be achieved which results in water suitable for recreational purposes and the propagation of marine life in all navigable waters. Second, by 1985 all discharges of pollutants into navigable waters must be eliminated—zero discharge, in effect. These goals are, as in the Senate bill, made applicable both to industry, or industrial point sources, as well as to publicly-owned treatment works. It would be well to remember, in this connection, that we are still speaking of water quality goals.

Now, then, to achieve these goals, the House bill sets forth—in its section 301 and following—a schedule of effluent limitations for both industrial point sources of pollution and for public treatment works, which can be summarized as follows: For industry, by January 1, 1976, all industrial discharges must be subjected to the "best practicable control technology," which means, as explained in the committee report, control at the point of discharge rather than at some prior point in the industrial process, whatever it might be, thus bearing in mind the totality of the point source and the plant processes behind that source. However, by January 1, 1981—just a decade hence—industry must achieve that zero-discharge goal, unless, that is, compliance cannot be achieved at a "reasonable cost," a term that requires some definition and, one hopes, some application of commonsense. In this latter event, however, industrial discharges must still be subjected, by January 1, 1981, to the "best available demonstrated control technology"—with the word "demonstrated" being a key one in this regard.

Finally, for public treatment works, this bill's timetable calls for all such to achieve secondary treatment levels, as defined by EPA regulation, by January 1, 1976, and, as a further interim goal, to apply the "best practical waste treatment technology" by January 1, 1981.

For both private industry and public facilities, EPA has—under this bill—the authority to further revise effluent limitations when this is seen as necessary to meet those 1981 and 1985 water quality goals of recreational quality and, then, zero-discharge, respectively. However, and here comes one major point of departure from the Senate bill, those 1981 and 1985 water quality goals, as well as the effluent limitations necessary to meet those goals, must first be evaluated through a $15 million study to be conducted by the National Academy of Sciences and the National Academy of Engineers—thus bringing together the best technological and scientific brains in the Nation—which will focus on the economic, social and environmental effects of achieving, or not achieving, the 1981 and 1985 goals.

I believe this study to be essential. I still say that after carefully evaluating the arguments advanced by the organized environmentalists to the effect that the time to finally set those 1981 and 1985 goals is now, and that any national commitment to clean water is meaningless if it has to be reconsidered, and voted on again 2 years hence, after such a study has been completed.

I say this for a variety of reasons, foremost among which is the patent fact that we simply do not know that the 1985 goal of zero-discharge is an attainable one at a price this Nation, and its citizens, can bear. Senator MUSKIE, the principal sponsor of this bill's counterpart in the other body, admitted as much during the Senate debate thereon when he said:

> The 1985 target has not been related to costs. The bill (the Senate's) 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 would be for Congress to decide whether achieving no discharge by 1985 is within the ability of the American people to absorb the cost.

Mr. Chairman, the organized environmentalists are most sincere—I am sure—in advancing their argument for action, now. And, yet, we who have been here a period of years, can remember any number of "strong" bills that were passed by Congress only to prove to achieve results that fell far short of the original goals thereof. I think we need to know—especially since the cost of achieving zero-discharge increases, expotentially, the closer one gets thereto—whether we ought to strive for that Icarian goal, or not. Put another way, what I am saying is that we may find—and possibly will find—that the difference in the cost of 100 percent elimination of pollutants, as compared to the cost of removal of 97 to 99 percent of the pollutants in an affluent, can far exceed any reasonable benefit to mankind achievable therefrom.

Thus, I have voted to retain the contemplated study as a necessary—and desirable—bulwark through which to strengthen the eventual, and final, national policy decision with respect to the zero-discharge goal. This vote may well bring me a black-mark in future voting-indices as compiled and issued by environmental organizations. But I would say to them, now, that unless we know where we are going, and how we can get there, in this regard, the necessary base of public support for carrying us successfully through to the end of that journey will have to remain more or less suspect. In support of that conclusion, I quote these words from Sunday's edition of the Washington Star, which noted:

> The Senate, with its bill, has raised the Nation's environmental aspirations. The House version, though, because it does not sacrifice wisdom for simplicity, represents better government.

And, finally on this point, I would also say to my organized environmentalist friends who presently seem to worry about their political clout with whoever may be representing them in Congress 2 years hence, that the probabilities are—as all of us lift gradually our level of consciousness about environmental degradation—that future Congresses, reflecting public attitudes as they inevitably will, will be even more responsive to the need for clean water and purer air than is now the case, especially if this Congress can bring the people along with them as we advance toward our common goals.

Now, Mr. Chairman, before proceeding onward to touch upon the highlights of the bill before us, let me comment on that other item in the so-called package of Clean Water Amendments, concerning which I am receiving so much mail, which also represents a major point of departure between the thrust of this bill and its Senate counterpart. Here, I refer to that amendment which would—in effect—bring this bill in line with its Senate counterpart insofar as Federal versus State enforcement of the expanded water pollution control program we contemplate is concerned.

The organized environmentalists exhibit, in this instance, both a suspicion and a disdain for the real progress made, and the expertise gained, by the vast majority of our States in what has been, up to now, a Federal-State partnership in the fight against water pollution. The Senate bill reflects that suspicion and disdain and, by and large, would junk that progress and expertise in favor of letting the Federal Government, through the Environmental Protection Agency, take over the whole burden of administrative and enforcement procedures in the water pollution field.

Now, as the gentleman from Minnesota (Mr. BLATNIK), whose environmental concern has never previously been questioned and who has been a real leader in fashioning prior water pollution legislation, has pointed out to all of us, a careful reading of the House bill shows that it assigns overriding authority to the Federal Government and direct administrative responsibilities to the States only when, and as, the individual States demonstrate their ability and reliability to live up to that responsibility. As he has further pointed out, EPA is empowered, under the House bill, to take complete control of any State program whenever and wherever that State fails to discharge its assigned responsibility. He further argues that the House bill thus "retains the wealth of organization, expertise and experience that the individual States have built up over the years—while—proponents of a complete takeover by the Washington bureaucracy would consign that wealth to the scrapheap."

Mr. Chairman, these are convincing words. The States have not—certainly not yet, at least—supplied us with sufficient evidence of need to now terminate the existing Federal-State partnership in this overall effort. The organized environmentalists argue, nevertheless, that it is essential for EPA to retain—evidently in case this picture changes—the right to veto any State-issued discharge permit, apparently as a safeguard against political intimidation by polluters against State or local authorities, as well as to insure uniform water quality standards across the Nation so that those same polluters cannot escalate that intimidation through threats to move to a State where pollution might still be allowed. But these arguments miss the point that it is EPA, under the House bill, which will set, in the first instance, the uniform, national standards by way of guidelines—with which all State programs will have to comply. And they seem to miss the further point, as well, that it would be an administrative nightmare if EPA had to examine each and every State discharge permit against the need for a veto—as well as the further point that, if any State's pattern and practice of permit issuance began to clearly deviate from those uniform guidelines, then EPA could recapture the enforcement initiative therein.

Thus, at the risk of incurring another of those black marks on future environmental voting indices, I have also voted against that amendment which would—as Mr. BLATNIK suggested, consign the existing Federal-State partnership in the water pollution fight to the "scrapheap."

I have also voted—as the record will show—for the amendment offered by the gentleman from Texas (Mr. MAHON), today, which would have struck out the 3-year contract authority as made applicable for the $18 billion construction-grant program set up under the House bill, and substitute therefor what is known as the 1-year advance funding process. If this amendment had carried, appropriations would have had to be made to fund the new, and much higher, level of authorization for the familiar program of Federal dollars toward the cost of sewage treatment facilities. This would permit—in a way the contract authority route does not—congressional oversight, on an annual basis, of this portion of the expanding program, and permit it, also, on the basis of appropriations being made a year in advance of the normal, annual funding procedures so that local and State authorities could plan their programs with more assurance than has in the past been the case.

The arguments against the Mahon amendment, predictably, centered around the failure of the Congress to have adequately funded the waste treatment program in past years—or to have funded it at levels substantially below the authorization. Admittedly, our early track record in this regard left something to be desired and, as a result, abatement progress was delayed. However, in large part this was due to the failure of prior administrations to give this program the priority it deserved in their budgetary requests—and it was not until the advent of the Nixon administration that this program, with congressional concurrence, began to be fully funded.

I believe the Appropriations Committee—on which I am privileged to serve—recognizes, now, the priority of these, and other, environmental programs. But, even in saying that, I also believe our committee has a balancing role to play in seeing to it that this Nation does not, inadvertently, overbalance its overall effort toward a better environment in favor of clean water, let us say, as opposed to clean air, or to solid waste programs, or whatever. With some 71 percent of the 1973 spending budget already falling into that category regarded as relatively uncontrollable, we opt for contract authority as the funding method for new programs only—and let me emphasize this—only at the expense of many other existing programs, be they in the field of education, of health, or whatever. We do, that is, unless we are ready, here in this or the next Congress, to give serious consideration to the need of additional Federal revenues—a portion of which might come, however grudgingly, through closing some of those currently well-publicized tax "loopholes," but with the major portion having to come, assuredly, through higher levels of Federal taxation overall.

In the euphoric mood that is so evident, here today, as we prepare to give our approval to this bill—whose price tag, over the next 3 years, adds up to a grand total of $24.6 billion, thus making it probably the largest nondefense authorization in the history of Congress—it may seem out of place to ask that we reserve to ourselves, through the Mahon amendment, the right to retain some control over the expenditure of that large sum, as well as to ask, generally, how this Nation is going to pay for both this and such other new programs in other areas of concern as may now be pending before us. But, Mr. Chairman, I do so ask—and I am concerned.

Now, in brief, permit me to touch upon a few other highlights embodied in this measure, for which I intend to vote.

As others have noted, the bill contemplates a large increase in spending for essential research into new technologies in the field of waste disposal, for area-wide treatment management, and for comprehensive river basin planning. All of these are programs falling within the jurisdiction—at least in part—of the Public Works Subcommittee of the Appropriations Committee, on which I serve, and I view them all as essential tools in our abatement program. Included herein is a specific authorization of $450 million to both EPA and the Corps of Engineers to carry forward the pilot programs in waste-water management which the corps, chiefly, has so far advanced. One of those pilot programs of the corps is being completed at the present time for Codorus Creek in the York, Pa., area. Its authority stems from a section in the Flood Control Act of 1970, relating to the Susquehanna River—with the wording of which section I had something to do. If we are serious about the concept of zero discharge, it is on the basis of such studies that we can hope to attain such a goal. I am excited—as is the corps—about the tentative results of the Codorus Creek study and plan for action and, without being able to be more specific about it now, am hopeful of seeing the same concept applied on one of the upper reaches of the Susquehanna in the near future.

Next, there is also contained in this bill, though subject to future appropriations, the long-awaited resolution of that plaguing question of reimbursement—with an authorization, separate from the expanded grant program, of $2.75 billion to repay those States, like New York, which have prefinanced, in recent years, Federal grant moneys as anticipated but delayed under the old construction-grant program. It is time, Mr. Chairman, that this moral indebtedness on the part of the Federal Government toward such States, and the communities therein, was thus recognized.

A portion of those reimbursement moneys, as the same are made available, will go to the local communities that have moved ahead on their own in this essential job of cleaning up our water resources, and will help to relieve them, and their citizens, of some of the load of indebtedness they have thus been carrying. The balance of such moneys will go to the States which, with their own funds, have supplemented that local in-

vestment and, presumably, can be applied to new and badly needed projects.

Considering the further fact that, for the first time, this bill will make grant moneys also available for sewage-collection systems—as well as to treatment plants—and likewise establish the basic Federal share of the cost of such combined projects at 60 percent of the total, and on up to 75 percent if a State will pay as much as 15 percent of the overall cost, this bill should engender a great spurt of forward progress toward getting this essential job of ending water pollution done, and enabling us to meet at least the 1981 water quality goal we have now set for ourselves.

I could go on, Mr. Chairman, for there is much more that could be said—but my point is made. A "weak" bill? Far from it. An historic bill, instead, as I said at the beginning, as well as a carefully considered and balanced measure with far more to recommend it than its Senate counterpart—and I am pleased to give it my support.

Mr. DICKINSON. Mr. Chairman, I rise in support of H.R. 11896 as reported by the House Committee on Public Works. I do not believe anyone in this House or in this Nation will rebut the urgent need for legislation to clean up our waters. However, I will oppose the views of those who want to pass legislation which goes beyond the knowledge we have of the pollution problem and the cost of taking care of that problem.

It is easy to lay blame at the feet of our industries for the terrible state we find our waters in, but we must remember that we have all shared in the advantages our industries have afforded us, and now we must all share in the effort and cost of undoing the wrong. Therefore, I believe it would be unjust to blithely order the polluters to clean up the waters without first finding out what will be involved in the cleaning-up process.

I am well aware, Mr. Chairman, that we need measures to protect the environment, and I support such measures, but I also realize that we must pass realistic measures which do not create undue hardships on anyone. I believe H.R. 11896 is just such a realistic measure—one which will get the job done without going overboard for the sake of putting on paper a task that we are not yet sure can be accomplished.

I oppose any amendments to the bill on the basis that the bill, as reported, is a sufficient beginning to the end of water pollution. In time, I am sure other measures will be passed to encompass whatever new knowledge is developed on the subject, and those measures will carry on the fight against pollution in a realistic manner.

Mr. RANDALL. Mr. Chairman, I rise in support of the Federal Water Pollution Control Act of 1972. The Committee on Public Works is to be commended for bringing out a bill that will go a long way toward conquering the problem of water pollution in this country. I recall with pleasant memories approximately 10 years ago, it was my privilege to serve on a subcommittee with the gentleman from Alabama (Mr. JONES). During the years 1962 and 1963 we traveled from coast to coast considering the problems of water pollution. Those experiences and the knowledge that I gained as a member of his subcommittee 10 years ago were helpful in supporting several enactments between that time and the present. Because the gentleman from Alabama was the floor manager of this bill provides all the confidence needed that this is the kind of bill that every Member of this House could support. I make such a strong assertion because I know that, along with the chairman of the full committee, the gentleman from Minnesota, the ranking majority Member is truly an expert in the field of water pollution.

The basic provisions of the bill are covered in its five titles. Title I provides for research programs. Title II provides for grants for waste treatment works. Title III covers standards and enforcement. Title IV has to do with permits and licenses, and title V contains some general provisions and some authorizations for funding.

There were some differences between the House and Senate bills as to the zero discharge goals. The House declared a goal to eliminate pollutants by 1985 with the interim goal of water quality suitable for swimming and fish propagation by 1981. The Senate simply said that this goal of zero discharge by 1985 should be a policy rather than a goal. Another difference was in the funding level. Our bill authorized a total funding level of $24.62 billion through fiscal year 1975, whereas the Senate authorized a total funding level of $20 billion. The Senate bill allowed any citizen to bring a suit against polluters, and while our bill allows citizen suits, it would restrict such suits to those directly affected in the area where the violation occurred, or to groups actively engaged in administrative proceedings.

Now, Mr. Chairman, there was a whole package of amendments referred to as the clean water amendments. They covered such matters as technology requirements, the permit program, citizen suits, worker protection, consultation requirements, and boat sewage.

Mr. Chairman, the two words, "clean water," present a very attractive image. Who can oppose an effort to provide our population with an abundance of pure, fresh, clean water? Whoever figured out the name of the "clean water" package came up with a masterpiece that could not be improved upon by Madison Avenue, if indeed that is not the source of these words. No one can oppose "clean water" any more than they can be against our flag or motherhood.

However, the ways of this world and the complexities of our civilization are not that simplistic. We all hold clean water as an ideal and one that may well be achieved within the time frames established by this bill. I am sure all of the membership prefer to be idealistic, and if anything short of such a characterization, like to be known as optimists, rather than pessimists. Most of us are happy to be described as realists. The foregoing thoughts serve simply as a background or a foundation for the thought that it is well and good to strive for the objective of clean water in this country just as quickly as the capability of our present technology and our national resources will make this goal possible. Yet, always following right upon the heels of this struggle to achieve the goal is the fact not only of the costs in terms of dollars, but the consequences in terms of loss of jobs.

I cannot recall the exact time or the exact place, but over in Pennsylvania not too many years ago, a vocal minority in a community rose up against one of its industrial polluters. I do not recall whether it was water pollution or air pollution, but I do know this one single industry employed a majority of the people living in this town. The minority kept hammering away at the elimination of pollution in the air and in the water. The company could not meet the demands and after their usual protest, finally gave up and closed down the plant. Now, in this particular town there is no pollution, either of the air or of the water, but there are no jobs. This was the only source of employment and now the majority of this community are not working. Their unemployment compensation has run out. They are trying to get on welfare. About all that is left for most of them is to move away. This kind of a story could be repeated again and again across this Nation unless we try to conquer our problems of pollution in a deliberate way, instead of demanding that all of these problems be solved so suddenly that there will be no jobs left to enjoy the cleaner air and better water.

I supported the Mahon so-called contract authority amendment because it deletes the contract authority provided in the committee bill which would commit the Environmental Protection Agency to a firm, fast, and irrevocable commitment by the Federal Government to pay for the Federal portion of individual waste treatment construction grants. Those who argue for the necessity of this contract authority say that it is necessary and essential for the States to carry out their responsibility if we are to meet the Nation's waste treatment needs in a timely manner, or to kind of or sort of reassure them that the program can be continued in full reliance that the funds will be available.

Mr. Chairman, I had thought that we were all committed to the proposition of the general purpose of this bill which is known as the Federal Water Pollution Control Act of 1972, and that means that we are going to vote for the necessary funding. But here under the committee approach, we are very near to falling into the old back-door spending approach which we have been plagued with for years, and which we had finally conquered as to many of the ongoing programs associated with back-door spending. The Mahon contract authority amendment is necessary to restore the safeguards of any kind of budgetary or appropriations control. We hear so much today about deficit spending. If the Mahon amendment to delete this contract authority does not prevail, then we may be in for some deep trouble.

Aside from the matter of control over the budget, there is another point which makes the Mahon amendment highly desirable and that is that this whole program will be subject to constantly changing needs and constantly changing costs assessments. Maybe the contract authority of the committee will not be enough. On the other hand, maybe it is far too much.

One argument that, so far as I know, was not advanced during the course of the debate on this amendment was the fact that the amendment should be called the congressional control amendment. If the Mahon amendment does not prevail somewhere along the line, all of the control of water pollution, every bit of it, will wind up in the hands of the Executive. Congress will have no voice in or even be given the privilege to indicate the course of this program. Again and again we will see pictures of the head of the Environmental Protection Agency handing checks to the Governors of the several States but Congress will have no voice at all as to priorities, even though the greater portion of these funds will be Federal funds. There is a deep, underlying reason why I supported the Mahon amendment, not simply because of the concept of fiscal responsibility and congressional control but in order to try to maintain some semblance of authority for this very important program between the Congress and the executive branch.

It should be abundantly clear that not all of the so-called clean water amendments dealt solely with more stringent water pollution controls. One of this package of so-called "clean" bills was not offered by the two leaders of the "clean water" package but was in fact offered by another member from Michigan (Mr. FORD).

This amendment should be properly described as a worker protection amendment because it will require national pollutant discharge standards that will prevent movement of those industries that do move their plants from one State to another in order to avoid pollution control; in other words, move to the most favorable State. It has been argued that in industry this bill could be used as an available opportunity to close down a plant or in the event that there is not a complete closure, to use this act as a kind of threat or pressure device against its employees. Well, I don't know that this kind of thing has ever been done, or will now be contemplated. I doubt if a going industry would use these kinds of tactics to defeat itself in order to gain some kind of advantage against its employees.

But Mr. Chairman, the really important thing is that this amendment will provide some worker protection. It will establish a system of economic assistance for those workers in communities affected by plant closures which are genuinely and in all truthfulness under and by bona fide environmental regulations required to close down. This amendment is important, not because it may have some effectiveness in preventing an industry moving from one State to another but because of its help as a result of economic hardship and loss of jobs which may result from the enactment of this bill.

There should be appropriate worker safeguards and those who argue this should not be a part of a water pollution control bill do not make a very persuasive case. If the act itself results in loss of jobs, then the act itself should make some kind of provision for the economic loss or damage in the very provisions of the act that causes such loss.

No industry will be hurt by the provisions of Mr. FORD'S amendment because each will be given a full and fair hearing as to whether in truth or in fact they are being forced to close because of too stringent pollution controls, or whether they are closing down the plant for other reasons and using the pollution act as a means to achieve a desired end but altogether unrelated to problems of pollution.

Finally, Mr. Chairman, in my judgment the amendments which have been adopted have improved the bill and those which were rejected have been defeated because they deserved to be beaten and not made a part of this pollution bill. The real struggle all along has been between the ideal of elimination of all pollution but to try to avoid elimination of jobs at the same time. That is a big order. Controls can be made so stringent that there is no way for an industry to adjust itself to these controls, particularly over a short period of time.

The reasonable, responsible approach to this problem is to proceed toward the elimination of pollution and yet try to limit the economic impact to avoid large unemployment as we go about trying to achieve our goal. As has been expressed many times, the two words, "clean water," bring to mind a beautiful image. But there are two other words, "clean plates," which bring to mind the image of a family sitting around the dinner table, unemployed and with not enough to eat because of the loss of jobs occasioned by the economic impact of too hurried, too stringent pollution controls with no provision for worker protection and no provision for the adverse economic impact of trying to reach the ideal of clean water by some arbitrarily fixed date. In my judgment, this bill will not carry us to the extreme of having clean water but also clean plates, but rather strive for the goal of elimination of pollution by 1985, with the hope and prayer that we will have the national resources and the will to attain that objective.

Mr. CULVER. Mr. Chairman, currently the House of Representatives is considering a landmark piece of legislation—the Water Pollution Control Act Amendments of 1972. This broad bill seeks to give reality to an effective, comprehensively funded program to restore and enhance the quality of our waters and to insure their future as a lasting national asset.

Aside from these large common objectives, there is in this environmental measure a key provision which will greatly benefit Cedar Rapids, Dubuque, and Mount Vernon. Under this section, these cities qualify for reimbursement by the Federal Government for part of the cost of sewage treatment plants constructed in recent years. Current estimates are that Cedar Rapids would be eligible for as much as $2.5 million, Dubuque $1.5 million, and Mount Vernon $150,000.

The Iowa delegation, with special help from Congressman SCHERLE and key State officials, has been working on this proposal for some time, and we are happy to see it included in the present bill. We thought that it was only fair that those localities which have committed their own funds to prefinance a portion of waste treatment facilities should be retroactively reimbursed. Such commitments on the part of Cedar Rapids, Dubuque, and Mount Vernon, as well as other cities in Iowa that have built these plants, have accorded with and reinforced the national program to clean up the Nation's waters.

We in Iowa are especially proud of our water resources—two great rivers that set the borders of the State and a multitude of rivers that flow through and lakes that lie within it. This legislation is an historic step in improving the quality of all these water resources and a compelling reminder of the important environment mission in which the Nation, our State, and our communities all share. The Federal Water Pollution Control Act of 1972 will give that effort new strength and sinew.

Mr. SCHWENGEL. Mr. Chairman, the Water Pollution Control Act Amendments of 1972 which so overwhelmingly passed the House today is, indeed, a major step forward in our fight against pollution. It provides many necessary programs, and is fair to both business and the public. That we should authorize $24 billion is a recognition of the problem and an attempt to control and eliminate it. But much more is needed.

While the water pollution control bill hits hard at many areas of water pollution, it does not address itself to many other areas of deep concern. A very large percentage of our national water pollution problems are not covered by this bill. Soil erosion, flood control, and animal wastes all contribute significantly to the pollution of our rivers, lakes, and streams. Programs designed to eliminate these problems must be acted upon.

Perhaps foremost in this area is development of a comprehensive watershed bill. The idea of planning and carrying out conservation measures over an entire watershed is widely recognized today as an appropriate and effective way to approach natural resource problems.

One of the most effective programs to meet this aim has been the Public Law 566 small watershed program administered by the Soil Conservation Service. The program's aims are the multiple ones of flood prevention, soil conservation, sediment reduction, and the better use of an area's water resources.

The Public Law 566 watershed projects have scored notable successes in their multiple aims. During fiscal year 1969 and 1970 alone, they prevented almost $59 million in agricultural flood damages, and more than $11 million in nonagricultural damages; reduced sediment production by millions of tons; provided

land conservation and development benefits of more than $87½ million; provided water recreation opportunities for hundreds of thousands of people, and augmented the municipal and industrial water supplies for 16 communities.

However, new legislation is needed to make the watershed program even more effective, and to satisfy the rising expectations of the American people for a higher standard of good resource use. This needed legislation would include authorization for:

The use of Federal funds already available to local sponsoring organizations under other programs for the purpose of acquiring land, easements, and rights-of-way in watershed projects. Currently, Federal funds can be used for this purpose only for public recreation or public fish and wildlife developments within a project.

Water quality management to authorize the Secretary of Agriculture to cost-share in providing storage for this purpose in a watershed project. Federal cost-sharing for water quality management is not provided for in Public Law 566 watershed projects, but is authorized for mainstem developments under other Federal programs. An amendment would remove this inconsistency and help to maintain high water quality beginning at the farthest upstream point where pollution might occur.

Action such as this is urgently needed to accelerate the reduction and control of pollutants in rivers and streams in watershed project areas, and to make a major contribution to downstream water quality management.

An increased monetary limit for administrative approval of Public Law 566 projects, that would authorize State conservationists to administratively approve projects where the Federal dollar contribution totals $500,000 or less.

Currently, administrative approval is limited to projects where the Federal share of construction costs is $250,000 or less. This limitation has been in effect since 1954. During the intervening 17 years, construction costs have approximately doubled. The proposed increase of authorization amount would, therefore, be consistent with the original intent of Congress, and would contribute to efficient administration of the program.

This modification would also be consistent with an increase, in recent years, from $500,000 to $1,000,000, for administrative approval of small Corps of Engineers' projects. It would also reflect President Nixon's expressed wish to return more governmental authority to State and local areas.

Federal cost sharing for water storage of municipal and industrial water supplies. This would allow the Secretary of Agriculture to cost share on those features of an authorized watershed project that help store water for the area's municipal or industrial water supply needs.

An adequate, dependable supply of good quality water is basic to the stability and life of any community. Reservoirs authorized under the small watershed program can provide dependable water supplies for many small communities, as one feature in overall water supply planning and use. This can make a major contribution to improving rural life and to providing the kind of jobs and environment that will slow the outmigration of people from smaller communities.

Long-term contracting in watersheds. This would authorize the Secretary of Agriculture to sign long-term contracts with landowners and operators for changes in cropping systems and other land uses, and for the installation of necessary conservation measures to develop and improve the soil and water resources within a watershed project area.

The timely installation of needed land treatment measures on a systematic basis, with guaranteed cost-sharing and technical assistance, has proved its value in the Great Plains conservation program. Good conservation practices on the land also reduce the construction and maintenance cost of dams and other engineering works in the watershed program and help to increase their effective life expectancy.

Legislation authorizing these improvements in the small watershed program would be beneficial to all Americans. In addition, I would like to see the entire program speeded up. In my State of Iowa, there are some 473 small watersheds needing this type of treatment. Public Law 566 applications have been received for about 20 percent of these, or 90 watersheds. Some 15 of these 90 applications are currently authorized for planning or construction; 30 more are now under construction, and five are completed and doing their job of improving land and water use.

That leaves 40 applications—out of a total of 90—still awaiting planning authorization. It is my understanding this is representative of the situation in all States.

We need to remedy this by greatly increasing the $76 million proposed for watershed construction in the 1972 fiscal year budget.

The agricultural conservation program, now called the rural environmental assistance program—REAP—and the Soil Conservation Service, have for more than 35 years been conducting successful programs to preserve and enhance our land and water resources. Soil conservation measures, when properly applied, have reduced erosion enormously—in some areas up to 90 percent. The kinds of measures that can do this must be applied even more intensively.

A major thrust of the new REAP program will be to reduce water pollution. Water retaining and retarding measures on farms will be encouraged in the form of dams, ponds, permanent grass cover, waterways, buffer strips and tree plantings. These reduce the amount of sediments reaching our streams and other waterways, as well as the amounts of animal wastes, fertilizers and pesticides swept into waterways by eroding soil. All of this directly benefits the cities, industries and people downstream.

Such legislation must also address itself to animal waste and related agricultural problems. The National Symposium on Animal Waste Management notes that animal wastes and other agricultural problems are significant contributors to our water pollution. Meaningful programs must be developed to eliminate this source of pollution.

Farmers themselves bear a substantial part of the cost of conservation measures. The Soil Conservation Service provides much of the technical know-how for their installation and maintenance. Yet much more can, and must, be done.

These individual and community programs of erosion control, pollution reduction and better land and water use are sound, proven, and successful.

They need to be greatly strengthened. As President Nixon has said:

> The 1970's must be the years in which America pays its debt to the past by reclaiming the parity of its air, its waters and our living environment.

Mr. DELLUMS. Mr. Chairman, vague promises and rhetorical procrastinations are not going to end our Nation's environmental problems. Nor will basically high-minded but weakly enforced legislation.

It is a fraud to tell our constituents that Congress is approving a major advance in cleaning up the Nation's waters. This bill is nothing more than a dirty water bill in a clean water wrapping.

We must not lull the public into thinking that Congress is forging ahead in passing adequate legislation to control water pollution. This bill is just a sketch of what-should-be. It is neither tough enough nor strong enough to meet the goals it so loftily sets.

As a sponsor of the clean water amendments I am committed to a much more stringent and open means of achieving the imperative objective of unpolluted and usuable waters by the end of this decade.

Therefore, it is with very great reluctance that I vote for this bill. True, it has many positive features—the shift to effluent limitations, the user charge systems, the worker protection clauses, the funding level increases, the incentives to progressive State and localities.

Yet those features are just overwhelmed by the bill's weaknesses and drawbacks. Hopefully, the conference committee will see fit to bring back a stronger version for this body to consider. The Nation cannot afford any half-hearted attempts in so key an area.

Mr. CRANE. Mr. Chairman, anticipating some demagogic expressions of horror, misrepresentation, and half-truths from both the media and special interest groups for what I am about to say, let me preface my remarks by stating that: First, I believe in cleaning up our water systems in America as I believe in cleaning the atmosphere and recycling solid waste; second, as a strict constructionist, I nevertheless feel the National Government has a paramount responsibility in this effort since it is a problem of trespass that does not recognize State boundaries; and third, I sponsored the Waste Reclamation and Recycle Act, the Environmental Financing Act, the Clean Water Financing Act—all immediately after coming to Congress—and in addition I have voted for

the Water Quality Improvement Act of 1970, the extension of that act in 1971, the Water Resources Planning Act of 1971, as well as legislation to establish feasibility studies in water resources development projects and to create a Water Resources Research Institute. But I cannot in good conscience support the bill before us today.

I have spoken to many Members of this body—on both sides of the aisle—on this bill. I have discovered a distinct lack of enthusiasm for it. But most take the position that: First, we are going to get a comprehensive water pollution control bill this election year; second, the House version is preferable to the equivalent legislation passed in the Senate; and, third, it would be at the least quixotic and at the worst politically suicidal to be caught voting against a piece of legislation as politically glamorous as this.

To take the first position is, in my judgment, to abdicate our responsibility to attempt to defeat that which we know to be wrong in concept even though we may be defeated in the effort. I have heard many Americans say there is no point in fighting to preserve free institutions since the battle is hopeless. This prophecy is self-fulfilling if enough people accept it and quit fighting.

The second point is simply the argument that this is the lesser of evils. But the lesser of evils is still an evil, and as such warrants our opposition. We should not let ourselves be saddled with alternatives resting upon false premises or myopic reasoning, much less alternatives generated by pressure groups in a climate of hysteria or alternatives initiated by those who do not subscribe to the principles of a free society.

On the third point, let me issue the caveat that this bill may have a sex appeal that is only superficially attractive. My colleague from Indiana (Mr. ZION) noted yesterday that even the AFL–CIO agreed that this bill may throw literally millions of Americans out of work before fully implemented. He noted further that only one industry testified before the committee in hearings and warned that it would be priced out of the market with this bill. Surely, its case will be multiplied by the thousands. Today's newspapers report that February recorded the second highest trade deficit in our Nation's history. We can anticipate either continuing and mounting trade deficits growing out of this legislation or a return to the economic isolationism of the McKinley era—both of which will gravely injure the American economy and American consumers.

The ultimate cost of this legislation has been estimated at $2.5 trillion, more than the GNP of the entire world. We deceive the public when we suggest that such an objective can be realized. But we deceive the public even about lesser costs if we do not portray an accurate picture of the astronomical tax increases that will be required to meet the objectives of the bill, not to mention the astronomical increases in prices and the hardships wrought through massive hikes in the unemployment rate.

There are many other noxious aspects to this type of "crisis" legislation that could be cited if time permitted. Suffice it to say, we are taking a giant step toward a totally regulated economy with all the human costs such regulated economies have traditionally levied. We have heard much emotional testimony in support of this bill. We have been told that this is the No. 1 priority of the Nation. The oaths we have taken to support the Constitution commit us to promote the general welfare of the Nation. To have 100 percent clean water by 1985 at the expense of our total economy, at the expense of crushing tax levels, skyrocketing price levels, millions of lost jobs, and the risk of national bankruptcy does not meet the constitutional mandate to promote the general welfare. Who, in good conscience, can support legislation that runs such a risk? If this legislation passes, as I am sure it will, history will render a sorry judgment on us for our stewardship.

Mr. SIKES. Mr. Chairman, we have before us today in the Water Pollution Control Act a matter of vital importance to our Nation's future. This is a problem which must have concerted and coordinated action. Water pollution problems are very serious in many areas. These conditions did not develop overnight. They got their start long ago, but in recent years they have worsened rapidly as industrial development has been accentuated and city slums have mushroomed. Attention has fully been focused on the need. Now there is a requirement for correction of abuses in water pollution. But there remains a necessity for commonsense; a balance between what we want and what is practical.

I believe that the House bill seeks to achieve water quality standards at the highest possible level at the earliest practical date consistent with technological advancement.

Nevertheless, there are strong voices which urge us to reject the House bill because it allows the States to administer Federal standards and it provides for congressional review before proceeding into the highly expensive and, in some areas, as yet unknown methods of banning all discharge into our lakes and streams by 1981.

Last November, the Senate passed amendments to the Water Pollution Control Act which would bypass the organization, expertise, and experience of the States and would, instead, provide a full-fledged Federal bureaucracy in Washington to administer the program. Further, the Senate version would commit this Nation to completing a program of action less than a dozen years from now without intervening Congresses having a voice in that program.

The House Committee on Public Works has wisely altered these Senate proposals to provide for State administration of federally established water standards while, at the same time, allowing the Congress of 1985 the right to determine whether or not the "zero discharge" provisions of the act are possible and practical.

Mr. Chairman, the House version now before us is clearly more workable than the version adopted by the other body last year. I do not think we are ready for a now-or-never program which can be ruinous to commerce and industry.

Let us look at a few of the basic differences of the two bills.

Both the House and Senate bills declare their objective is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The Senate bill declares this to be national policy which means it is enforceable by law. The House bill declares this to be a national goal.

Both bills change from the present policy of water quality control to a "point source discharge" program. This means eventual elimination of any effluent discharge into the streams, rivers, and public waters.

The Senate bill has a "zero discharge" effective not later than 1981. The House position is that technology is not available to enforce "zero discharge" without serious disruption of industry. Certain industries, such as the pulp industry, the steel industry, and the chemical industries, produce pollutants for which we have no satisfactory method of disposal. So the House bill moves the effective date to 1985 and further provides that the National Science Foundation shall undertake a national study to determine feasibility, desirability, and the best available technology for achieving "zero discharge."

The Senate bill would require all industry and designated plants to secure permits indicating the volume of discharge and type of pollution being discharged. The Senate version leaves all permit and enforcement policies with the Federal Environmental Protection Agency.

The House version would require EPA to provide guidelines and leave enforcement to the States so long as they maintain Federal standards. This is one of the major objections of the environmentalists. The House bill is "long" on research program grants totaling approximately $800 million. It also provides for $24.6 billion authorization for the program as against $16 billion-plus in the Senate bill.

The environmentalists are attacking the House bill as a weak bill, yet my personal opinion is that the House version itself would result in the closing of some 4 to 5 percent of our industrial capacity. But the Senate version could close as much as 20 percent.

Now let us again consider the fact that in some areas there is no technology available with which to achieve the "zero discharge" goals of this measure. The House version carefully provides funds for a 2-year study during which all possible avenues of technology will be studied in a crash effort to find means of achieving this worthwhile goal. Without this study, it may be a long time before we can discover how to reach the "zero discharge" goal with reason and economy.

A flat requirement for "zero discharge" in 1981 would be an extremely dangerous thing to the Nation's economy. We simply cannot close down this country's business and industry just for the

sake of the ecology. We must work for sound programs to bring the problem of pollution fully under control. The recommendations of the House Committee on Public Works provide a commonsense manner in which to achieve this goal.

It is obvious that we are going to have either the Senate bill or the House bill. Let's take the more reasonable approach of the two.

So, Mr. Chairman, I urge passage of H.R. 11896 as recommended by the Committee on Public Works. It is a good bill. It provides logical and reasonable means of achieving what each of us knows is sorely needed—the national will to provide clean, pure water for ourselves and our future generations.

At the same time, it maintains things in order. It provides for uniform standards nationwide, yet it allows each State to enforce the standards.

It also provides for proper congressional review of final plans in connection with the "zero discharge" goal rather than paving the way for possible chaos in future years.

This is the way to get what we want, Mr. Chairman. We can have clean water and we must. But we must have it in concert with a great many other things. If all we get from this is clean water at the expense of too many other things, we will have done great harm and little good.

Let us proceed to the goal of clean water through the provisions of H.R. 11896.

Mr. DRINAN. Mr. Chairman, the measure before us today, the Federal Water Pollution Control Act of 1972, is by any test, one of the most important bills to be considered by the 92d Congress.

This bill, which establishes comprehensive regulations and Federal grant programs to control and abate water pollution, arises at a time when the quality of America's rivers and lakes has degraded into a national emergency.

A 1970 Public Health Service report found that 30 percent of the Nation's drinking water contains potentially hazardous amounts of chemicals. In 1971, the U.S. Geological Survey reported that the drinking water of 12 urban areas fell below public health standards. It is no exaggeration to state that almost every substantial body of water in the United States is dangerously contaminated in one way or another.

Television, newspapers, magazines and books have vividly brought to our attention beaches too filthy in which to swim, lakes whose oxygen supply has been exhausted and which no longer can support any organic life, drinking water which is brown and unpalatable, and the ugly vision of raw sewage and noxious industrial wastes floating in our historic rivers.

Previous Congresses have attempted to deal with the national water pollution emergency, but their best efforts have been inadequate. The Federal Water Pollution Control Act of 1956 established a national water pollution control program. That act regulated pollution of interstate waters and authorized grants for construction of sewage treatment plants and research programs. 1961 legislation extended pollution abatement programs to navigable intrastate and coastal waters.

The Water Quality Act of 1965 further amended the 1956 act by authorizing the States to adopt water quality standards for their interstate waters. In 1966, Congress passed the Clean Water Restoration Act authorizing a 4-year appropriation of 3.55 billion in Federal grants for the construction of sewerage treatment plants, but appropriations have totaled only 50 percent of the authorized amount.

In 1970, the 91st Congress passed the Water Quality Act, which strengthened the law concerning Federal permits and licenses and regulated oil pollution and discharges of hazardous substances.

On November 2, 1971, the Senate passed the companion measure to the bill we consider today, S. 2770. The Senate bill shifts the focus of water pollution control programs from water quality standards to effluent limitations.

The measure which we are considering today declares the elimination of pollutants into navigable waters a national goal to be achieved by 1985. An interim goal provided for by the bill is to achieve water quality suitable for swimming and fish propagation by 1981.

The policy and intention of this bill, in the words of the Public Works Committee report, is—

To prohibit the discharge of toxic pollutants in toxic amounts, to provide financial assistance to communities to construct publicly owned waste treatment facilities, to increase research and development, to expand the regional and basin planning and management programs, and eliminate red tape in the administration of water pollution control programs.

I will not here summarize the many imaginative and essential provisions of this legislation. The Public Works Committee in its excellent 424-page report on this measure has performed that function with great competence.

I am, however, particularly eager to endorse section 8 of the bill, which contains a provision for $800 million in low-cost loans to industries "likely to suffer substantial economic injury without assistance." These funds may be used to assist any small business concern "in affecting 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 requirements established under the Federal Water Pollution Control Act."

Mr. Chairman, in my testimony before the Public Works Committee on this bill, I tried to indicate as forcefully as possible the potential adverse consequences to many responsible businesses in my district and throughout the country resulting from passage of this bill. Although the $800 million authorized by the bill for small business assistance is not enough, it is an important start, and it constitutes essential help. It is my hope and expectation that the Environmental Protection Agency, in its administration of these funds and of this bill as a whole, will very closely monitor the demand for loans under section 8, and will report to the Congress on the extent of that demand. I know that most of my colleagues will be eager to support an increase in small business funding under this bill should the demand be substantially greater than the drafters of the bill anticipated.

Mr. Chairman, in further elaboration of the foregoing points, I wish to insert in the RECORD at this point the text of my statement to the Public Works Committee on the implications of this bill for businesses in the Third Congressional District of Massachusetts and throughout the country:

STATEMENT OF CONGRESSMAN ROBERT F. DRINAN

Mr. Chairman and Members of the Committee: I am very grateful for the opportunity to appear today to relate to you some of the actual experiences I have had with the present Federal water pollution laws in the course of my work with communities and industries in the Third Congressional District of Massachusetts, and to discuss proposals to reduce water pollution. At the outset I want to note clearly that I am by no means as authoritative on the overall subject of water pollution as some of the outstanding witnesses who have testified before your Committee. I do believe, however, a description of the complex and critical situation that exists in my District may add to the Committee's understanding of the practical aspects of implementing an effective pollution program on the local level.

On a subject such as water pollution, it is a simple matter to acknowledge there is a threat to our well-being which rises to the level of a crisis; it is another, and far more difficult, matter to conceive of and take the steps necessary to deal effectively with such a threat. In the case of water pollution, however, not only do wise and well-trained men recognize the extent of the problem, but these same men also know how to solve that problem. This fact, I believe, represents a solid basis for an increased commitment to cleaning up our despoiled waters; the knowledge is there—it remains only to be effectively implemented.

As with every social problem which involves abstract theory and concrete implementation, it is the manner of approach which dictates the ultimate success or failure of our efforts. The manner of approach in the matter of water quality control *must* be comprehensive. Partial solutions are not the order of the day and in the long run are very dangerous.

Earlier testimony from many distinguished witnesses has pointed out many central needs, including consolidation of water pollution control activities into one principal Federal agency, and administrative separation of water pollution control activities from housing programs. The need to provide greater Federal funding for construction of waste treatment projects, and vastly increased funding for separation of sanitary and storm lines, has not been overstated. We also need to provide greater opportunities for citizens to participate in the national goal of clean water, and we must—perhaps above all else—do everything in our power to come to the aid of our cities and towns which are hard-pressed economically to pay next week's payroll, let alone appropriate twenty-five percent of multi-million dollar wastewater treatment plants. All of these objectives, gentlemen, I believe must be provided for in new water pollution legislation.

When I speak of the need for a comprehensive approach to the problem, I want to stress that it is absolutely essential that any such program be considered in relation to the

many other components of human life. Our efforts in the field of ecology must be integrated with our attempts to better all other aspects of human life. As I stated before, a water quality program that is concerned only with clean water—to the exclusion of the economic implications of Federal programs—bodes human and economic catastrophe. Innovative water control programs will generate a certain number of new employment opportunities, but a water pollution program that does not consider specific economic problems threatens a far greater number of already existing jobs, with all the consequently grave and needless human implications, loss-of-revenue implications, and government expenditure implications.

To underscore the absolute necessity that the proposed new legislation relate ecology to the economy, I want to zero in on the Third Congressional District of Massachusetts. This District, which I represent, is a microcosm of New England. Old manufacturing communities, whose reliance upon a single industry dates back to the turn of the century, form the backbone of this region of the country. In many cases the industries from which the people of these communities draw their employment and economic life are housed in the old factory buildings located in a river valley. The buildings, which once were ample in size, now leave the industries cramped, and the rivers, which once carried the industrial wastes away from the factories can no longer be relied upon to do so.

It is in the New England area, according to the Federal Water Quality Administration's 1970 Clean Water Status Report, that the greatest municipal waste problem exists, and it is in this area that the greatest backlong exists in the construction of wastewater treatment facilities.

Constructive programs to clean up the rivers of New England are underway. Of particular notes is the Nashua River Clean-Up effort. This river, which is perhaps the most polluted river in New England, flows through both Massachusetts and New Hampshire before emptying into the Merrimac River. Long thought hopeless by the residents who live in the many communities through which it flows, the river now, thanks to the Federal Water Quality Act, has real chance of becoming a national model of what can be done through cooperative action by the Federal, state, and local governments working with citizen groups and industries. So important is the clean-up of this river that the New England Regional Commission has designated the Nashua River Clean-Up Program as a model river clean-up and has allocated special funds to provide an office to coordinate the activities of the many communities through which the river flows.

Very briefly I would like to relate to you what is being done to clean this river, and in this way give you a very vivid example of what great strides have been made as a result of the Water Quality Act of 1966, and of the dangers on the horizon.

Following the enactment of the Water Quality Act, a group of citizens organized the Nashua River Clean-Up Committee. The purpose of this Committee was to see that constructive action was taken by every level of government to clean the river. The Committee's activities were very successful. The largest single polluter, the City of Fitchburg, sponsored a year-long comprehensive study of the river in 1967 to determine how best to clean the river.

A comprehensive plan, completed in August 1968, called for the construction of two wastewater treatment facilities in Fitchburg. One, known as the East Fitchburg Waste Water Treatment Plant, would handle all the domestic sewage from the residential areas of the City of Fitchburg. The second, known as the West Fitchburg Waste Water Treatment Plant, is designed to handle the effluent from the western section of Fitchburg, the Fitchburg Paper Company and the Weyerhauser Paper Company. Fitchburg and its paper companies have entered into a contract to build and operate the West Fitchburg treatment plant.

The combined cost of the project will be more than twenty million dollars. Under existing law, seventy-five percent of the cost will be borne by Federal and state government funding sources while the remaining twenty-five percent will be shared by local government and industries. The local industries will pay the entire local share of the facility to process the industrial wastes.

At the present time the East Fitchburg Treatment facility has been completely designed and is being reviewed by Federal and state authorities prior to the awarding of the grants for construction. The West Fitchburg Treatment Facility is being reviewed by state and Federal authorities. It is expected that this plant will also be under construction very shortly, unless there are major changes in the Federal legislation.

According to the current time-table the construction could begin this year. It will require three years to complete these very extensive wastewater facilities. We are all anticipating that by the fall of 1974 there will be clean water in the Nashua River. This water—now filthy and inert—will be odorless, colorless, tasteless and fully capable of supporting natural wildlife.

The success of this river pollution clean-up program has been largely the result of a great amount of effort expended by citizens and their determination to insist that the entire project be completed as quickly as possible.

These citizens have not stopped. They have formed a group called the Nashua River Watershed Association. The group is taking steps to acquire land along the river so that once it is clean there will be plenty of areas in which to have bridle paths, walking trails, general recreation, and camp sites. The Association has just received a $2,000 grant from the Fund for the Preservation of Wildlife and Natural Areas which will be used to study stream regulation, dams, reservoirs, and channelization proposed for the upper North Nashua River Basin.

The project of cleaning the Nashua River is an example of what citizens and governments can begin to accomplish by working together. The cooperative and energetic spirit exhibited by all concerned was a major reason for the City of Fitchburg's designation as an "All American City" for 1970 and for the New England Regional Commission's choice of the Nashua River Basin as a demonstration project for the New England area.

Will the Nashua River story, and many others like it, have a successful ending? Will the combined efforts of citizens, government, and industrial leaders result in the reclamation of a river once given up for lost?

It is likely that the decision as to whether or not the Nashua River becomes a success story or a tragedy, will be made by this, the 92nd Congress. *Any substantial change in the current funding eligibility requirements could wipe out six long years of citizen actions to clean the Nashua River.*

Current legislation makes it possible for communities like those situated along the Nashua River to construct, with full Federal support, joint industrial and municipal wastewater treatment facilities. Such arrangements, in my judgment, should continue to be encouraged and supported by any new legislation. Any attempt to exclude participation in such processes—any onerous financial obligations on marginal businesses or businesses in economically depressed areas such as Fitchburg—would not only scuttle carefully prepared plans such as those for the Nashua River, but, more importantly, would have dire and far-reaching economic consequences on whole regions of the country, including New England.

In Massachusetts alone, any abrupt change in the current funding eligibility requirements would adverely affect projects now in the design phases in no less than eleven communities. Besides the City of Fitchburg, the communities of Springfield, Haverhill, Irving, Millers Falls, Templeton, Russell, Great Barrington, Hardwick, Lawrence, and Barre, which have or are planning shared industrial-municipal treatment plants, would be dealt a crippling set-back.

The need for such industry-government collaboration can best be exemplified by a look at the precarious economic position of a number of large manufacturing facilities throughout New England. These facilities are in many cases teetering on the brink of bankruptcy. In our coolly impersonal economic jargon, we classify these industries as being, at best, "marginal." Although these industries may be "marginal" at the present moment, the unhappy fact is that few of them *can bear*, without assistance, the financial burden of absorbing the enormous cost of water pollution control. Should we place on them the responsibility of shouldering alone this extra financial burden, we are virtually guaranteeing their financial ruin and ultimate shut-down. I can fully document this fact should the Committee so desire.

Few can argue in conscience that Federal laws should be the vehicles which cost people their jobs, render the death blow to failing companies and deprive communities of their economic stability. We could someday have clean water without the necessity of treatment plants; however, this purity would have been won by placing on the polluting industries financial responsibilities so heavy that industries and thousands of jobs were wiped out along with the pollution.

The peril of this situation can best be highlighted by taking a quick look at New England, where in 1970, 27% of the total of national closures of paper mills occurred. In 1970 there was a 218,000 ton reduction in the paper production of New England. Almost half of this reduction occurred in a single community in my District, the City of Fitchburg.

In New England, even a Federal loan program would not be sufficient to sustain industries which must carry the weight of the financial responsibility for water pollution control and abatement.

In addition to the economic benefits of municipal-industrial joint projects, there are important ecological advantages. According to the Federal Water Quality Administration's Status Report for 1970, increased use of joint municipal-industrial treatment systems will facilitate abatement of industrial pollution. The report further indicates that combinations of municipal and industrial wastes actually improve the treatment process by reducing the nutrients in waste discharges.

The FWQA Report recommended that the grants program encourage development of regional treatment facilities which process municipal and other wastes on an area-wide basis and which provide for treatment of many kinds of industrial wastes, as well as municipal sewage. Joint treatment is also effective because it locates responsibility for operation and maintenance within a single authority. In addition, complementary characteristics of sewage and industrial wastes, if properly controlled, can often permit more effective waste reduction within the plant. Joint treatment facilities offer significant advantages to both communities and businesses in terms of lower treatment costs through economies of scale.

More and more communities, with industry and the public sector working together, are designing their facilities to accommodate a larger portion of the total waste load, with the cost of construction shared by the local, state and Federal governments and, under current, reasonable formulas, by busi-

nesses. This is the wave of the future if we are to have both clean water and employed men and women to enjoy it.

Mr. Chairman, the bill which we consider today is the product of nearly a full year's work and study by many Members of Congress. The Public Works Committee held 22 days of public hearings on this measure between July and November 1971, and additional hearings in December 1971. Thousands of ways to achieve the goal of clean water have been studied and restudied; thousands of pages of testimony and statutes have been drafted and redrafted. I believe that this measure is the best possible approach to the water pollution emergency under all of the circumstances. It is my hope that by passing this bill we are taking a giant step toward preventing the day when, in the words of two of my colleagues, our Nation's waters will be "transformed into a vast, rancid sewer."

A recent study by the General Accounting Office concluded that the $2 billion spent since 1956 on water pollution control have merely slowed the deterioration of water quality. By passing this bill today, we have very good reason to expect that the next GAO study on this subject will show that we have begun to clean our Nation's waters systematically.

Mr. FRENZEL. Mr. Chairman, yesterday the gentleman from California (Mr. HOLIFIELD) and the gentleman from California (Mr. HOSMER) engaged in discussion with the gentleman from Alabama (Mr. JONES) and the gentleman from Ohio (Mr. HARSHA) in a professed attempt to establish "legislative history." Their exchange is recorded on page 10666 of the CONGRESSIONAL RECORD of March 28.

The intent of the discussion was to establish in debate that H.R. 11896 did not apply to pollution, radioactive or thermal, from nuclear powerplants controlled or regulated by the Atomic Energy Commission.

A discussion on the floor of this House may or may not be helpful in determining legislative intent. More often than not it simply determines the intent or purposes of the few people engaging in that particular discussion.

In the case of H.R. 11896, the bill clearly applies to various kinds of pollutants which the gentlemen referred to above are trying to cut out of the bill by their discussions yesterday.

For instance, section 316(d) states quite clearly that this bill applies to thermal discharges from "all sources unless the Administrator determines otherwise after a public hearing." In section 316(a) the bill is quite explicit in covering thermal discharges from facilities operated or controlled by the U.S. Government.

In the definition section 502, radioactive waste is defined as a pollutant. Reference to radioactive wastes are made elsewhere throughout the bill. My statement on page 10648 of yesterday's RECORD details other references in the bill.

No matter what kinds of discussions may take place on the floor of this House, it seems to me quite obvious in the legislation itself that it was a clear intent to include all kinds of pollution except the four specified exemptions in section 502(6) A, B, C, D. No matter what some of our Members would like to be the intent of the bill, the bill is quite clear in this respect and needs no amplification. As long as the bill has stipulated what is to be exempted and what is to be controlled, nothing that is said on the floor of the House can change the language of this bill.

Mr. VANDER JAGT. Mr. Chairman, I wish to express my appreciation to the House for adopting my amendment urging the Administrator of EPA to encourage the development of resource management systems that recycle wastes into resources through the land treatment system. The House should be proud of its overwhelming encouragement for this system and I am confident that the House will grow prouder of its decision with each passing year.

It is my understanding that if these systems do, in fact, produce revenue, industry would be permitted to share in the benefits that are produced as a result of their proportionate contribution to the system. Since industry is required by the bill to share in the cost, there is nothing in the bill that would prevent industry from sharing in the benefit of the revenues.

Because of the overwhelming encouragement that the House has given to this system and because there is present the necessary industrial incentive to encourage such systems, I am willing to withdraw my two remaining amendments at the desk.

Mr. HARSHA. The gentleman from Michigan gave a fine speech. Nothing in the language would prevent what he was suggesting, and I am delighted that he is so satisfied with the encouragement of the Muskegon approach to recycling that he is withdrawing his amendments.

Mr. HORTON. Mr. Chairman, I rise in support of this bill to bring the commitment of the Federal Government and of the Congress into line with the needs of the Nation for a priority, and adequately funded clean waters program.

It was only 6 years ago this summer, in 1966, when I, as a member of the House Natural Resources and Power Subcommittee, traveled to Rochester and Western New York to survey the pollution problems of Lake Ontario, Lake Erie, and their tributaries in that area.

What we found, under the able leadership of the distinguished gentleman from Alabama (Mr. JONES) was deplorable pollution, and even worse, we found that little was being done to correct it, except to close Ontario beaches to protect would-be swimmers from filthy water.

Today, Mr. Chairman, the picture is different, and far more hopeful. In my home county of Monroe in New York State, there is over $200,000,000 in construction in progress to clean up the effluent of the Rochester metropolitan area. Industry as well as the municipalities and the county and State are cooperating fully in this effort.

The sad fact is that the Federal commitment, at the present time, lags behind all of the others. While the ongoing antipollution projects are being built with Federal grant commitments, the actual Federal grants received have been a fraction of the authorized Federal percentage grants.

So uncoordinated and underfunded has the Federal program been that a few short weeks ago, after waiting and waiting for Congress to pass a new antipollution bill with adequate funding and updated provisions, the State of New York had to hold back 112 new antipollution construction projects which at this moment are sitting in Albany ready for construction to be authorized. A number of these projects are in my own congressional district.

Today, I am proud to say that many of the Federal stumbling blocks, in fact nearly all of them, are being remedied by this bill.

There has been a great deal of debate about this House Committee bill being inadequate to solve the water pollution problem compared to the Senate bill. A great number of strengthening, and weakening amendments have been offered, and some have been adopted.

As one who has been engaged in a 6-year-long study of the water pollution problem, and a particularly detailed study in the past 5 months, I want to say that the House Committee has done a magnificent job with this bill. It is as realistic in its funding and grant provisions as it is idealistic in its zealous commitment to once, and for all, cleaning up every American body of water.

At the present time the Federal Government owes over $2 billion to the several States in reimbursements for prefinanced shares of Federal grants, $1.3 billion of this money is owed to the State of New York alone. This bill provides for its repayment, so these States can get on with the job.

At the present time, Federal grant commitments for pollution control projects range from 30 to 55 percent of the project cost. In this bill they are raised to 75 percent, which in light of the extremely tight financial situation of the States and localities of America is extremely beneficial. In this respect, the House bill goes further than its Senate companion.

The Senate bill would distribute the authorized pollution grant funds based on a population formula among the several States. In this bill, wisely, the formula is based on need—a provision that is not only sensible nationally, but is particularly helpful to New York, whose need for pollution control dollars is so pressing.

Further, and perhaps most important, this bill authorizes more money for the Federal share of pollution control over the next few years than does the Senate bill. Since both bills contain a national goal of total water cleanup by the 1980's, it is important that at an early stage, we begin putting enough Federal dollars behind this commitment.

I did support some of the amendments offered to strengthen this bill. I supported the amendment which would eliminate the 4-year grace period exempting violators from penalties under

the Refuse Act. This is no time to loosen enforcement efforts even when it is understood that many communities and industries will have to tool up to meet the stringent standards this act contains for the years ahead.

I also supported Mr. VANDER JAGT'S amendment to offer special incentive for those who successfully implement antipollution methods which result in the recycling of wastes. At the rate our Nation is using up our resources, it is crucial that our Government encourage the development of the greatest possible recycling technology.

My hope is that the provisions of the House bill will survive the conference with the Senate, particularly those I have cited as being superior and more generous than the Senate bill, and that the President will sign into law what will be the most far-reaching national commitment to eliminate water pollution ever undertaken anywhere in the world. For at the moment this act is signed, States like my own can again pick up their shovels, and resume the job of carrying out the national mandate to our waters to the condition they were in when the earliest European settlers arrived on this continent.

Mr. KOCH. Mr. Chairman, I rise in support of H.R. 11896, the 1972 amendments to the Federal Water Pollution Act. While I believe that this proposal, as prepared by the Public Works Committee, is generally a sound and progressive bill, I think that certain areas of the bill must be strengthened, if this country is truly going to commit itself to a clean water program, and I intend to support all those amendments which will most rapidly and effectively restore our lakes, rivers, and seashores to their natural beauty.

The newspapers have lately been filled with articles prophesying ecological doom, and, certainly, the evidence for these predictions stands very alarmingly before us. The Great Lakes, supposedly the world's largest body of fresh water, are rapidly being poisoned. Lake Erie, which once supported a thriving freshwater fishing industry, is virtually dead. The Cuyahoga River near Cleveland, Ohio, burst into flames in 1969. How many of us have noticed that the beaches, lakes, and rivers we always have swum in have in the last few years been closed or posted dangerous to human health? Not only our recreational refuges are being destroyed, however, but our supply of safe drinking water is also being seriously endangered. A 1970 Public Health Service report found that 30 percent of the Nation's drinking water contains potentially hazardous amounts of chemicals. The clean water crisis is not a specter of the future; it is here with us right now.

There are certain aspects of the committee bill which represent a real advance in our Nation's approach to clean water. Especially important is the shift of emphasis from water quality standards to effluent limitations, for this would strike pollutants at their source. And since the power to set national standards for effluent control lies with the Federal Government, New York State is assured that other States are being compelled to move ahead at the same pace in their water pollution control programs and will be making sacrifices comparable to those New Yorkers are already making.

I am also pleased that the bill provides for the Federal reimbursement of States like New York, which have been in the forefront of pollution control efforts, for those funds which have been used to prefinance the promised but undelivered Federal share of waste treatment facilities. In addition, the bill's increased authorization for the construction of these facilities is vitally needed and the increase of the Federal share from 30 to 60 percent should ease the financial burden on local communities. The cost of waste treatment itself is made more equitable by that section of the bill instituting a system of user charges under which industries will pay for their use of water treatment facilities in proportion to the volume and strength of the waste products which they discharge.

While the committee bill sets the admirable national goal of eliminating the discharge of pollutants into navigable waters by 1985, with an interim goal of achieving a water quality suitable for swimming and fish propagation by 1981, these goals would not be implemented unless Congress enacts affirmative legislation after a 2-year feasibility study by the National Academy of Sciences. One of the excellent strengthening amendments offered by Representatives REUSS and DINGELL in their clean water package would allow the 1981 effluent standards to go into effect without further congressional action and would thus allow industry to undertake long-range planning.

Other amendments in this package would require industry to use the best available waste treatment technology by 1981—with costs taken into consideration; would empower the Environmental Protection Agency to review and, when appropriate, veto individual discharge permits issued by the States; would allow any citizen, rather than only those directly affected, to bring suit against polluters or against the administrators of EPA; and would protect workers by preventing industries from shopping for less strict State pollution regulations and by establishing an equitable system of economic assistance to those workers and communities affected by plant closures due to environmental regulations.

I believe there are several other areas of the bill which need strengthening, and I urge my colleagues to join in support of amendments which will make this a landmark piece of legislation, leading this Nation's antipollution efforts.

Indeed, when we consider that the intestinal bacteria concentration in the Hudson River is 170 times the safe limit set by EPA, due to the dumping there of more than 400 million gallons of human waste, how can we possibly delay any longer in enacting the strongest water pollution bill available to us? Rather than abandon our waters and waterways to sewage disposal, let us restore them and our pride in them as our Nation's most valuable resource.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. BOGGS, having assumed 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, pursuant to House Resolution 913, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. KYL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 380, nays 14, not voting 37, as follows:

[Roll No. 101]

YEAS—380

Abbitt	Caffery	Esch
Abourezk	Carey, N.Y.	Eshleman
Abzug	Carney	Evans, Colo.
Adams	Carter	Evins, Tenn.
Addabbo	Casey, Tex.	Fascell
Alexander	Cederberg	Fish
Anderson, Calif.	Celler	Fisher
	Chamberlain	Flood
Anderson, Ill.	Clancy	Flowers
Anderson, Tenn.	Clausen, Don H.	Flynt
		Foley
Andrews	Clay	Ford, Gerald R.
Annunzio	Cleveland	Ford, William D.
Archer	Collier	
Arends	Collins, Ill.	Forsythe
Ashley	Collins, Tex.	Fountain
Aspin	Colmer	Fraser
Aspinall	Conable	Frelinghuysen
Badillo	Conte	Frenzel
Baker	Conyers	Frey
Barrett	Corman	Fulton
Begich	Cotter	Fuqua
Belcher	Coughlin	Galifianakis
Bell	Culver	Gallagher
Bennett	Curlin	Garmatz
Bergland	Daniel, Va.	Gettys
Betts	Daniels, N.J.	Giaimo
Bevill	Danielson	Gibbons
Biaggi	Davis, S.C.	Gonzalez
Biester	Davis, Wis.	Goodling
Bingham	de la Garza	Grasso
Blatnik	Delaney	Gray
Boggs	Dellenback	Green, Oreg.
Boland	Dellums	Green, Pa.
Bolling	Denholm	Griffin
Brademas	Dennis	Grover
Brasco	Dent	Gubser
Bray	Derwinski	Gude
Brinkley	Devine	Hagan
Brooks	Diggs	Haley
Broomfield	Dingell	Halpern
Brotzman	Donohue	Hamilton
Brown, Mich.	Dorn	Hammer-schmidt
Brown, Ohio	Dowdy	
Broyhill, N.C.	Downing	Hanley
Broyhill, Va.	Drinan	Hanna
Buchanan	Dulski	Hansen, Idaho
Burke, Fla.	Duncan	Hansen, Wash.
Burke, Mass.	du Pont	Harrington
Burlison, Mo.	Eckhardt	Harsha
Burton	Edmondson	Harvey
Byrne, Pa.	Edwards, Ala.	Hastings
Byrnes, Wis.	Edwards, Calif.	Hathaway
Byron	Eilberg	Hébert
Cabell	Erlenborn	Hechler, W. Va.

Heckler, Mass.	Miller, Ohio	Scott
Helstoski	Mills, Md.	Sebelius
Henderson	Minish	Seiberling
Hicks, Mass.	Mink	Shipley
Hicks, Wash.	Minshall	Shoup
Hillis	Mitchell	Shriver
Hogan	Mizell	Sikes
Holifield	Monagan	Sisk
Horton	Montgomery	Skubitz
Hosmer	Moorhead	Slack
Howard	Morgan	Smith, Calif.
Hungate	Morse	Smith, Iowa
Hunt	Mosher	Smith, N.Y.
Hutchinson	Murphy, Ill.	Snyder
Jacobs	Murphy, N.Y.	Spence
Jarman	Myers	Springer
Johnson, Calif.	Natcher	Staggers
Johnson, Pa.	Nedzi	Stanton,
Jonas	Nelsen	J. William
Jones, Ala.	Nichols	Stanton,
Jones, N.C.	Nix	James V.
Jones, Tenn.	Obey	Steed
Karth	O'Hara	Steele
Kastenmeier	O'Konski	Steiger, Ariz.
Kazen	O'Neill	Steiger, Wis.
Keating	Passman	Stephens
Kee	Patten	Stokes
Kemp	Pelly	Stratton
King	Pepper	Stubblefield
Kluczynski	Perkins	Sullivan
Koch	Pettis	Symington
Kyl	Peyser	Talcott
Kyros	Pickle	Taylor
Landrum	Pike	Teague, Calif.
Latta	Pirnie	Teague, Tex.
Leggett	Poage	Terry
Lennon	Podell	Thompson, Ga.
Lent	Poff	Thompson, N.J.
Link	Powell	Thomson, Wis.
Lloyd	Preyer, N.C.	Thone
Long, La.	Price, Ill.	Tiernan
Long, Md.	Price, Tex.	Udall
Lujan	Pucinski	Ullman
McClory	Purcell	Vander Jagt
McCloskey	Quie	Vanik
McClure	Quillen	Veysey
McCollister	Railsback	Vigorito
McCormack	Randall	Waggonner
McCulloch	Rees	Waldie
McDade	Reuss	Wampler
McDonald, Mich.	Rhodes	Ware
	Riegle	Whalen
McEwen	Roberts	Whalley
McFall	Robinson, Va.	White
McKay	Robison, N.Y.	Whitehurst
McKevitt	Rodino	Whitten
McKinney	Roe	Widnall
McMillan	Rogers	Wiggins
Macdonald, Mass.	Roncalio	Williams
	Rooney, N.Y.	Wilson, Bob
Madden	Rooney, Pa.	Wilson,
Mailliard	Rosenthal	Charles H.
Mallary	Roush	Winn
Mann	Roy	Wolff
Mathias, Calif.	Roybal	Wright
Mathis, Ga.	Runnels	Wyatt
Matsunaga	Ruppe	Wydler
Mayne	Ruth	Wylie
Mazzoli	Ryan	Wyman
Meeds	St Germain	Yatron
Melcher	Sandman	Young, Fla.
Metcalfe	Sarbanes	Young, Tex.
Michel	Satterfield	Zablocki
Mikva	Schneebeli	Zion
Miller, Calif.	Schwengel	Zwach

NAYS—14

Ashbrook	Dow	Mahon
Blackburn	Findley	Martin
Burleson, Tex.	Gross	Rousselot
Camp	Hall	Schmitz
Crane	Landgrebe	

NOT VOTING—37

Abernethy	Goldwater	Pryor, Ark.
Baring	Griffiths	Rangel
Blanton	Hawkins	Rarick
Bow	Hays	Reid
Chappell	Heinz	Rostenkowski
Chisholm	Hull	Saylor
Clark	Ichord	Scherle
Clawson, Del	Keith	Scheuer
Davis, Ga.	Kuykendall	Stuckey
Dickinson	Mills, Ark.	Van Deerlin
Dwyer	Mollohan	Yates
Edwards, La.	Moss	
Gaydos	Patman	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Dickinson for, with Mr. Bow against.

Until further notice:

Mr. Moss with Mr. Del Clawson.
Mr. Rostenkowski with Mrs. Dwyer.
Mr. Chappell with Mr. Scherle.
Mr. Blanton with Mr. Heinz.
Mr. Hays with Mr. Goldwater.
Mr. Hawkins with Mr. Reid.
Mr. Baring with Mr. Keith.
Mr. Clark with Mr. Saylor.
Mr. Rangel with Mr. Yates.
Mr. Rarick with Mr. Kuykendall.
Mr. Mollohan with Mr. Hull.
Mr. Van Deerlin with Mrs. Chisholm.
Mr. Davis of Georgia with Mr. Mills of Arkansas.
Mr. Ichord with Mr. Patman.
Mrs. Griffiths with Mr. Pryor of Arkansas.
Mr. Scheuer with Mr. Abernethy.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 913, the Committee on Public Works is discharged from the further consideration of the Senate bill (S. 2770) to amend the Federal Water Pollution Control Act.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. JONES OF ALABAMA

Mr. JONES of Alabama. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. JONES of Alabama moves to strike out all after the enacting clause of S. 2770 and insert in lieu thereof the provisions of H.R. 11896, as passed, as follows:

That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1972".

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 areawide 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 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 participation 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 at 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 purposes 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 aegncies, 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 agencies, institutions, and organizations, public or private 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 waste 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, and 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 such 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 Administrator 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 support 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 inter-tidal 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 improved 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 relationships 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 instream 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, 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 appropriated 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 necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant 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 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 appropriated 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 recycling 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 area-wide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

"(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

"(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

"(2) the confined and contained disposal of pollutants not recycled;

"(3) the reclamation of wastewater; and

"(4) the ultimate disposal of sludge in a matter that will not result in environmental hazards.

"(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of, or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

"(f) The Administrator shall encourage waste treatment management which combines 'open space' and recreational considerations with such management.

"(g) (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, uopn 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 insufficient 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 ficsal year 1973 shall be made not later than thirty 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 92-93 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, 1972, 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 authority or of Federal funds or (2) with financial assistance authorized by such 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, 1975, 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 authority for 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 reimbursement 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 pargraph (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 capable 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) No 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 activities 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 incur 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 submitted 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 methods or system for preventing, abating, reducting, 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 effluent 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 period 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 requireemnts. 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 en-

actment 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 standards 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 identiged 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, providiing 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 reductions of fresh water flown 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) 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 appro-

priate 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 nonpoint sources 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 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 promugation.

"(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 regulation 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 established 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 standard 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 certifica-

tion 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 quanity 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 bareboat-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 and 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 onshore 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 discharges 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 shortlines 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 substances 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 discharged 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 facility 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 offshore 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 vessels (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) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may 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 brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the disrtict 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 any 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 States;

"(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 establsh 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 sources, 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 reuired 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 chanegs 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 or 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 permit 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 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 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 issue 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 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 this 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 alternative 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 requirements 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 dis-

charges 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, tunnnel, 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 biological 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 of the contiguous 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 agenices, 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 his 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 term.

"(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 perfom 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 in-

terest 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 Secretary 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 decision 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.

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearing require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. 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 Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued 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, or carrying out section 507(e) 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, doument, 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 promulgating 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 person 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) 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.

"(c) 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 transmit 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 GS–18, 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), (i), (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'."

AUTHORIZATIONS FOR FISCAL YEAR 1972

SEC. 3. (a) There is authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $11,000,000 for the purpose of carrying out section 5(n) (other than for salaries and related expenses) of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(b) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $350,000,000 for the purpose of making grants under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(c) The Federal share of all grants made under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from sums herein and heretofore authorized for the fiscal year ending June 30, 1972, shall be that authorized by section 202 of such Act as established by the Federal Water Pollution Control Act Amendments of 1972.

(d) Sums authorized by this section shall be in addition to any amounts heretofore authorized for such fiscal year for sections 5(n) and 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

SAVING PROVISION

SEC. 4. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendment made by section 2 of this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Federal Water Pollution Control Act as amended by this Act.

(c) The Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall remain applicable to all grants made from funds authorized for the fiscal year ending June 30, 1972, and prior fiscal years, including any increases in the monetary amount of any such grant which may be paid from authorizations for fiscal years beginning after June 30, 1972, except as specifically otherwise provided in section 202 of the Federal Water Pollution Control Act as amended by this Act and in subsection (c) of section 3 of this Act.

OVERSIGHT STUDY

SEC. 5. In order to assist the Congress in the conduct of oversight responsibilities the Comptroller General of the United States shall conduct a study and review of the research, pilot, and demonstration programs related to prevention and control of water pollution, including waste treatment and disposal techniques, which are conducted, supported, or assisted by any agency of the Federal Government pursuant to any Federal law or regulation and assess conflicts between, and the coordination and efficacy of, such programs, and make a report to the Congress thereon by October 1, 1973.

INTERNATIONAL TRADE STUDY

SEC. 6. (a) the Secretary of Commerce, in cooperation with other interested Federal agencies and with representatives of industry and the public, shall undertake immediately an investigation and study to determine—

(1) the extent to which pollution abatement and control programs will be imposed on, or voluntarily undertaken by United States manufacturers in the near future and the probable short- and long-range effects of the costs of such programs (computed to the greatest extent practicable on an industry-by-industry basis) on (A) the production costs for such domestic manufacturers, and (B) the market prices of the goods produced by them;

(2) the probable extent to which pollution abatement and control programs will be implemented in foreign industrial nations in the near future and the extent to which the production costs (computed to the greatest extent practicable on an industry-by-industry basis) of foreign manufacturers will be affected by the costs of such programs;

(3) the probable competitive advantage which any article manufactured in a foreign nation will likely have in relation to a comparable article made in the United States if that foreign nation—

(A) does not require its manufacturers to implement pollution abatement and control programs,

(B) requires a lesser degree of pollution abatement and control in its programs, or

(C) in any way reimburses or otherwise subsidizes its manufacturers for the costs of such programs;

(4) alternative means by which any competitive advantage accruing to the products of any foreign nation as a result of any factor described in paragraph (3) may be (A) accurately and quickly determined, and (B) equalized, for example, by the imposition of a surcharge or duty, on a foreign product in an amount necessary to compensate for such advantage; and

(5) the impact, if any, which the imposition of a compensating tariff or other equalizing measure may have in encouraging foreign nations to implement pollution and abatement control programs.

(b) The Secretary shall make an initial report to the President and Congress within six months after the date of enactment of this section of the results of the study and investigation carried out pursuant to this section and shall make additional reports thereafter at such times as he deems appropriate taking into account the development of relevant data, but not less than once every twelve months.

INTERNATIONAL AGREEMENTS

SEC. 7. The President shall undertake to enter into international agreements to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean. For this purpose the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums.

LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITIES

SEC. 8. (a) Section 7 of the Small Business Act is amended by inserting at the end thereof a new subsection as follows:

"(g)(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting 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 requirements established under the Federal Water Pollution Control Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

"(2) Any such loan—

"(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b)(5) of this section, except as otherwise provided in this subsection;

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act.

"(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and not later than one hundred and eighty days thereafter, promulgate regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection.

"(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 solely for the purpose of carrying out this subsection."

(b) Section 4(c)(1)(A) of the Small Business Act is amended by striking out "and 7(c)(2)" and inserting in lieu thereof "7(c)(2), and 7(g)".

ENVIRONMENTAL COURT

SEC. 9. The President, acting through the Attorney General, shall make a full and complete investigation and study of the feasibility of establishing a separate court, or court system, having jurisdiction over environmental matters and shall report the results of such investigation and study together with his recommendations to Congress not later than one year after the date of enactment of this Act.

NATIONAL POLICIES AND GOALS STUDY

SEC. 10. The President shall make a full and complete investigation and study of all of the national policies and goals established by law for the purpose of determining what

the relationship should be between these policies and goals, taking into account the resources of the Nation. He shall report the results of such investigation and study together with his recommendations to Congress not later than two years after the date of enactment of this Act. There is authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this section.

EFFICIENCY STUDY

SEC. 11. The President shall conduct a full and complete investigation and study of ways and means of utilizing in the most effective manner all of the various resources, facilities, and personnel of the Federal Government in order most efficiently to carry out the objective of the Federal Water Pollution Control Act. He shall report the results of such investigation and study together with his recommendations to Congress not later than two hundred and seventy days after the date of enactment of this Act.

ENVIRONMENTAL FINANCING

SEC. 12. (a) This section may be cited as the "Environmental Financing Act of 1972".

(b) There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

(c) The purpose of this section is to assure that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

(d)(1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such excutive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

(e)(1) The Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act.

(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act; and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations.

(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section.

(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

(f) To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this subsection without fiscal year limitation.

(g)(1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitation, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States.

(h) The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to subsection (e) of this section.

(i) The Authority shall have power—

(1) to sue and be sued, complain and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Authority;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

(k) All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

(l) In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made

in the preparation, custody and delivery of such obligations.

(m) The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

(n) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations of the Environmental Financing Authority" immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

(o) The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 846) shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations.

(p) Section 3689 of the Revised Statutes, as amended (31 U.S.C. 711), is further amended by adding a new paragraph following the last paragraph appropriating moneys for the purposes under the Treasury Department to read as follows:

"Payment to the Environmental Financing Authority: For payment to the Environmental Financing Authority under subsection (h) of the Environmental Financing Act of 1972."

SEX DISCRIMINATION

SEC. 13. No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act, the Federal Water Pollution Control Act, or the Environmental Financing Act. This section shall be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

The motion was agreed to.

The Senate bill, as amended, was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11896) was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 571. Concurrent resolution providing for an adjournment of the House from March 29, 1972, until April 10, 1972.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) entitled "An act to amend the Manpower Development and Training Act of 1962."

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

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes.

TOBACCO QUOTA TRANSFERS

Mr. ABBITT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 13361) to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended.

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

There was no objection.

The Clerk read the bill as follows:

H.R. 13361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of subsection (c) of section 316 of the Agricultural Adjustment Act of 1938, as amended, is amended to read as follows: "Any lease of Flue-cured tobacco acreage-poundage marketing quotas filed on or after June 1 in any year shall not be effective unless the acreage planted on both the lessor and the lessee farms during the current marketing year was at much as 75 per centum of the farm acreage allotment in effect for such year."

With the following committee amendment:

Page 1, line 7, strike out the words "June 1" and insert in lieu thereof the words "June 15".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ADJOURNMENT FROM MARCH 29 TO APRIL 10, 1972

The SPEAKER laid before the House the concurrent resolution (H. Con. Res. 571) providing for an adjournment of the House from March 29, 1972, until April 10, 1972, together with the Senate amendment thereto.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Page 1, line 4, strike out "1972." and insert "1972, and that when the Senate adjourns on Thursday, March 30, 1972, it stand adjourned until 12 o'clock meridian, Tuesday, April 4, 1972."

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR INCREASES IN APPROPRIATIONS CEILINGS AND BOUNDARY CHANGES IN CERTAIN UNITS OF THE NATIONAL PARK SYSTEM

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 2601) to provide for increases in appropriation ceilings and boundary changes in certain units of National Park System, and for other purposes, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 2, line 19, of the House engrossed amendment, after "'$10,804,000';" insert "and".

Page 2, of the House engrossed amendment, strike out lines 20 to 23, inclusive.

Page 2, line 24, of the House engrossed amendment, strike out "9" and insert "8".

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

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, would the distinguished gentleman from Colorado (Mr. APINALL) explain the Senate amendments?

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

Mr. GERALD R. FORD. I yield to the gentleman from Colorado.

Mr. ASPINALL. Mr. Speaker, this has to do with striking from the multiple park bill the additional authorization of this category of the national parks, which is not germane at this time, and it is simply to provide to strike it out at this time so as not to hold up the consideration of the other matters.

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Senate amendments to the House amendment were concurred in.

A motion to reconsider was laid on the table.

REFORM OF EXECUTIVE BRANCH—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92-273)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

The sand is running in the glass, and the hour is growing late, for enactment of a critically needed reform, one that merits the very best support which you as legislators for 208 million Americans, and I as their Chief Executive, are able to give it.

That reform is reorganization of the executive branch of the Federal Government—the most comprehensive and carefully planned such reorganization since the executive was first constituted in George Washington's administration 183 years ago. Its purpose is to make American government a more effective servant to, and a more responsive instrument of, the American people. Its method is to organize departments around the ends which public policy seeks, rather than (as too often in the past) around the means employed in seeking them.

The broad outlines of the reorganization proposals which I presented to the Congress just over a year ago are now well known. The seven domestic departments which sprang into being under pressure of necessity one at a time since

1849 would be viewed as a single system for the first time, and their functions regrouped accordingly. *The product would be four entirely new, goal-oriented departments concerned with our communities, our earth, our economy, and our potential as individuals—plus a revitalized fifth department concerned with keeping America in food and fiber.*

A Department of Community Development, a Department of Natural Resources, a Department of Economic Affairs, and a Department of Human Resources would be created to replace the present Departments of Interior, Commerce, Labor, Health, Education, and Welfare and Housing and Urban Development, and Transportation. And the Department of Agriculture—under our plans as I ordered them revised last fall—would be streamlined to increase its ability to serve the farmer and so to serve us all. Several independent Federal agencies would be drawn into the consolidation process as appropriate. Further management reforms would be instituted *within* the new departments, to provide authority commensurate with responsibility at every level and to make form follow function intelligently.

ELECTING BETTER GOVERNMENT MACHINERY

I do not speak lightly or loosely in characterizing this measure as *critically needed.* To say that we must prepare government to perform satisfactorily in the years ahead is only another way of saying that we must provide for its very survival. *This Republic, soon to begin its third century, will surely grow old unless we take wise and decisive action to keep it young.* "Adapt or die"—the Darwinian choice is ours to make.

Hard evidence of this danger abounds—dismal statistics about the low effectiveness of Federal spending, case upon case of national problems stubbornly resisting national programs. "Most Americans today," as I put it in announcing these executive reorganization proposals in my 1971 state of the Union message, and again in transmitting the detailed legislation for them, "are simply fed up with government at all levels."

For us here and now to make a strong beginning at making government work better for the ordinary citizen would hearten the Nation immensely; and it would do so honestly, by getting at the real roots of the fed-up feeling. Yet some may question whether this political year is a time when public men can afford to meet public frustrations head on. "Mollifying gestures, yes," they may say in effect, "but fundamental reform, no—at least not in 1972." Our reply should be that this is a most appropriate year to move ahead with reorganization.

For what is it, after all, that the people want and deserve from the public processes of any year, an election year especially? More effective government. One way they seek to get it is by calling the officials who run the Government to account at the polls, as is being done in 1972. Another way is by regulating the Federal purse strings through their elected representatives in the Congress, as is also being done in 1972. Yet this necessary periodic scrutiny of men and money alone will not reach the heart of the problem. For it is axiomatic among those who know Washington best that, as I pointed out in my earlier message on this subject, "the major cause of the ineffectiveness of government is not a matter of men or of money (but) principally a matter of machinery." We cannot, therefore, in good conscience hold out to the people the hope that this will be a year of change for the better, if we fail to come to grips with reform of government's jerry-built mechanisms.

Institutional structure here in Washington tends to coast along all too comfortably under the protection of an inertia which does not shield elected officials and public expenditures. These last come up for renewal every one, two, four, or six years; not so the structure, which endures with little or no burden of proof for its own worthiness to continue. Now, though, the structure has been weighed in the balances and found wanting.

In less sweeping reorganizations than the one I am urging, of course, a President can institute changes through plans submitted under the Reorganization Act, whereby the burden of proof rests with defenders of the status quo. However such authority no longer extends to the creation, consolidation, or abolition of executive departments. In any event we would have felt it wise to submit so massive a reform as this one for regular statutory enactment, so as to permit consideration of amendments and to provide time for full hearings and review. *My hope now is that the Congress will honor the best spirit of democratic change by electing now, in this election year, to modernize the executive structure and redeem the lagging public faith in our ability to order our national affairs effectively.*

AN OPPORTUNITY WE MUST NOT LOSE

Considerations of practicality, equally with those of principle, make the present time the best time to move ahead on this reform. The efforts of the past several years have amassed significant momentum toward overcoming the inertia which protects obsolete institutions. My proposals of last March 25 have behind them the weight of two years' exhaustive study and analysis by my Advisory Council on Executive Organization, and behind that the substantially similar recommendations of President Johnson's Task Forces of 1964 and 1967 on Government Organization. Since I laid those proposals before the Congress, the Administration and the Government Operations Committees in both Houses have made further headway on perfecting the reform legislation. A spirit of cooperation has been established; good faith and constructive attitudes have been demonstrated on all sides. We must not let these gains go to waste.

The pace of Progress so far has not been disappointing, for no measure this broad and this complex can or should be pushed through the Congress overnight. *What would be deeply disappointing, though—to me, and far more importantly to millions of Americans who deserve better than their government is now organized to give them—is to lose, in this rapidly passing Second Session of the 92nd Congress, our opportunity to record some solid achievement by creating at the very least one, and hopefully two or more, of the four proposed new departments.*

The men and women who begin a new Presidential term and a new Congress next January should not have to start over again on reorganization. They will not have to, if we push ahead now with the realism to see what is wrong with the old structures, the vision to see what benefits new forms can bring, and the courage to take the long step from old to new.

OBSOLETE STRUCTURE: HOW IT HURTS

What is wrong, and what reorganization could do to set it right, is best illustrated with two actual examples. We cannot remind ourselves often enough that this matter of government organization is no mere shuffling of abstract blocks and lines on a wall chart—that it has to do with helping real people, building real communities, husbanding real resources.

The plethora of diverse and fragmented Federal activities aimed at assisting our communities is a glaring case in point. If there is any one social concept which has clearly come of age in recent years, that concept would certainly be the idea of balanced, comprehensively planned community development. Yet where do we find this reflected in government organization? We grope toward it, as with the well-intentioned and (at the time) fairly progressive formation of a Department of Housing and Urban Development; but even that step was premised on an unrealistic, artificial, and harmful distinction between urban and rural communities. In altogether too many instances the dollars and efforts earmarked for communities end up producing more derangement than development.

This is hardly surprising when we consider that:

—A city or town may now seek Federal grants or loans for sewer or sewage treatment facilities from three departments and one independent agency, each with different criteria, different procedures, and a separate bureaucracy.

—Responsibilities for housing assistance are also entrusted to different offices in some of the same departments, and to several other entities as well.

—Highway and mass transit programs have been isolated in a separate department with only partial consideration for what such programs do to our communities, large and small, forcing us to learn the hard way that highways and mass transit must be developed integrally with land use decisions, housing plans, and provisions for other essential community facilities.

Efforts have been made to clarify agency roles on the basis of urban/rural, type of facility, type of applicant, et cetera—but the real need is for unified authority, not artificial jurisdictional

clarifications. *In sum, it has become painfully clear that effective integration of all Federal activities relating to community development can be achieved only under a vigorous new Department of Community Development created expressly for that purpose.*

The conservation and development of our rivers offers another pointed example. This important trust, where stakes are high and mistakes irretrievable, has at present so many guardians in Washington that in the crunch it sometimes seems to have none at all. The Department of the Interior, the Department of Agriculture, and the U.S. Army Corps of Engineers, together with several independent agencies, are all empowered to plan river basin development, to build dams and impound water, and to control water use. Elaborate interagency coordination efforts and all good intentions have not prevented waste and error from thriving under this crippling fragmentation of responsibility. Such costly fiascos as the reservoir built by the Bureau of Reclamation for drinking water supply but severely polluted and depleted by conflicting Soil Conservation Service projects upstream have been repeated too frequently. *The answer? A unified Department of Natural Resources, where comprehensive authority to develop and manage water resources would be concentrated under a single departmental secretary.*

Additional examples of dispersed responsibility could be cited in such areas as consumer protection, manpower and job training programs, and economic development activities. In each case, obsolete departmental structures have made it difficult to move forward effectively.

Even the newest of our domestic departments, like Housing and Urban Development and Transportation, now see the challenges of the seventies and beyond outrunning their own relatively narrow mandates. Departmental missions long circumscribed by law or historical development are suddenly outgrown; departmental preoccupations with limited constituencies no longer serve the public interest as reliably as before. Too often the ability of one department to achieve an important goal proves dependent upon the authority and resources of other departments, departments which inevitably attach only secondary importance to that goal. The new Federal commitments undertaken year by year are increasingly difficult to locate in any one department—usually several can claim partial jurisdiction, but none can show full ability to follow through and get the job done.

DECENTRALIZATION AND ACCOUNTABILITY

The solution to this rapidly worsening snarl of problems is regrouping of related programs by major purpose in a smaller number of executive departments. Besides opening the way for sharp improvements in government performance, such a consolidation would make the executive branch more sensitive to national needs and more responsive to the will of the people, in two ways.

First, it would decentralize decisionmaking. Far too many matters must now be handled above the department level by the Executive Office of the President or within the White House itself—not because of the inherent importance of those matters, but because no single department or agency head has broad enough authority to make and enforce decisions on them. But the four new Secretaries created by my reorganization proposal would have such breadth of authority. Their resultant ability to conduct domestic policy on the President's behalf should speed, streamline, and strengthen the whole process significantly.

Comparable decentralization could also be achieved within each department. At present, too many questions can be decided only in Washington, because of the multiplicity of field organizations and the limited authority of their regional directors. By enlarging the scope of responsibility of the departmental Secretaries and by giving them the tools they need, we could facilitate broad delegation of authority to appropriate field officials. And this in turn means that citizens across the country would receive faster and better service from their Federal Government.

Secondly, the new alignment of domestic departments would enhance the accountability of Federal officials to the people. It is easy to see how the new Secretaries, each with his or her own broad area of responsibility to discharge, would be useful to the President and the Congress in monitoring compliance with direction and accomplishment of objectives. Once scattered responsibility was concentrated, today's frequently used and often quite accurate excuse, "It was the other fellow's fault," would no longer apply.

More importantly, though, whatever slack and tangle can be taken out of the lines of control *within* the Federal establishment will then result in a tightening of those same lines *between* elected Federal officials and a democratic electorate. Notwithstanding the famous sign on President Truman's desk—"The buck stops here"—there will be no stopping of the buck, no ultimate clarification of blame and credit, and no assurance that voters will get what they contracted for in electing Presidents, Senators, and Congressmen, until the present convoluted and compartmentalized Washington bureaucracy can be formed anew and harnessed more directly to the people's purposes.

COOPERATING FOR REFORM

Where, then, does the reform effort stand today? I am pleased to note that the Congress, acting through its Committees on Government Operations, has held extensive hearings on my proposals; that testimony, most of it favorable, has been taken from a broad, bipartisan array of expert witnesses; and that committee work on the House side is nearly complete on the bill to establish a Department of Community Development.

For our part, we in the Administration have continued working to perfect the legislation and the management concepts set forth in my message of March 25, 1971. The Office of Management and Budget has taken the lead in working with Members of the Congress, adopting a flexible and forthcoming approach which has led to refinements in our legislation: one to clarify responsibility for highway safety, another to remove doubts concerning the reform's impact on the Appalachian Regional Commission and the Title V regional planning and development commissions, another to guarantee Community Development participation in airport access and siting decisions, and several more. They have also clarified that the reorganization need not entail any shift in congressional committee jurisdiction.

I am confident that this refinement and clarification process has improved our bills. *I pledge the fullest continuing cooperation of my Administration in seeing that the Congress has what it needs to move forward.*

COMMUNITY DEVELOPMENT AND NATURAL RESOURCES: ACHIEVABLE GOALS FOR 1972

There is still much work to do. For all the excellent hearings conducted to date, action has yet to be completed on any of the departmental bills which were sent to the Congress 370 days ago. Yet their passage by this Congress is still possible—especially for the Departments of Community Development and Natural Resources.

I would call special attention to H.R. 6962, the legislation for a Department of Community Development, which has now undergone 15 days of hearings in the House Government Operations Committee. Prompt, favorable action on this bill would represent a much-needed victory for common sense and the public good. Its defeat or emasculation would serve no interest except entrenched privilege and private advantage, and would cruelly disserve the interest of literally thousands of urban and rural communities with millions of people who are tired of waiting for Washington to get itself together and help them.

I urge all those concerned with the cause of executive reorganization to redouble their efforts to bring H.R. 6962 to my desk for signature during 1972—and, further, to press ahead on enactment of H.R. 6959, the Department of Natural Resources bill, and of legislation for the other two new departments which we need to govern effectively in the seventies.

ORGANIZING TO MEET THE CHALLENGES OF PEACE

Twenty-five years ago, when the United States was realizing that World War II had marked not the end, but only the beginning, of its leadership responsibilities in the world, a reorganization of the executive machinery in the defense area was undertaken. That reform, which created the Department of Defense, marks the only major streamlining of the Cabinet and the only departmental consolidation in our history. The new structure thus established has served America and the free world well in the challenging period since.

Now the time has come to take a similar bold and visionary step on the domestic side of national affairs. The 1960s, troubled, eventful, and full of progress as they were, were only the prelude to a period of still faster change in American life. The peace which we

find increasing reason to hope will prevail during the coming generation is already permitting us to turn somewhat from the formerly absorbing necessity to "provide for the common defence," the necessity which motivated the last major executive branch reorganization.

Other great purposes now move to the foreground: "to form a more perfect Union, establish Justice, insure domestic Tranquility, . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity." To serve these purposes, let us act decisively once again, and forge new institutions to serve a new America.

RICHARD NIXON.

THE WHITE HOUSE, *March 29, 1972.*

GENERAL LEAVE

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the bill, H.R. 11896, which was just passed.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON GOVERNMENT OPERATIONS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 911 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 911

Resolved, That the further expenses of conducting the studies and investigations authorized by rule XI(8) and H. Res. 304, Ninety-second Congress, by the Committee on Government Operations, acting as a whole or by subcommittee, not to exceed $835,800, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)), which shall be available for expenses incurred by said committee or subcommittee within and without the continental limits of the United States, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $100,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Government Operations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

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

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

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

Mr. HALL. Mr. Speaker, reserving the right to object, I wonder if it is the plan of the gentleman, my friend from New Jersey, to explain this rather large add-on amount for the Committee on Government Operations. Anything that he might say in general pertaining to all of these investigating resolutions might expedite their passage.

I appreciate the gentleman's cooperation. On the face of it, it seems to me that on this, the first one of them, the committee has cut it down $35,800, for which I am deeply appreciative.

This is almost as much as the committee report said was originally recommended and was equal to the amount of the first session.

With what they have held over, in spite of the known works of this committee, I just wonder why we need an additional $800,000 in the short session of the Congress when we are planning to get out of here at an early date?

Mr. THOMPSON of New Jersey. I will say to my friend from Missouri that last year the Committee on Government Operations authorized $1,032,600. The new chairman of the committee, the distinguished gentleman from California (Mr. HOLIFIELD) spent considerable time and effort in revising the committee staff and modernizing procedures. He had a carryover. His request for additional funds this year amounts to $800,000, which amounts to a decrease including the carryover of $232,600.

The chairman, the ranking Member, and the subcommittee chairmen all appeared before the committee and satisfied us as to their needs for this year.

Mr. HALL. Further reserving the right to object, Mr. Speaker, would the gentleman advise me if this includes additional expenses for this committee brought on by the pay raise?

Mr. THOMPSON of New Jersey. Yes, it does.

Mr. HALL. I thank the gentleman.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey (Mr. THOMPSON)?

There was no objection.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 5, strike out "$835,800" and insert in lieu thereof "$800,000"

The committee amendment was agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

IMPROVEMENTS IN THE HOUSE RESTAURANT AND RELATED FACILITIES IN THE LONGWORTH HOUSE OFFICE BUILDING

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 862 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 862

Resolved, That during the Ninety-second Congress the Committee on House Administration is authorized to incur such expenses, not in excess of $146,200, as the committee considers necessary (acting through the Architect of the Capitol or otherwise) in making improvements in the House Restaurant and cafeteria and food service facilities in the Longworth House Office Building. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, signed by the chairman thereof.

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

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE SPECIAL COMMITTEE TO INVESTIGATE CAMPAIGN EXPENDITURES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 907 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 907

Resolved, That effective February 28, 1972, the expenses of the investigations and studies to be conducted pursuant to H. Res. 819, by the Special Committee To Investigate Campaign Expenditures, 1972, acting as a whole or by subcommittee, not to exceed $185,000 including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $150,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. The official stenographers to committees may be used at all hearings held in the District of Columbia if not otherwise engaged.

SEC. 3. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Special Committee To Investigate Campaign Expenditures, 1972, shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

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

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 908 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES 908

Resolved, That the further expenses of investigations and studies to be made pursuant to H. Res. 170 by the Committee on Interstate and Foreign Commerce, acting as a whole or by subcommittee, not to exceed $485,000, including expenditures for the employment of professional, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purposes by any other committee of the House and the chairman of the Committee on Interstate and Foreign Commerce shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

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

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

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON VETERANS' AFFAIRS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 909 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 909

Resolved, That for the further expenses of the investigation and study authorized by H. Res. 20 of the Ninety-second Congress incurred by the Committee on Veterans' Affairs, acting as a whole or by subcommittee, not to exceed $110,000 in addition to the unexpended balance of any sum heretofore made available for conducting such study and investigation, including expenditures for the employment of experts, consultants, and clerical, stenographic, and other assistance, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman thereof and approved by the Committee on House Administration. Not to exceed $18,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. The official stenographers to committees may be used at all meetings held in the District of Columbia unless otherwise officially engaged.

SEC. 3. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Veterans' Affairs shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

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

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON ARMED SERVICES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 912 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 912

Resolved, That the further expenses of the investigation and study to be conducted pursuant to H. Res. 201, by the Committee on Armed Services, acting as a whole or by subcommittee, not to exceed $150,000, including expenditures for the employment of special counsel, consultants, investigators, attorneys, experts, and clerical stenographic, and other assistants appointed by the chairman of the Committee on Armed Services, shall be paid out of the contingent fund of the House on vouchers by such committee or subcommittee, signed by the chairman of the Committee on Armed Services, and approved by the Committee on House Administration.

SEC. 2. The chairman of the Committee on Armed Services shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing laws.

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

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR THE WEEK OF APRIL 10

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority leader the program for the rest of the week, if any, and the schedule for the next week when the House is in session.

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

Mr. GERALD R. FORD. I yield to the gentleman from Louisiana.

Mr. BOGGS. In reply to my good friend, the distinguished minority leader, we have completed the legislative program for this week and, as the gentleman knows, we have adopted an adjournment resolution. The House will go over until noon on Monday, April 10.

Monday of that week is District Day. There are no bills scheduled.

For Tuesday and the balance of the week we have the following:

House Resolution 910, Select Committee on Crime investigation authority;

H.R. 9552, Merchant Marine Act amendment, open rule, 1 hour of debate;

H.R. 13324, maritime authorization, open rule, 1 hour of debate;

H.R. 13188, Coast Guard authorization, open rule, 1 hour of debate; and

H.R. 13336, Arms Control and Disarmament Act Amendments, open rule, 1 hour of debate.

Thursday is Pan American Day.

Conference reports may be called up at any time and any further program will be announced later.

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

Mr. GERALD R. FORD. I yield to the gentleman from Iowa.

Mr. GROSS. It is observed that Thursday of that week is Pan American Day. Will there be any business on that day in addition, or is business scheduled for Thursday?

Mr. BOGGS. The whip notice says "Tuesday and the balance of the week." There are four authorization bills. Each has an hour of debate. It is possible that we would conclude that by Wednesday night. But that does not mean that we will. We have had business on Pan American Day from time to time and we will if we do not complete the program by Wednesday night.

GENERAL LEAVE TO REVISE AND EXTEND NOTWITHSTANDING ADJOURNMENT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until April 10, 1972, all Members of the House shall have the privilege to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject. If they so desire, and may also include therein such short quotations as may be necessary to explain or complete such Extensions of Remarks; but this order shall not apply to any subject matter which may have occurred or to any speech delivered subsequent to the said adjournment.

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

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOT WITHSTANDING ADJOURNMENT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until April 10, 1972, the Speaker be authorized to accept resignations and to appoint commissions, boards, and committees authorized by law or by the House.

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

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House from March 29 to April 10, 1972, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS IN ORDER ON WEDNESDAY, APRIL 12

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday, April 12, 1972, may be dispensed with.

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

There was no objection.

PERSONAL EXPLANATION

Mr. ICHORD. Mr. Speaker, on rollcall No. 101 I was called from the floor of the House on an emergency matter and was unable to return until after the voting had closed. If I had been present, I would have voted "yea."

PERSONAL EXPLANATION

Mrs. HECKLER of Massachusetts. Mr. Speaker, on the recorded teller vote on the amendment proposed by the gentleman from Michigan (Mr. WILLIAM D. FORD), rollcall No. 98, I arrived a few seconds too late to be recorded. Had I been present in time, I would have voted "aye."

REDUCING MANDATORY RETIREMENT AGE FOR NON-U.S. CITIZEN EMPLOYEES OF PANAMA CANAL COMPANY OR CANAL ZONE GOVERNMENT

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

Mr. MURPHY of New York. Mr. Speaker, I introduce for appropriate reference legislation which will be one of a series of bills I will introduce along with other members of the Panama Canal Subcommittee intended to rectify some of the problems of which the subcommittee became aware during its recent factfinding trip to the Panama Canal Zone. In a report of March 9, 1972, on the subcommittee visit to Panama, it was pointed out that over and above current treaty negotiations which are being conducted to eliminate some of the irritants which have hurt U.S.–Panama relations in the past years, there are a number of areas where changes can be brought about that will engender better relations and will help the Canal Zone government function more efficiently in the 1970's.

This first of a series of bills will require the Panamanian employees of the U.S. Government to retire at the age of 62 which will bring the Panamanian retirement age in line with the retirement age of U.S. employees under the Civil Service Retirement Act. This legislation was recommended by Governor Parker to the Panama Canal Subcommittee. Not only will this result in the retirement of persons who are too old to physically carry out their labors at optimal efficiency, it will help to relieve an unemployment problem among hundreds of young Panamanians who live in the zone by making immediately available hundreds of employment opportunities that would result from the lowered retirement age.

Such a retirement age reduction for non-U.S. citizens would result in increased efficiency among the total work force of the canal company agencies. Of the 11,000 non-U.S. employees, 3.6 are over the age of 62. The mandatory requirement for retirement at age 62 would immediately make available 400 positions which would have a salutary impact on the serious unemployment problem among younger Panamanians. Further, in the 5 years after enactment of the law there will be an additional 150 to 200 positions made available annually over and above the normal rate of retirement.

The bulk of semiskilled and unskilled positions including longshoremen, seamen, and other laborers are filled from the local labor market. These three groups comprise 3.4 percent of the work force over the age of 62. Governor Parker has said that:

> Generally, these older employees do not have the agility and physical stamina to meet the demands of handling cargo and heavy lines or of boarding ships by climbing Jacob's ladders. Despite their lower levels of performance, it is considered that termination for cause is not supportable or appropriate. Neither do they qualify for disability retirement under these circumstances.

The Governor has concluded that:

> Mandatory retirement at age 62 would permit their replacement by younger employees. This would be a desirable result not only from the standpoint of greater efficiency but also in terms of improved safety inasmuch as our experience has shown these older employees to be more accident prone. This poses a problem because positions requiring heavy manual labor are filled almost entirely by non-U.S. citizen employees.

Mr. Speaker, I and other members of the Panama Canal Subcommittee feel that this is an amendment that can have benefits and a salutary effect on the Canal Zone work force. There are 800 young unemployed Panamanians who are desperately seeking jobs in the zone. They are a constant source of concern to officials and those responsible for running the canal. This amendment would provide immediate relief for this problem while not exerting any hardships on the older persons who would be retired.

While it should be mentioned that the positions that would be available are at the lower level of the employment scale, subcommittee legislation will be introduced in subsequent weeks which addresses itself to the existing inequities in educational opportunities and the low level of subsequent employment opportunities that result.

I commend this bill to my colleagues and urge its immediate consideration. It has the desirable dual qualities of being noncontroversial and good law.

NIXON ADMINISTRATION TURNS DEAF EAR TO PLEAS OF FARMERS

(Mr. MATHIS of Georgia asked and was given permission to address the House for 1 minute, to revise and extend

his remarks and include extraneous matter.)

Mr. MATHIS of Georgia. Mr. Speaker, the Nixon administration is still sitting on $75 million appropriated by the Congress for farm operating loans. While many farmers have their backs against the wall, the Nixon administration continues to turn a deaf ear to their plea for help.

I received a call late last night from a young farmer in Cook County, Ga., whose application for an $18,000 operating loan was approved by Farmers Home Administration but not funded. Based on these assurances from FHA, he leased land, put out fertilizer and is now facing a March 31 deadline for planting the tobacco and peanut allotments he has agreed to lease.

His application has not been funded because the Office of Management and Budget will not release the $75 million appropriated by Congress. Such action by any administration reflects a callous attitude toward the Nation's farmers that is unpardonable.

The young farmer from Cook County is representative of so many farmers who need tangible assistance from the Department of Agriculture. They do not need more rhetoric about how much the new Secretary of Agriculture loves them or how he is fighting their battles like a wounded steer. They need help, and they need it now.

The farmer from Cook County asked me:

What can I do? My back is against the wall.

I could not give him any hope or any advise. His deadline is Friday. I can only ask President Nixon, "What can this young man do?"

McALPINE DAM, LOUISVILLE, KY.

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

Mr. MAZZOLI. Mr. Speaker, I would like to address myself briefly to a matter of considerable concern in my district, that is the construction and operation of the McAlpine Dam which lies across the Ohio River at Louisville, Ky.

This structure, including navigational locks, was redesigned and rebuilt by the U.S. Army Corps of Engineers during the 1960's with work on the dam completed in September 1964.

Since completion of the project in 1964, there have been persistent complaints about frequent fluctuations in the level of the Ohio River pool impounded above McAlpine Dam. Such fluctuations create considerable distress for those who moor recreational boats to fixed docks situated along the river's edge.

But, of far more concern to me than the discomfort or inconvenience experienced by pleasure craft owners is a recent rash of commercial barge accidents in and around the spillways, gates, and locks of the McAlpine Dam.

I am concerned, as are many of my constituents, that these accidents may somehow be related to the design, or operation, or both, of the reconstructed McAlpine Dam.

At this moment, a barge containing 600 tons of liquid chlorine is wedged into one of the gates of the dam and is lodged precariously at the edge of the spillway. Salvage and recovery operations are now underway, but great dangers are involved in this mission because of the type of cargo involved, and because of the great turbulances and pressures of the water in the area of the barge itself. This barge was one of several which broke away from a tow as it was being positioned for entry into the channel leading to the locks of the McAlpine Dam.

Another barge which broke away from this same tow contained a load of sulfuric acid. This barge was recovered, temporarily moored to the Louisville Gas & Electric Co.'s hydroplant, and has only just been removed by a rescue vessel. No less than six other barges, either sunken or partially sunken—are in the immediate vicinity of the dam structure.

All of these incidents impel me to conclude that it is entirely appropriate, at this time, to suggest that the Corps of Engineers undertake an immediate study to determine whether additional construction modifications to McAlpine Dam or changes in its operation, are needed to insure safe use by commercial and recreational vessels on the Ohio River at and around this dam.

There are some who contend that the primary fault for this series of barge accidents lies with the operators of the tow boats and that more stringent regulations are urgently needed with respect to licensure of river pilots. This certainly is true.

At the same time, however, there remains a clear need to get at the facts pertaining to the reconstructed McAlpine Dam itself. Has the new structure made it more difficult or hazardous for barges and tows to operate in its vicinity? If so, would a modification or redesign of the dam remedy this situation? What would be the costs involved of such modification or redesign?

If the Corps of Engineers study determines that modification of the dam is, in fact, not necessary, we are then faced with the question of what steps ought to be taken by the U.S. Coast Guard or other appropriate regulatory agencies to require greater competence and experience on the part of the barge operators who increasingly handle cargos which can be dangerous if accidentally spilled or released into the air.

There is certainly a need for a study to get all the facts regarding the apparent instability of the McAlpine pool at certain times of the year. If the complaints I have received of excessive flood-stage pooling are valid, the study might recommend modifications in the dam or its operation which could remedy this problem.

Another important consideration is the effects that the McAlpine Dam now has upon the Devonian fossil beds which begin immediately at the foot of the dam. Plans are currently underway to preserve this unique area, known as Falls of the Ohio, as a national park. It appears that because of the construction, McAlpine Dam has partly covered over these unique fossil beds with silt.

In conclusion, Mr. Speaker, I believe that the Corps of Engineers should conduct a detailed study of all the facts—environmental, navigational, economic, and esthetic—pertaining to the existing McAlpine Dam. The results of such a study should be made available at the earliest possible date so that corrective steps, if any are found necessary, can be undertaken without delay.

CREATING COMMISSION ON U.S. PARTICIPATION IN THE UNITED NATIONS

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

Mr. MAILLIARD. Mr. Speaker, on behalf of myself, Representatives BINGHAM, MORSE, PEPPER, and 38 other Members who have asked to join with us, I have today introduced a joint resolution creating the Commission on United States Participation in the United Nations.

I have a special relationship with the United Nations. It was founded in 1945 at a historic conference in my own home city, San Francisco. And I had the honor to be a U.S. delegate to the 18th General Assembly in 1963. So I have known and followed the United Nations' development for a long time. I and many of my distinguished colleagues in the House have been concerned in recent months with developments at the U.N. and here in this city. I am certain that few would disagree that the U.N. faces monumental problems.

Not the least of these is a growing loss of confidence in that organization's ability to achieve its major objective—a peaceful developing world community. But we cannot really blame the U.N. for failures influenced or effected by its individual member nations' indifference or inaction. It is a matter of the greatest immediate importance that this Nation, which led in the assemblage of states which put the U.N. together as an alternative to the bloody world conflict which had just ended in 1945, should not now turn its back on a potential for peace as yet unrealized but very definitely realizable.

In 1970, President Nixon appointed the President's Commission for the Observance of the 25th Anniversary of the United Nations. This Commission was ably led by the Honorable Henry Cabot Lodge. It enjoyed the distinguished participation of Representatives GALLAGHER, LLOYD, MORGAN, and the late Bourke B. Hickenlooper and Senators AIKEN, COOPER, FULBRIGHT, and SPARKMAN. Their report, issued on April 23, 1971, after extensive hearings across the United States, made 96 excellent recommendations for the improvement not only of the U.N. but also of American participation in it.

This brings me back to my original point. If we are to help the U.N. to improve its performance and to realize its

great potential for building a better world for us and our children, we are not going to do it by turning our backs on it when it most needs our support and informed attention. The Commission which this resolution establishes will help us to make fact the promise of the Lodge Commission. It will provide us with a continuing organizational forum for dealing with the responsibility for implementation of U.S. policies and programs toward the U.N. and its specialized agencies and the International Court of Justice.

The record of fulfillment of the promice of San Francisco to the American people leaves much to be desired. This Commission may or may not accomplish a great deal. But if we can establish this Commission, we will be paying a small price for a building block that may indeed bring us closer to fulfilling that promise made to the world 25 years ago.

This Commission, precisely because it would be removed from the daily pressures of legislation and decisionmaking, would be able to make recommendations and provide guidance to those in the legislative and executive branches responsible for policy formation, implementation, and oversight.

An identical joint resolution, Senate Joint Resolution 216, has already been introduced in the other body under the sponsorship of Senators WILLIAMS, CASE, MATHIAS, MOSS, HUGHES, GRAVEL, CRANSTON, COOPER, MUSKIE, HARTKE, PELL, HARRIS, TUNNEY, HART, and JAVITS. The issues at stake, I believe, provide compelling reasons for the prompt establishment of this Commission. The generation of peace which the President and all decent Americans want to build for our children and all the world's children will be brought closer to fruition by the Congress favorable action on this bill. The modest expenditure involved will be a very small price to pay for a significant contribution to world order and justice under law. It deserves our support.

TRANSPORTATION FOR GLACIER NATIONAL PARK

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

Mr. SHOUP. Mr. Speaker, it is important that all of us be concerned about the potential overloading of our national parks by the millions of visitors who properly visit these parks each year. One of the most difficult problems that Glacier National Park in Montana and others throughout the Nation have is the large number of automobiles that are driven into the parks. This problem is increasing and in my opinion must be properly resolved very soon.

Instead of the simplistic solution involving a total ban on all automobiles in national parks at this time, I am interested in exploring an alternative solution. I propose that the Congress authorize a study of the most desirable and feasible means of transporting visitors within certain portions of one park, specifically Glacier National Park in Montana, so that we can consider such innovative techniques as aerial tramways, and other possibilities.

I believe it is important for the national parks to be accessible to people, but I also believe it is not only possible but imperative that these visitors be managed so that they can enjoy the beauty of the parks and do so in a way that will not damage the natural resources in the parks.

The bill I am introducing today authorizes and directs the Secretary of the Interior to conduct a study of alternative means of transporting visitors from West Glacier to Saint Mary over the Going-to-the-Sun Road. It further requires the Secretary to submit a report thereon, with recommendations, to the Congress within 1 year from the date that funds for the study are made available.

Mr. Speaker, I include the entire bill in the RECORD following my statement:

H.R. 14207

A bill to provide for a study of the most desirable and feasible means of transporting visitors within certain portions of Glacier National Park, Montana, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to conduct a study of alternative means of transporting park visitors over the general route of the Going-to-the-Sun Road from West Glacier to Saint Mary within Glacier National Park in the State of Montana. Not later than one year from the date that funds for such study are made available to him, the Secretary shall submit to the Congress a report thereon, including his recommendation as to the most desirable and feasible means of transporting park visitors over the route referred to herein.

SEC. 2. There are authorized to be appropriated $30,000 to carry out the purposes of this Act.

CONFERENCE REPORT ON S. 3054, TO AMEND THE MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

Mr. PERKINS submitted the following conference report and statement on the bill (S. 3054) to amend the Manpower Development and Training Act of 1962:

CONFERENCE REPORT (H. REPT. No. 92-966)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) to amend the Manpower Development and Training Act of 1962, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is amended by striking out "1972" the first time it appears in such section and inserting in lieu thereof "1973".

(b) Section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is further amended by striking out the colon and the following: "*Provided,* That no disbursement of funds shall be made pursuant to the authority conferred under title II of this Act after December 30, 1972".

SEC. 2. All real property of the United States which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred.

And the House agree to the same.

CARL D. PERKINS,
DOMINICK V. DANIELS,
LLOYD MEEDS,
ALBERT H. QUIE,
MARVIN L. ESCH,
Managers on the Part of the House.

GAYLORD NELSON,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ALAN CRANSTON,
HAROLD E. HUGHES,
ADLAI E. STEVENSON III,
JENNINGS RANDOLPH,
BOB TAFT, Jr.,
JACOB K. JAVITS,
RICHARD SCHWEIKER,
PETER H. DOMINICK,
J. GLENN BEALL, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendment of the House to the Senate bill (S. 3054) to amend the Manpower Development and Training Act of 1962 submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The points in disagreement and the conference resolution of them are as follows:

1. The House-passed amendment would extend the authority conferred under title II of the Manpower Development and Training Act for one year beyond the existing law's expiration date of June 30, 1972, by inserting in lieu thereof the termination date of June 30, 1973.

The Senate-passed bill does not contain the above provision.

The Senate recedes.

2. The House-passed amendment would extend for one year the existing law's provision that no funds to carry out obligations entered into prior to the termination date may be disbursed later than December 30, 1972—six months after the termination date.

The Senate-passed bill would delete this six months limitation altogether.

The House recedes.

3. The Senate-passed bill also contains the following provision, providing that for purposes of Public Law 874, relating to assistance for schools in federally impacted areas, Federal property transferred to the United States Postal Service shall continue to be treated as Federal property for two years.

The House passed H.R. 11809 on December 6, 1971, containing the same language as section 2 of the Senate-passed S. 3054.

The House recedes.

CARL D. PERKINS,
DOMINICK V. DANIELS,
LLOYD MEEDS,
ALBERT H. QUIE,
MARVIN L. ESCH,
Managers on the Part of the House.

GAYLORD NELSON,
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RICHARD SCHWEIKER,
PETER H. DOMINICK,
J. GLENN BEALL, Jr.,
Managers on the Part of the Senate.

OCCUPATIONAL SAFETY AND HEALTH

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 1 hour.

(Mr. STEIGER of Wisconsin asked and was given permission to revise and extend his remarks and include extraneous matter.)

GENERAL LEAVE

Mr. STEIGER of Wisconsin. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their own remarks and include therein extraneous matter on the subject of my special order today.

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

There was no objection.

Mr. STEIGER of Wisconsin. Mr. Speaker, at the end of the 91st Congress we passed the Occupational Safety and Health Act of 1970. While there were many disagreements as to how the act should be structured to improve the safety and health of the Nation's workers, there was general recognition that something had to be done to reduce the rising rate of occupational injuries and to curtail the human and economic costs of occupationally related injuries, illnesses, and deaths. The overall increasing concern with the quality of the environment in which we live was a major factor in making us aware of the need for an improved work environment. Just a little over 15 months ago, this House passed the bill by a vote of 308 to 60, and the act will have been in force for 1 year on April 28 of this year.

I have been struck, Mr. Speaker, by the number of Members of Congress and business and labor people who have apparently forgotten the extraordinary amount of work that went into the passage of this act. There are many who have forgotten the 3 years of hearings and committee work involved in the consideration of this legislation. The controversy was real and substantive. It may be in order to simply review briefly some of that background.

It was President Johnson in 1968 who proposed the first occupational safety and health bill. During 1968 the Committee on Education and Labor held extensive hearings on that legislation and eventually did report a bill which became known as the Hathaway bill. At that time I offered a number of suggestions which were turned down by the committee and made known my views in the minority views of the committee report which accompanied that bill. Because it was late in the session, nothing was done and the House never considered that legislation.

In 1969 when President Nixon came into office, he asked each department to assess its legislative priorities. The Department of Labor placed safety and health at the top of its list. President Nixon, after consultation with all segments of the business, labor, and safety communities, then proposed the original administration's safety and health bill. Congressman DANIELS subsequently proposed a new bill which was cosponsored in the other body by Senator WILLIAMS of New Jersey.

Throughout all of 1969 and 1970 hearings were held on these proposals and a number of factors went into the decision by Congress to eventually consider and pass legislation of this kind. For example, the AFL–CIO made this subject their No. 1 legislative priority for the 91st Congress. The business community represented through the Chamber of Commerce and the National Association of Manufacturers as well as various trade associations switched from opposition to a Federal law to support for a Federal law. The Nixon administration's leadership and initiative as well as the emphasis on safety as reflected in the Coal Mine Safety Act and the Construction Safety Act all were a part of the backyard leading to the eventual signing of the Williams-Steiger Act.

Some may have forgotten the controversy between the Daniels bill and the Steiger-Sikes bill and the fact that there are significant differences in these bills. For example, there was the question of whether an inspector could on his own shut down a plant at the worksite; the question of separation of powers between the promulgation of standards, inspections and enforcement; insuring the right to due process at each stage. All of these were involved in the House debate and were, I believe, reasons for the vote by the House to adopt the Steiger-Sikes substitute. The Williams bill was different and the conference committee had to wrestle with the task of reconciling major differences.

The Williams-Steiger Act is a compromise—one which did not then and does not now reflect 100 percent the views of the AFL–CIO, the Chamber of Commerce, the Nixon administration, Senator WILLIAMS or BILL STEIGER. But it does, in my judgment, reflect a bill which at the time it was passed was supported by all of the organizations, associations and individuals who were active in this field. It is a legitimate, just, and fair bill.

That background is important because while there are differences there are also similarities. The confusion, misunderstanding and controversy which now is to be seen across the country and here in Congress comes to me as no surprise given the magnitude of this law. But all of these questions were addressed by both committees in both Houses and thoroughly discussed in committee reports accompanying the bill and during the floor debate.

The President created the Occupational Safety and Health Administration in the Department of Labor to set and enforce occupational safety and health standards and to seek compliance through educational, promotional, and other techniques. In the short time this organization has existed, much has been done—a large number of standards have been promulgated and others are being developed; compliance officers and industrial hygienists have been recruited and trained, nearly all existing State efforts have been continued while the States are being aided in developing their own programs; educational programs have been developed and training for employers and employees has begun; and, enforcement activities have been undertaken. I am proud of the efforts of this administration in implementing the act, and of those men and women who have worked so hard to get this necessary new program off the ground.

However, in any law of this scope and in any program this new there are inevitably many who feel that either progress is being made too slowly or else that too much change is being required at too rapid a rate. I am sure that nearly all of you in this House have received a number of letters and phone calls from constitutents complaining about the act and its administration. For example, one of my constituents wrote saying:

> I do object to the manner of enforcement. Perhaps large corporations have engineers who have the savvy to comprehend the 744 columns (of standards published in the Federal Register), and the staff to bring everything into compliance. Few small businesses have, or can do so. The $65 "assessment" won't break us. I do consider it unfair and discriminatory.

Another said:

> No one is against safety and health. We do, however, strenuously object to the procedure under this law where a proposed penalty is set up before expiration of the correction period and no opportunity to correct is given without a penalty being proposed.

Such reactions from constituents have led many of my colleagues in this House to demand changes in the administration of the act and to introduce bills to amend it, feeling that too much is being done too fast. However, there are strong voices raised saying just the opposite, that not enough has been done. At its recent convention in Bal Harbour, Fla., the AFL–CIO issued a statement on the program which says in part:

> We have weighed the President's words against his deed and found them wanting. The record is one of foot dragging flabby enforcement and adulteration of the special provisions of the Act setting forth specific rights and protections for employees . . . On the basis of the present enforcement staff of over 300 plus, with 9,800 establishments inspected in five months, the 4.1 million workplaces covered by the Act would all be finally inspected once in the next 170 years.

In addition, the AFL–CIO statement, referring to the Occupational Safety and Health Administration's summary report on its enforcement actions between July and November 1971, says:

> According to the report, $512,000 in fines were assessed against 8,257 employers for violations—an average fine of $62. That is too cheap a price tag to be placed on the lives and health of workers. More stringent fines are necessary to prevent employers from deciding that it is cheaper to violate the law than to correct the hazard.

And, my distinguished colleague from New Jersey (Mr. DANIELS) recently remarked that:

> Now the hopes of this Congress and their constitutents have been undermined by the inept and lax administration of important parts of the occupational safety and health law. A spirit of protecting the lives and health of our workers is barely discernible in many of the Department of Labor's actions. As the chairman of the committee charged with oversight of this act, I feel that

if the Department does not speedily correct its attitudes and actions in this matter, I will exercise full authority to bring about these changes.

Obviously, the Occupational Safety and Health Administration is caught between the pressures from businessmen, farmers, labor, consumer advocates, and others. These pressures raise some fundamental issues on which I would like to comment.

First, why were the present occupational safety and health standards adopted? In passing the act, we recognized that there was a considerable body of safety and health standards that had been developed by national consensus organizations such as the American National Standards Institute and the National Fire Protection Association or by the Federal Government under other statutes. Since these standards embodied a great deal of experience with existing conditions and had provided for the inputs from affected groups in the country over a long period of time, special provision was made for the Department to adopt these standards immediately without further public hearings. In adopting these initial standards, however, the Department carefully edited them to pick those affording the greatest protection for employees while avoiding inconsistencies and impracticalities. A major package of these standards was promulgated last May 29 for general industry. This package also adopts pre-existing Federal standards for the construction and maritime industries. These standards do contain some problem areas such as those dealing with toilet partitions and ice water which have little relationship to occupational safety and health. However, OSHA is moving rapidly to identify and change such standards and there will always be some standards of less importance than others.

In the Extensions of Remarks section of the CONGRESSIONAL RECORD on March 9, 1972, I made available to the House the list from the Department of Labor of the proposed timetable for standards changes. I hope this information will be useful to my colleagues in considering these questions.

The act also provides for new standards to be developed through a careful process which insures adequate research and public hearings before they are promulgated. Temporary emergency standards may be issued to be effective immediately to meet the demands of special situations. The first such standard, on asbestos, was issued in December 1971. We also recognized that employers may do things in many different ways which are as effective in terms of safety and health as would be compliance with the standards, and the act provides for variances in such situations.

It should be clearly understood that the Department of Labor has not arbitrarily adopted the standards now in effect. Rather, they have followed specific congressional direction and, I might add, have done so remarkably well, considering the complexity of the issues involved.

Second, how does an employer get help in understanding what is required of him under the act?

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

Mr. STEIGER of Wisconsin. I would be glad to yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I listened with great interest to the explanation of the gentleman from Wisconsin of the section to which he has just mentioned. I have received numerous calls from Wyoming regarding the lack of cooperation on the part of the officials of the Department of Labor.

Several weeks ago a businessman, the owner of a small operation in New Castle, Wyo., called the Denver office of the Department of Labor and said:

I have here the standards. I employ 85 or 90 people in my operation and I would like to have some help in determining how to comply with the law.

He said:

Will you please send someone up here so that I will know how to be in conformance with the law?

The answer was:

No, we are not familiarizing you with these regulations and we will not help you. If we come to see you, we come to fine you.

So, I look with displeasure upon what has happened in the administration of the bill because there has not been the necessary education done nor the necessary assistance in helping people to comply with the requirements of this act.

It is also a fact that it is not inconsistent to find criticism by the AFL–CIO with reference to the question of lack of enforcement.

I happen to know from Akron, Ohio, and other industrial places, of the absence of such examiners from premises notorious for high industrial injuries. Yet, at Rock Springs, Wyo., a city of virtually no industry and less than 15,000 souls, four officials got there on one day from the Department of Labor.

And three of them walked into one small barbershop at the same time.

I submit to you there is somebody downtown wasting manpower needed in the heavily industrialized areas, who need the effects of this law, and concentrating in the little Western towns, bringing officials in there, and working on the little barbershops and the small businesses. That is the last thing in the world that the Federal employees need to be doing in these difficult and hard times.

So I hope that what the gentleman is doing will prove of some benefit, and will remove some of the hardship of this law. I also hope that the gentleman can come up with rapid hearings with amendments—not necessarily amendments that would exempt employers of a certain size. I do not believe anyone wishes to exempt anybody from the concept of this law. But something has gone wrong between the law concept and the regulations that were promulgated for it downtown in the Labor Department.

Mr. STEIGER of Wisconsin. I might say to the gentleman from Wyoming that I had a call of this very sort this morning from my sister who, incidentally, lives in Sundance, and she, among other things said:

Would you please help me, because everybody knows that I am your sister, and vou are my brother, and we are having a real problem when they talk about the Steiger act. Can't you get your name off of it, or do something else?

But I would like to make two comments: one is do not criticize the Department of Labor for what it does in terms of responding to the calls that come in from Newcastle, because clearly the Department of Labor in fact was being helpful to that individual by saying:

Look, if we come on your plant site we can't under the act come there to give you guidance and counsel. We can come there and make an inspection. After the inspection is finished the compliance officer does, under the law, and has in practice, sat down with the employer and gone through those problems wherever they were found during the inspection. But you cannot ask the Department of Labor to come there for the sole purpose of simply providing information and guidance.

Second, let me also tell you that the Department of Labor is prepared to respond to people who have questions about the implementation of the act; about the effect of a specific standard on their particular worksite, and will be delighted to do so. I do know that the person cannot meet them at the plant-site, but the person who has a question can call Denver, or, if it is required, go to Denver. And as part of my remarks, at the end I am including a list of all the district officers and all the area officers, with the name of the man in charge and the phone number, so that if anybody has a question he knows here is the man to go to.

Third, may I suggest—and I will get into this in just a moment in terms of my further discussion, on the very point the gentleman raises, it is not, in my judgment, fair to assume that the Department of Labor is somehow picking out Rock Springs, Hulett, Sundance, Newcastle, or any of the other communities in the State of Wyoming, and not doing the job in Akron, Canton, Milwaukee, Chicago, Rockford, or any of the other cities across this country.

In my remarks, may I say to the gentleman from Wyoming, I do go into the target priorities of the Department of Labor, first, taking care of the situation in which a death takes place; second, those in which there is a demand for inspection by employees; third, the target industries program; fourth, a general random selection inspection program of employers, large and small, across the United States. It is a limited inspection force, and the point that the AFL–CIO is making, which was the point I am trying to draw to my colleague's attention, is between those who say let us exempt certain categories, let us make certain changes in it. But there is the additional suggestion, again by the AFL–CIO, that it is too weak and that we need to have more enforcement, it is this position of the Department of Labor in which it finds itself between the rock and the hard place.

And it is my purpose today to at least try to bring some of this to the attention of the House so that they might consider more carefully the question of

whether or not it is appropriate or not to start making modifications in the Occupational Safety and Health Act.

Mr. RONCALIO. I just want to thank the gentleman very much for allowing this discussion. I am sorry, we have had a tremendously complicated and difficult 3 days just concluded, and there are very few Members in the Hall.

But I do not know of anything that is more important right now than this legislation, and I am grateful to you for the time you have taken trying to point the way.

I only hope you recognize a bill providing for amendments by my friend and colleague in the other House, Senator CLIFFORD P. HANSEN, the junior Senator from Wyoming, legislation together with Senator CARL T. CURTIS of Nebraska. It calls for exemptions.

My bill is now in the hopper, and I hope it will get some attention because I just do not think we can go on without ugliness and resentment that adds further to the loss of confidence that people have in their elected officials.

I will say to you in all candor, Mr. STEIGER, if I had been a member I may have voted for the bill, I do not know. But I tell you it is not working well. It is causing irritation and loss of confidence and ugliness that I have never experienced before in a lifetime dedicated to the public service. It is very, very serious.

Mr. RONCALIO. Mr. Speaker, I have taken several occasions over the last few weeks to speak against the injustices arising from the implementation of the Occupational Safety and Health Act of 1970.

We are all aware of the confusion and the furor that has been created by this act, particularly among small businessmen, ranchers, and farmers who have never before been affected by Federal safety laws.

The major concern in my State of Wyoming is not that businessmen, farmers, and ranchers must now run "safe" places of business, for I find my constituents more than willing to comply with reasonable safety requirements. What does upset them is the fact that they are in many cases being fined by Department of Labor inspectors even before that Department has gotten around to seeing that each and every individual affected by the new law has received a copy of the regulations to which he or she must comply.

Even though I was not a Member of the House of Representatives when the Occupational Safety and Health Act was passed, I am certain that it was not the intent of this body to impose specific laws upon the citizens of this Nation before they are made aware of what these laws are.

For this reason, I introduced into the House of Representatives on March 20 an amendment to the Occupational Safety and Health Act (H.R. 13926) which would provide that the first inspection by Department of Labor officials would be for the purpose of pointing out to the owner or manager of a business what changes he must make to be in compliance with OSHA and to allow a reasonable period of time for him to make the necessary changes before he is hit with a fine. In short, my amendment would allow that the first on-site inspection would be to give advice, not fines.

As we all know, my proposal is just one of several amendments that have been offered to correct the injustices and abuses of the Occupational Safety and Health Act.

What I want to urge today, Mr. Speaker, is that the House of Representatives do more than talk about the Occupational Safety and Health Act. We have an opportunity here to take positive action on a matter of major concern to the citizens of this Nation—to show them that Congress is not an unresponsive body isolated from the needs of the people.

I respectfully call on you for hearings on all Occupational Safety and Health Act amendments, and I would suggest that the sooner the amendments can be properly considered by the committee and get on to the floor of the House for discussion and vote, the better.

I am hopeful you will not let this opportunity to act pass us by.

Mr. STEIGER of Wisconsin. There is only one further comment that I would like to make, and that is to suggest as best as I can understand what is happening in Wyoming. There seems to be some confusion on the part of those involved in the State program as to exactly what the Federal program is all about. At least from my sister's standpoint and my brother-in-law's standpoint, they are receiving misinformation about this act. I contacted the Department of Labor in an effort to try to find out exactly what is happening between the State personnel and the Federal personnel.

Then let me go on, if I might say to the gentleman from Wyoming, I dare say there is a responsibility on the part of the Members of Congress to do a job in alerting their constituents in terms of the farmers and ranchers—only 450,000 farmers and ranchers were circulated as to the impact of OSHA when the original standards were promulgated.

There are four specific standards with reference to agriculture. Those standards are not difficult to comprehend or to understand.

There is not any reason at all why a farmer or rancher should not be familiar with them and to be able to comply with them to the extent that they may apply to his operation.

I think there is a serious failing on the part of some of our colleagues who have been unwilling no matter how much they attack the law to say there is also a responsibility on our part to inform our constituents as to the implications of this act and put it in our newsletters and put it in our weekly reports so that we do not get this kind of confusion and misinformation.

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

Mr. STEIGER of Wisconsin. I yield to the gentleman.

Mr. RONCALIO. Those who voted for this law do more than that.

If the Secretary of Labor does not correct the situation, he should be summarily dismissed. Who else is responsible for it?

Mr. STEIGER of Wisconsin. I will say to the gentleman, I think he is 100 percent wrong. I do not know any way that the Department of Labor can undertake to do this job that it has not already done.

It has put out public service ads and made every effort to create an awareness on the part of all businessmen, farmers and ranchers across the Nation, in connection with alerting employers.

The Safety Standards magazine for this month has to do with agriculture. It is available from the Superintendent of Documents for $1 per year.

I urge the gentleman from Wyoming to read them, but I would suggest also to the gentleman that trade associations have a responsibility, labor unions have a responsibility, the chamber of commerce and Members of Congress have a responsibility to make sure at least that if an inspection takes place, their constituents ought to be aware of it so that they will not be fined for not being in compliance with this act.

I think it totally misses the point to attack and blame the Department of Labor for not having done this job when it was given to them by the Congress. Theirs is an intolerable burden in terms of an act that was given to them not long enough before it went into effect. They should have had more time. I recognize that. But I lost on that issue during the conference to reconcile the differences between the Williams bill and the Steiger-Sikes bill.

I think it is very unfair to say that the Department of Labor is to bear the full blame for the fact that some of our constituents are not aware of what we have done.

Mr. RONCALIO. Would the gentleman concur in now recognizing at least a 6-month or a 1-year educational period so that citizens might have at least a 6-month or 1 year education period in which officials can enter the premises and help the citizens to comply?

Mr. STEIGER of Wisconsin. No, I would have to say in all honesty—I do not think this approach would be appropriate.

Mr. RONCALIO. Then what you are saying in effect is if my bill were to come up here, you would testify against it?

Mr. STEIGER of Wisconsin. No. I am not saying that I would testify against it. I serve on the committee, and I would listen sympathetically to the point which the gentleman is making. My point to the gentleman from Wyoming is this. The gentleman wants a 6-month or a year's period of education. I suggest that there are forces, as forceful, perhaps more forceful, than the gentleman from Wyoming, who would come in and want to make some changes which would make it even more difficult for the employers and the employees.

Mr. RONCALIO. Why do we not do what the facts warrant? Why do we not

do what the situation justifies and not pay too much attention to the pressures which push to one side or the other? In those areas where there are industrial accidents now, where there are 14,000 to 16,000 deaths a year from unsafe premises, let there be inspection. I submit that you can go through States such as Utah, Wyoming, Idaho, and Montana and you will not find justification for dozens and dozens of labor inspectors running over the premises of little farmers and ranchers, some barely able to make a living now. They find that they are required to put a hard hat on when they work around cows and a coat hanger for coats available in out-houses.

Mr. STEIGER of Wisconsin. If the gentleman is going to talk about his constituents, at least he should know what he is talking about. There is no requirement that you have to have a hard hat on when you work around cows, and the requirement of a coat hanger is a de minimis violation.

Mr. RONCALIO. You are not getting precisely to what this is directed to. There are 400 pages of such de minimis items to bother ranchers who are trying to make a living and small farmers who are trying to make a living. How about hard hats for shoe clerks?

Mr. STEIGER of Wisconsin. I will suggest to the gentleman that there are but four standards that specifically relate to agriculture. They are not difficult to understand. Most have no application to the kind of ranching situation that I know of in Wyoming. I would find it difficult to justify saying that suddenly the act has become, in your words, so very burdensome to small farmers and ranchers, because I just do not see that happening in my State of Wisconsin or across the country as I have watched the way this act has been implemented.

Mr. RONCALIO. From time to time I have inserted in the CONGRESSIONAL RECORD—on at least five occasions—letters of indignation and hardship, indicating the injustice of this legislation upon the small farmer. If the gentleman is not familiar with that——

Mr. STEIGER of Wisconsin. I am familiar with it.

Mr. RONCALIO. There must be some type of delay in these things for the people in the rural Rocky Mountain area. This legislation will only diminish confidence in elected officials. It does not make much difference to me personally. I did not vote for the bill. I am home free on that. But I am trying to work in the best interests of this legislation. I think it had good motivation. That is why I have engaged in this colloquy today.

Mr. STEIGER of Wisconsin. Let me make one more point, if I may. Let us understand, also, that, difficult as it may be, I heard about one alleged violation and one alleged fine that is being levied as a result of a hay hand. The man was being fined $50 according to my information. I do not understand that. But, you know, agriculture across the United States is the third most hazardous occupation of all industries in the United States. While it has about 5 percent of the employment, it bears, if my memory is correct, about 17 to 20 percent of the number of deaths that take place in industry across the country. It is an industry which, with its problems, is exceedingly hazardous. It is for that reason, it seems to me, to simply take out the Rocky Mountain States would suggest just as good an argument to the people in Kiel, Wis., as to what their status should be, for what is good for your goose may be good for my gander. I am not sure that that is the direction we should take at this point.

Mr. RONCALIO. In light of the water quality amendment regarding irrigation proposed today, I can appreciate this argument and the need for that kind of approach.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's interest in this. I would urge him to continue his efforts, at least to make sure that his constituents are aware of what the act is about.

Mr. RONCALIO. Have no fear. They know.

Mr. DENNIS. I did not realize the gentleman from Wisconsin was holding this special order today; I just happened to come into the room and I am not really prepared to discuss the problem in detail. But I did not want to let the opportunity pass, since I did happen to be here, without putting on record the fact that I have received a great many complaints about the Occupational Health and Safety Act from people in my district, from small businessmen of various kinds, particularly in the construction industry, light construction industry, and also others. I do not claim to be an expert on this subject at all, but these men do claim very seriously that they simply cannot comply with the provisions of the act we passed here and stay in business; and actually they would rather discontinue operations, in many instances, than try to comply.

As a result of, or because of all these complaints and my general feeling along these lines, I have joined recently with some of my colleagues in amendatory legislation which is designed to reach the complaints and objections of these people. I would like to very strongly recommend to the gentleman from Wisconsin and his colleagues on the committee that they give those bills early hearing and serious and favorable consideration.

Mr. STEIGER of Wisconsin. Mr. Speaker, I thank the gentleman from Indiana for his comment and contribution.

On the question frankly of separation of light and heavy construction standards, I would have to say I do not think it is at all appropriate to take that step for a very simple reason, not because it is not important to recognize that there are, in fact, some differences, but because that is something that can be, and in my judgment, should be handled administratively and not legislatively in terms of amending the basic act.

The National Association of Home Builders is extremely active in this. I have had many letters. The Department, with which I have worked as well as with NAHB, is cognizant of the impact of certain of the heavy construction standards and has begun to work to modify that. I think most of those complaints can be taken care of when they are, in fact, legitimate complaints as to reasons about the separation between light and heavy construction.

Mr. DENNIS. If the gentleman will yield further, that may well be true. I may, however, add this caveat. We do not want to put these small businessmen too much at the mercy of the whims of administrators. Granted, we cannot always legislate about everything, but statutory protection—if we are going to have statutory enactment at all in the first place—has got its virtues, because a man who is trying to make a little business go should not have to depend too much on what some bureaucrat in Washington thinks. The man ought to have some protection in the law.

Mr. STEIGER of Wisconsin. May I say to the gentleman from Indiana that the simple act of differentiating in the statute between light and heavy construction is no protection. I do not pretend to be an expert in construction standards, but I am here to tell the gentleman the number of areas in which I can find substance to the complaints about the standards is very small. Most of them apply equally in any construction situation.

Mr. DENNIS. I said to the gentleman in the beginning, I am not really prepared at all to discuss this matter with him, with his acknowledged expertise in the matter. I want to get my thoughts across, however, because I have met a very genuine feeling on the part of these smaller business people. They point out and say to me—and I do not know anything about construction either—that "I have been building these houses for years. It is foolish and ruinous in cost to require me to put up this type of scaffolding, and to do this and to do that under this law. Do the fellows in Washington want to drive me out of business, What is the idea?"

I do not think we do want to do that. I will have to say to the gentleman, that while I got very few requests from home to even pass this bill in the first place, I have heard a great deal about it since. I have been getting a great many complaints since it has been passed. I think we should pay more attention to the people we hear from and whom we represent than we do to those organized groups and to the media which get us to pass more and more legislation, which more and more ties the hands of the man back home who wants to make a living. I am sure the gentleman agrees with me on that philosophy.

Mr. STEIGER of Wisconsin. Absolutely. I spend a great deal of time, about a third of my time responding to complaints from my constituents as well as to suggestions and letters and ideas from people across the country.

I follow the Bureau of National Affairs, BNA, publications, the Commerce Clearing House publications, to make sure the intent of the Congress is being fulfilled, because I believe very strongly what we have done, which I believe was right, can nevertheless cause a problem to that fellow back home unless it is carefully done and unless we watch to make sure we are not doing a hardship to somebody back there being asked to comply with it.

This is something with which I do deal, about which I feel strongly.

Mr. DENNIS. I thank the gentleman for yielding. I appreciate his concern and interest. I encourage him to take it to the other Members of his good committee.

Mr. STEIGER of Wisconsin. I thank the gentleman from Indiana very much.

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

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from North Dakota.

Mr. LINK. I should like to associate myself with the concerns expressed by the gentleman from Wyoming, because I represent largely those who are in small industry, who operate small shops, and particularly the farming and ranching community of my State. Some of them hire as few as one employee.

I was not a Member of the Congress that enacted the Occupational Safety and Health Act of 1970. Nevertheless I recognize the importance of adequate health and safety for all of our people.

I am receiving considerable communication of concern from my people, particularly the farmers and ranchers, indicating that the full impact is upon them at this time.

I would at this point wish to inquire of the gentleman in the well, as one of the authors of this act, as to the timetable for the implementation of the provisions as they might apply to the kinds of operators to whom I have referred, namely the small businesses and the farmers and ranchers.

Mr. STEIGER of Wisconsin. The act became fully effective on April 28, 1971, almost 1 year ago. The Department of Labor at that time granted an additional 90-day familiarization period for all industries covered under the act. At that point those initial standards, which are the consensus standards, took effect almost no exception. There were some on which there was a later effective date.

In direct response to the question, I would say that in almost every instance all standards that have up to now been promulgated are now in place, are now in effect, and do cover all places of business across the United States, 4.1 million, with 57 million workers.

Mr. LINK. In other words, the full impact of the act is now bearing upon all the people who are covered by the act?

Mr. STEIGER of Wisconsin. I suppose the answer to that is "yes" and "no," because the full impact of the Act is only to the extent that there are standards now in place. There obviously are going to be, over a period of time, promulgation and development of additional standards in areas in which no standards now exist. There will continue to be an increasing in emphasis on health and health-related problems.

So far as the act today is concerned, yes, the full extent of the act is now in operation and it does apply across the board.

Mr. LINK. It was my understanding, from your colloquy with the gentleman from Wyoming that the act would apply in three stages, depending upon the importance and the applicability of the provisions as they relate to occupational hazards.

Mr. STEIGER of Wisconsin. No. What I was talking about were what were the priorities for inspections; not in terms of whether or not a place of business was covered but, rather, how does the Department determine, with a limited inspector force, how to go about making the inspections required under the act.

Mr. LINK. I thank the gentleman from Wisconsin. I would encourage him and the committee to give proper consideration to those measures that would lend themselves to alleviating those areas of hardship and certainly those areas of misunderstanding that apparently exist at the present time.

Mr. STEIGER of Wisconsin. I thank the gentleman from North Dakota very much for his contribution and his interest.

The standards are voluminous and complex and it is often difficult for the employer to know what is required, especially for the small and middle-sized business which does not have its own expert personnel. Recognizing this, OSHA built into the initial standards a 90-day familiarizaiton period and spent much of its compliance efforts until August 27, 1971, in informing employers as to the requirements. OSHA is also developing training materials and conducting regular orientation sessions for employers and their representatives.

The Department's intentions in this regard are illustrated by the training technique it developed under the Federal Construction Safety Act of 1969. By December 31, some 930 instructors were trained in the construction industry and given materials to go back to their workplaces and pass on the training. Approximately 22,000 had received this training by the end of 1971. Similar courses are now being developed for general industry. The Department has commenced seminars all over the country for employers at the rate of at least 600 a year, and this program will be continued or expanded. In addition, trade associations have been consulted and asked to explain the act to their memberships. For example, more than 10,000 people attended a closed-circuit TV broadcast in 27 cities last June put on by the National Association of Manufacturers, with OSHA officials participating.

During actual inspections, OSHA compliance officers and industrial hygienists meet with employers both before and after the inspection to explain the act and how the establishment may be in violation. When citations are issued, informal consultation on how to come into compliance continues until the citations become final orders of the independent Occupational Safety and Health Review Commission. Even then, OSHA is available for consultation within limitations prescribed by the act or by the Commission. Consultative procedures are spelled out in detail in the Compliance Operations Manual developed by OSHA. The manual is available at $2 a copy from the Public Documents Department, Government Printing Office, Washington, D.C. 20402. It should be noted that the act does not require this compliance manual, an internal operating document, to be made generally available to the public. OSHA has voluntarily published it, and since February, the Superintendent of Documents has sold about 25,000 copies, an indication of the propriety of the decision to publish and of the great interest in the program.

OSHA is not, however, in a consultative business to the exclusion of the private sector. A major responsibility for such consultation rests with the insurance industry, the National Safety Council, trade associations, the States, and private consulting firms which have the necessary expertise to aid employers in understanding the act and its compliance requirements. Indeed, the consultative role of these organizations is of paramount importance since the language of the act generally prohibits the presence of OSHA personnel in the workplace unless full enforcement procedures, such as the walk-around and issuance of citations for alleged violations, are in effect. The act requires that OSHA personnel must take note of violations disclosed while on any worksite and take appropriate enforcement action including the issuance of citations and the proposal of penalties, as necessary. It is this requirement of sanctions rather than warnings that gives real meaning to the enforcement provisions. Finally, in the matter of consultation, I believe I would be remiss if I did not point out the responsibility of the Members of the House to be well informed on this vital act and to advise and assist their constituents, be they employees or employers, in exercising their rights and meeting their responsibilities.

I must say in all honesty that regardless of how one feels about the act I do believe it is the responsibility of those of us who pass the laws to help make sure our constituents are familiar with the law. I have discussed OSHA in my newsletter, for example, and have said I would be pleased to supply information and respond to questions in order to make sure that those within the Sixth District of Wisconsin are aware of this act. I urge my colleagues to undertake the same kind of effort. As a matter of fact, I spend a considerable amount of time following the implementation of this act to make sure the intent of the Congress is complied with. In each speech I make to business or labor organizations, I urge them to keep in touch with their own representative in order to pass on their reactions and comments about this act. I have received letters from people all over the country who have had suggestions and criticisms, and I have tried my best to deal with all the questions being raised.

Third, why is OSHA picking on certain industries and small businesses? This is a loaded question. OSHA is not picking on anyone, but it is trying to handle the worst situations first. To do this, investigations and inspections have been broken down into four general categories and placed in priority order. The

highest priority in making investigations is in the case of a catastrophe or fatality. For example, in December when the water tunnel being constructed in Port Huron, Mich., exploded killing 22 workers, OSHA compliance officers were on the scene within 4 hours. The next priority is the investigation of valid employee complaints, a subject I will cover in greater detail later.

As its third priority, OSHA has instituted two special programs designed to eliminate some of the worst known hazards within the limits of available manpower. In one of these two programs, five industries were selected as targets based primarily on the injury frequency rate figures from the Bureau of Labor Statistics. In 1970, these industries all had rates more than double the all-manufacturing average injury frequency rate of 15.2 disabling injuries per million employee hours worked.

The five industries with their associated rates are: marine cargo handling, 69.9; roofing and sheet metal work, 43; meat and meat products, 43.1; miscellaneous transportation equipment, primarily mobile homes, 33.3; and lumber and wood products, 34.1. In the other special program, five substances known to be toxic and potentially affecting large numbers of employees were selected for concentrated attention as target health hazards. These substances are: asbestos; lead; silica; cotton dust; and carbon monoxide.

As its last priority, OSHA is scheduling inspections of all industries and sizes of establishments in all parts of the country on a random selection basis. Through this means covered employers from every segment of the economy are being inspected and made aware of their responsibilities, though the number of businesses of any size or type that will be inspected is not very large. While many small businessmen have complained of harassment and amendments to the act have been introduced by many Members to exempt them, very few have actually been inspected. There seems to be more smoke than fire in this matter. In fact, the act gives special treatment to small businesses by providing for consideration being given to the size of the establishment in proposing penalties and by authorizing loans through the Small Business Administration to aid qualifying employers to come into compliance.

Fourth, why are only employers subject to citations and penalties under the act? We looked at this question in considerable depth before the act was passed and both labor and management generally agreed that the Government should not get involved in issuing citations and proposing penalties against employees. To have made employees subject to direct action by the Government would have set a major new precedent of intervention between labor and management in discipline cases that would have unnecessarily threatened the whole fabric of labor-management relations. Employees are responsible for complying with all applicable standards, though employers are generally held responsible for hazardous conditions in the workplace even if resulting from employee action. The employer retains the long-standing management prerogative of appropriately disciplining employees for their violations.

OSHA is developing and conducting training for employees to insure that they know their responsibilities under the act as well as their rights. A minimum of 600 such seminars are being conducted annually, and new types of courses are under development. Despite these efforts, we must recognize that OSHA will never be able to train all 60 million covered employees and that much of this burden will have to be borne by employers or accomplished through a multiplier effect of training instructors.

At this point I want to include the full text of a letter from the Assistant Secretary of Labor for Occupational Safety and Health, George Guenther, regarding this question.

The letter follows:

U.S. DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
Washington, D.C., December 22, 1972.

Hon. WILLIAM A. STEIGER,
House of Representatives,
Washington, D.C.

DEAR BILL: This is in further response to your letter of July 9, 1971, in which you inquired about a speech made by Edward E. Estkowski, Regional Administrator for the Occupational Safety and Health Administration in Chicago, relating to the proposing of penalties under the Occupational Safety and Health Act against employers whose employees refuse to wear personal protective equipment required by standards.

As you know, section 5(b) of the Act requires employees to comply with occupational safety and health standards issued pursuant to the Act which are applicable to their own actions and conduct. However, the Act provides for the issuance of citations and proposed penalties only to employers, and not to employees (sections 9(a) and 17 (a), (b), (c) and (d)).

The legislative history of the Act makes clear that employers are responsible for assuring compliance with standards applicable to employee actions and conduct. The Report of the Senate Committee on Labor and Public Welfare expressly states:

"The committee does not intend the employee-duty provided in section 5(b) to diminish in any way the employer's compliance responsibility or his responsibility to assure compliance by his own employes. Final responsibility for compliance with the requirements of this Act remains with the employer (S. Rept. No. 91–1282)."

Therefore, consistent with both the provisions of the Act and its objective of achieving safe and healthful working conditions, employers will be subject to citation and proposed penalties where their employees violate standards which are applicable to their own actions and conduct. If the Department did not issue appropriate citations and proposed penalties to employers in such cases, the result could be widespread noncompliance with the Act.

The nature of the enforcement action in a particular case will, of course, depend upon a careful evaluation of all the relevant facts. In order to constitute a "serious" violation within the meaning of section 17(k) of the Act, the employer must have known, or with the exercise of reasonable diligence should have known, of the presence of the violation. The fact that a hazardous condition resulted from employee conduct violative of employer work rules may be relevant as to whether the employer knew or should have known of the presence of the violation and, accordingly, whether the violation will be cited as serious or other than serious. Under the Act, the assessment of penalties for serious violations is mandatory (section 17(b)), while the assessment of penalties for violations which are other than serious is discretionary (section 17(c)). Moreover, where the employer has made a good faith effort to secure compliance by his employees with an applicable standard, but the employees systematically refuse to comply, these circumstances will be taken into consideration in determining whether to issue citation and, if a citation is issued, whether a penalty should be proposed and the amount of any proposed penalty.

The Act, of course, contains no provision which would preclude exercise by the employer of the usual management prerogatives in cases involving employee disregard of safety and health rules, including requirements under section 5(b) of the Act. Thus, the employer may make compliance with these requirements a condition of employment, and subject to the provisions of any applicable collective bargaining agreements, he may discharge employees who refuse to comply or invoke such other disciplinary measures as he deems appropriate.

Finally, extensive educational training programs are being undertaken by the Department of Labor and various employer associations, unions and other organizations. By increasing employer and employee awareness of their respective rights and obligation under the Act, such programs will serve to minimize the occurrence of situations such as the one mentioned by Mr. Estkowski.

I hope that this letter will be of assistance to you. If I can be of further help, please do not hesitate to call upon me.

Very truly yours,
GEORGE C. GUENTHER,
Assistant Secretary for Occupational Safety and Health.

It was feared by some that employees would abuse the right to complain about hazardous conditions, especially since they are not subject to penalties. The act provides that if the Department "determines there are reasonable grounds to believe that such violation or danger exist," an investigation shall be made. OSHA is careful to evaluate every complaint received to insure that it appears valid before scheduling an investigation. Through January of this year, 1,519 such complaints have been received from employees and their representatives. With few exceptions, these complaints have shown that employees are very concerned about safety and health conditions and that they are acting responsibly in the manner and timing of their complaints. Assistant Secretary George Guenther has repeatedly stated OSHA's intentions to confine itself to safety and health issues and to avoid involvement in labor-management disputes. He informed me that, to date, this policy is being effectively carried out with regard to compaints and other issues.

Fifth, why is the act structured for immediate enforcement action, rather than for consultation first and enforcement later? This question goes to the heart of the reasons for the passage of the act itself. The uneven past efforts of private industry, insurance companies, and of the States proved generally ineffective in dealing with the growing occupational safety and health problem. Many State programs, including that in my own State of Wisconsin, were based on a system of making inspections and warning employers of violations, with penalties only proposed after subsequent

visits showed that action was not being taken. Were we to have adopted this concept, there would be little reason for an employer to comply with the act until after an inspection has been made.

Such a traditional approach would have seriously impaired the effectiveness of the act since it covers nearly 5 million establishments. Congress therefore provided for citations and, where appropriate, penalties when violations, even in the first instance, were found to exist.

It should be noted that the penalties proposed by OSHA for violations cited give due regard to the gravity of the violation, the good faith of the employer, the size of the business, and the history of past violations. Consistent with the act, substantially greater penalties are proposed for violations which, after citation, are not abated in a timely manner than for violations disclosed during an initial inspection. This approach is designed to provide a strong incentive for employers to promptly eliminate cited hazardous conditions from the workplace. The overwhelming majority of employers have complied with initial citations, indicating the effectiveness of the approach.

In drafting the act, we attempt to insure "due process" so that enforcement actions provide full opportunity fcr all affected parties to be given a fair hearing. The employer has 15 working days from the time of receipt of the proposed penalty to contest the issuance of the citation, the length of the period for abatement, and/or the amount of any proposed penalty. Employees may also contest the abatement period as being unreasonable. When a timely notice of contest is filed, the independent Occupational Safety and Health Review Commission assigns a judge to conduct a public hearing. The judge's decision may be appealed further to the Commission itself and further still to the appropriate U.S. court of appeals.

While I believe that enforcement in the first instance is a necessary tool to gain compliance, I also firmly believe, as does OSHA, that in the long run the goals of the act can only be achieved through education, training, and the voluntary compliance of both employers and employees. To this end, OSHA has established a broad, long-range approach to training and education. In January, I was proud to attend the opening ceremony of their new training institute in Chicago which will be used as a "pilot" center for the development of needed programs for the training of Government personnel, employers and employees.

Sixth, what are the factors that led to the present size of the inspection force in OSHA? And where do they grow from here? Basically, there are two major factors which have determined the size of the compliance staff in OSHA. I think that we would all agree that there is no point in recruiting vast numbers of Federal inspectors until we know the dimensions of the programs to be run by the States. The Congress declared as its purpose and policy that the Secretary should encourage "the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws."

I am happy to report that this encouragement effort is well along and that the States are actively responding. As of the middle of January 47 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands have agreed to continue present levels of activities concurrent with the Federal compliance activities. These interim agreements have preserved full effectiveness of more than 1,500 State and local inspectors at a continued program cost to the States of approximately $80 million. Planning grants have been made to 47 States, the District of Columbia, and Puerto Rico and others are applying. Forty-nine States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands have made formal statements during the past few months that it is their intention to develop and submit plans for participation under the act. The first actual submission is expected momentarily. This is the year of decision for the States since the interim agreements expire in December. With this great interest in the States, the level of the Federal staff has been tailored for short term efficiency, but with an eye to the eventual workload that can reasonably be anticipated for assumption by the States.

I am concerned by the effort being made by some to deny to the States an effective role in the implementation of this act. The State plans which are now being drafted in many States must, according to the law, be at least as effective as the Federal act. This does not mean, in my judgment, that the State plan has to be a carbon copy of the Williams-Steiger Act. The language may differ but the effectiveness may not.

I am confident that within a number of States there is the competence on the part of labor officials, business leaders and State officials to develop a State plan as effective as the Federal law. Were the States not to participate fully in OSHA, the end result would be less enforcement and fewer resources nationwide being used in this field. Every bill considered by the Congress in this field, whether the original Johnson administration bill, the Daniels bill, the Steiger-Sikes bill, or the Williams-Steiger Act, envisioned an important role for the States. It may be that the 50–50 matching program is not sufficient; and that question, I believe, should be considered by the Congress. But it is my best judgment that the act cannot succeed if the whole effort is operated solely by the Federal Government.

The other major factor in determining the size of the Federal staff is purely a pragmatic one. Compliance officers can only be recruited, trained, and absorbed so fast. We must remember that OSHA is less than 1 year old, yet already has 49 areas offices and two maritime district offices around the country. I am including at the end of my remarks a copy of the Directory of Field Offices of OSHA for the information of my colleagues.

During the debates on the act, it was universally agreed that the professional staff to be deployed meet strict requirements of experience and expertise. Assembling such a staff and then training them in the complex procedures of the new program cannot be done overnight.

It is too early, then, to accurately assess exactly how many compliance officers will be needed in the combined Federal and State force to achieve the optimum level of compliance. I know, however, that the Department has already made long-range plans for the integrated operation of the Federal efforts with that of approved State programs. I consider such planning to be administratively prudent and fiscally responsible.

There has been one other issue which has recently become important and which was raised vigorously with me at a machinists union meeting which I attended in Fond du Lac, Wis., last Saturday. This has to do with a complaint filed by the Oil, Chemical, and Atomic Workers Union, AFL–CIO, on behalf of the employees of the Mobil Oil Corp., refinery in New Jersey. Since this issue is important and since I believe the Department of Labor's decision is a correct one, I want to include for the RECORD at this point the memorandum prepared by the Department of Labor's Solicitor. This is the basis for the decision by the Department to rule that Mobil did not engage in discrimination because of its refusal to compensate employees who accompanied the compliance officers during the inspcetion. A letter follows:

U.S. DEPARTMENT OF LABOR,
March 1, 1972.

Memorandum for Assistant Secretary George C. Guenther.

Subject: Complaint against Mobil Oil Corp., under section 11(c) of the Williams-Steiger Occupational Safety and Health Act of 1970.

On November 29, 1971, the President of the Oil, Chemical and Atomic Workers Union, AFL–CIO (hereinafter OCAW), filed a complaint on behalf of employees of the Mobil Oil Corporation Refinery at Paulsboro, New Jersey. The complaint alleged that by refusing to compensate employees who accompanied the Compliance Safety and Health Officers of the Occupational Safety and Health Administration during inspection of the refinery under section 8 of the Act, Mobil Oil Corporation (hereinafter Mobil) violated section 11(c) of the Williams-Steiger Occupational Safety and Health Act of 1970.[1]

In accordance with the requirements of section 11(c)(2) of the Act an investigation of this complaint has been conducted. For the reasons stated below, on the basis of such investigation, it is believed that Mobil's conduct was not in violation of section 11(c).

There is no basic dispute as to the pertinent facts. Mobil operates a refinery at Paulsboro, New Jersey, employing more than 1500 employees. The production and maintenance employees at the refinery are represented by the Independent Oil Workers, which is affiliated with OCAW. Mobil and the local union are parties to a collective bargaining agreement which is effective from March 9, 1971, until March 1, 1973.

The compliance inspection conducted by the Administration of Mobil's Paulsboro refinery was based on a request for inspection by OCAW under section 8(f) of the Act. The inspection began on October 15, 1971, and

[1] A Statement of Position in Support of the Complaint was filed by OCAW on January 11, 1972.

continued October 19–21; November 8–9, 11–12, 15–19, 22, and December 1–3. On January 20, 1972, citations were issued against Mobil alleging three serious violations and ninety other violations. Penalties were proposed for a number of these violations. No notice of contest has been filed by Mobil under section 10(a) of the Act.

At the opening conference the Compliance Safety and Health Officers decided that the inspection should be divided into a safety team and a health team. In accordance with section 8(e) of the Act, representatives of Mobil and representatives of the employees at the Paulsboro refinery accompanied the Compliance Safety and Health Officers during the inspection. At various times during the inspection the following five employees at the refinery accompanied the Compliance Officers: Richard Meyer, Frank Leone, Harry Bailey, Louis Giorgianni, and George Giovanni.

On October 27, 1971, Mobil's Manager of Employee Relations informed the employees who had participated in the walkaround that the Company was paying them for the time spent in the inspection to that date, but that this payment has not to be considered as a precedent and that the company reserved the right to "determine whether or not such payments will be made in the future." On November 16, Mobil informed employees participating in the walkaround that they would not be paid for walkaround time during their regular working hours, effective November 11. There are slight discrepancies in the estimate as to the amounts of time not compensated. The higher estimate, submitted by OCAW, is 115.4 hours for the five employees. However, in view of the determination herein, it is unnecessary to resolve this issue.

Mobil does not deny that it refused to compensate employees for the time during which they participated in the walkaround during their normal work hours. It contends, however, that Mobil was not required to pay for such time unless required under the applicable collective bargaining agreement, and that such payment was not required under the current agreement between Mobil and the local union.

OCAW contends basically that the refusal to compensate for walkaround time is *per se* discrimination under section 11(c). OCAW argues that by refusing to compensate employee representatives the "employer is effectively interfering with the exercise of a basic statutory right," and that it would be "contrary to the spirit of the statute" to permit the employer to refuse to compensate employees for participation in the walkaround. OCAW further relies on an internal memorandum of the Department of Labor of July 1, 1971, which expresses the view that the time spent by employees in participating in a walkaround during normal working hours is hours worked under the Fair Labor Standards Act.

1. It is concluded initially that the failure of an employer to compensate employees for the time during their regular working hours that they participate in the walkaround is not discriminatory *per se* under section 11(c).

At the outset, it is deemed significant that, although the Act contains a number of specific provisions dealing with the rights of employees,[2] it contains no requirements that employees be compensated for their regular wages for walkaround time. Congress attached considerable importance to the walkaround,[3] and a separate provision of the Act, section 8(e), delineates the scope of the walkaround. In view of this, the fact that Congress did not expressly provide compensation for walkaround is strong evidence that it was not within its contemplation that such compensation be required.

Viewed in this context, it is concluded that the failure to compensate for walkaround time is not discriminatory *per se* under section 11(c). Participation in the walkaround is the exercise of a right under the Act within the meaning of section 11(c) and, therefore, the discharge of an employee for participating in the walkaround would be discriminatory under that section. However, it is believed that, where the employer refuses to compensate an employee participating in the walkaround, there is no discrimination *per se* under section 11(c). An employee participating in the walkaround is not engaging in normal work activity. Therefore, the employer's refusal to compensate for such time is not "because" of the exercise of rights under the Act but because the activity was not normal work activity.

The situation could best be analogized to the refusal by an employer to pay an employee for testifying in a proceeding before the National Labor Relations Board during norrmal working time. Although the testifying is plainly protected activity under section 7 of the National Labor Relations Act, as amended, the refusal to compensate employees for doing so is not unlawful discrimination under section 8(a) of that Act. *Electronic Research Co.*, 190 NLRB No. 143.

As quoted, OCAW's position is based in large measure on the July 1 memorandum dealing with the Fair Labor Standards Act. On further consideration it is concluded that where an employee participates in the walkaround during his normal working hours, such time is not hours worked under the Fair Labor Standards Act.

The July 1 memorandum, concluding that the accompaniment of compliance officers during inspections under the Act is compensable under the Fair Labor Standards Act, was based on the assumption that such activity was a "service" required by the employer and was an "inherent part of [the] employer's business." Upon reconsideration of the statutory language and careful review of the legislative history, however, it is now believed that this assumption was in error.

As is apparent from its language, Section 8(e) does not require that a representative authorized by employees to accompany the compliance officer during the inspection. Moreover, even where there is a representative authorized by employees, the Act imposes no duty upon the employer to require such representative to accompany the compliance officer during the inspection. Rather, the Act requires only that such representative "be given an opportunity to accompany" the compliance officer, and when the representative avails himself of this opportunity he does so on a voluntary basis. All that is required of the employer is that he permit the employee representative to be relieved of his usual production duties during the inspection.

Not only is the time spent by the employee representative voluntary, but also the principal beneficiaries of the participation by the employee representative in the walkaround are the employees themselves. The legislative history indicates that the purpose of such participation is to allow the employees an opportunity ". . . to inform [the Compliance Safety and Health Officer] of the alleged hazards . . ." and thus to ". . . provide an appropriate degree of involvement of employees themselves in the physical inspections of their own places of employment . . ." Senate Report No. 91–1282, p. 11.

Accordingly, based on the statutory language, and absent any legislative history to the contrary, it is concluded that time voluntarily spent by representatives of employees in accompanying Compliance Safety and Health Officers during OSHA inspections is not working time within the meaning of the Fair Labor Standards Act and is therefore not compensable. *Walling* v. *Portland Terminal*, 330 U.S. 148; *Isaacson* v. *Penn Community Services, Inc.* 66 CCH Lab. Cas. ¶ 32,583.

OCAW's further argument is, in substance, that nonpayment for walkaround time will discourage the employee representatives from participating in the walkaround. This argument is without merit because it misconstrues section 11(c)(1) of the Act by confusing the limited scope of that section with the broader ambit of section 8(a)(3) of the National Labor Relations Act, as amended. Section 8(a)(3) makes it an unfair labor practice for an employer to discriminate "in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization. . . ." This language is couched in terms of the intent or necessary effect of the employer conduct. See *Radio Officers Union* v. *N.L.R.B.*, 347 U.S. 17 (1954). Section 11(c), on the other hand, does not prohibit conduct which discourages the walkaround; it makes it unlawful for an employer to engage in certain conduct "because" of the exercise of statutory rights. It has already been shown that refusal to compensate here was not "because" of such exercise of statutory rights. Accordingly, assuming *arguendo* that the failure to compensate would discourage participation in the walkaround, this fact would not in itself make the conduct discriminatory under section 11(c).

2. Although it has been concluded that refusal to compensate for walkaround time is not discriminatory per se, there may be situations in which a finding of discrimination would be warranted on the basis of specific facts in the proceeding. Thus, for example, an employer's past practice respecting payment for certain other safety and health activities on regular working time may well require the conclusion that the failure to compensate for walkaround is discriminatory. However, OCAW in its complaint has alluded to no such special facts nor has our investigation disclosed any such facts. Determination of the specific circumstances under which discrimination would be found based on refusal to compensate must await development on a case-by-case basis.

3. In implementing the provisions of section 11(c) this Department should be mindful of the national policy favoring the voluntary resolution of disputes under procedures in collective bargaining agreements. See, for example, *Boys Markets, Inc.* v. *Retail Clerks*, 398 U.S. 235 (1970); *Republic Steel Corp.* v. *Maddox*, 379 U.S. 650 (1965); *Carey* v. *Westinghouse Electric Co.*, 375 U.S. 261 (1964); *Collver Insulated Wire*, 192 NLRB No. 150 (1971). Therefore, in some circumstances, it would be appropriate to postpone the resolution by this Department of complaints under section 11(c) until completion of grievance-arbitration proceedings relating to such complaints under the applicable collective bargaining agreement. It may be appropriate, for example, where a grievance-arbitration proceeding has been commenced by a party relating to the same or substantially the same issues presented by a section 11(c) complaint. Similarly, it may also be appropriate for the Department to await the decision of

[2] See, for example, section 8(f)(1), dealing with requests for inspection by employees or representatives of employees; section 8(f)(2) providing for procedures for informal review of any refusal by the Secretary to issue a citation with respect to violations alleged by employees or their representatives; section 10(c) requiring that the rules of procedure of the Review Commission provide affected employees or their representatives an opportunity to participate as parties in Commission hearings; section 20(a)(6) allowing authorized representatives of employees to request from the Secretary of Health, Education, and Welfare an evaluation of toxic effects of any substance normally found in the workplace.

[3] See, for example, Report of the Senate Committee on Labor and Public Welfare No. 91–1282.

an arbitrator interpreting the collective bargaining agreement where the complaint of employees under section 11(c) is based solely or largely on the provisions of a collective bargaining agreement. Here, too, the precise contours of this policy must be spelled out on a case-by-case basis. However, the circumstances here do not warrant our postponing of the resolution of this matter.

In view of the foregoing, it is believed, on the basis of all the facts in this case, that Mobil did not engage in discrimination under section 11(c) of the Act.

RICHARD F. SCHUBERT,
Solicitor of Labor.

Mr. Speaker, I have taken this time to attempt to dispel some of the myths and misconceptions that have grown up around the administration of the Occupational Safety and Health Act of 1970. I feel that the administration of the act has gotten off to a good start and has built the necessary foundation to carry out the intent of the Congress. To some extent, the fact that OSHA is being attacked from all quarters is testimony that it is steering a good course. Undoubtedly some mistakes have been made and there are some problems. To the extent that these are within the province of OSHA, I am convinced that they are being worked on. However, many of the disagreements as to how the act should work that I listed at the beginning of these remarks go to the provisions of the act itself, and it has been the purpose of my remarks to clarify some of the misunderstandings which seem to exist. Last month, a Member of the other House, Senator CURTIS recognized these misunderstandings when he introduced a bill to amend the act. He said:

> I have been investigating the problems and their causes, and have found that, contrary to the belief of some, the problems are not basically due to ill-advised administrative actions by the Secretary of Labor in carrying out the law. The problems are rooted in the basic law which Congress passed. It is, therefore, not a matter which the Secretary of Labor or the President can remedy. Rather, the problems to which I refer are the responsibility of Congress.

With this in mind, I call upon all concerned Members of this House to both recognize that the responsibility is our own, and that while many people want exceptions, changes, or mitigation of the act, many others want much more strenuous enforcement than has occurred to date.

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[2] All heads of Area Offices are Area Directors unless otherwise specified.

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Mr. BAKER. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. STEIGER) for reserving this special order on the implementation of the Occupational Safety and Health Act.

Although I was not a Member of the Congress which passed this law, I was well aware of its impact on my own business since we reluctantly dropped some services previously furnished our customers—we could simply not afford to undertake the expense of complying with certain national standards.

Immediately upon taking office here, I heard from constituents regarding situations wherein this act was creating many more problems in addition to those it was intended to solve.

It seems to me that many uncalled-for hardships are being worked upon our retailers, small manufacturers, other small businesses, and farmers.

One small businessman wrote to me as follows:

The most frightening thing confronting us today is the OSHA Act and the manner in which it is being enforced. Workers' safety should be our first interest. However, unfortunately, harassment and heavy fines for violations (imaginary or real) seem to be the primary thought of the inspectors. Invasion of privacy and unreasonable search and seizure, without due process, up until the advent of OSHA, was thought to be unconstitutional. We believe it still is!

Inspectors drop in, inspect, deliver the rather voluminous book covering the OSHA Act, and assess a fine all in one trip. When I checked into this, feeling that is was basically wrong, I found it is in the law. Requests for assistance bring threats. This does not lead to the improvement of the health and safety of employees. Yet the 1970 act puts the Labor Department in this position.

Now that the act has been in existence for a year, I believe it is time for this Congress to review the myriad of problems and take affirmative action on amending the OSHA Act to encourage voluntary compliance, to insure reason in the rules and interpretations of the rules, and flexibility for the Department.

For these and many reasons, I was pleased to join with our distinguished colleague from Nebraska (Mr. THONE) earlier this month in sponsoring legislation which includes the amendments I believe are necessary for a responsible reform of the 1970 OSHA Act while reinforcing the basic purpose for which it was enacted.

Mr. SCHERLE. Mr. Speaker, this Special Order could not have come at a better time. The dissatisfaction, uncertainty and unreasonable costs to employer and employee alike engendered by the Occupational Safety and Health Act of 1970 have, I feel sure, been repeatedly brought to the attention of many Members of Congress by their irate constituents. My office has been flooded with letters requesting information on the applicability of Occupational Safety and Health Standards and advocating support of legislation to amend this law. In response to these letters and in accordance with my own reservations concerning the effectiveness of the law in its present form, I have introduced or cosponsored three bills to make needed changes (H.R. 12679, H.R. 12759, H.R. 13943).

I was a member of the Committee on Education and Labor when this bill was first being considered. I am familiar with its evolution from a useful piece of legislation designed to protect America's workers into an amorphous mass of crippling regulations which has tightened the economic stranglehold on American independent business enterprise. At that time, the committee report on the Occupational Safety and Health Act included additional minority views which I feel are still relevant to the issue. Therefore, I include these views in the RECORD at this point:

ADDITIONAL MINORITY VIEWS OF REPRESENTATIVES SCHERLE, ASHBROOK, ESHLEMAN, COLLINS, LANDGREBE, AND RUTH

There are few matters of greater importance to both employers and working people than that of on-the-job safety and health. Yet, regrettably, for the second year now, the members of this committee have failed to reach public agreement on this vital issue.

The situation has not been helped by the excessive emotion generated mostly by people with little knowledge or practical experience in these fields. This emotionalism has brought us to the verge of making this issue a partisan one. That is unfortunate.

In our view, it is wrong to imply that accidents will end or substantially diminish if only Congress would pass a law. Poor safety laws can and have done more harm than good. Mistakes we make now will have a serious impact on workers and on the state of our economy.

We must also recognize that this legislation will affect nearly every aspect of the employment relationship. The federal government will be called on to regulate such diverse matters as the height of railings, the amount of dust in the air, noise levels and the type of equipment to be used to perform a particular task. Potentially, regulations could be adopted fixing the number of hours employees should work, the qualifications needed to perform a job and the size of crews thought necessary for safe work performance.

Because of the importance of these subjects to both employers and employees, great care must be taken by us. For that reason we have decided to expand on the minority views.

The goal of any occupational safety and health bill can be stated simply: we must foster improved standards of health and safety for American workers and do it in a way that is reasonable and fair. We have little patience with those who believe that to be effective we must destroy fair trial procedures and due process. Neither justice nor safety will be achieved by that kind of approach. We will, therefore, oppose H.R. 16785. It is a penalty oriented bill that does little to build upon and encourage what has already been done by private employer and employee groups in the field of occupational safety and health. It also raises several serious constitutional problems.

No Separation of Powers.—The committee bill vests all authority to write, police and enforce standards in the Secretary of Labor. This procedure is contrary to the basic constitutional theory of separation of powers. It is tantamount to having the chief of police, in addition to his regular duties, also write criminal laws and then act as judge and jury.

In order to provide for effective safety standards, provision must be made for the establishment of an independent, impartial board of experts to develop, on the basis of facts and upon their knowledge and experience, regulations in this field.

Undefined Obligations.—Although H.R. 16785 requires compliance with all interim, permanent and emergency standards promulgated by the Secretary, it also imposes an additional *general duty* upon employers to keep a safe and healthful workplace. A penalty of $1,000 per day can be imposed on violators of this catch-all provision. The Supreme Court has ruled that statutes must designate the standard of conduct expected so that affected parties can govern their actions in order to avoid violations. (See: *International Harvester* v. *Kentucky*, 243 U.S. 216; *U.S.* v. *Pennsylvania Railroad Company* 242 U.S. 208). It seems inconceivable for anyone to suggest that we pass a law prohibiting the doing of wrong to anyone. Yet, in effect, that is what Congress has been asked to do by the sponsors of H.R. 16785. The ruling of the Supreme Court makes good sense. We should heed its wisdom here.

Full Protection of the Administrative Procedure Act Denied.—When Congress passed the Administrative Procedure Act we recognized the importance of requiring government agencies to follow uniform procedures that preserved the effectiveness of the laws to be enforced and at the same time compelled fair methods of developing and enforcing regulations. H.R. 16785 departs from the provisions of the APA in at least two important respects.

First, Section 7 permits adoption of administrative regulations based upon "views and arguments" rather than solely on probative evidence. No reason has been offered justifying this deviation from regular and fair procedures. The requirements that administrative decisions be based upon facts and sound reasons mean little when a loophole of this type is included in a statute.

Second, the bill also authorizes the establishment of an extensive measurement, accident and health reporting system (See Section 19(a)(4)(C) and Section 19(a)(5)(D)).

Regulations under these provisions are a matter of great importance to employees and also will have a substantial financial impact on employers—particularly in the health field where regular psychological studies and med ical examinations are obviously contemplated.

Yet, the validity of any regulations developed in this area could not be tested in court pursuant to the normal appeals procedures of Section 10 of the Administrative Procedures Act. This is so, because administrative action by the specific langauge of the bill is committed to the *discretion* of the Secretary. (See *Attorney General Manual* on the Administrative Procedures Act at page 94.)

No Assistance to Employers.—During the hearing estimates were made indicating that between 12 and 16 thousand consensus codes alone have been developed by businessmen themselves. These codes now are intended as non-mandatory guides. Shortly after this legislation is adopted, however, they will in all likelihood become a matter of law.

Experience with other safety regulations shows that some employers will have considerable financial difficulty in obtaining necessary funds to comply with the new mandatory regulations. H.R. 16785 makes no provisions for federal assistance to these individuals. Certainly a federally insured loans program should be made available in order to protect against forced business closedowns and against the unemployment that will follow.

Ill-advised provisions.—H.R. 16785 authorizes searches of employer establishments for safety and health violations. Such searches may be conducted without a warrant and individuals who are not government officials may participate in the search. Evidence so obtained may be used in a criminal prosecution. Anyone who gives advance notice of, or who forceably resists such a search may be subject to criminal prosecution.

These provisions, in our view, indicate the unfortunate direction of this bill. The major approach is penal. It is more concerned with catching employers at some wrong doing than with obtaining safe and healthful working conditions.

The fourth amendment of our Constitution was designed to safeguard the privacy and security of individuals against arbitrary invasions and searches by government officials. (*Norman See* v. *City of Seattle* 387 U.S. 541; *Camera* v. *Municipal Court* 387 U.S. 523). The amendment is a concrete expression of a right that is basic to a free society. (*Wolf* v. *Conorado*, 338 U.S. 25, 27). As a general rule, a search of private property must be decided by "a judicial official, not by a police or government enforcement agent." (*Johnson* v. *U.S.* 33 U.S. 10, 14).

Yet, instead of limiting this extraordinary power to government agents acting in carefully restricted circumstances the bill provides for participation in the search by non-government personnel. Even the use of ad-

vance notice of intention to search, relied on by some jurists to justify non-warrant inspections in some limited circumstances, is prohibited by the bill. (*See* v. *Seattle* 387 U.S. 541, 549). Advance notice of inspection should obviously be permitted not only to satisfy constitutional consideration but also to permit appropriate company officials to be present in order to immediately correct any violation found.

Lastly, it should be noted that the only way an employer may test the constitutional validity of the search provided for by this legislation is by risking a conviction for forceably resisting the effort to inspect.

We do not oppose inspections designed to protect the public or employees from unsafe and unhealthy working conditions. But we believe that the penal and other provisions that accompany the search procedures provided for in H.R. 16785 are untenable and unnecessary.

Imminent Danger Procedures.—It is equally distressing to note that H.R. 16785 is replete with potentially disruptive intrusions into harmonious labor-management relations.

The procedures to counteract imminent dangers, for example, contained in Section 12 of the bill, simply stated call for giving a federal safety inspector the power to issue an order closing down a place of employment if he discovers what he believes to be an "imminent danger." "An imminent danger" is defined as a danger which could reasonably be expected to cause death or serious physical harm before the imminence of such danger can be eliminated.

The stated purpose of giving this extreme power to one person was that the federal safety inspector would be able to protect employees in case a roof was about to collapse or a boiler about to explode. The prospect of a federal inspector happening upon a scene of imminent disaster is highly unlikely, at best. Nor would any federal safety inspector be needed to point out such situation to an employer; no employer would continue operating if such were actually the case. More realistically, the all powerful inspector would become a pawn in labor disputes.

The great potential for misuse that would be created if this power were put into the hands of an inspector in the field was amply demonstrated during the public hearings. The testimony reflected fears that pressure would be brought to bear upon federal inspectors to shut down plants in cases other than *bona fide* imminent danger situations. Thus, this unrestricted power in one person would realistically find itself in the middle of labor-management disputes. It would be far simpler for a disgruntled employee to pass by established labor-management grievance procedures and complain to a federal safety inspector that unsafe conditions existed when the real basis of a dispute was properly a labor-management problem, to be settled by established collective bargaining methods.

One witness citing examples of experience in his industry stated:

"The following incidents are noted for the purpose of illustrating how the cause of safety and safety legislation has been invoked for other purposes.

"(1) In a Texas refinery, the union workers went out on strike at 2:00 a.m. on a Sunday morning. The unions gave the company only a few minutes notice of the impending strike and walked out leaving the refinery units unattended. The refinery, which had a contract with the Federal Government to supply jet fuel to the Air Force, was able to keep the plant operating with management personnel.

"The union sent a complaint to the Secretary of Labor (and published it in the local newspaper) charging that the plant was unsafe because it was not being operated by a full crew. It asked the Secretary to use his authority under the Walsh-Healey Act to find that the operation of the plant was not safe.

"The union issued a strike bulletin to its members stating that it was going to see that a safety investigation would follow so that the company's Government contracts would be cancelled. This plant had two safety inspections under the Walsh-Healey Act earlier the same year. Furthermore, its safety record during the strike period was considerably better than its average during the normal operation."

This example and others reflected in the record indicate that giving a federal safety inspector complete authority over operations of a business enterprise would certainly subject the inspector to intimidation pressures to act, and in many cases, he would be requested to inspect a plant simply to harass or intimidate employers. In essence, the exercise of this shut-down power amounts to summary punishment which is contrary to our established standards of law.

This is not to say, of course, that the Government should not have the power to abate a *bona fide* potential disaster. This is an inherent power of the Government, both Federal and local. What is objectionable here is the method outlined in H.R. 16785, which has no safeguards or guidelines and realistically would lend itself to misuse.

Clearly, any Occupational Safety and Health Bill should recognize the possibility of disaster potential situations, and provide means for dealing with them. The appropriate means to this end would be through Courts. If a federal safety inspector comes upon what he believes to be an imminent danger situation, he should first notify the employer in an attempt to abate or clarify the situation. Then the Government official should seek injunctive relief in the Federal Courts.

This method would act as a safeguard against possible misuse of power or possible error on the part of the inspector, and more important, with the swift and ready access to our Federal Courts, a bona fide potential disaster situation could be dealt with in short measure. Thus, the health and safety of employees on the job could be reasonably safeguarded, while at the same time, the rights of the employer and the viability of the collective bargaining process would be assured.

A Better Bill.—A better bill than H.R. 16785 is obviously needed. The above are just some of what we believe are valid objections to this measure. There are other important problems, such as: the inequities of the posting requirements and the inadequate protection of trade secrets. The cumulative effects of all of these defects indicate that improvement of this legislation by amendment is not feasible. A complete substitute is necessary. A number of committee members are planning to take this step and we urge that their efforts be given support.

There are other matters developed during the hearing that need decisions.

Safety in America Today.—During the hearings we became deeply concerned over the status of safety in America today. Charges of "on the job slaughter" of the American worker were alleged. Businessmen were portrayed as villains, reaping profits through the abuse of employees.

The facts do not support this picture.

Statistics gathered by the National Safety Council show that the average American is safer at his workplace than he is at home, on the highway, or at play. This is directly attributable to the fact that, for many decades, businessmen have worked hard to improve industrial safety and health conditions. They know they are dealing with the lives and limbs of other human beings. Moreover, they know that operating a safe shop is good business; production losses and medical and insurance costs are expensive by-products of on-the-job accidents, whereas accident prevention programs boost employee morale and promote efficiency.

The results of business' voluntary and continuing dedication to provide a safe workplace are dramatic. In 1912, an estimated 18,000 to 21,000 workers' lives were lost while producing $100 billion worth of gross national product. In 1968, *in a workforce more than double in size and producing over eight times as much,* there were only 14,300 work deaths.

Likewise, during the last 40 years the frequency and severity rates of injuries have been drastically reduced. And while there has been some plateauing of industry's accident frequency record in recent years, it is generally conceded that this is to be expected during periods of highly increasing productivity and employment. Significantly, during the last two decades alone productivity has risen by 93.7 percent and employment has also been up sharply.

Finally, a look at the most recent year for which full statistics are available—1968—provides equally dramatic evidence as to why the safety record of American business has no equal anywhere in the world.

In 1968, there were 14,300 occupational fatalities and 2,200,000 occupational injuries (some were serious, but most were of a temporary nature) *out of a total labor force of nearly 80 million people.**

Statistically, these injury and fatality experiences figure out, respectively, to an extremely low .0275 and an incredibly low .00018.

One accident, of course, is one too many. Greater improvements can and must be made. But these figures make it abundantly clear that American business owes no apology for its safety record, and deserves to be treated fairly in any legislation adopted.

A FEDERAL ROLE IS NEEDED

Notably, too, our present system is based on state-determined standards adapted to local needs, consensus codes voluntarily agreed to by employers, education and cooperation. This pluralistic system has stimulated individual and local commitments and has been largely responsible for the splendid achievements to date. Logically, then, the most prudent and constructive way to attain still greater improvements would be to provide additional encouragement and support for these state, local and voluntary efforts. The federal role, in other words, should be a helping hand, rather than a stiff-arm. The value of such an approach was underscored for the Committee by many industrial safety experts. As a result of extensive personal experiences, these men know that safety cannot be legislated. Their testimony made clear that the cause of occupational injuries is some type of "people failure," rather than inadequate equipment or facilities. All too often the worker himself rebels at wearing safety shoes or hard hats, ignores the warning signs, and tries to beat the machine guards or removes them because they "get in the way."

Nor can we afford to close our eyes to the fact that authoritarian federalization of job safety may well have the opposite effect of that intended.

In Europe, for example, safety programs are nationalized. Yet the safety performance

*There were a total of 115,000 accidental deaths in the United States in 1968. Fourteen thousand three hundred were job-related, and of this amount approximately 20 percent were caused by motor vehicles and 11 percent involved government employees. If accidents attributable to occupations already covered by federal regulations, i.e. mining, government contract employers and transportation, are excluded, the total number of industrial accidents affected by this legislation becomes less than 10 percent.

of American industry is far better. A British safety expert who compared the record of the United Kingdom found that the accident frequency rate of U.S. firms in each of the 17 industrial groupings compared was better than the accident rate in his own country. The record of our chemical companies, for example, was seven times better than that of similar British firms; and in the steel industry the accident frequency rate of U.S. firms was ten times better.

CONCLUSION

All of these considerations clearly seem to mandate that any federal legislation be a cautious and reasonable effort genuinely tailored to strengthen our present safety system through incentives and cooperation.

Recognition of this, significantly, was mirrored in the message President Nixon sent to the Congress on August 6, 1969 with his own proposal:

. . . The comprehensive Occupational Safety and Health Act . . . will correct some of the important deficiencies of earlier approaches . . . It will separate the function of setting safety and health standards from the function of enforcing them. Appropriate procedures to guarantee due process of law and the right to appeal will be incorporated. The proposal will also provide a flexible mechanism which can reach quickly to the new technologies of tomorrow.

Under the suggested legislation, maximum use will be made of standards established through a voluntary consensus of industry, labor, and other experts. No standard will be set until the views of all interested parties have been heard. This proposal would also encourage stronger efforts at the State level, sharing enforcement responsibility with states which have adequate programs. Greater emphasis will also be given to research and education, for the effects of modern technologies on the physical well-being of workers who are complex and poorly understood . . .

(This legislation) . . . can do much to improve environment of the American worker. But it will take much more than new government efforts if we are to achieve our objectives. Employers and employees alike must be committed to the prevention of accident and disease and alert to every opportunity for promoting that end. Together the private and public sectors can do much that we cannot do separately.

Regrettably, this philosophy has been rejected by the majority members of the Committee in favor of the authoritarian, penalty-oriented, "bull-in-the-china-shop" approach of H.R. 16785.

Admittedly, industrial accidents are tragic. But to those who cherish constitutional due process to those who know from long experience that job-safety and health programs developed in an uncoerced, cooperative context hold the best hope for continued progress—and to those who believe that American working men and women deserve more than an unworkable legislative deception—the Committee's action in approving H.R. 16785 is a tragedy without equal.

For these reasons, and the reasons set forth in the minority report, me must oppose H.R. 16785.

BILL SCHERLE.
JOHN M. ASHBROOK.
EDWIN D. ESHLEMAN.
JAMES M. COLLINS.
EARL F. LANDGREBE.
EARL B. RUTH.

A BILL FOR AMNESTY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. ABZUG) is recognized for 30 minutes.

Mrs. ABZUG. Mr. Speaker, while our President soothes us with regular reports of his troop withdrawals and claims of success in his Vietnamization program, our forces increasingly devastate the land and people of Southeast Asia and Asians continue to kill Asians with American weapons. A vast and cynical effort is underway to transform the American people's bitterness against the war into a pacified, postwar mentality, even while the computerized destruction in Southeast Asia continues apace.

Perhaps one indication that this new deception is enjoying some success is the recent upsurge in public discussion of the question of amnesty. In one sense the popularity of the subject is a good sign. It is evidence of the widespread judgment that the war is immoral and that steps should be taken to vindicate those who reached this judgment long ago. But at the same time talk of amnesty may show a willingness to close the book on the war, to resolve the war issue prematurely. Amnesty is regarded by some as part of a post-war program of reconciliation—one of those issues we deal with now that peace is restored, now that the fighting is over.

Well some of us are not reconciled yet. Some of us are not fooled. We know that without sending troops into the field we still kill hundreds of Asian soldiers and civilians every week, victims of our new electronic monsters, of our remote control warfare. Our Government is still eagerly perpetuating an immoral war, and talk of postwar programs is not going to pacify us.

Still, most of us are deeply sensitive to the issue of amnesty. We are aware of the needs of those other victims of the war—those conscientious Americans whose moral commitment to peace subjected them to prison sentences or exile. We feel a strong sympathy for those war resisters because we know that the war is and has been morally wrong.

Thus the dilemma: how to talk about amnesty, while not compromising our fierce opposition to the continuing war? I, for one, feel that we can and we must discuss amnesty as long as we deal with the war as a first priority, and as long as we support the kind of amnesty measure which recognizes our constituents' assessment of the whole war policy. In other words, we need amnesty legislation which responds to the war resisters by confronting the war issue straight on—an amnesty measure which focuses, rather than dilutes our bitterness against the war.

Mr. Speaker, I would like to propose just such a measure. I am submitting today legislation which I regard as the first honest, consistent, comprehensive response to the problem of amnesty. My bill is not simply a means to grant relief to certain persons. It is first and foremost a demand for peace and a demand for a new direction in our national goals. My bill would grant relief to war-resisters of course, and it would acknowledge their hardships and their courage. But first it would echo their conscientious opposition to the continuing war.

CESSATION OF HOSTILITIES

My bill embodies six major features. First, of course, it demands a speedy and total cessation of U.S. involvement in Southeast Asia. It does this not only by implication—through vindication of war-resisters—but also by specific language.

Consistent with this first goal, the amnesty I propose would not become effective until the war is really ended. This is necessary if we are to validate the stand taken by war-resisters, and the fact is that the resisters themselves would have it no other way. They have taken their stand on principle and they will not be reconciled except on principle. They would be degraded and their acts of resistance rendered meaningless if they were to accept reinstatement while the war which prompted their acts continues.

UNCONDITIONAL AMNESTY

Second, my bill would grant, after the cessation of hostilities, unconditional restoration of rights to war-resisters, without imposing requirements of alternative service or a showing of "repentance." Imposition of such conditions would imply two fallacious assumptions: first, that recipients of amnesty shirked some legitimate duty to contribute to the war effort, and second, that by avoiding this duty they enjoyed some unfair personal advantage. The answer to the first of these points should be obvious to anyone who has judged the war immoral. How can a citizen have a legitimate duty to support an immoral war? And on the second point, how can it be said that one who has had the courage to face imprisonment or exile has enjoyed an unfair personal advantage? One cannot fail to recognize the bitter hardship that a young man suffers when he must abandon family, friends, job, and home for an uncertain life in a strange country, or worse a life of degradation in prison, with the permanent stigma which that attaches. For the Government to impose these hardships for the sake of a corrupt war policy is equally as unjust as conscripting men and sending them to risk their lives to defend such a policy. A proper amnesty measure must mitigate these hardships while an alternative service requirement would only supplement them.

UNIVERSAL AMNESTY

Not only is the amnesty I propose thus unconditional, but it is broad enough to cover all classes of essentially nonviolent war resisters. I feel that amnesty should extend not just to draft evaders but to deserters and antiwar demonstrators as well. Under my bill amnesty would be granted automatically to anyone who refused or evaded induction under the draft laws, to anyone who absented himself from the Armed Forces, and to violators of associated statutes when such violations occurred or will occur during the war years. In addition, my bill proposes the establishment of an Amnesty Commission appointed by the Congress and the President to grant amnesty to violators of any other Federal, State or local laws when the Commission finds that the violation was motivated substantially by opposition to the war and that it did not result in significant property damage or personal injury. The bill gives the Commission leeway to grant amnesty further when it finds in rare

instances that although the violation did result in damage it was nevertheless justifiable on the basis of a deeply held ethical or moral belief.

FULL RESTORATION OF RIGHTS

The amnesty I propose is thorough enough to negate every legal consequence suffered as a result of war resistance. With respect to the violations I have mentioned, a grant of amnesty under my bill would restore all civil, political, citizenship and property rights. It would release those imprisoned. It would immunize from criminal prosecution. It would expunge all criminal records. And it would require the Armed Forces to grant an honorable discharge to anyone who received other than an honorable discharge because of the violations I have mentioned. A further provision would require restoration of citizenship upon simple request, to anyone who renounced his citizenship because of his opposition to the war.

AVOIDING UNFAIR DISCRIMINATION

In developing amnesty legislation it is essential to insure that a grant of amnesty will not discriminate unfairly between resisters in different formal legal classifications, or from different socio-economic backgrounds. It would be hypocritical in the extreme to restore the rights of draft evaders while denying reinstatement to deserters, who simply came to their moral awareness after entry into the service rather than before. The legal distinction between draft evaders on the one hand, and deserters on the other is not relevant to the question of amnesty. The question is a moral one, and no moral distinction can be made between these two groups.

Other amnesty proposals have suggested automatic amnesty for draft violators but more careful consideration or no consideration at all for deserters. The theory, supposedly, is that the motives of draft evaders are more easily identifiable as conscientious, while the motives of deserters are more diverse or tend to be selfish. While this theory is not supported by the facts, I question its relevancy, since it is impossible to devise a fair administrative mechanism to identify motives. The records of draft boards and military boards who have ruled on the sincerity of conscientious objectors show that such proceedings are by nature arbitrary and capricious, discriminating flagrantly against those who are less well educated and less articulate in stating their beliefs. In fact, many war resisters, both convicts and fugitives, are themselves conscientious objectors who were unable to convince their draft boards but unwilling to compromise their beliefs. It would be absurd to require such men to submit their consciences to further governmental scrutiny. What recourse would they have if they failed a second time to establish their sincerity in an arbitrary administrative proceeding?

At the same time there are a great many other convicts or exiles who have never applied for CO status or perhaps would not consider themselves CO's under the law, who might be unable to articulate their beliefs but who, nevertheless acted upon a deeply felt opposition to the war. The only way to restore justice for those individuals is to grant a blanket amnesty, for certain acts, which undeniably would apply to all regardless of motive.

But is this a real problem? Must we really be concerned as to the motives of those who refused to fight? In the final analysis, if we affirm and stand by the judgment voiced by the majority of the people that the war is immoral, then it follows that no one could rightly be compelled to participate in it. If the duty to fight was not legitimate then we cannot punish anyone who failed to fight, regardless of the motives for his failure. Under our birthright as Americans none of us can be deprived of life, liberty and the pursuit of happiness without just cause. I submit that our war policy in Southeast Asia has never constituted such a just cause.

BRINGING HOME THE WAR-RESISTERS

The final unique feature of my legislation is its effectiveness in responding to the just demands of war-resisters themselves. It is an unprecedented and tragic fact that this country has lost to self-imposed exile, an enormous number of its finest, most conscientious, most creative young people. One of the most important purposes of any amnesty measure must be to bring these exiles home, so they can lend their energies to rebuilding the Nation, to effecting the changes we need, and to working with the political structure to insure that we have no more Vietnams. No measure short of the one I propose can succeed in accomplishing this purpose.

Every communication from war exiles abroad which I have seen in the press, in my own mail, and at recent congressional hearings, makes it clear that virtually none of the war exiles would return home under the half-way amnesty proposals which we have seen in Congress up to the present.

War-resisters to whom amnesty would apply have rejected previous amnesty legislation for a number of sound reasons. First, they must, on principle, oppose any attempt to reconcile them or the American people to a war policy which they have found unconscionable, and which our Government continues to espouse. Second, they reject discriminatory amnesty measures which grant relief to some members of their group while ignoring others, especially deserters. Third, they reject amnesty measures which impose essentially punitive conditions such as alternative service. They regard the war as criminal, and they ask, "Since we refused to commit the crime, why should we be punished?"

I join with war-resisters in rejecting the tokenism inherent in previous amnesty legislation.

To summarize, my bill would grant unconditional amnesty upon a stipulated end of the war. It would grant amnesty to all classes of essentially non-violent war-resisters who have violated Federal, State, and local laws in the course of their protest. It will restore to the recipient every right of citizenship and negate every legal disadvantage suffered as a consequence of war protest. My bill will avoid discrimination against those who are less well educated, by not requiring a sophisticated explication of the philosophical motives behind the acts subject to amnesty. Finally my bill will effectively reconcile and repatriate war-resisters, as soon as that is made possible by an end to the war.

This bill embodies honesty, consistency, and true compassion, while not compromising an unalterable opposition to the war. I feel that only by adopting such a measure can we hope to end the war decisively, restore justice to the war's victims and begin to renew our country morally.

Critics of amnesty are numerous, vocal, and, in the main, sincere. Two arguments are most frequently advanced by them to counter the idea of amnesty. First, while few critics attempt to justify the war policy itself, they argue that amnesty for war-resisters would dishonor or disown the sacrifices made by those Americans who fought in Southeast Asia. I do not belittle these sacrifices. On the contrary I mourn them bitterly and deeply because I deem them to have been purposeless, squandered by the Government for wrongful ends or no ends at all. I am angered and I am sickened when I consider all of the tragedies of the war, but I do not direct my anger at those who refused to fight, who were themselves victimized. I direct my anger at the responsible parties—the war makers in our Government. They are the ones who dishonored our soldiers, by using them and wasting them in a corrupt enterprise. If the Government had listened to the draft refusers, the demonstrators, and the deserters long ago many lives could have been saved and much suffering averted.

To make an analogy, when a court system sentences a man to death and later strikes down the law under which he was sentenced, reversal is ordered. The courts do not insist upon the sentence for the sake of consistency or to honor others who were wrongfully executed. In the carrying out of this war, it is the Government which, as it were, pronounced sentence erroneously against 55,000 young soldiers. It is time for the Government to reverse itself now, and not blindly perpetuate the wrong by punishing those who refused to fight.

Furthermore, how can we be so concerned that amnesty would dishonor the veterans and casualties of Vietnam, when many of the veterans themselves are the most active, dedicated opponents of the war, and the most vocal proponents of amnesty. Many veterans, having experienced the war first-hand, having witnessed its consequences, and having examined the war's deceptive rationale, have concluded that they should not have fought and would themselves have refused to fight had they been aware at the appropriate time.

A second argument commonly advanced to oppose amnesty is that amnesty now would lead young men of the future to believe that they could shirk their military duties with impunity. Thus, the agrument goes, in some future national emergency we would be unable to raise armies. But I would point out that amnesty measures have followed

nearly every major war this country has fought. Historically, amnesty is an American tradition. And yet history also shows that whenever the country has been in danger, young citizens have responded and sacrificed willingly in combat. In fact, this country never has experienced significant difficulty in raising armies for its military endeavors. I have faith in the patriotism of young Americans. I have faith that they would rise to defend this country if a national emergency really required it. But I also have faith in their ability to think for themselves, to distinguish right from wrong where their Government's policies are concerned, and to have the courage to resist official policies where they are manifestly immoral.

For these reasons I reject the contentions of those who would deny amnesty. I submit, to the contrary, that a broad amnesty measure would honor us as a nation and serve our most vital national interests.

Mr. Speaker, I urge my colleagues to consider carefully this legislation, the text of which I am including in the RECORD. Enclosed also is a list of cosponsors. I invite your attention to a brief compilation of statements which support unconditional amnesty eloquently and from various points of view.

H.R. —

A bill to exonerate and to provide for a general and unconditional amnesty for certain persons who have violated or are alleged to have violated laws in the course of protest against the involvement of the United States in Indochina, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "War Resisters Exoneration Act of 1972".

FINDINGS AND DECLARATION

SEC. 2. (a) The Congress finds and declares that a general and unconditional amnesty with full restoration of all civil, political, property, and other rights is a necessary measure, after the cessation of United States military operations in Indochina, for the reconciliation and reinstatement of persons who have been prosecuted, or who may be subject to prosecution, for failing to comply with any requirement of, or relating to, service in the Armed Forces during the involvement of the United States in Indochina, or for engaging in any nonviolent activity or activity justified by deeply held moral or ethical belief in protest of, or opposition to, the involvement of the United States in Indochina.

(b) The Congress further finds and declares that it is an immunity of citizens of the United States (within the meaning of section 1 of the Fourteenth Amendment to the Constitution of the United States) to enjoy the annulment of all legal disadvantages that have been incurred or suffered by reason of opposition to the involvement of the United States in Indochina, to the greatest extent consistent with the preservation of life and property.

EFFECT OF GENERAL AMNESTY

SEC. 3. The general amnesty granted by or under this Act shall, with respect to any violation of law enumerated in section 4 or covered under section 6—

(1) restore to the grantee all civil, political, citizenship and property rights which have been or might be lost, suspended, or otherwise limited as a consequence of such violation;

(2) immunize the grantee from criminal prosecution for such violation;

(3) expunge all notation relating to such violation from the records of courts and law enforcement agencies;

(4) require the granting of an honorable discharge to any person who received a discharge other than an honorable discharge from the Armed Forces if such violation was solely the cause, or a substantial cause, of the granting of such other than honorable discharge; and

(5) nullify all other legal consequences of such violation.

AUTOMATIC GENERAL AMNESTY

SEC. 4. (a) Notwithstanding any other provision of law, general amnesty is hereby granted to any person for violation of one or more of the laws enumerated in this section, or regulations and policies promulgated pursuant thereto, if such violation was committed between August 4, 1964, and the effective date of this section. Such amnesty is automatic, and no application to the Amnesty Commission or any other agency is necessary to effectuate it.

(b) General amnesty is granted for violations of any of the following laws:

(1) Section 12 of the Military Selective Service Act (50 App. U.S.C. 462) with respect to the following prohibited acts—

(A) evading or refusing registration, evading or refusing induction into the Armed Forces, or willfully failing to perform any other duty under such Act, or conspiring to do so;

(B) knowingly counseling, aiding, or abetting others to refuse or evade registration or service in the Armed Forces of the United States, or conspiring to do so; or

(C) publicly and knowingly destroying or mutilating any registration or classification card issued or prescribed pursuant to such Act and knowingly violating or evading any of the provisions of such Act, or rules and regulations promulgated pursuant thereto relating to the issuance, transfer or possession of any registration or classification card.

(2) Section 882 of title 10 United States Code, which prohibits the soliciting or advising another, or attempting to solicit or advise others, to desert the Armed Forces of the United States.

(3) Sections 885 and 886 of title 10 United States Code, which prohibit deserting or going absent without leave from the Armed Forces of the United States.

(4) Section 887 of title 10 United States Code, which prohibits missing the movement of a ship, aircraft, or unit with which it is required in the course of duty to move.

(5) Section 888 of title 10 United States Code, which prohibits using contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of the Treasury, or the Governor or legislature of any State, territory, Commonwealth, or possession on which he is on duty or present while a commissioned officer in the United States Armed Forces.

(6) Section 1381 of title 18 United States Code, which prohibits the enticing or procuring, or conspiring or attempting to entice or procure any person in the Armed Forces of the United States, or who has been recruited for service therein, to desert therefrom, or aiding any such person in deserting, or in attempting to desert from such service; or harboring, concealing, protecting, or assisting any such person who may have deserted from such service, knowing him to have deserted therefrom, or refusing to give up and deliver such person on the demand of any officer authorized to receive him.

(7) Section 2387 of title 18 United States Code, which prohibits the advising, counseling, urging or in any manner causing or attempting to cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States, with the intent to interfere with, impair, or influence the loyalty, morale, or discipline of the military or naval forces of the United States.

AMNESTY COMMISSION

SEC. 5. (a) There is established a commission to be known as the Amnesty Commission (hereinafter in this Act referred to as the "Commission").

(b) The Commission shall be composed of five members, qualified to serve on the Commission by virtue of their education, training, or experience, as follows:

(1) One appointed by the President.

(2) One appointed by the President pro tempore of the Senate.

(3) One appointed by the Speaker of the House of Representatives.

(4) One appointed by the minority leader of the Senate.

(5) One appointed by the minority leader of the House of the Representatives.

Individuals who are officers or employees of any government are not eligible for appointment to the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Members shall be appointed for the life of the Commission.

(d)(1) Members of the Commission shall each be entitled to receive an annual salary equal to the annual salary payable to a judge of a United States district court.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(e) Three members of the Commission shall constitute a quorum. The Chairman of the Commission shall be elected by the members of the Commission.

(f) The Commission may appoint and fix the pay of such personnel as it deems desirable, including such hearing examiners as are necessary for proceedings under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5 are applicable to hearing examiners appointed pursuant to this subsection.

(g)(1) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(3) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

GRANT OF GENERAL AMNESTY BY THE COMMISSION

SEC. 6. (a) Notwithstanding any other provision of law, the Commission shall grant general amnesty as provided for in section 3 of this Act to any individual who, during the period beginning August 5, 1964, and ending on the effective date of this Act, violated any Federal law (other than one enumerated in section 4 of this Act) or State or local law if the Commission finds that—

(1) such violation was in substantial part motivated by the individual's opposition to, or protest against, the involvement of the United States in Indochina; and

(2) the individual was not personally responsible for any significant property damage or substantial personal injury to others

in the course of his violation of any such law;

except that, in any case in which the Commission finds that an individual was personally responsible for significant property damage or substantial personal injury to others in the course of his violation of any such law, the Commission shall grant amnesty if it finds that such conduct was justifiable on the basis of a moral or ethical belief deeply held by the individual.

(b)(1) Whenever the Commission grants general amnesty under this section to an applicant who received a discharge other than an honorable discharge from the Armed Forces, it shall make a finding as to whether any violation of law for which general amnesty is granted was solely the cause, or a substantial cause, of the granting of such discharge.

(2) The Commission shall also have jurisdiction to hear and determine applications from individuals entitled to automatic amnesty under section 4 of this Act and aggrieved by the refusal of the military board concerned to grant an honorable discharge to him under section 3(4) of this Act.

(3) Any finding or determination made by the Commission pursuant to this subsection shall be conclusive upon the military board concerned and is not reviewable by any agency or member of the Armed Forces or any civilian officer of the military establishment.

(c) Any individual desiring amnesty under this section, or review of the decision by a military board to deny him an honorable discharge, shall make application therefor to the Commission in such form as it shall prescribe. The Commission shall not receive any application for amnesty or discharge review under this Act after the close of the 48th month after the month in which this section takes effect.

(d) Any application for amnesty or discharge review which is timely filed shall be determined on the record after opportunity for hearing in accordance with sections 554, 556, and 557 of title 5, United States Code. The entire record developed at the hearing on any application shall be certified to the Commission for decision. All decisions of the Commission shall be by majority vote.

(e) Any applicant may obtain judicial review of a decision by the Commission which is adverse to him by filing a petition for review in the United States court of appeals for the circuit wherein he resides within 60 days after the date on which the decision is made. The Commission shall thereupon file in the court the record of the proceedings on which the Commission based its decision, as provided in section 2112 of title 28. The court shall have jurisdiction to review the decision in accordance with chapter 7 of title 5 and to grant appropriate relief as provided for in such chapter.

(f) Any individual not able to apply to the Commission for a determination under subsection (b)(2) of this subsection because the decision of the military board concerned to deny him an honorable discharge was made after a date sixty days prior to the closing date specified in subsection (c) of this section may obtain judicial review of such decision by filing a petition for review in the United States district court for the district wherein he resides within sixty days after the date of such decision. The military board concerned shall thereupon file in the court the record of the proceedings on which the board based its decision. The court shall have jurisdiction to review the decision of the military board in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided for in such chapter.

RESTORATION OF CITIZENSHIP

SEC. 7. Upon petition to any district court of the United States, the United States citizenship of any former citizen who states that he renounced such citizenship solely or partly because of disapproval of involvement of the United States in Indochina shall be fully and unconditionally restored.

SUITS IN THE DISTRICT COURTS

SEC. 8. (a) The district courts of the United States shall have jurisdiction without regard to the amount in controversy to hear actions brought to redress the deprivation of rights granted by section 3 of this Act, and to grant such legal and equitable relief as may be appropriate.

(b) Notwithstanding the provisions of section 2283 of title 28, United States Code, or any successor provision thereto, a district court hearing an action brought pursuant to subsection (a) of this section may grant injunctive relief staying proceedings in a State court.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY OF PROVISIONS

SEC. 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons or to other circumstances shall not be affected thereby.

EFFECTIVE DATES

SEC. 11. Sections 4, 6, 7 and 8 of this Act shall take effect upon the date of cessation of United States military operations in or over South Vietnam, North Vietnam, Cambodia, Laos, and Thailand which date shall be proclaimed by the President and shall be not later than three months after the date of enactment of this Act.

RESTORATION OF CIVIL LIBERTIES—A POSITION PAPER

Written as a reply to the so-called "amnesty issue" by a collective of U.S. war resisters in Canada representing individuals and the major aid centers throughout Canada.

PART I—NIXON'S WAR, A NEW ESCALATION

Death, injury, destruction and determination by the people of Indochina to decide for themselves their own future—these are perhaps the only constants in war-ravaged Southeast Asia.

American intervention into the internal struggles has taken on three basic characterizations depending mainly on the political goals set in Washington and technology available.

The first two forms of involvement by the United States government are outlined in detail in the Pentagon Papers as published by the New York Times and other North American newspapers.

Essentially, the first type of U.S. involvement goes through 1964 during which time a succession of U.S. presidents attempted to impose American political goals onto South Vietnam via indirect political and covert means avoiding the prospect of a full-scale Asian ground war.

When that failed, President Lyndon Johnson brought the U.S. into its second phase of involvement in 1965—full-scale ground warfare using "conventional" weaponry, air and naval forces.

That also failed, and Johnson quit, unable to impose his will on Vietnam. President Nixon, however, under the guise of "winding down the war," has ushered America into its third form of war, a war of technology which is not only as deadly as Johnson's war, but is escalated into Laos, Cambodia, and Thailand in addition to the re-escalation into North Vietnam. Apparently the aim of U.S. foreign policy is to control all of Indochina, not just Vietnam.

What Nixon has done that Johnson could not do is to introduce a refined computer technology and automatic remote-controlled warfare most of which was unavailable to Johnson. The U.S. government can now kill as many or more Indochinese as was done during the Johnson years without having to send American troops into the field.

A comparison of the war between the Nixon and Johnson years shows the nature of escalation during the Nixon administration with automated replacement of troops by computers and the change to technological from conventional in war characterization.

The United States began bombing North Vietnam steadily in March, 1965, and by the time Johnson's announcement of the end of the bombing of the North in November, 1968, the Pentagon says about one million tons of bombs were dropped on the North Vietnamese.

The Pentagon says about 115,000 missions were flown during this time. Admiral Sharp, writing his final report on the war from 1964 to 1968, said "up to 1,600 tons of ordnance were dropped each week" on North Vietnam.

The Associated Press reported in November, 1968, that 2,825, 824 tons of bombs were dropped on the North and the South during the same period—leaving the conclusion that more than 1.8 million tons were dropped on the South.

About 120,000 tons of this was defoliant, agent orange, according to Dr. E. W. Pfeiffer, a zoology professor at the University of Montana. Agent orange, contains a chemical, 2,4,5–t, which causes the same kind of birth defects as thalidomide, Dr. Pfeiffer has said in numerous publications.

An associate of Dr. Pfeiffer's, Dr. Arthur Westing, chairman of the biology department of Windham College in Putney, Vt., reports that at least five million acres of land in South Vietnam, about 12 per cent of the South's land surface, has been hit with some form of defoliant. The National Liberation Front says about 44 per cent of the South's land has been sprayed. In addition, Dr. Wosting reported a half million acres of land had been cleared by bulldozers.

In a country whose economy is based on agriculture, the effect has been devastating. Rice and rubber exports, the backbone of South Vietnam's pre-war economy, are virtually ended.

In 1964, the South exported $33 million worth of rice. With the destruction of the countryside and the flight of millions of rural refugees to the cities, by 1969 about $15 million worth of rice had to be imported—much of it from California. Rubber exports dropped to $8 million in 1968 from $43 million in 1961. Total South Vietnamese exports dropped to below $20 million in 1968 from $76 million in 1961.

The human toll in North and South Vietnam during the Johnson years is incalculable. The North has not released figures on its dead or injured. However, Richard Ward, Foreign editor of The Guardian, has said the North Vienamese have told him two-thirds of the victims of U.S. bombing were non-combatants—women and children.

In the South, U.S. military figures would indicate hundreds of thousands of Vietnamese killed up to 1968 and even more Vietnamese injured.

Atrocities abound. In the Winter Soldier Investigation held in Detroit a year ago, scores of honorably discharged U.S. veterans of the Indochina War told of the My Lais they had individually seen or committed. Still other returned GIs have testified about similar atrocities before the U.S. Senate last spring.

With the Johnson decision to escalate the war in 1965 with troops and bombings of the North and South, millions of persons fled the South Vietnam countryside and became urban refugees.

James Clark, a land refugee officer in South Vietnam for the Agency for International Development (AID) prior to his resignation in 1968, has said AID figures show upwards

of three million refugees went from rural to urban areas. Other estimates in the western press go upwards from seven million.

Clark quotes Aid figures that 80 per cent of the refugees fled or were sent to strategic hamlets due to ground war, bombing or governmental force. About 90 per cent moved for fear of their personal safety, Clark says AID figures state, and they moved in fear of either the U.S. and its "allies" or the NLF. In other words, the 90 per cent feared for their personal safety and did not move because of anyone's political ideology.

Thus, the characterization of Johnson's war was based upon massive bombings, massive troop deployments (about 525,000 U.S. troops in 1968) and wholesale chemical-biological warfare (CBW).

The brunt of the bombing was in North and South Vietnam, with troop actions mainly in the South. There seems to have been only a limited use of CBW and U.S. troops outside of Vietnam during the Johnson years, according to the Pentagon Papers published last summer.

The New York Times version of the Pentagon Papers indicates Johnson felt further troop escalations would cause a domestic crisis in the U.S. and he held back, eventually stopping the bombing of the North.

Johnson's ability in escalating the war was to a large degree limited by the war technology of his day.

However, the character of the American side of the war has changed. No longer are more than a half million U.S. troops necessary in Indochina for the war to be executed.

Quietly at first but today evident is the new technology of computerized warfare which became available and is being used.

Hearings before the U.S. Senate Armed Services Committee regarding the electronic battlefield released in Jan., 1971, show the U.S. not only has the capability, but is putting into use electronic sensors which can smell people and hear their voices and footsteps.

This data is then relayed automatically back to a computer which locates the persons on a computerized map flashed on a TV screen, testimony indicated.

An assessment officer pushes the button, and an airplane is ordered by the computer into action and guided by the computer into the area where the computer automatically drops the bombs. The bombs are frequently laser-guided bombs, which the U.S. Department of Defense says are 10 times more accurate than the bombs used in LBJ's days.

The hearings showed no U.S. or South Vietnamese troops are necessary in the area. The Electronic sensors and computer locate and kill the "enemy" automatically.

The hearings revealed almost all U.S. ground units were "flying sensors" to detect the "enemy" a year ago. In addition, the testimony pointed out the U.S. government has a central sensor training school in South Vietnam to train the South Vietnamese in computerized warfare, and that as of the hearings a year ago, the South Vietnamese army was taking over something in excess of 47 percent of the ground sensor work.

Nixon's Vietnamization of the war includes giving the South Vietnamese government computer warfare "Made in U.S.A."

The "automated battlefield," as the military calls it, is a development of the Nixon years. Electronic ground sensors were first used in South Vietnam in the late summer of 1968, but according to the Senate hearings sensors had not been introduced into a computerized system at that time.

In July, 1969, the U.S. Army was authorized by the government to set up Surveillance Target Acquisition and Night Observation (STANO) to plan, test, and put into operation a totally computerized electronic battlefield.

By October, 1969, Gen. William Westmoreland, chairman of the joint chiefs of staff, was calling it the "battlefield of the future."

Apparently recognizing the futility of American ground troops in Southeast Asia, Westmoreland told the U.S. Army Association in a speech on Oct. 14, 1969: "In Vietnam where artillery and tactical air forces inflict over two-thirds of the enemy casualties, firepower is responsive as never before. It (computerized warfare) can rain destruction anywhere on the battlefield within minutes . . . whether friendly troops are present or not."

Going on to describe the "battlefield of the future" as being almost completely automated with the use of electronic sensors and computers, he said that "the need for large forces to fix the opposition will be less important."

This is exactly what the present administration appears to have done. Under the guise of "winding down the war," Nixon has reduced curent American troop levels to about 159,000 while beefing up computerized warfare.

It may be no coincidence that Nixon started cutting back troops in the summer of 1969 when computerized warfare was just beginning, and that his "phased withdrawal plan" neatly coincides with a commensurate development of the automated battlefield.

The computer scheme is not yet a total operational system, according to the hearings before the Senate, but neither have American troops pulled out of Indochina completely nor is there any firm date set by the Nixon administration for a complete pull-out.

Apparently, with the blessing of U.S. government leaders, the Pentagon has authorized "the highest industrial priority" for development of computerized warfare, which means any Pentagon group or private company working on the automated battlefield is first in line for any resources it needs, according to the senate hearings.

The idea of developing new war technology for Southeast Asia is not a new one. In 1963, General Maxwell Taylor told a U.S. House Subcommittee on Appropriations that South Vietnam "has been a challenge not just for the armed services, but for several of the agencies of government, as many of them are involved in one way or another in South Vietnam."

"On the military side, however," he continued, "we have recognized the importance of the area as a laboratory."

The notion of Vietnam as a military laboratory was further expanded by Gen. Westmoreland in the above-quoted speech in 1969 when he said the Vietnam laboratory has produced a "quiet revolution in ground warfare—tactics, techniques, and technology" that will "influence the future directions of our Army both in fundamental concepts of organization and development of equipment."

Westmoreland gave a clear outline of the nature of the civilian involvement in the laboratory of Indochina when he credited the logical-advances to military-industrial-labor-academic-scientific co-operation." Far more sectors of society than the military have a vested interest in this war technology.

The Senate hearings revealed the military-industrial complex has been pushing so hard for computer warfare that the normal time-lag from research and development to implementation has been reduced to 15–21 months from five to seven years. The U.S. government obviously wants this technology for the Indochina War and not some future conflict.

As of those hearings a year ago, $1.6 billion had been spent on automated battlefield development with estimates ranging up to $4 billion to be spent for research and development. There seems to be no indication how much implementation and installation has cost or might yet cost, but computers and B–52 bombers are expensive.

Currently day-to-day operations by U.S. troops in Vietnam are being planned by a Seek Data computer system in Saigon, which reduces planning for daily operations to two hours from two days. That part of the war is run by a machine right now.

The senate hearings indicated computerized warfare has already been used experimentally in Laos and Cambodia, a clear indication of what the government plans to do with its new technology.

With the development of computerized warfare has come an escalation in the technology of bombs used in association with the automated battlefield.

The old standby bombs which simply explode when hitting the ground are still used, but the Senate hearings showed the military's arsenal of anti-personnel weapons designed for automatic useage have been expanded tremendously.

The new weapons described mainly are designed to maim, said the hearings, but a direct hit could kill. One such bomb hits and sends out a series of smaller bomblets attached on strings about 60 yards long (the size of a rice paddy). The strings are trip wires which when hit by a human foot explode the bomblet into hundreds of pieces of shrapnel designed not to kill but to injure.

With computerized warfare, the Nixon administration has executed a technological escalation of the war, yet more conventional methods of escalation have not been ignored.

By early 1970, the average bombing tonnage dropped by U.S. aircraft over South Vietnam averaged about 100,000 tons per month, according to an article by Derek Shoarer in the May 30, 1970 issue of New Republic.

A lower figure of about 70,000 tons per month in Indochina was reported in 1971 in a study done at Cornell University by Professor Raphael Littauer of the Center for International Studies. The Cornell study says Nixon plans to continue the air war in Indochina throughout 1972 at a cost of between $1.2 billion and $4 billion a year.

The two-month American invasion of Cambodia in spring, 1970, was followed by an escalation of bombing to about 90,000 tons per year in Cambodia, according to the Cornell study.

Bombing of Laos began in 1968 according to the Royal Laotian Government, but it was escalated to a level of about 400,000 tons per year, the Cornell study says. In addition, with U.S. support, the South Vietnamese government invaded Laos a year ago with 20,000 troops.

Thailand has now become a major staging area for U.S. air strikes throughout Southeast Asia as well as the largest centre in Indochina for CIA activities. Western press reports indicate tens of thousands of CIA mercenaries are in training for or operating in covert operations—far in excess of the few thousands CIA mercenaries the Pentagon Papers attribute to the Kennedy-Johnson years.

According to the June 18, 1970 issue of the New York Review of Books, 20,000 to 27,000 bombing sorties monthly were sent into Laos and the Ho Chi Minh trail during Nixon's first year and a half in office, and that was seven times higher than LBJ's 1968 levels.

This massive escalation of the war into three other countries not previously invaded by U.S. forces or their south Vietnamese "allies," has resulted in the U.S. unleashing about three million tons of bombs on four countries in Indochina, according to the Cornell study, which said it would be at least as much tonnage as Johnson unleashed.

The Cornell figures would probably be low because the study was completed before Nixon re-escalated the air war into North Vietnam at the end of December, 1971. Western press reports quoted U.S. military spokesmen saying 1,000 American sorties

were flown over North Vietnam in the five-day blitz which matched Johnson's highest bombing levels of the North.

American technological planners have not forgotten escalation in conventional weaponry, either. The recently developed concussion bomb, which Dr. Pfeiffer found flattens everything in an area the size of two football fields and kills everything for a square mile, has been used 150 times in Vietnam, Cambodia and Laos to clear areas for helicopters to land.

Defoliation, which during the Johnson years appeared to be limited to Vietnam, was escalated in April and May, 1969 in spraying incidents in Laos and Cambodia involving hundreds of thousands of acres, according to Dr. Pfeiffer.

Defoliation and associated birth defects rose to the point in 1969 that by the end of that year, the Saigon government classified as "secret" the number of birth defects in the country.

By April, 1970, the Department of Defense announced the U.S. government would not use any more defoliants in Vietnam. This was done due to U.S. civilians protesting birth defects from defoliants. However, part of Nixon's Vietnamization program seems to be to get the South Vietnamese to do everything including defoliate.

Doug Hostetter, of Harrisonburg, Va., and a graduate student in sociology at the New School of Social Research in New York City, reports that by December, 1970, the U.S. was supplying agent orange, the thalidomide-like defoliant, to the Saigon air force which would get an American pilot to fly the Vietnamese C123 plane on defoliation missions.

In order to reduce the number of refugees, the Nixon administration appears to be using a statistical merry-go-round to make things to look better.

John Hannah, head of AID, told Senator Edward Kennedy's Senate Judiciary Subcommittee on Refugees in June, 1969 that South Vietnamese refugees in government camps were administratively reclassified as "resettled" in the refugee camps after being paid a lump sum of money. He said no attempt was made to either train them for employment in an urban area or return them to their native countryside.

By the end of 1968, the Royal Laotian Government reported about 150,000 persons had become refugees because of American bombing. With the U.S. escalation of the war into Laos, one can only conclude that there are even more refugees today in Laos.

Even by conventional standards of LBJ's day, Nixon has escalated the war beyond what Johnson dared to do: invasions of Laos and Cambodia, Thailand's staging areas and the re-opening of the bombing of the North prove that.

Yet the biggest myth of the Nixon administration is "winding down the war." Once again, the American people have been given a lie by their president; and they are believing it, or at least that belief seems to be what some media outlets would have us think.

Nixon is not winding down the war. The most inhuman escalation of death and destruction goes on behind Nixon's curtains of troop withdrawals.

Troops are not needed for computerized warfare. The Pentagon makes no secret of that, yet people still cling to the deception that fewer American deaths mean the war is ending.

The war is not ending. Ask the families of the dead Indochinese or ask the maimed from Southeast Asia. The incredible arrogance of the American government once again is shown when it can claim a war is ending when only Asians are being killed and not Americans. Nixon has not fooled us.

Nixon can cut draft call-ups because troops are not needed, but he has yet to announce any cancellation of computer call-ups. We said "No" to the war once, we say "No!" to the war again.

As long as America supplies the means of war to the South Vietnamese government, whether it be half a million troops or computer links, it is still an American war.

PART II—WHAT A GENUINE END TO THE WAR WOULD CONSIST OF

With the United States government already in the process of escalating war to even more insane levels of technology, the naive and ludicrous nature of various "amnesty" proposals put forth by the U.S. political leaders becomes glaringly evident.

The "amnesty issue" cannot be allowed to obscure the grave situation of an escalated war. "Amnesty" is being used among many other things to hide the real actions in Indochina.

Troop withdrawals are simply another ploy to cover up the truth. Nixon has been forced to withdraw troops because of massive popular pressure. Now he is trying to convince people this means the war is "winding down" when in fact massive troops are not needed to execute computerized detection and automated bombing runs.

A restoration of our civil liberties would be an entirely valid issue in itself if the Indochina War were actually ending, but the issue used as a smoke-screen to mask a technological monstrosity serves only Nixon's purposes in covering up the war. The issue of a further escalation of the war takes precedence.

For the war to be genuinely ending, we would look for certain clear-cut indicators pointing to an end.

Specifically, a restoration of civil liberties would make sense in conjunction with an immediate unilateral cease-fire by the United States, the initiation of a *total* withdrawal of *all* United States involvement in Indochina and a recognition by the U.S. of the right of the Indochinese peoples to self-determination and indigenous national institutions.

A withdrawal must include not only the conventional support of the Johnson years, but a withdrawal of the technological support Nixon has created in addition to the indirect support of the Indochinese regimes by U.S. money and CIA involvement.

United States troops, support troops, associated military personnel and advisors, war materials, weaponry, CBW agents, computers, computer link-ups with the U.S., associated computer hardware and software, CIA money and all American civilian support either from the private or public sector must be taken out of all the Indochinese countries of Vietnam, Laos, Cambodia and Thailand for a full American withdrawal to be complete.

In other words, the war must be truly over and the U.S. and its influence removed before the Indochinese people will have the ability to choose their own destiny. In Cambodia, for instance, there must be a return to a neutral coalition government such as that which existed prior to the Lon Nol regime.

In South Vietnam, it would mean replacing the Thieu-Ky regime with a neutral coalition government to oversee the general elections prescribed in the 1954 Geneva accords, freeing of all political detainees and an overall return to the provisions of the 1954 Geneva accords as they apply not only to Vietnam but to all of Indochina.

With an end to the war and the establishment of a coalition government, the United States could enter into negotiations with North Vietnam for the release of prisoners of war under mutually agreeable terms.

An international tribunal must be established representing the Indochinese peoples and non-governmental representatives of the peoples of other countries to try the United States government leaders for violations of international law stemming from the American involvement in Indochina. American government leaders and war planners must stand trial as the aggressor.

America's unilateral intervention into Indochina violates the United Nations Charter, and no American law gives any person or branch of the U.S. Government the right to violate the U.N. Charter.

The U.S. Congress never declared war, as prescribed by the U.S. Constitution, and the U.S. violated the 1954 Geneva accords on Indochina as well as the earlier Geneva accords barring chemical biological warfare.

In addition, the wholesale death, injury and destruction wrought upon the civilian populations of Indochina violates almost every known principle of international law governing warfare, including the principles the U.S. help lay down in Nuremburg.

The United States government pay reparations to the Indochinese peoples.

For the hundreds of thousands dead and disabled. Indochinese, there are no reparations which could ever right the wrong. However, for whatever can be salvaged from the destruction of Southeast Asia to enable the Indochinese to rebuild new countries, the U.S. must pay.

The U.S. cannot be allowed to administer reparations, because of its past history in Indochina, so much reparations would have to be funneled through some agency of the above-mentioned international tribunal would see fit.

PART III—A VALID RESTORATION OF CIVIL LIBERTIES, NOT "AMNESTY"

The Nixon administration appears to be making every effort to orchestrate public opinion into the belief that the war is ending. The emergence of the so-called "amnesty" issue in the United States only reinforces this miscarriage of the truth.

We refuse to be part of Nixon's lies. The war is not only continuing but it is being escalated to points even Lyndon Johnson could not or dared not attempt. A cut-back of U.S. troops and U.S. casualities does not mean an end to the war. Instead, it has signalled a new form of technological war just as deadly and more expansive than conventional armies were previously capable of.

It seems that some well-meaning U.S. political leaders, in proposing their version of an "amnesty," have been deceived by the Nixon mythology. We ask them to stop. Don't be sucked in by a political football in a presidential election year. The war has been escalated again.

The irony of this escalating war is that there has developed in America a trend to talk about "amnesty" for war resisters. We want the war to be genuinely ending so that the issue of restoration of our civil liberties is not used as a pawn in a political game. Escalating is not ending.

First, we, as U.S. war resisters in Canada, have no interest in what is now being called "amnesty" in the States. "Amnesty" implies forgiveness, but for what are we to be forgiven? We refused to commit the crime.

Second, the current "amnesty" proposals do not include deserters from the armed forces, Using that kind of logic, the conclusion would have to be drawn that saying "No" to the Indochinese War before being drafted is acceptable, but after taking one step forward, saying "No" is criminal. We do not need that kind of existential absurdity, either.

All deserters must be included in any restoration of civil liberties.

Deserters, generally, are from working- or lower-class backgrounds, and are the first to get drafted and are the most likely to have received orders to go to Indochina. These are the people from the U.S. who have borne the brunt of Washington's war policies.

Deserters also have the more difficult adjustment to make to Canadian society since most have a high school or less education

with only minimal job skills, thus giving them limited ability to integrate into the contracted Canadian job market.

Draft dodgers, on the other hand, generally come from middle class backgrounds, have carried a student deferment to enable them to get an education while temporarily fending off the draft and usually arrive in Canada with enough college and/or work skills to enable them to make a relatively rapid adjustment to Canadian society and the labor market.

In terms of social class, deserters have the justifiable claim to a full restoration of civil liberties as they have carried the worst part of the load.

Third, current "amnesty" talk from the States also seems to incorporate a concept of "alternate service." This we also reject. "Alternate service", such as the three years suggested by Senator Taft, is punitive.

Since we refused to commit the crime, why must we be punished? Are not the criminals those who perpetrated the crime called the Indochinese War.

Lastly, "amnesty", as currently proposed, we reject. What we are talking about is a totally non-punitive restoration of complete civil liberties for all persons charged, persons who might be charged, and/or persons convicted under any American municipal, state, federal and/or military law due to actions relating directly or indirectly to the Indochinese War.

This restoration must include that for the above persons:

If charges are contemplated, the charges are not to be laid;

If there are any charges laid, they be dropped;

If there are any convictions, their records be expunged;

If they are in jail, they be set free;

If there is a discharge from the armed forces other than honorable, it be made honorable;

No discrimination is to be made based on military experience or the lack thereof and all questions relating to the military be removed from all public and private records and forms;

If they are underground, whether charged or not, they be alowed to surface and resume their normal lives;

If they are abroad, they be allowed to return, if they so choose.

The restoration we talk of includes us, but it also includes hundreds of thousands of others like us who said "No" in their own way but did not choose to come to Canada. They, too, deserve a full restoration of their rights.

This is designed to provide a full restoration of all rights in a non-punitive fashion to all persons whose lives have been disrupted by the Indochina conflict. Anything less than that is a form of tokenism which we will not accept.

STATEMENT ON AMNESTY

PREPARED BY REPRESENTATIVES OF:

American Exile Counseling Center, Montreal, Quebec

American Red Patriots, Toronto, Ontario, Canada

American Refugee Service, Montreal, Quebec

AMEX-Canada Magazine, Toronto, Ontario, Canada

Cabal Newspaper, Toronto, Ontario, Canada.

Fort Devens United Front, Fort Devens, Massachusetts, U.S.A.

Guerrilla Newspaper, Toronto, Ontario, Canada

Montreal Counsel to Aid War Objectors, Montreal, Quebec

Nova Scotia Committee to Aid American War Objectors, Halifax, Nova Scotia, Canada

Toronto Anti-Draft Project, Toronto, Ontario, Canada

Vancouver Committee to Aid American War Objectors, Vancouver, British Columbia, Canada

Vietnam Veterans Against the War, Inc., New York, New York, U.S.A.

ON MARCH 25, 1972, TORONTO, ONTARIO, CANADA

The question of amnesty must be considered inseparable from that of a total and rapid American withdrawal of all aggressive forces involved in the war in Indochina. But the amnesty issue cannot be allowed to obscure the fact of an escalated war—escalated vertically into the air with massive bombing and technologically with the use of computerized warfare—which is so obvious as to expose the United States Government's "gradual withdrawal" for the brutal lie that it is.

In an election year, we reject this kind of political evasion of the main issue before the American people—an escalated war, not a war allegedly "ending."

President Nixon's troop withdrawals and lower casualty figures among U.S. troops are only another carefully hung cloak to cover up the truth of what his administration has done. Nixon has been forced to withdraw troops because of massive popular pressure, the refusal of U.S. troops to fight, and the resistance of the Vietnamese, Laotians and Cambodians.

Now he is trying to convince the peoples of the world that this means the war is ending when in fact massive troops are not needed to execute electronic sensor detection and automated bombing runs.

For a genuine end to the war we call for the accession to the peace proposals of the Democratic Republic of (North) Vietnam, the Provisional Revolutionary Government of the Republic of South Vietnam, the Lao Patriotic Front and the National United Front of Cambodia; that is, the initiation of a total ceasefire and withdrawal of all U.S. conventional and computerized involvement in Indochina, a recognition by the U.S. Government of the right of the Indochinese to self-determination, and a return to the Geneva accords of 1954 for Vietnam, and 1962 for Laos.

Some "amnesty" proposals in the U.S. must be rejected because they serve to mask the U.S. escalation of the war, they do not include the same provisions for deserters from the armed forces as they do for draft resisters, they have punitive conditions called "alternative service", and they imply guilt on our part when the crimes against the people of Indochina, the United States, and the world were committed by U.S. imperialism.

What we are talking about is a totally non-punitive, unconditional and universal amnesty for all persons charged, persons who might be charged, and/or persons convicted under any U.S. municipal, state, federal and/or military law due to actions relating directly or indirectly to opposition to the U.S. war of aggression against the peoples of Vietnam, Laos and Cambodia.

This must include for these persons that: if charges are contemplated, the charges are not laid; if charges are laid, they be dropped; if there are any convictions, their records be expunged; if they are in jail, they be set free; all discharges—past, present and future—from the armed forces be classified as general; all questions relating to the military be removed from all records and forms in the public and private sectors; if they are underground, they be allowed to surface and resume their normal lives; if they are abroad, they be allowed to return.

The U.S. Government must bear responsibility for the loss of life or injuries to all victims during the war in Indochina; that is, all possible retribution to the families of those lost, and free medical and psychiatric care, and drug rehabilitation.

This racist war has also caused an increase of racist repression against non-white peoples who have never had full citizenship in the United States. A just amnesty must involve an end to this repression and a freeing of all political prisoners.

The perpetration of this aggressive war by the United States has violated the honor that should surround service to one's country, and perverted the values of our society. A total end to the war, and a universal, unconditional amnesty are part of the struggle for the restructuring of our society.

STATEMENT BY TIMOTHY J. MALONEY, MSW, FEBRUARY 29, 1972

The last time I arrived in Washington, D.C., I was proud to be a U.S. citizen and anxious to serve my country. It was 1964 and I was accepting an appointment with the Federal Bureau of Investigation as a file clerk in the Justice Building. Five years later, in February of 1969, I discarded a Presidential order that instructed me to report for induction into the United States Army. At that time my wife and I were living in Canada where I was assisting war objectors as a social worker and attending graduate school.

Today I am again in Washington, D.C., not proud this time of being a U.S. citizen but willing to give you my views on the amnesty issue that has been raised by you and your colleagues. In doing so, I pray that you, who are leaders in this country, may see a way of reconciling the tragic wrongs that have alienated thousands of people like myself and have created grievous differences within the country that have torn asunder the American Dream.

While many tragic wrongs have been committed and are being perpetuated they all have one common denominator—the Indochinese War. Before any substantive reconciliation of the many wrongs can occur there has to be a genuine U.S. commitment to ending the war. Yet, the issue of granting an amnesty to some of the victims of the war has been raised and it would be ludicrous not to discuss it. If discussion does no more than kill the inept bills of Senator Taft and Representative Koch it will have been worthwhile. Though, to stop there without constructively dealing with the issue only fosters more frustration that has been so characteristic of the entire Vietnam-Indochinese experience. *Newsweek's* recent Gallop Poll disclosed that 71% of the people interviewed favored some form of amnesty. To ignore that, to be unresponsive to the will of the people, or to consider solutions such as Representative Hébert's "I would send them out on a ship like a man without a country" is characteristic of much government policy and attitude, but hopefully a change is in sight for the seventies.

If there is a sincere commitment on the part of government to deal realistically with developing an amnesty proposal that will be beneficial for the nation and the victims, i.e., some of the 354 thousand soldiers classified as deserters since 1967 and the thousands of draft evaders, the government will have to have a thorough understanding of the phenomenon. To date, most elected representatives have illustrated through their statements and bills that they have an appalling ignorance of the phenomenon and the possible encompassing, constructive solutions.

In Canada the exile community has viewed the development and discussion of the amnesty issue in the United States with deep concern. There is a wide consensus, as was illustrated at a National Press Conference in Toronto on January 17, 1972, that the word amnesty itself is inherently problematic. It implies forgiveness, and the exile community wonders what they are to be forgiven for—they refused to commit the crime! There is also concern that the present intensity of discussion over amnesty in the United States will end after the Presidential election. The exiles see themselves being used as pawns

in a political game. They see the issue being used by some politicians in an attempt to relieve American war guilt, to buy the votes of the newly enfranchised youth, to give the false impression that the war is winding down, etc.

They see the American news media portraying the exile community as being composed of sad, lonely, ill-begotten, misguided youth who made a mistake and are crying at the border to return; and that, the United States, being all-powerful and forgiving, is now in a position to show its paternal concern for its erring sons. They resent the fact that some people may be using them for personal gain and that others are definitely presenting an erroneous portrayal of them. Also, they fear that in the process of being used they may be hurt, i.e., that one of the current amnesty proposals might be passed. Both Senator Taft's and Representative Koch's proposals attach a punitive string called alternative service. Plus, both proposals exclude deserters, who comprise the majority of the exile community in Canada. I have not yet met a war objector in Canada who accepts either of the proposals, nor do I or anyone else I have spoken with see justice in them.

What the exile community would like is a complete totally non-punitive restoration of their civil liberties. That would turn the amnesty issue right side up by removing the indignity of having to accept forgiveness and punitive service. Also, it would apply to everyone and allow each individual maximum freedom in deciding upon whether to stay in Canada or return to the country which had no room for him.

Since the majority of men in exile and prison are deserters any substantive "amnesty proposal" must incorporate provisions that will enable them to easily regain their civil liberties. None of the current proposals or suggested proposals to date allow for this. Suggesting that each deserter be judged individually is ludicrous, if not mechanically impractical, due to the sheer numbers involved. Surely the 1947 Truman amnesty illustrates the injustices of establishing criteria and attempting to judge thousands of men individually. Yet, there appears to be a gross misconception that operates on the premise that deserters have less morality and that their motives are less genuine and thus more suspect than the motives of their civilian peers. While a draft evader may have had a premature morality due to more education and social class benefits, the deserter's decision to leave the military and the United States is often a more difficult individual decision. His reasons for leaving, may, in fact, be based on a greater struggle with his conscience. His actual decision to leave is difficult as he cannot reflect upon his future from a relative position of ease and he is in a hostile environment where he can obtain very little support. His military experience, contact with returning veterans, and concurrent mental agony is often his only education, but an extremely valid one that helps him decide upon his future. When he makes his decision to leave based on such a gut level education I can only respect, not question, his motives.

A Statement by George P. Barbour, Jr., Legislative Representative for the National Committee for Amnesty Now, in Support of Congresswoman Bella Abzug's Bill on Amnesty

The National Committee for Amnesty Now supports the bill introduced into Congress today by Congresswoman Bella Abzug. We believe that amnesty is an essential ingredient in the reconciliation of the young generation of this country that has had to bear the brunt of the war in Southeast Asia. Amnesty Now supports the important features of this bill and strongly applauds the inclusion of not only draft resisters but military deserters and those that suffer legal and social disabilities from having received less-than-honorable discharges. The inclusiveness of this bill insures that racism and petty class distinction will not be present in a general amnesty.

The unconditional and non-punitive nature of this amnesty is also most welcomed. It cannot possibly serve the national interest to exact punishment or additional servitude from those that have suffered so dramatically because of our involvement in Southeast Asia.

The automatic features of this general amnesty will go a long way in insuring that those covered by the amnesty will be dealt with in an equitable manner.

This bill is a welcomed alternative to the Taft and Koch bills. What should follow now is a national discussion of this issue on every political stump in the country. This bill provides the needed focus.

Amnesty Now will martial the support of its membership behind any bill that contains the breadth, non-punitive, automatic features and timeliness that are exhibited in this proposed legislation. In addition to supporting legislation, Amnesty Now is working to insure that all major presidential candidates are on record in support of amnesty that includes not only draft resisters, but military deserters and those with less than honorable discharges. We have borrowed as our national statement of purpose a slogan that was once used by Richard Nixon but quickly discarded once he was safely in office: "Bring Us Together." We view amnesty as an essential ingredient in realizing that goal.

Testimony of David Harris

As I understand it, you gentlemen are considering the question of amnesty.

If amnesty were granted, I would be subject to it. In January of 1968 I refused to submit to induction into the United States Armed Forces. My refusal bought me a sentence of thirty six months in Federal Prison. I was released from the Federal Correctional Institution at La Tuna, Texas in March of 1971 after serving twenty months of my sentence. I am presently under the supervision of the United States Board of Parole and will remain so until July of this year when my original sentence expires.

My own history makes amnesty a pressing question. I am now a convict. I have no rights or civil liberties as they are commonly understood, I have a parole officer instead. But I didn't start out as a convict. I started out as a high school football player who believed everything he was taught in all his classes on American government. I believed in liberty and justice for all. I believed in peace and democracy and freedom and all the virtues the American state recites in its own honor. I believed in them all so hard that I discovered they didn't exist. It's hard to say when that discovery began, but it's easy for me to remember when it became obvious. It was then that I decided to be a convict.

I decided to be a convict because I believe in the peace and justice and freedom and democracy I'd heard so many people talk about. I decided to break the law because the law obviously stood between me and those things I'd learned to want. Before you gentlemen decide to give or not give amnesty to criminals such as myself, you should understand why we became criminals in the first place. I can't speak for the thousands who now live outside the law, but I can speak for myself.

I broke the law for three reasons.

First, the law defined me and all the people I knew as pieces of property to be owned and manipulated however the government sees fit. We aren't citizens making the decisions citizens make. We are chattels who receive orders. The law I violated makes all of us pawns whose lives and deaths aren't even our own. Terms such as those, no matter how comfortable they are made, are unacceptable to people whose freedom matters to them.

I didn't make the law I violated. Neither did any of the people I know or see every day. The law that I was punished for breaking was a law made two thousands miles away by men with power such as yourselves. And you are a very few men. The rest of us live with little or no control over the situations we find ourselves in. What we live with are the embodied interests of a few people who are allowed to sit on the top and look down while the rest of us must squat on our haunches and look up. To submit to those interests and the power they exercise is to destroy the democracy the law claims to defend. Democracy, it seems to me, is a practice. And if it isn't a practice, it's nothing. The law I violated is a witness to its absence.

But the law I violated isn't an abstraction, as we all know. The law was made to serve a policy. And it was that policy that made me into a convict. We are all living in an empire, a society that has attempted to extend its control over as many people as it possibly can. It, like all empires before it, has accomplished its ends in a very simple fashion. It destroys whatever opposes it. That policy invaded the subcontinent of Southeast Asia determined to dictate the terms that the Vietnamese, the Lao, the Thai and the Khmer people must live under. It meets the attempt of those people to control their own fates with battalions of marines and enough raw explosives to turn all of Indochina into barren craters and graveyards. The policy pursued itself without mercy. It sent Americans five thousand miles away to deny an entire subcontinent of Asians their right to live and exist as human beings. Any one who respects his own liberty and the liberty of others has no choice but to refuse to be used for such slavery.

For acting upon all those reasons, I became a convict. And there are more pleasant occupations. For twenty months I lived inside the operation of American justice. I learned to live inside bars and cages, I learned to exercise my freedom in very small and very dank places. I watched the police beat, extort, control and deny myself and all my fellow convicts. I learned to watch my son grow once a month for eight hours in a prison visiting yard under the eyes of the Department of Justice. I learned to live without the simple rights that were supposed to be inalienable in my birthright. And I learned to wait for doors to open and lights to come on and for the screaming late at night to stop. And I don't regret it. Given a choice between being a butcher and being a convict, I will choose convict every time.

And now you gentlemen are considering giving amnesty to people such as myself. That means a lot. It means that thousands of young men like myself can walk out of their cell blocks and dungeons, return from their exile and their hiding places and walk on the streets like men are supposed to. I obviously have no objection to giving us amnesty. Of course it should be given. None of us should have ever been made criminals in the first place.

But I see some dangers in you gentlemen granting amnesty.

The first is that amnesty is traditionally considered an act of forgiveness. And I for one don't want to be forgiven. I don't think I did anything wrong. The wrong rests with the law and the twelve months on a maximum security cell block. There were two others in for offenses similar to mine. One burned draft files and the other refused induction. We used to talk about the possibility you men are discussing. And the conclusion we reached represents at least my feelings. We decided that we wouldn't accept a pardon but that we would take an apology.

The second is that I sense you gentlemen find amnesty an acceptable solution for people such as myself that have clear explanations for their actions and a constituency that you want to appease. But that you aren't nearly as inclined to give it to the nineteen year olds that deserted from the army because they were in love with the Chevrolet they left behind in Detroit. I think amnesty should be given to everyone or not at all.

And the last is that I believe in giving things to those who need them most. Right now the people of Southeast Asia live under a death sentence. The policy that provoked my disobedience still flourishes. It now uses machines instead of marines but it does the same thing. It is now massacreing an entire civilization from thirty thousand feet in the air. If amnesty is given, give it to Southeast Asia first.

And the next day, after Southeast Asia has been spared from death by jellied gasoline and fragmentation bomb, release the rest of us from all the cages we've been put in and let all of us set making the nice words we recite into realities that live and breathe out where people live and not just in the documents we left behind two hundred years ago.

STATEMENT OF MRS. VALERIE M. KUSHNER, FEBRUARY 28, 1972

Senator Kennedy, Members of the Committee, I greatly appreciate the opportunity you have given me today to testify before this body on the question of amnesty. I am not directly or by personal knowledge involved in the problems of those young Americans, who for a variety of reasons, decided not to serve in Vietnam.

For I come to you as the wife of a man who voluntarily enlisted in the Army in 1966, who in 1967 chose to serve in Vietnam, and who has spent the last four years as a prisoner of war. But there is something to be said for the platitude which insists that the best teacher of compassion is personal grief.

The Americans who have been imprisoned by the enemy in Indochina and the draft dodgers and deserters share a certain area in common. Most noticeably, they are all unwilling exiles. There is not one among them who wanted to be presented with the choices which had to be made. In all cases, families have been separated and suffering has occurred. The lives of the men have been abruptly changed, and in many cases, rendered non-productive. I am not here to debate the wisdom of decisions already made, but rather to encourage an attitude of tolerance toward the men who made them. As a country we are all so young and prone to error.

I would ask you to open your hearts to the words of Ecclesiastes "To everything there is a season, and a time to every purpose under the heaven: . . . a time to kill, and a time to heal; a time to break down, and a time to build up;". We have had our time of killing and now we must prepare ourselves for the time of healing. We cannot expect to make whole the body America if we amputate from her flesh so many of her sons.

The last decade has seen a tragic breakdown in many of our societal structures. If we are to begin the task of building up, we cannot deny ourselves the contribution of all who would participate.

The vast majority of the exiles still consider themselves to be Americans. Several years residency in Montreal should not involve loss of citizenship any more than the same period of time spent in the "Hanoi Hilton". The refugees wish, as does my husband, the soonest possible return to the land which nurtured them and the memories of which sustain them in exile.

I've heard it said that no amnesty can be given until the prisoners of war have been repatriated. I agree that neither will come to pass until first this terrible war is ended. But just as the Pentagon has formulated contingency plans for the return of the POW's Congress must give thought to preparing the structure by which amnesty will be granted.

I can only hope that such a plan will not seek punishment or retribution, but has as its guide, compassion. For compassion is the most soothing balm for healing and the strongest bond for building up

Finally, it has been said that the young men who chose exile in other lands have betrayed their heritage and rights as Americans. I can only remind you of a passage by Stephen Vincent Benet. It is a favorite of my husband's and one he marked long ago.

"Remember that when you say,
'I will have none of this exile and this stranger
For his face is not like my face and his speech is strange',
'You have denied America with that word.' "

Gentlemen, the question before you should not be whether or not these young men who departed from the majority have betrayed America. In all humility, we must ask ourselves, "Will America, by refusing amnesty, betray itself."

GROUP OF CLERGY SUPPORTS AMNESTY FOR EVERYONE BUT WAR CRIMINALS

(By Ronald Taylor)

An interdenominational group of clergymen yesterday called for a sweeping general amnesty that would pardon all but those convicted of violent war crimes from legal jeopardy as a result of their opposition to the Vietnam war.

Draft resisters, deserters, Vietnam veterans with less than honorable discharges and those convicted or facing prosecution for acts of war resistance would be subject to the amnesty.

The action capped a two-day Interreligious Conference on Amnesty held at the Lutheran Church of the Reformation, 222 East Capitol St. The four-page statement was addressed to the "Religious community of America."

The meeting was sponsored by the National Council of Churches of Christ. Among the participants were the Rev. Dr. John C. Bennett, president emeritus of the Union Theological Seminary; Rabbi Abraham Heschel, of the Jewish Theological Seminary, and Bishop John J. Dougherty, bishop of the Roman Catholic Diocese of Newark, N.J.

Conference officials said yesterday's action will be followed by what they called an "educational effort" within the sects of the conference participants. They voiced the hope that efforts would spur a national movement toward amnesty.

"The conference feels that the first step (toward a general amnesty) must be a religious step," remarked Dr. Robert V. Moss, president of the United Church of Christ.

"Church support of amnesty is intimately linked to (commitment) of securing justice to the human family," Bishop Dougherty added.

The conference, in its statement, labeled amnesty a "blessed act of oblivion" and concluded that it would "demonstrate that America is still capable of a communal moral act.

"It would be bitterly ironic if we were to make peace with the peoples of China and Southeast Asia but persisted in vindictiveness toward those of the young generation who refused to share in the brutalities and restruction of the war," it read.

According to Justice Department estimates, there are 4,200 fugitives from draft evasion prosecution, 2,300 of them now living in Canada. In addition, Pentagon estimates put the number of military deserters at 30,000, and 2,300 of them have been identified as exiles in foreign countries.

The group also called on the Nixon administration to end the war and spoke of the need for amnesty at the war's conclusion:

"Proposals for amnesty have come from those who favor and those who oppose the war because both recognize a crisis of conscience caused by this war (which is) unparalleled in this nation's history."

COLUMBIA UNIVERSITY,
New York, N.Y., March 25, 1972.

Hon. BELLA S. ABZUG,
Longworth Office Building,
Washington, D.C.

MY DEAR CONGRESSWOMAN: Yesterday Jim Crawford of your office phoned to tell me you will introduce, next Wednesday, the amnesty bill you sent me for comment a week or so ago. He also extended to me your most gracious invitation to be present at a press conference you will have at 10 a.m. Wednesday to announce the event.

Were it possible for me to be there, I would. To me, your bill exemplifies the highest principles of statesmanship. It undertakes to identify and serve the enlightened self-interest of the whole American people—which, in my opinion, requires the speedy termination not only of the war in Southeast Asia but also of its destructive consequences here in the United States—and it offers a sound institutional mechanism for achieving that end. And the bill is timely, in that it lays bare the basic issues soon enough to stimulate public debate and crystallization of opinion in time for effective expression at the polls in November. It would be an honor to be present at the formal inauguration of such an enterprise.

What makes it impossible is that I have two classes to teach next Wednesday, one of them at 11 a.m. My presence in Washington would require postponement of that class. In my entire teaching career I have missed only one of my classes, so far as I can recall—because I had to argue, in Washington, a case I had undertaken before leaving law practice for teaching in 1963. Even laryngitis and three degrees of fever have not kept me from meeting my classes. I mention this so you will understand the seriousness with such which I accept my primary obligation to the Law School and my students.

Of course I stand ready to assist your amnesty efforts in any way I can, and hope you will call on me if you think I can be of service.

Respectfully yours,

LOUIS LUSKY,
Professor of Law.

[From the Washington Post, Jan. 9, 1972]

AMNESTY: WHAT SORT WILL BIND OUR WOUNDS?

(By Louis Lusky)

The writer is professor of constitutional law at Columbia University Law School where his seminar is currently drafting an amnesty bill.

Mr. Justice Holmes once remarked that the most important thing is to get on to the next thing. From our earliest days we have done it, after every divisive conflict. From the Shays and Whisky rebellions in the 18th Century, through the Civil War, down to the Korean conflict, the ending of hostilities has always been followed by amnesty in one form or another.

President Nixon, in a Jan. 2 television interview, said—with a later qualification—that "we always, under our system, provide amnesty. You remember Abraham Lincoln in the last year—the last days, as a matter of fact—of the Civil War, just before his death, decided to give amnesty to anyone who had deserted, if he would come back and rejoin his unit and serve out his period of time." He added that he "would be very liberal with regard to amnesty."

Clearly, amnesty for Vietnam war resisters is an idea whose time has come. As the war grinds toward a halt, we must turn to the task of binding wounds, whether we be military veterans or jailed objectors, supporters of Calley or of the Berrigans. What is important now is that Americans sort out their feelings about what form amnesty should take.

Public debate has already started, and the coming months will see it proliferate. The formulation of positions began more than a year ago when the American Civil Liberties Union recommended broad amnesty for draft violators, exiles and military offenders. Last March, Rep. Edward I. Koch (D-N.Y.) introduced a bill to give relief to conscientious objectors to particular wars. Sen. George S. McGovern (D-S.D.) has declared amnesty to be part of his program in seeking his party's presidential nomination. Last month, Sen. Robert Taft Jr. (R-Ohio) proposed a broader bill, and Rep. Koch is said to be ready to introduce the Taft bill in the House, along with another that would further extend the coverage.

THE POLITICAL REALITIES

What action do we want ultimately to emerge? This, of course, does not mean "what we wished had happened." Politics does not concern itself with trying to lure back the moving finger. Many Americans wish that the Southeast Asia war had never happened. But it did, and we must deal with facts as they now are—and as they may be in the future. Objectors by the tens of thousands have broken the law in their opposition to the war. Some have avoided prosecution by self-exile, some are serving sentences, some have completed their sentences but bear the stigma of criminal status—and, as exconvicts, may face the loss or impairment of such rights as eligibility for public employment and admission to the bar.

The primary political reality, for the time being, was noted by President Nixon: So long as Americans are fighting in Southeast Asia, and probably so long as American prisoners of war are held there, amnesty is virtually impossible. The exception might be clemency for those convicted because their cases were decided before later decisions narrowed the reach of the law. For example, draft refusers punished for conscientious but nonreligious refusal before the Supreme Court ruled in 1970 that such objection should be recognized might win amnesty now. But this is a relatively small group, and they may well be able to wipe out their criminal status through habeas corpus or some other post-conviction remedy even before amnesty is forthcoming.

Granted, however, that amnesty will not materialize until the war is virtually ended, it does not follow that significant congressional action at present is impossible or even premature. Within the foregoing restrictions, there is a considerable range of possibilities for useful legislation, and the range will widen as the end of the war is approached and accomplished.

How soon the widening will come, or how far it extends, will depend largely on the way the war ends. Should it cease at a defined moment—whether by presidential or congressional action—amnesty is likely to be broader and quicker. Should the war trail off as gradually as it began, with nobody really sure whether there is still a war, amnesty will be meager and slow.

THE ULTIMATE JUDGMENT

Still more fundamentally, the extent of amnesty will depend on the ultimate judgment of Americans on the war itself. Public opinion today still favors the ending of the war. But it is not so clear how many would go farther and say that the whole war has been wrong, and how many would say only that, right or wrong, it has been a frightful and divisive experience that we should thrust into history as soon as possible.

If it turns out that most Americans believe the war to have been basically wrong, amnesty promises to be broad. The central judgment then is likely to be that every American should be relieved of all legal disadvantage he would not have suffered if the war had never begun. That implies not only remission of criminal penalties, but erasure of criminal status for every offender whose crime would not have been committed but for the war.

There might however, be some qualifications. It would not be illogical—though it would be administratively difficult—to limit clemency to those whose offenses were motivated wholly or partly by conscientious opposition to the war. (To be sure, such a limitation would discriminate against the inarticulate ghetto dweller who, without seeking any particular religious or philosophical justification, simply repudiated the obligation to fight in a white man's war.)

Neither would it be illogical—though, again, it would be administratively difficult—to deny full clemency to those whose offenses have been "violent"—this is not an easy term to define: Does it include sit-ins? Scrambling draft board records?—and who, such acts as arson and assault, became menaces to their neighbors. Even with these limitations, however, most acts of criminal opposition to the war would be pardoned.

If, on the other hand, it turns out that most Americans can agree only that the war should be put behind us, amnesty will be narrower. There may be liberation of prisoners, but no erasure of the stigma of conviction or restoration of political and civil rights. There may be amnesty for federal offenders (most of whom are draft refusers) but not for state law violators (most of whom have been convicted for some violence or near-violence, though the great majority have done no more than engage in illegal demonstrations).

CONGRESSIONAL ACTION

But even if the exact shape and timing of the ultimate amnesty is not now knowable, it is not too soon for congressional action. Though clemency for federal offenses is an executive function (Article II, Section 2 of the Constitution gives pardoning power to the President), the moral support of Congress may be important. Because of the divisiveness of this long war, the act of clemency will require political courage (particularly if it is relatively quick and relatively broad.) The least Congress can and should do is to affirm by concurrent resolution its support for such amnesty as the President may see fit to grant.

But Congress can and should go further. In 1896, the Supreme Court declared that Congress, too, has amnesty power. On this basis, Congress could assume more of the political responsibility by enacting its own amnesty grant, effective upon the cessation of hostilities and the release of war prisoners. Any constitutional doubt could be avoided by providing that the statute be ineffective unless the President, by signing the bill or by a later public proclamation, had manifested his approval.

In addition, there are some acts of clemency that the President cannot perform without congressional authorization. He probably lacks power to restore citizenship that has been renounced as a protest against the war; Congress, possessing the power to naturalize, could restore it. Nor can the President grant amnesty to offenders against state law, such as illegal demonstrators.

AMNESTY BY THE STATES

There may be some doubt whether state offenses can constitutionally be pardoned even by joint action of Congress and the President. Possibly a constitutional amendment would be necessary. An amnesty amendment would not be unprecedented: Section 3 of the Fourteenth Amendment, adopted in 1868, authorized Congress to lift the political disabilities that the section legitimated for ex-rebels. But in my opinion a new amendment is not needed because another provision of the Fourteenth gives Congress the power to pardon state law offenses in the present circumstances.

Section 1, after providing that all persons born or naturalized in the United States and subject to its jurisdiction are its citizens, goes on to provide: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." The clause has been little used, largely because of a restrictive—and, I believe, erroneous—interpretation by the Supreme Court in 1873 in the Slaughterhouse Cases. But the original purpose of the clause is precisely applicable here. The purpose was to enable Congress, by defining the privileges and immunities of federal citizenship, to afford protection against hostile state action. The newly freed slaves were, of course, the main subjects of concern, but the clause is not limited to them.

If Congress believes that our national interest requires the early restoration of domestic harmony and that such harmony will be promoted by amnesty for antiwar demonstrators and others, then Congress has the power to grant them amnesty. What it takes is a declaration by statute that it is a "privilege and immunity" of United States citizens to gain annulment of convictions and other legal disadvantages suffered by reason of specified acts of opposition to the war. If Congress so provided, the amnesty could be conditioned upon presidential activation, and it could be made subject to such conditions (for example, an oath of allegiance) as Congress might stipulate or empower the President to impose.

Even in advance of federal action, state governors could grant amnesty for state offenses. A federal signal in any form, however, would provide much-needed political support and encouragement and lead the nation toward clearing the social debris of the war and turning tragedies into bygones.

[From the National Observer, Mar. 11, 1972]

AMNESTY FOR WHOM AND HOW MUCH?

(By Louis Lusky)

"Why should we forgive these traitors and cowards, pardon their crimes, welcome them back from Canada and Sweden?"

The question is asked whenever amnesty for war resisters is debated. There are myriad variations on this same theme; sometimes the bluntness is softened, sometimes the rightness or wrongness of the war is acknowledged to be relevant, sometimes distinctions are recognized between those who have fled and those who have submitted to punishment. But the core of the question is constant. It always starts with "Why" and it always is premised on the following assumptions:

(1) That those who have broken the law to show their opposition to the war in Southeast Asia are "traitors" (meaning "disloyal" rather than actually guilty of treason as defined by Article III, Section 3 of the U.S. Constitution).

(2) That those who have broken or evaded the law in order to avoid service in the war are also cowards.

(3) That the society can well do without these people if they choose to leave or stay away, and can well relegate them to the status of fugitives, convicts, or ex-convicts if they elect to return or remain.

(4) That the only real problem is how to be fair to these law violators (and their families)—the remaining 200,000,000 or so of us having nothing to worry about except the general ethical responsibility to let the punishment fit the crime.

(5) That the "we" (Why should *we* forgive) does not include the law violators, but includes only the great law-abiding majority who have made laws and have at least acquiesced in the war.

Believing that each of these assumptions is fallacious, I shall try to show that the dominant concern for amnesty is a concern for the welfare of society as a whole and that prepossession with the problem of fairness to the violators involves a sad distraction from the main point. Secondarily, I shall mention a few undisputed facts that, in my opinion, cast serious doubt on the accuracy of the first three of the five listed assumptions—facts that suggest that amnesty may be called for even if we disregard the needs of the larger society and seek nothing but fairness to the law violators. In addition, I shall very briefly describe the legal tools that are available to do whatever the American people ultimately say they want done—as they may say at the polls this November.

First, let us examine the root question, the starting point for appraisal of any proposal for public action: Whose ox is being gored? The fourth and fifth of our five propositions both say, in different ways, that fairness to the lawbreakers is our only concern. I submit that, though by no means unimportant, it should not be even our primary concern. I say that our primary concern is to thrust this long and divisive war into history as completely and rapidly as we can, to let time get on with its healing, to cleanse our society of a continuing legal fallout whose half life is measurable in decades, and—without denying ourselves the honor of mourning the dead, supporting the crippled, and comforting the bereaved—to turn our minds and hearts to the future.

LESSONS CAN BE LEARNED

Dirty and frightful as the war experience has been, lessons can be learned from it that may help us deal with future challenges in a manner more humane, more effective, and less expensive: The war has demonstrated that a society such as ours, in which the people have the ultimate power of decision (however long the exercise of that power may be delayed), will tear itself apart if led into a war whose necessity cannot be made clear to all or nearly all of the people. The war has also done much to liberate us from the fiction, so carefully nurtured by Sen. Joseph McCarthy and his latter-day disciples, that communism is a unitary, monolithic phenomenon comparable to a killing disease—leprosy, say, or tuberculosis—which we are honor bound to fight wherever we find it, and which we can effectively handle with the same sovereign remedies wherever and whenever it shows itself. The war has done a great deal to dispel the dogma that our nation (militarily encumbered, as it is, by its dependence on consent and its humanitarian ideals) can lick anyone we elect to fight, and the still more dangerous dogma that a "white" nation can lick a "nonwhite" nation in any fair and equal combat. The war has also reminded us, as we have not been reminded since the Great Depression, that our liberties are fragile—lovely flowers that flourish and blossom only in the sunlight of common consent—and that our society can remain open only if the policies of our Government command the support, or at least the acquiescence of nearly everybody (not just a 51 per cent majority).

All these lessons, and others too, will serve us well when we grapple with the problems of today and tomorrow, if only we can allow ourselves to learn. But our ability to understand and profit from the dearly bought experience is, and will remain, gravely impaired so long as the legal debris of the Southeast Asia war remains to distract us, so long as our eyes are blinded by the ashes of dead issues.

What is this legal debris? Let us suppose that tomorrow morning the fighting ends and all war prisoners are sent home. (For years we have been told that the war's end is imminent; and it is a good bet that it will in fact end, or practically end, no later than a few weeks before the November election.) What, then, will our situation be? At that time we shall have terminated the war in its international aspect only. On the domestic side, these quite substantial vestiges will remain—and, barring amnesty, will remain for years and decades to come:

(1) Tens of thousands of objectors to the war have broken the criminal law and, if not already prosecuted, are subject to prosecution. Numerically, the largest groups are draft refusers (or evaders) and participants in illegal demonstrations. The great majority have engaged in no act that has involved or threatened injury to any person, or substantial damage to (or theft of) any property; but some few have committed assault, arson, burglary, and perhaps worse.

(2) Some of these people have exiled themselves in Canada, Sweden, and other foreign countries. Others, who have not fled, either (a) have been convicted and have completed their sentences, or (b) are presently being prosecuted, or (c) are subject to prosecution.

(3) This last group—those who are subject to prosecution but have not yet been arrested or indicted—is by far the largest. The war's end may lead most prosecutors to ignore them in favor of more dangerous offenders. Even so, however, each of them (and probably his spouse and close associates) will know that prosecution may ensue—at any time before the applicable statute of limitations has run (and some of them run a long time)—if anything is said, published, or done that awakes the prosecutor's unfavorable attention. The violator will in effect be a probationer, and as such he will have reason to keep his mouth shut on controversial issues. His one venture in political expression—opposition to the war by illegal means—may prove to be his last.

(4) Almost without exception, these violators believe—perhaps rightly, perhaps not—that they have served rather than harmed the United States by revealing, through their law-breaking or self-exile, the depth of their own conviction that the war has been wrong, helping to speed the general realization (which all agree has now come) that the war must be ended. Millions of others share that belief, and will continue to proclaim the injustice of continued punishment, prosecution, or de facto probation. To that extent—and it is a large extent—the divisive effect of the war will be prolonged.

(5) The rankle will not die away as soon as prosecutions are ended and sentences served. The stigma of criminal status—the status of the ex-convict—will still rest on those who have suffered it. The status carries with it various political and civil disabilities, heavier in some states than in others: disability to vote, to hold public office, to obtain public employment; ineligibility for admission to the professions such as law, medicine, and teaching, or for admission to other licensed callings such as taxi driving and liquor retailing; and so on.

(6) The law violators are numerous enough, and are sufficiently dispersed geographically, to spread these effects throughout the land. The problem is thus a national one, and—arising as it does from a national war, involving as it does our national political health—it can only be dealt with effectively and uniformly through Federal action.

These are the conditions that will face us when the war is over. But should we postpone until then our consideration of the problem? I do recognize the accuracy of President Nixon's prediction that amnesty—though it will surely come, as he says, just as it has come (in one form or another and not always under the name of amnesty) after every divisive rebellion or foreign war—will be delayed until our prisoners are back home and American servicemen (except perhaps for volunteers) no longer fight in Southeast Asia. It does not follow, however, that we ought to wait until then to lay the political groundwork. It is not too soon to initiate public debate on the scope and timing of the amnesty—the amnesty that history and the President say is inevitable, and which the President, on Jan. 2, declared he would be "very liberal" in granting when the time comes. There are enough months left before the November election for public opinion to crystallize, for candidates to be queried on their amnesty views, and thus for the people's will to be expressed at the polls.

Nor is it too soon to lay the legal groundwork. It is true as President Nixon has reminded us, that clemency for Federal offenses is an executive function. Article II, Section 2 of the Constitution gives pardoning power to the President. But Congress also has a part to play.

At a minimum, Congress can and should shoulder part of the political responsibility—for amnesty, particularly if relatively quick and broad, will require political courage of a high order; this long war has been divisive—by a concurrent resolution affirming congressional approval and support of whatever amnesty it thinks the public interest demands. That is the least that Congress can do, or at any rate it is the least that I think Congress *should* do.

There is explicit, though not indisputable, authority that says Congress itself has the power to grant amnesty. The Supreme Court has so declared on more than one occasion, though always in cases that involved other issues and did not squarely present the question of congressional amnesty power. An amnesty statute would constitute an assumption of full political responsibility by Congress. It would also constitute the most authoritative expression of the will of the American people, a consideration the importance of which will be explained in a moment.

To avoid any lingering Constitutional doubt (and to avoid the wrangling of Constitutional experts that delayed enactment of the 1964 Civil Rights Act), the effectiveness of the statute might be made conditional upon affirmative Presidential action. That is to say, the bill might stipulate that it would become law only if the President signed it, or approved it by later public proclamation—not if he simply failed to sign it (which ordinarily allows a bill to become law) or vetoed it (unless it were then enacted over his veto and he or his successor later approved it by proclamation). Politically, such a limitation is of small importance in view of the unlikelihood that the bill would pass at all without support from the White House.

It may be said that such a concurrent resolution or statute would be premature at the present time because the war is still being fought. Perhaps this is so, although the objection might be at least partially obviated by a provision delaying the effective date until the President proclaimed that hostilities had ended or been reduced to such a level as to justify the effectuation of amnesty.

But let us assume that specific amnesty action is deemed to be premature for the time being. There is still grist for the congressional mill. It is certainly not too soon to provide the President with all the authority he needs for full and effective amnesty, even though he may not exercise it for a while. Congress has followed this course before. For example, the President was vested with authority to fix prices, wages, and rents long before he saw fit to exercise it. When the time did come, he was in a position to act without delay for congressional action.

PRESIDENTIAL POWER LIMITED

True it is that the President already has plenary power to grant clemency to Federal offenders, both military and civilian. True it is that such clemency can take the form of full pardon (with erasure of guilt—as is done in cases of mistaken identity), or remission or reduction of punishment. True it is that reasonable conditions—perhaps an oath of allegiance, as after the Civil War; perhaps alternative public service, as proposed by Senator Taft and others—can be attached. There are, however, certain things that the President probably lacks power to do without congressional authorization. He probably lacks power to restore the citizenship of those who have relinquished it in protest against the war; it is Congress that possesses the naturalization power. And he surely lacks power to grant clemency to the many violators of state law, a category that includes most of the illegal demonstrators.

As a matter of fact, some Constitutional lawyers may well say that this latter group cannot be granted clemency even by Congress and the President acting in concert. They may say that the power resides only in the respective state governors. My own opinion is otherwise. I believe that Congress has an untried but available Constitutional resource in the "privileges or immunities clause" of the Fourteenth Amendment. As I have written before:

"Section 1, after providing that all persons born or naturalized in the United States and subject to its jurisdiction are its citizens, goes on to provide: 'No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.' The clause has been little used, largely because of a restrictive—and, I believe, erroneous—interpretation by the Supreme Court in 1873 in the Slaughterhouse Cases. But the original purpose of the clause is precisely applicable here. The purpose was to enable Congress, by defining the privileges and immunities of Federal citizenship, to afford protection against hostile state action. The newly freed slaves were, of course, the main subjects of concern, but the clause is not limited to them.

"If Congress believes that our national interest requires the early restoration of domestic harmony and that such harmony will be promoted by amnesty for antiwar demonstrators and others, then Congress has the power to grant them amnesty. What it takes is a declaration by statute that it is a "privilege and immunity' of United States citizens to gain annulment of convictions and other legal disadvantages suffered by reason of specified acts of opposition to the war. If Congress so provided, the amnesty could be conditioned upon Presidential activation, and it could be made subject to such conditions (for example, an oath of allegiance) as Congress might impose or empower the President to impose."

A JUDGMENT ON THE WAR

It remains to consider how broad the emnesty should be. That depends ultimately upon whether our concern extends to the condition of our whole society, or whether we interest ourselves only in fairness to the violators; and that question is intimately linked with the judgment that the American people make upon the rightness or wrongness of the war itself. If the war is found to have been the basic mistake from which all else flowed, those who opposed it sooner and more vigorously than the rest of us are to be regarded as having performed a service through their illegal acts. They may well have sped the general realization of the war's true character; at any rate, that was their purpose and their hope. This realization has gradually come into focus as we have read the Pentagon Papers, as we have learned the shabby factual basis of the recently repealed 1964 Gulf of Tonkin Resolution (which, in the absence of a formal congressional declaration, is generally taken to mark the beginning of the war). If the violators have served the United States by their submission to punishment or self-exile—acts which, it may be said, have connoted courage much more often than cowardice—amnesty should be broad, quick, and unconditional.

A strong case can be made for the proposition that Americans did pass adverse judgment on the war no less than four years ago, In my opinion the 1968 Presidential election, in which both major candidates won nomination on an end-the-war program—and in which President Lyndon B. Johnson (who indeed had won the 1964 election on a no-war platform) declined to run for the stated reason that he feared his candidacy would hamper his peace-making efforts—was a clear condemnation of the war. If it was, most Americans have said that the war has been a bad one at least since 1968, if not since its beginning.

This November the people will have another opportunity to express themselves, if the issue is adequately framed in the Presidential and congressional races. Should the people reaffirm what I think they said in 1968, it logically follows that every American should be relieved of every legal disadvantage he would not have suffered if the war had never begun (or, at the least, any such disadvantage that he incurred after the 1968 election). That implies not only remission of criminal penalties but erasure of criminal status for every offender whose crime would not have been committed but for the war.

It is desirable that amnesty be granted openly and officially if premised on the wrongness of the war—not bit by bit in the form of quiet military discharges given to deserters, or case-by-case leniency accorded by clemency commissions or parole boards. The candid admission of error is beneficial not only to the individual soul, as the churchmen tell us, but also to the body politic. The French profited from their painful recognition of the wrong done to Captain Dreyfus. The Germans profited from their even more painful recognition of the wickedness of Hitler and his Nazis. We Americans, if we truly believe that the war in Southeast Asia has been a bad mistake, would benefit—both in self-esteem and in our relations with the rest of the world—by making express and official acknowledgement of the error, and doing it sooner rather than later.

Full amnesty might not, however, be thought appropriate in all cases. It would not be illogical, though administratively difficult, to limit clemency to those whose offenses were motivated wholly or partly by conscientious opposition to the war. (To be sure, such a limitation would discriminate in favor of the articulate young men who are capable of explaining their feelings in religio-philosophical lingo; and relatively few of them come from Appalachia or Harlem.) Neither would it be illogical (though, again, administratively difficult) to deny full clemency to those whose offenses have been "violent"—not an easy term to define; does it include sit-ins? the scrambling of draft board records?—and who, by such acts as arson and assault, have revealed themselves as limitations, however, most acts of criminal opposition to the war would be pardoned.

If, on the other hand, it turns out that most Americans can agree only that the war should be put behind us, amnesty will be narrower. There may be liberation of prisoners, but no erasure of the stigma of conviction or restoration of political and civil rights. There may be amnesty for Federal offenders (most of whom are draft refusers) but not for state law violators (most of whom have been prosecuted for some form of violence or near-violence, though the great majority have done no more than block the transport of draftees or engage in other illegal demonstrations).

DANGERS IN UNJUST ACTION

In appraising the desirability of limitations upon amnesty, however, one somber fact must not be ignored. Attica stands as a reminder of the difficulty and human waste involved in punishment of people who believe themselves to have been unjustly convicted, and the primitive crudity of the methods our penologists have thus far devised for dealing with them.

And in deciding whether clemency is due to such offenders as the Berrigans, we should ask ourselves this question: Had John Brown's body *not* lain a-mouldering in the grave when the Civil War ended—if, instead, he had been serving a prison term—would he have been accorded less generosity than Jefferson Davis and Robert E. Lee?

Only a crystal ball could tell us how the amnesty problem will eventually be resolved. Much may depend on *how* the war ends. Should it cease at a defined moment—perhaps with the aid of the United Nations, whose competence in this regard has suddenly increased with the admission of mainland China; perhaps as a result of President Nixon's trip to Peking; perhaps as a result of a congressional act of punctuation—amnesty is likely to be quicker. Should the war trail off as gradually as it began, amnesty may be slow in coming.

But come it will. And it is now time for every American to examine his own thoughts and opinions; to make them known to all who will listen; to call upon candidates for statements of position; and to carry his convictions with him into the voting booth on Nov. 7.

Louis Lusky, who argues here his case for amnesty, is professor of Constitutional law at Columbia University Law School. He has drafted a proposed bill for Congress, drawing on the work of his Legislative Drafting Seminar, that would put his beliefs into the congressional forum. A graduate of Columbia Law School, Prof. Lusky was once law clerk to Supreme Court Justice Harlan F. Stone. He practiced law in Louisville, Ky., for years before joining the Columbia faculty in 1963, and is a former board member of the American Civil Liberties Union.

RECONCILIATION, NOT RETRIBUTION
UNIVERSAL AMNESTY

(By James Reston, Jr.)

Amnesty for Vietnam resisters has suddenly become a live issue. The reasons for that are evident: Nixon says we're in a defensive posture in Vietnam, where our effort can be supported by volunteers; voters are looking to a postwar presidency; the draft calls in the fall and winter have been minimal; and amnesty supporters have been hammering on the point that this is the only logical course to take after an immoral war. There has been national publicity: Mike Wallace badgering families and friends and fellow townspeople of refugees in Canada; *Time* calling for conditional amnesty; *Newsweek* doing a cover story and taking a poll indicating that 63 percent of the American people favor a conditional or general amnesty.

President Nixon, who in November clipped a startling flat "No" to a question of whether he would consider amnesty, vacillated in his recent TV interview with Dan Rather, saying he intended to be liberal with amnesty once the war is over. Senator Muskie is talking vaguely about a "national objective of repatriating these young people under some conditions which we will have to work out," but bases his timing not even on the end of the war, but on the end of the draft. Even Senator McGovern, who was first of the presidential contenders to advocate amnesty, has failed to say specifically whether he favors a

universal or a general amnesty law, and if his idea is for general amnesty what conditions he favors. And the astonished refugee community in Canada is complaining that it has been made into a political football.

However, no one has done more to advance amnesty than the most unlikely advocate of all, Senator Robert Taft of Ohio. His Amnesty Act of 1972 will be the focus of the upcoming debate in Congress. At first glance, it would seem splendid that a conservative should be taking the lead, and no doubt Taft's move has created an instant constituency for general amnesty. Unfortunately, his bill avoids the central moral question, what is right and appropriate for the sponsor of an immoral war to do with those in flight from it?

What does Taft's bill say?

The price of repatriation for the evader is to be a three-year service (a) in the Armed Forces—that is to say, a denial of the purpose of exile—or (b) in Vista, VA or Public Health Service hospitals, or other unspecified federal service—a slur against Vista, as if the volunteers were the keepers of the poor, like the hospitals are the keepers of the sick. The alternative federal service is to be performed at the minimum pay grade and without eligibility for normal federal employee benefits. For the resister in jail, a plum is offered: he would be credited with up to two years of prison time to apply to his three-year service obligation. And for the deserter, as if conscientious flight once a person sees the horrors of our military and Vietnam policies from the inside is a higher crime, no provision is made. Taft feels normal military justice should take care of the deserters. Congressman Edward Koch of New York who is the longest-standing advocate of "options" for the exiles has offered a bill similar to Sen. Taft's, with the essential difference of a two-year instead of three-year alternative service. Congressman Koch dispenses with Taft's patronizing rhetoric about the "misguided victims of bad advice and poor judgment" but insists on the term "penalties."

The philosophy of retribution that underlies the Taft and Koch bills is based on two assumptions. First, universal amnesty (no penalty or condition for repatriation) would be unfair or disrespectful to the 55,000 American dead in Vietnam and three million who served there. Second, universal amnesty would wreck the draft and the government would not be able to raise an army through conscription in future wars.

The first of these is the most galling, for it pits victims against victims. It is the Vietnam policy that has made casualties and mercernaries and POWs and jailbirds and legal evaders and exiles of an entire generation of young Americans. They are *all* casualties. But now, one victim, the Vietnam dead or the Vietnam returnee, is used against another, the refugee. Not that we should be surprised. Young soldiers were used against young protesters around public buildings in the mass protests of the late sixties and at Kent State. The POWs are used to justify a residual force of soldiers, which in turn insures the continuing captivity of the POWs. Is it any wonder that the whole idea of national service out of patriotism has been destroyed for a generation?

No one is asking the mass of Vietnam veterans if they want their sacrifices used in this manner. The point is somehow missed that young veterans groups are the most active antiwar element on campuses today, now that the threat of the draft has diminished. More relevant, it has been barely reported that veterans groups have been in the front of the budding amnesty movement. On Christmas eve, the 103rd anniversary of Andrew Johnson's Universal Amnesty Proclamation of 1868, young veterans from New York, Pennsylvania and North Carolina presented petitions for universal amnesty to the White House with nearly 35,000 signatures. Another veteran-sponsored petition for repatriation is circulating in Florida. These are the only popularly based amnesty petitions in circulation.

What motivates the antiwar zeal of these veterans? Their inside knowledge of what our policies have meant to the people of Asia has led to rage over the efforts of the government and the press to sanitize the war news for the American people. They know that while they made a sacrifice of time and even lives, others of their generation made the moral point.

The second argument for repatriation penalties for exiles—that without penalties armies would be difficult to raise in the future—is debateable. It depends on how fresh the memory of Vietnam is. I, for one, hope that the memory of it never fades. For if Lyndon Johnson had thought it doubtful that he could have raised an army for the purpose he used it, his ambitions might have been checked. That he resorted to duplicity as evidenced by the Pentagon Papers, and thereby duped thousands of young Americans to join his army under false pretenses, goes to the special bitterness of the veteran today. The memory of Vietnam might say to another generation that it is a duty of citizenship to decide conscientiously *beforehand* if the way it is asked to fight is just and consistent with basic American principles, and if it is not, to refuse to participate. The organization of the late thirties called "Veterans of Future Wars" might well be reactivated.

The Taft and Koch proposals are for domestic consumption, addressed to the Americans who feel some responsibility for the refugees, but who cannot face up to the bigger responsibility, in the Nuremberg sense, of what we have wrought abroad and at home by this war. The congressional proposals offer amnesty without accepting guilt. If none of the refugees returns to face Taft's harsh music, they can say, "We offered it to the bums, but they wouldn't take it. Tough luck."

If the guilt in Vietnam were conditional, then conditional amnesty, like Truman's after World War II, might be appropriate. But the national guilt is total in Vietnam, and if this country wishes to balance that record with positive acts, it must wipe the slate clean.

Universal amnesty is the only alternative consistent with true reconciliation. But it is also the only option that is likely to get the refugees back in force. They have made it very clear that they will accept no imputation of criminal guilt, and they shouldn't.

Herein lies a curious, but persistent misconception both at home and in Canada: That amnesty implies "forgiveness." In fact, it means "forgetfulness" coming from the Greek "amnestia." The distinction is vital to the refugee, for forgetfulness means the possibility of prosecution is forgotten, an exercise in legal bookkeeping. This concept is affirmed in the case of *US vs. Burdick* (236 US 79) 1915. Burdick was the city editor for *The New York Tribune*. He was brought before a grand jury and asked to answer questions regarding investigations of his paper concerning city frauds. He refused to answer on the grounds of incrimination, whereupon President Wilson granted him a pardon from criminal prosecution. Burdick refused the pardon, stating still that answers might incriminate him. He was thereupon charged with contempt. The issue was whether the acceptance of the presidential pardon implied criminal guilt. In overruling the lower court and setting Burdick free, the Supreme Court stated: "If it be objected that the sensitiveness of Burdick was extreme because his refusal to answer was itself an implication of crime, we answer, not necessarily in fact, not at all in the theory of law. It supposed only a possibility of a charge of crime, and interposed protection against the charge, and reaching beyond it, against furnishing what might be urged or used as evidence to support it."

Thus, amnesty means clearing the books of charges made or anticipated for war resistance, placing the burden on the bookkeeper, not on the accused. As I wrote in these pages last October, the books on war resistance, incarnating the elaborate system of spying on antiwar individuals, should be thrown away altogether anyway, because their existence is a violation of freedom of speech and their effect on intellectual inquiry has been devastating. It is no good to wipe the books clean for dissent in one era, only to begin to fill them again with dissenters from the next.

Taft's proposal or any general amnesty variation, of which there are bound to be many in the upcoming debate, does not meet the moral requirement of this country, nor will it induce the refugees to return. The American public has shown its capacity to evade responsibility in the Mylai case. If it insists on the Taft proposal, and if that becomes law, we will follow the course of the Reconstruction amnesties after the Civil War, finding out as Andrew Johnson did that his three general amnesty proclamations were unworkable and inappropriate to the overriding need: to bind the wounds of the country. He found that only universal amnesty would meet that need, but it took him three years.

[From the Washington Post, Feb. 21, 1972]

MANY U.S. EXILES PREFER CANADA

(By Anthony Astrachan)

TORONTO.—Most of the Americans who fled to Canada to avoid serving in the Vietnam war reject the idea of conditional amnesty, according to recognized spokesmen and individual exiles interviewed here.

The exiles also challenge the view of them that they believe the American establishment holds—of lonely, tearful waifs dreaming of the day they can once again set foot on American soil.

They are in no hurry to return home, the exiles insist—not only because the current amnesty proposals are unacceptable, but also because many of them reject the whole U.S. system, not just the Vietnam war.

Many of this group prefer Canada as a society with fewer urban and racial tensions than the United States.

"We have discovered a country where there is more sanity than in the United States," said Richard Burroughs, originally of El Paso, Texas, and now a counselor at the Toronto Anti-Draft Program.

RETURN TO VISIT

Burroughs said he assumed that 90 per cent of the exiles would like to go back to the United States to visit, but only to visit.

Mickey Bickell, 26, of Clearwater, Fla., cautioned that despite the talk of staying here at least half of the exiles would go back if they had the chance.

But the only chance they would recognize, most exiles interviewed agreed, would be an unconditional amnesty covering draft dodgers and deserters alike.

The amnesty proposals made by Sen. Robert A. Taft Jr. (R-Ohio) and Rep. Edward I. Koch (D-N.Y.) cover only draft dodgers. They would impose the condition of some "alternative service" to make up for the military commitments that the exiles skipped. In the exiles' eyes, this is punishment instead of recognition of their early awareness of the wrongness of the war an awareness they believe much of America has come to share.

OPEN LETTERS

"We have done nothing wrong," Bickell and other exiles insisted. They echoed open letters written by exile Jack Colhoun to Koch

and Sen. George McGovern (D-S.D.), published here in an exile magazine and reprinted by The Toronto Star.

"To us, the 'crime' of not participating in such a war pales beside that which our government asked us to commit in the name of democratic citizenship," Colhoun wrote. "After the Calley trial and the Pentagon Papers, it should be clear to all that we have been honorably vindicated."

Many exiles see the distinction between draft dodgers and deserters as an attempt at class warfare or a middle-class cop-out, rather than a legalism.

Most draft dodgers are middle-class, well educated, articulate about their opposition to the war, and often backed emotionally and financially by their parents. Deserters tend to be younger, poorer, less well educated, more often rootless—and to have reasoned less about their feeling up to the moment when they finally acted.

Burroughs' wife, Naomi Wall, who grew up in the Riggs Park area of Washington in the 1950s and has been working in the anti-war movement here since 1966, saw important differences in deserter motivations that might affect their responses to amnesty.

MIDDLE AMERICANS

Some, she said, are typical Middle Americans who went into service willingly and then rejected the war and the American system. Others went into service knowing that they opposed the war but trying to fulfill their obligations without being touched. When the war finally got to them, they deserted. Still others were virtually forced to enlist by being given a choice between military service and a jail sentence when convicted of minor felonies.

Men in all categories may desert because they suddenly see a wrong in the army, or because they can't handle the discipline, rather than because of specific opposition to the Vietnam war.

Dodgers and deserters sometimes feud. Burroughs said the exile experience does not bridge the class gap for most.

The amnesty movement in the United States puts the total of draft dodgers and deserters at 70,000 to 100,000, with the number in exile in Canada ranging from 40,000 to 70,000. In December, the Pentagon listed 35,259 deserters still at large. Exiles here say the two categories number 70,000 to 100,000 in Canada alone, with as many more underground in the States and 2,000 or 3,000 scattered in other countries. There are about 30,000 such exiles in Toronto.

The number entering Canada was about 80 a week in January, according to exile sources—80 per cent of them deserters. In the early years of war resistance, draft dodgers predominated.

Counseling groups like the Toronto Anti-Draft Program in many Canadian cities have been trying to discourage dodgers and deserters from coming here because Canada's high unemployment (7.7 per cent in January) makes jobs hard to find.

JOBS NEEDED

Even Canadians who welcome antiwar exiles as a matter of principle naturally prefer to give jobs to Canadians, Burroughs said. Businessmen who went out of their way to help exiles before unemployment started climbing two years ago now can't hire any. A Harris Poll recently showed that only 15 per cent of Canadians favored the continuing arrival of draft dodgers and deserters, compared to 60 per cent four years ago.

Dale Ackerman, 25, of Pontiac, Mich., insisted nonetheless that every exile he knew either had a job or preferred not to work. Ackerman was one of several who said exiles do not live or function as a group, even though most read Amex-Canada, a magazine that claims to speak to and for them as a group.

Ackerman, who came to Canada in 1968, and took a master's degree in social work at Ontario's Waterloo Lutheran University, is now a social worker at St. Michael's Hospital here. He estimated that 70 per cent of his friends in Canada were not American.

Ackerman was one of several exiles who emphasized the warmth of the Canadian welcome. He said a small percentage of the Canadians he met either could not understand why he would have left the United States because they think it's "such a great place," didn't like exiles because growing Canadian nationalism resents American cultural influence and economic dominance. Most Canadians just said "Welcome aboard."

Many exiles appreciate Canada for more than its comparative peacefulness.

"The possibilities for alternatives are much greater here," Naomi Wall stressed. Day-care centers are flourishing with government help, and Toronto last year gave $54,000 for a free school experiment.

MEDICAL CARE

Bickell mentioned Canadian Medicare, which provided his 16-month-old son with four weeks of hospital care, including treatment by three specialists, for a total cost of $30.

These attractions are among the things that make many exiles want to stay in Canada regardless of the final amnesty terms. Montreal exiles are more ambivalent, because they find it hard to function in French, and Quebec nationalism gives the city more tensions than English-speaking Canada. But many blacks prefer Quebec. One called it the place with the least racial prejudice of all he had ever seen.

Negative Canadian reactions range from intellectual nationalists who regard the exiles as patronizing or as antinationalist to the Canadian Legion, the country's equivalent in origin and in outlook of the American Legion.

Sometimes even sympathizers like The Toronto Star get fed up. Two years ago, it attributed five priorities to Amex-Canada: "1. Aid the revolution in the United States. 2. Aid the draft dodgers and deserters coming to Canada. 3. Screw capitalism. 4. Screw democracy. 5. Try and fit into Canadian life.

"Unless the exiles put 5 first, they risk arousing growing hostility and suspicion among ordinary Canadians," The Star editorialized. "That could end in disaster not only to themselves but to a much larger number of American immigrants who only want to make their homes in Canada and fit into Canadian life."

LAW-ABIDING

Just as common, however, is a comment like that of a Toronto newspaper reporter specializing in the drug scene and the youth subculture. He said the exiles are the most law-abiding people in Canada because of their fear of being deported to the United States.

"They don't even hitch-hike on forbidden freeways the way Canadian kids do," he noted. He added that some of the exiles do use drugs (though there is comparatively little heroin traffic here), but the percentage of users who sell drugs is much smaller than among Canadian users.

The Royal Canadian Mounted Police sometimes seems to "hassle" exiles, either on its own or in cooperation with the FBI. A deserter who asked not to be identified said that he was kidnapped on a Toronto street in December, 1969, by plainclothesmen who refused to identify themselves, and driven back across the border into upper New York State. He asked to use the toilet in a drive-in, and escaped by hitting the man who accompanied him with his heavy winter boot—"the army taught me where to hit him," the deserter said with a grin.

He persuaded two Americans about to leave the drive-in to take him back to the border, where a Canadian family drove him across as one of its members. The deserter assumed his abductors were FBI, possibly motivated by the fact that he had a top-secret clearance when he deserted. If such a case were documented in the Canadian press, as two similar ones have been, it would probably provoke an outburst of pro-exile nationalist feeling.

SYMPATHETIC AUTHORITIES

Sometimes the authorities are more sympathetic. Robert Alar, 20, a Marine Corps deserter, was ordered deported for entering Canada illegally. He was allowed to leave "voluntarily" Feb. 16 instead of being turned over to U.S. authorities. He flew to Syracuse and later told Canadian newsmen by phone that he had passed U.S. Immigration undetected and gone underground.

[From the N.Y. Times, Jan. 23, 1972]

AMNESTY OR PUNISHMENT?

TO THE EDITOR:

Senator Taft's bill of amnesty for young Americans imprisoned by the Nixon and Johnson Administrations is useful in directing attention to a vital problem, but it is based on a false assumption. It fails to lighten the burdens imposed by their elders; it adds new punishment and servitude.

The Senator mistakenly assigns guilt and debt because thousands refused to participate in the tragic, murderous and insane policies initiated by Washington, the power structure, the millions of citizens unwittingly taken in by the Government's deceptions.

The Puritan strain in America lingers on—punishment for failure to conform.

All alternative might free us all: Allow those out of the country who wish to return to do so. (Many of the best will not.) Assist, with public funds, all of them to find useful and agreeable work serving their own and the community's interests as full citizens.

We have all suffered uselessly long enough as a result of our actions in Asia. The suffering heaped upon Asians is incalculable. With time, the massive tragedy will become clearer for those who sense reality. The courage and heroism of those who refused to participate in the national blindness will surface. They have already paid the terrible price of prison, family dismemberment, humiliation and exile.

All Americans owe them a debt. That debt is owed, as well, to the men forced to go to Asia to do the killing as a result of the hard-hearted policies of President, politicians and citizens.

When Senator Taft and other leaders understand the true nature of their creation, the lost limbs, burned flesh, missing kin, desolate earth, there will be no room for self-righteousness. A normal man would feel shame, remorse, wish for forgiveness.

Americans will become free when we free ourselves from our own self-deceptions and those imposed by Washington. If we become so blessed we won't need to impose the worst of ourselves on others according to our limited vision of what life should be. Such freedom brings with it the freedom from imposition by others with their guns and bombs. When we are going to practice democracy more and talk about it less?

ALLAN GELBIN.

[From the Los Angeles Times, Jan. 3, 1972]

AMNESTY FOR THOSE WHO SAID, "NO"—AS A SIGN OF NATIONAL REPENTANCE

(By D. J. R. Bruckner)

NEW YORK.—The political leaders of the nation should give more consideration to the question of a total amnesty for draft resisters and military deserters than Mr. Nixon's one-

word given at a press conference last Nov. 12: "No."

No one knows exactly how many people are eligible now for prosecution for evading or resisting the draft, or for deserting the armed forces, or exactly how many have fled the country; no one knows exactly how many have simply failed to register for the draft. Perhaps, if the war in Southeast Asia is ever over, those immense computers which are game-planning our bombing of the subcontinent can be used to give us an accurate notion of how many would benefit from an amnesty.

The usual estimate is that up to 70,000 men have fled the country to avoid the draft. The desertion rate during this war is double that of World War II. The Pentagon estimates there are more than 35,000 deserters at large. In 1971 the government obtained more than 4,500 indictments against men refusing to be drafted; this is the most intensive campaign of prosecution for this offense since 1944. There are federal fugitive warrants outstanding on 4,000 draft evaders. This situation has developed in spite of the fact that rules defining legitimate conscientious objection have been liberalized considerably; in the last four years 183,000 men have been excused from service as conscientious objectors.

You can understand why the government might hesitate about granting an amnesty. The total of American dead keeps inching up; millions of men have served in the war, and hundreds of thousands were wounded.

POLL SHOWED MOST AMERICANS OPPOSE USE OF U.S. BOMBERS

But there are other figures to consider. A Harris poll last fall showed that most Americans oppose the use of U.S. bombers and helicopters to support the South Vietnamese army after our withdrawal, under any conditions. For several years, polls have indicated that most Americans want us to get out of this war now. One poll found that 65% of the American people think the war is immoral.

At least 450,000 Asian civilians have died in this conflict; more than 1 million have been wounded, and 10 million turned into refugees. The United States has dropped 6 million tons of bombs on the four tiny countries caught up in this war, three times the total tonnage used in World War II. We have developed dozens of new, torturous antipersonnel bombs which are dropped daily on civilians.

There must be millions of Americans who would sympathize with, or even confirm, the judgment Sen. George S. McGovern (D-S.D.) expressed recently in Los Angeles, that "except for Adolf Hitler's extermination of the Jewish people, the American bombardment of defenseless peasants in Indochina is the most barbaric act of modern times."

Anyway, we can see that many men might have the deepest painful and noble reasons for refusing to fight in this war. The foundation of this society is the willingness of the individual to take a personal moral stand when he is asked to become an instrument of policy; inevitably, many individuals must make judgments against one policy or another. And in the case of this war, people who have cried out in anguish against its immorality have included members of Congress, local officials, bishops, businessmen, former high-ranking military officers, teachers, ministers—all of them people who might reasonably be expected to have a strong influence on the decisions of young men facing the draft.

The President's simple "No" to the question of amnesty may only reflect a political estimate; the war itself reflects political judgments. But it might involve a terrible implication, that, in the eyes of the government, there is no moral basis for avoiding or resisting the draft.

QUESTION MUST BE VIEWED WITH MY LAI MASSACRE IN MIND

You have to look at this question in light of the fact that only one man was convicted of a crime in connection with the My Lai massacre, that that man's original sentence has been reduced, and that the President has proclaimed he will review even that reduced sentence. And you have to look at it in the light of a careful nationwide survey done by three Harvard University researchers in which half the people questioned said they themselves would follow orders and shoot civilians and children in a My Lai situation. In the same survey (this is a terrifying discovery) two-thirds of the respondents said they thought most Americans would follow orders and shoot.

We ought to remember that a majority in Germany supported Hitler, too, and his methods, and that Germany, too, produced flights of exiles, many of them acknowledged throughout the world to be Germany's best people.

The disposition of the status of the draft evaders and resisters is not a matter of simple balances; it is not a question of being unfair to the men who have served. The equity question involved in these cases is a moral question, involving the decency and indeed the future of the people of this nation. Even at the basest level of consideration, we must recognize that the men who have resisted have mostly lived in hiding, in fear, or in exile for a number of years. That is a terrible price to pay for saying "No" to this government, this pitiful helpless giant that is using the human population of Southeast Asia as an enormous laboratory of technological warfare.

McGovern's amnesty proposal would get a better reception if the American people, not their President, were responding to it. We all know, if the President does not, that we need healing. we need to rediscover our independence and our personal moral purposes. We need to flush out and honestly investigate the atrocities committed in this war; we need to bring the men who have fought it, at a terrible moral cost to themselves, back into this country with every help we can give for as long as it is needed. We need to bring back home, without fear or vengeance, the men who refused to do what never should have been done by anyone; their return would be a pledge of our resolve that it will never be done again.

STATEMENT ON AMNESTY—ADOPTED BY THE ECUMENICAL WITNESS, KANSAS CITY, JAN. 13–16

The religious community of the United States, as represented by the Ecumenical Witness, aware that the War in Indochina must be brought to an immediate end, urges the implementation thereupon of a broad, general and plenary amnesty, without any qualifications or conditions, to all those men and women who have been prosecuted or will face possible prosecution by civilian or military courts for any alleged offenses arising out of the War, as well as the meeting of our social responsibility to those who might refuse amnesty, to the civilian members of the resistance, and to those who have served in the military. We urge this amnesty in order to overcome the paralyzing divisiveness of the War on our society and in order to mitigate as far as possible the tragic consequences to the War upon that generation that has been called upon to bear the heaviest existential burden of this war.

We believe that amnesty will be one step toward the reconciliation of the society, but we do not believe that amnesty itself will constitute atonement of the society's responsibility for the War nor will it be in the nature of forgiveness for any offenses, but rather an effort to give ourselves the benefit of moral courage and idealism of the men and women of the young generation. We call upon the religious community further to cooperate with other groups in the society pursuing this objective and to implement this commitment by appropriate educational and other supportive action within their own constituencies.

NATIONAL POW/MIA WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 10 minutes.

Mr. ZABLOCKI. Mr. Speaker, the week of March 26 to April 1 has been appropriately and properly designated National POW/MIA Week. However, like all such observances it carries with it the inherent shortcoming that by concentrating our interest and concern during these 7 days we run the danger of tending to forget for the rest of the year.

In reality, of course, this week and its various special observance programs is the least we can do on behalf of our men held prisoner or missing in Southeast Asia. But for the prisoners and missing and their families there is no such thing as a mere week. For them it has been an eternity of days endlessly extending into years—in some cases, more than 7 years.

This is a tragic situation—a horrendous testament of man's inhumanity to man. It was, of course, this very tragedy which the Geneva Conventions for the Protection of War Victims was intended to minimize.

The history of modern warfare reveals two seemingly paradoxical trends. On the one hand, weapons have become vastly more sophisticated, fearsome, and destructive. On the other, there have been concerted efforts to make warfare as humane as possible for those taking no part in the conflict, including members of the Armed Forces who are sick, wounded, captured, or who surrender.

A series of agreements, stretching back for more than 100 years, sought to protect prisoners of war. From an initial prohibition against the slaughter of captives, mankind has moved to describe the rights and privileges of those held captive and to set down the obligations of their captors.

The culmination of this trend was the Geneva Conventions of 1949. Of the four treaties signed by 61 nations on August 12, 1949, perhaps the most important and certainly the most relevant at this time is the Geneva Convention relative to the treatment of prisoners of war. Today 123 nations accept the Geneva Convention, including all nations participating in the hostilities in Southeast Asia on both sides.

Since North Vietnam is a signatory to the Geneva Convention on Prisoners of War, the treatment of prisoners ostensibly should be no issue. Unfortunately, it is an issue because the North Vietnamese have refused to abide by the provisions of the convention and have been guilty of inhumane treatment of the American servicemen they hold captive.

The full nature of Hanoi's unjustifiable and illegal acts against American prisoners should be understood by all

Americans. In an effort to focus attention on the problem this special week of observance is therefore fitting and appropriate.

It is my sincere hope that every American—indeed, the entire world—will take this opportunity to become familiar with the provisions of the Geneva Convention on Prisoners of War, and will match the wretched performance of North Vietnam against the obligations which it accepted in acceding to the treaty. The result must certainly be to banish any apathy about the plight of U.S. prisoners and those listed as missing and to generate a thunderous protest against Hanoi's inhumane conduct.

If the National POW/MIA Week observance can achieve this productive end it will go far toward accomplishing what all decent people seek—the humane treatment and prompt release of our prisoners and a full and accurate accounting of those listed as missing.

On this occasion, Mr. Speaker, we again call upon Hanoi and the Vietcong to abide by the Geneva Convention by releasing the sick and wounded prisoners, account for all the missing in action incarcerated in the prisons in North Vietnam, South Vietnam, Laos and Cambodia. Further, not only agree to inspection of their POW camps by an international body but to also sincerely negotiate for the exchange and release of the prisoners of war.

THE TIMES DEMAND ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BYRNE) is recognized for 10 minutes.

Mr. BYRNE of Pennsylvania. Mr. Speaker, I take the floor today because I cannot remain silent in the face of what I consider major crimes being perpetrated against the American people by the Nixon administration.

"Crimes?" one might query. And I must reply, "Crimes, indeed." Crimes when honest, hard-working citizens can no longer fulfill the basic family needs because their hard earned wages are snatched from them by oppressive tax laws designed to help the rich and large corporations. Crimes when elderly people on fixed pensions and income literally are hungry because the true value of their meager funds is decimated by an administration oriented to big business.

Crimes when our cities are dying; housing, their arteries, crumbling before our very eyes. Crimes, indeed, when our schools decay and our children are pushed through them without concern for the quality of education they receive.

Mr. Speaker, I consider the administration's so-called fight against inflation a farce, and I heartily commend those labor leaders who withdrew their presence from the charade of a wage board. Just how stupid does the Nixon administration think the people of the United States are?

What has phase II accomplished? We need only visit the supermarket, or look at the withholding slip, or require any facet of the myriad of services that normal people need.

Business, Blue Cross, the telephone companies—they keep getting increases from the Nixon administration, but the workingman's wages are contained.

I certainly am not antibusiness; I recognize fully that our economy demands healthy business; but neither can we survive long as a nation of equals when one segment of the population carries the burden and another reaps the profits.

Taxation is another example. Take income tax. I fear we have created here a Frankenstein monster which could engulf the entire Nation, using its powers never sympathetically and often autocratically. We have created a supergovernment which is costing us billions; we have made the income tax laws so complicated and contradictory that the citizen can no longer deal with his Government directly; we have allowed so many technicalities that there is not a single American citizen who is not subject to harassment by the IRS.

And what is happening to big business while the workingman is paying an inordinate portion of his earnings to the Federal coffers?

Here is what is happening: The 10 largest oil companies in the United States with a net income of $8.85 billion—yes, that is net and that is billion—paid an average corporate income tax of 8.7 percent. That was the average—Gulf Oil—for example, with net earnings of $990,197,000, paid only 1.2 percent in Federal taxes.

And while this is going on, persons with annual incomes of under $3,000 paid taxes of 14.1 percent.

The Tax Reform Act of 1969 was designed to insure that the big boys paid some share of the taxes, or at least some taxes. In that year, 301 persons with annual incomes of more than $200,000 paid absolutely nothing. Two years after this "reform," 112 persons with incomes of more than $200,000 a year still paid nothing.

Obviously action is needed.

But what is not needed is to tax the low- and moderate-income people again—whether you call it more income tax or whether you call it "value-added tax," which the President has termed his proposal for a national sales tax.

What we do need is to close the loopholes. If these loopholes were indeed closed at the same 1972 tax rate, we would be getting another $77 billion into the Treasury.

The administration has certainly shown no leadership toward tax reform. Therefore, it is incumbent upon the Congress to lead the way, and disregard the vetoes.

I think the people of the United States must take a sober, clear look at the state of this Nation before casting their votes this fall. Remember, we are not voting for the remainder of the year—we are voting on the course this Nation should take for the next 4 years.

We must keep this Government from becoming "of the corporations, by the corporations, and for the corporations."

"U.S.A. AND THE SOVIET MYTH" ON CULTURAL AND POLITICO-ECONOMIC FREEDOM IN THE U.S.S.R.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 30 minutes.

Mr. DERWINSKI. Mr. Speaker, a member of our Members and colleagues in the other Chamber have spoken out against the wave of repressions taking place in Ukraine. As I have so often in the past, I raise my voice in unison with my colleagues and urge that appropriate steps be taken to seek the cessation of Moscow's repressive measures in Ukraine. One concrete step would be a favorable consideration of House Concurrent Resolution 555, which seeks the resurrection of the Ukranian Orthodox and Catholic Churches in Ukraine.

To gain perspective and an insight into these current repressions, I also urge our colleagues to read the institutional account for such developments in the work by Dr. Lev E. Dobriansky, professor of economics at Georgetown University, titled "U.S.A. and The Soviet Myth." The work has received numerous favorable reviews both here and abroad. As further examples, I turn your attention to the review in the current ABN correspondence, a worldwide periodical published in Munich and one in the Book Exchange of London. A careful reading of this work provides a solid framework for understanding the following editorial in America of February 24, the communications by the Ukrainian Congress Committee of America to President Nixon and Ambassador Bush, and the appeals of that committee to fellow Americans:

BOOK REVIEWS

Lev E. Dobriansky: "U.S.A. and the Soviet Myth." Introduction by William G. Bray, M. C. Published by The Devin-Adair Company, 1 Park Ave., Old Greenwich, Conn., 06870. 274 pp. Price $6.50

The author of this book, Dr. Lev E. Dobriansky, Professor of Economics at Georgetown University, with a Ph. D. from New York University, is one of the leading experts on Eastern Europe in the U.S.A. He is President of the Ukrainian Congress Committee of America and strategy staff member of the American Security Council. His book, "U.S.A. and the Soviet Myth" is dedicated to the memory of Dr. Roman Smal-Stocki (1893–1969), Patriot, Scholar, Christian and Friend of all the Captive Nations.

In this book, Prof. Dobriansky disproves errors and illusions about the USSR, so widespread in the U.S.A. and in other countries of the free world, points out the facts and problems, drawing attention to their interrelation and significance, clears up misunderstandings and suggests possible solutions. The author informs his readers about the Russian and the non-Russian revolutions on the territory of the former tsarist empire and suggests that the Russian Bolshevik Revolution, or more precisely, the Russian Bolshevik coup d'etat served the purpose of restoration and modernization of the already disintegrated Russian empire. He brings out in this study convincing evidence for the fact that the USSR is the forcibly restored Russian empire in modern form.

Prof. Dobriansky also acquaints the readers of his book with the strivings for independence of people subjugated by Russia

and Communism. He draws attention to the resistance of these peoples and throws light upon the world political significance of their revolutionary liberation struggle.

Special attention is accorded by Prof. Dobriansky in his book to the Ukrainian question, for Ukraine is not only the largest subjugated nation in the USSR, but in the Russian Bolshevik sphere of power generally.

Prof. Dobriansky's work, "U.S.A. and the Soviet Myth" is an interesting and topical book with very convincing and impressive argumentation. It is written in a light, generally accessible style. The book also contains an ample bibliography on the problems connected with this broad subject.

Dr. C. E. POKORNY.

[From the Book Exchange, November 1971]

U.S.A. AND THE SOVIET MYTH

"U.S.A. and the Soviet Myth." By Lev E. Dobriansky. Introduction by William G. Bray. M.C. (The Devin-Adair Company, One Park Avenue, Old Greenwich, Conn., 06870, U.S.A. 8 by 5¼ ins. 288 pp. Cl. Col'd illus'd d.w. $6.50)

This book offers a thoughtful analysis of the dangers inherent in the current American thinking about the Soviet Union. One important point the author stresses is that there are not 200 million Russians in the world, let alone in Russia—for of the total population claimed, 125 million Non-Russian people live in the USSR. Dr. Dobriansky suggests that the Soviet Union is, in fact, a much weaker nation than Americans believe it to be, and that the American government should call the Russians bluff after a thorough reappraisal of Russia's potential as an enemy. The book touches on many controversial matters concerned with American policies towards Russia, and its author's clear thinking and plain speaking will be valued by the American citizen wishing to understand the real facts.

[From America, Philadelphia, Pa., Feb. 24, 1972]

PROTEST THE SOVIET PERSECUTIONS IN UKRAINE

PROTEST THE VIOLATION OF HUMAN RIGHTS IN THE SOVIET UNION—AMNESTY FOR UNJUST INCARCERATION OF UKRAINIAN INTELLECTUALS

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." (Universal Declaration of Human Rights, Article 19.)

Through the judicial process known as the "kangaroo court" hundreds of writers, students and professionals have been sentenced by the Soviet regime and deported to Russia, where they serve long terms in concentration camps in Mordovia and Vladimir prisons. The accusation against Ukrainian intellectuals was the reading of books published in the West, or "Samizdat" publications, writing pamphlets on Russification, national discrimination and injustice in Ukraine, or signing petitions to the Soviet authorities demanding the rights of independence for the Ukrainian people guaranteed by the Soviet constitution and the Universal Declaration of Human Rights. Some were arrested only for the desire to emigrate to Israel.

DEMAND AMNESTY FOR UKRAINIAN WRITERS

Svyatoslav Karavansky—poet, translator, literary critic; born 1920, sentenced to 25 years in 1944, freed in 1960, rearrested in 1965, resentenced to 4 years hard labor in 1936, and to 5 years in 1970.

Valentyn Moroz—history lecturer at the Ivano-Frankivsk Pedagogical Institute, author of several essays; born 1936, sentenced to 4 years in 1966, 9 years of imprisonment and 5 years of exile in 1970.

Zenon Krasivsky—poet, writer and author of the novel "Baida"; born 1939, sentenced to 12 years in 1967.

Ivan Sokulsky—poet and student of Dnipropetrovsk University; born 1940 and sentenced to 4½ years hard labor in 1969.

Mykola Kulchynsky—poet and student of Dnipropetrovsk University; born 1947, sentenced to 4½ years hard labor in 1969.

DEMAND AMNESTY FOR UKRAINIAN LAWYERS

Dr. Volodymyr Horbovy—graduate of Prague University; born 1899, sentenced to 25 years hard labor in 1948.

Lev Lukyanenko—lawyer, graduate of the Lomonosov University Law School (Moscow) in 1957; born 1927, sentenced to death, commuted to 15 years in 1961.

Ivan Kandyba—gradaute of the University of Lviv Law School in 1953; born 1930, sentenced to 15 years hard labor in 1961.

DEMAND AMNESTY FOR UKRAINIAN PROFESSIONALS—SENTENCED IN 1967

Dmytro Kvetsko—university graduate; born 1937, sentenced to 15 years hard labor and 5 years exile.

Vasyl Dyak—university graduate; sentenced to 12 years and years exile.

Ivan Hubka—economist; sentenced to 6 years and 5 years exile.

Yaroslav Lesiv—teacher; born 1945, sentenced to 6 years and 5 years exile.

Myron Melen—musician; sentenced to 6 years and 5 years exile.

Mykola Kots—lecturer; born 1931 sentenced to 7 years and 5 years exile.

SENTENCED IN 1969

Arkady Levin—engineer; born 1933, sentenced to 3 years hard labor.

Raisa Bekdualiyeva—teacher; born 1925, sentenced to 3 years in 1969.

Volodymyr Ponomaryov—engineer; born 1933, sentenced to 3 years.

Vladyslav Nedobora—engineer; born 1933, sentenced to 3 years.

Hendrich Altunyan—engineer; sentenced to 3 years.

DEMAND AMNESTY FOR UKRAINIAN STUDENTS

Yosyp Teren—student of Uzhorod High School; born 1944, sentenced to 8 years in 1968.

A. Nazarenko—student of the Kiev University; sentenced to 5 years hard labor.

Oleh Bakhtiyarov—student of the Kiev Medical Institute; born 1947, sentenced to 5 years in 1969.

Demand the return of Ukrainian political prisoners from Russia to Ukraine!

Demand amnesty for Ukrainian political prisoners and justice for every citizen in the Soviet Union!

(SMOLOSKYP, Organization for the Struggle and Defense of Human Rights in Ukraine).

UKRAINIAN CONGRESS COMMITTEE OF AMERICA, INC.,
New York, N.Y., January 26, 1972.

Hon. RICHARD M. NIXON,
President, the White House, Washington, D.C.

DEAR MR. PRESIDENT: We are submitting this urgent appeal to you on behalf of the entire membership of the Ukrainian Congress Committee of America, representing over two million Americans of Ukrainian descent, in a matter which is of great concern to them, and which is also the concern of our government and all civilized mankind.

The reason for this appeal is the wave of new arrests of Ukrainian intellectuals and other Ukrainian patriots by the Soviet government in Ukraine in the last few weeks.

We appeal to you, Mr. President, to use the power and influence of your high office to intercede with the government of the Ukrainian SSR and that of the USSR to cease the persecution of the intellectual elite of the Ukraine. We appeal to you to uphold the principle of human rights which is being violated flagrantly by the Soviet government in Ukraine.

Persecution and oppression of the Ukrainian people have always been part and parcel of the Russian Communist rule in Ukraine. But since 1965, the Kremlin and its satraps in Ukraine have stepped up arrests of Ukrainian intellectuals—professors, writers, poets, artists, literary critics, musicians, dramatists, researchers, scholars and students—all of whom were tried under Art. 62 of the Criminal Code of the Ukrainian SSR ("anti-Soviet propaganda and agitation") and sentenced to several years at hard labor.

In this wave of terror and intimidation over 200 Ukrainian intellectuals have been incarcerated and sent to jails, labor camps or psychiatric asylums.

The overwhelming majority of these victims are young men and women, most of them products of the Soviet regime. They committed no crimes against the Soviet state, nor did they advocate any terroristic acts against the Soviet leadership. But they had discussed among themselves ways and means of legally resisting the forcible Russification and the destruction of Ukrainian culture; they were concerned deeply because the Soviet Russian government has been trying to eradicate Ukrainian national consciousness which even Stalin with his massive deportations and brutal executions failed to do. They denounced the persecution of national minorities in Ukraine, such as Jews, Tartars, Kalmyks and others, and they protested against the deportation of natives not only from Ukraine, but from Byelorussia, Estonia, Latvia and Lithuania, and other non-Russian republics of the USSR.

Among "proscribed" literature found on some of the Ukrainian intellectuals were such "dangerous" documents as the address of the late President Dwight D. Eisenhower, delivered at the unveiling of the Shevchenko monument in Washington, D.C., on June 27, 1964, and the encyclical, *Pacem in Terris*, issued by the late Pope John XXIII in 1963, and books which the Kremlin considers dangerous to its domination in Ukraine.

Some cases of those arrested are worthy of world notice:

Mykhailo Soroka, a teacher, was arrested in 1940 under suspicion of belonging to a "subversive" organization and was sentenced to eight and then to 25 years at hard labor; he died in the summer of 1971.

Svyatoslav Y. Karavansky, poet and journalist, was sentenced in 1944 to 25 years, but was released in 1960, and then again arrested and sentenced, without benefit of a jury, by Prosecutor General of the USSR Roman Rudenko, to eight years at hard labor; his wife, Nina Strokata-Karavanska, was also arrested recently for refusing to divorce and denounce her husband. She is a microbiologist at the Medical Institute in Odessa.

Another case of "Soviet justice" is that of Valentyn Moroz, a young Ukrainian historian. Arrested in 1965, he spent four years in prison and was released in 1969. But in the summer of 1970 he was arrested again and on September 20, 1970, he was sentenced at a trial *in camera* to nine years at hard labor.

Also, on November 28, 1970 Allan Horska, outstanding Ukrainian artist, was murdered mysteriously near Kiev.

In January, 1969 the Soviet secret police arrested the Most Reverend Vasyl Welychkovsky, Archbishop of the Ukrainian Catholic Church, on his way to confess a sick person. He was sentenced to three years at hard labor, and is reported to be in a jail for common criminals in a prison in the Donbas area of Ukraine.

In the last two weeks, Soviet authorities have resumed their arrests of noted Ukrainian intellectuals, some of whom had been arrested previously and tried. Among them were Vyacheslav Chornovil, Ukrainian journalist. In 1967 he was sentenced to eighteen

months at hard labor for compiling an underground account of secret police methods used in arresting and trying some 200 Ukrainian intellectuals. (His account was published by McGraw-Hill Co. as *The Chornovil Papers.*) Others who were reported arrested in Kiev were Ivan Svitlychny and Ivan Dzyuba, both outstanding Ukrainian literary critics; Mr. Dzyuba's book, *Internationalism or Russification?,* was published in England two years ago. Seven other Ukrainian intellectuals were arrested in Lviv, Western Ukraine (cf. *The New York Times,* January 15 and 19, 1972).

These are but a few most notable cases of Ukrainian victims of the Soviet regime who gained some international prominence. Unlike the trials of Russian dissidents in Moscow and Leningrad to which Western reporters are admitted, the trials of Ukrainians are held behind closed doors, from which even the closest relatives of the arrested are excluded.

Mr. President! We are appealing earnestly to you to take into consideration our plea to help those who are unjustly persecuted and harassed. We know that you have a grave and responsible task of steering the ship of state. We also are fully aware of your forthcoming trips to foreign capitals, and we do not want, by any means, to prejudice the success of your undertakings.

But as a champion of universal human rights, you will serve your country and humanity universally when you make the Soviet government realize that its continuous persecution of the 46-million Ukrainians is not in consonance with the Soviet constitution and professed adherence to the principles of human rights, but that it reveals an inherent weakness of the Soviet regime and, as a consequence, it mars the Soviet image abroad as a progressive, enlightened and civilized power.

Also, Mr. President, we know that under pressure of international opinion, the Soviet government has been allowing many Jews to emigrate to Israel, and we trust that your intervention may help in the discontinuance by the Soviets of their discriminatory and oppressive policies towards the Ukrainians.

Therefore, we ask you, Mr. President, to do two things:

1) Communicate your grave concern about the persecution of Ukrainians and other peoples in the USSR to the Soviet government at your earliest convenience, indicating that these oppressive policies which the Kremlin has been using in Ukraine are hardly conducive to peaceful coexistence and a good relationship between the United States and the USSR;

2 Instruct our Ambassador to the United Nations, the Hon. George Bush, to look into the problem of this violation of human rights by the Soviet government in Ukraine, and to bring this urgent matter for prompt discussion before the court of world opinion at the U.N. Commission on Human Rights.

Sincerely yours,

EXECUTIVE BOARD: UKRAINIAN CONGRESS COMMITTEE OF AMERICA,

LEV E. DOBRIANSKY,
President.

JOSEPH LESAWYER,
Executive Vice President.

IVAN BAZARKO,
Administrative Director.

UKRAINIAN CONGRESS COMMITTEE OF AMERICA, INC.,
New York, N.Y., February 8, 1972.

HON. GEORGE BUSH,
U.S. Representative to the United Nations, U.S. Mission to U.N., United Nations Plaza, United Nations, N.Y.

DEAR MR.. AMBASSADOR: We have the honor to address this Memorandum to you on behalf of the Ukrainian Congress Committee of America, representing over two million American citizens of Ukrainian ancestry, on a matter which is of grave concern to us. This relates to renewed arrests and persecution by the Soviet government of Ukrainian intellectuals and other patriotic Ukrainians. We appeal to you to bring this matter to the attention of the U.N. Commission on Human Rights for proper action in the United Nations.

The news from Ukraine, which has been systematic and reliable, carries reports of continued arrests of Ukrainians by the Soviet secret police. Only a few days ago, concurrent with the expulsion from the Soviet Union of Congressman James H. Scheuer, Democrat from the Bronx, the international media, such as Reuters and The New York Times (January 15 and 19, 1972), reported the arrest of 19 Ukrainian intellectuals (12 in Kiev and 7 in Lviv) on suspicion of engaging in "anti-Soviet propaganda and activity," a criminal undertaking under Art. 62 of the Criminal Code of the Ukrainian SSR. Arrests and trials of Russians and Jews have been going on, as you know, in Moscow and Leningrad, as well as trials of nationals of the Baltic States.

In contrast to trials in Russia, which are accessible to Western journalists, political trials in Ukraine are held *in camera,* very often excluding family members of the defendants.

Political oppression in Ukraine by the Soviet government is not a novel development, except that the purpose of Soviet persecution in Ukraine is not only to suppress any opposition and dissidence to the current regime, but to suppress and eradicate, if possible, the very essence of Ukrainian consciousness, Ukrainian culture and the traditional Ukrainian heritage.

The Soviet government and the government of the Ukrainian SSR are signatories to the *Universal Declaration of Human Rights,* adopted on December 10, 1948, and they make much of this fact in their massive propaganda drives outside the Soviet Union.

The essence of human rights lies in the fact that man is entitled to enjoy material and cultural values and that each person should be guaranteed rights and liberties proper to all spheres of social life.

It is to be recalled that the Soviet government has circumvented these lofty principles of the U.N. Declaration of Human Rights and has been bent on destroying all vestiges of human rights in Ukraine. Beginning in 1965, the Kremlin has proceeded to repress a great number of Ukrainian intellectuals, which constitutes a veritable *pogrom* of Ukrainian culture. Over 200 Ukrainian professors, literary critics, journalists, educators, dramatists, artists, researchers and students were arrested and tried in secret trials; many of them have been sentenced to several years at hard labor, and some of them have been placed in psychiatric institutions under guard of the KGB secret police.

None of these arrested had been engaged in what we could call "sedition activities" and none of them had any contacts with people of anti-Soviet orientation abroad. On the contrary, most of them were young men and women, products of the Soviet system.

CASES TO BE INVESTIGATED INTERNATIONALLY

Most of these Ukrainian intellectuals have been accused of glorifying the Ukrainian past, reading pre-revolutionary books on Ukrainian history, and copying and disseminating secretly speeches of Western leaders, for example, the encyclical of the late Pope John XXIII, *Pacem in Terris* (Peace on Earth), and the address of the late President Dwight D. Eisenhower, which he delivered at the unveiling of the Taras Shevchenko monument on June 27, 1964, in Washington, D.C. They discussed among themselves and their friends ways and means of *legally* resisting the forcible Russification of Ukraine and the continued destruction of its culture. Some of them protested against the unbridled persecution of national minorities, notably, the Jews; they accused the Soviet government of inhuman deportation of the Baltic people and the "liquidation" of such ethnic groups as the Crimean Tartars, Volga Germans, Chechen-Ingush and Karachais.

A few cases in point will suffice to illustrate the depth of Soviet oppression in Ukraine:

1) Mykhailo Soroka, a teacher, was arrested in 1940 and sentenced to eight years; released in 1948, he was re-arrested, and in 1952 was sentenced to 25 years at hard labor for unspecified "subversive" activities; he died in the summer of 1971 in a Soviet prison;

2) Svyatoslav Y. Karavansky, poet and journalist, and translator of English classics into Ukrainian; arrested in 1944, he was sentenced to 25 years at hard labor; released in 1960, he was arrested again in 1965 and sentenced without benefit of jury by Roman Rudenko, Prosecutor General of the USSR, to eight years and seven months at hard labor (cf. Karavansky's petition in defense of Jews and other minorities, The New Leader, January 15, 1968). His wife, Nina Strokata-Karavansky, a microbiologist at the Medical Institute in Odessa, was arrested in the fall of 1971 for refusing to denounce and divorce her husband.

3) Valentyn Moroz, a young Ukrainian historian, was arrested in 1965 and sentenced to four years at hard labor. Released in 1969, he was arrested again in 1970 and sentenced on September 20, 1970 to nine years at hard labor, for writing critical articles and brochures on the Russification of Ukraine by the Soviet government.

4) Archbishop Vasyl Welychkovsky, highest prelate of the Ukrainian Catholic Church in Ukraine, was arrested in January, 1969 when he was going to confess a sick person; in the fall of the same year he was sentenced to three years at hard labor. He was reported in December, 1971 to be in a jail with common criminals in a prison in the Donbas area of Ukraine, suffering from ill health, abuse and chincanery.

5) Alla Horska, a young Ukrainian woman artist and a member of the Kiev Art Institute, was murdered on November 28, 1970 near Kiev under mysterious circumstances. In her home she often hosted many known Ukrainian intellectual dissidents, and according to No. 4 of the underground Ukrainian Herald, she was murdered on orders of the KGB, the Soviet secret police.

6) Eugene Sverstiuk, literary critic and author of Sobor u ry shtovanni (The Cathedral in Scaffolding), was also arrested.

As reported by The New York Times (January 15 and 19, 1972), 19 outstanding Ukrainian intellectuals were arrested in Kiev and Lviv last month. Among them was Vyacheslav Chornovil, Ukrainian TV journalist; he was arrested and sentenced to 18 months at hard labor in 1967 for compiling an underground account of secret police methods used in rounding up about 200 Ukrainian intellectuals in 1965–66. (His account, entitled The Chornovil Papers, was published four years ago by the McGraw-Hill Company.)

Ivan Dzyuba, an outstanding Ukrainian literary critic, also is reported arrested; his book, Internationalism or Russification?, was published in English three years ago by a publisher in London.

Reported arrested also was another outstanding Ukrainian literary figure, Ivan Svitlychny, who has advocated the application of human rights to Ukrainians and other peoples in the Soviet Union.

As you well know, all these practices by the Soviet government constitute flagrant violations of Arts. 18 and 19 of the U.N. Declaration of Human Rights and of the Soviet constitution.

Therefore, we appeal to you, Mr. Ambassador, for your help and intervention in this matter. The Soviet Union is by no means immune to the voice of international opinion. Under pressure of international criticism, the Kremlin has allowed many Jews to emigrate from the USSR. We are strongly convinced that if the U.S. Delegation to the U.N. Human Rights Commission would raise the matter of persecution and oppression in Ukraine, many delegates on the Human Rights Commission would support the position of the United States.

Recently, during the visit of Soviet Prime Minister Alexei Kosygin to Canada, Prime Minister Pierre E. Trudeau pleaded with his guest, strictly on a humanitarian basis, to release Ukrainian intellectuals from prison and to allow the reunion of some Ukrainian families with those who are in Canada.

We aurge you, Mr. Ambassador, to please communicate this Memorandum to other high officials in our government and to raise your voice in defense of the persecuted and oppressed Ukrainians. By doing so, the United States Government will demonstrate its sincere and principled concern for human rights and justice for all peoples throughout the world.

Respectfully yours,

EXECUTIVE BOARD, UKRAINIAN CONGRESS COMMITTEE OF AMERICA.
LEV E. DOBRIANSKY,
President.
JOSEPH LESAWYER,
Executive Vice President.
IVAN BAZARKO,
Administrative Director.

FREEDOM FOR UKRAINIAN INTELLECTUALS!

Fellow Americans! Friends of Freedom! We, members of the Ukrainian Congress Committee of America, an American organization speaking for over 2 million Americans of Ukrainian descent, appeal to you to join us in protest against the brutal violation of human rights by the Soviet government human rights by the Soviet government in Ukraine!

There are over 47 million Ukrainians in Ukraine who are living under a puppet regime known as the "Ukrainian Soviet Socialist Republic," in which only the stooges of Moscow exercise power in the name of the Communist Party.

Ukrainians are overwhelmingly anti-Communist in their spirit of independence and love of genuine freedom; they have never reconciled themselves to the oppressive and tyrannical government imposed upon them by the alien power of Moscow!

VIOLATION OF HUMAN RIGHTS!

Persecution and oppression of the Ukrainian people were always part of the Soviet rule in Ukraine, but since 1965 the Soviet government has made vast and extensive arrests of Ukrainian intellectuals for their defense of human rights and for love of their own language, history and literature.

In January, 1972, over 100 Ukrainian intellectuals were arrested in such Ukrainian cities, as Kiev, Lviv, Odessa, Kharkiv, Dniepropetrovsk, Ternopil, Ivano-Frankivsk, and others.

Among them are such known Ukrainian-intellectuals as Ivan Svitlychny, Vyacheslav Chornovil, Ivan Dzyuba, Eugene Sverstiuk, scholar Prof. L. Plushch, poetess Irena Stasiv, artist Stephania Shabatura, and others whose names were not revealed.

VICTIMS OF SOVIET TERROR!

Among those arrested are Ukrainian writers, literary critics, journalists, professors, artists, painters, students and scientific workers, as well as laborers and representatives of all other strata of society in Ukraine!

Arrests are made on suspicion of "disseminating anti-Soviet propaganda and agitation," but, in fact, those arrested are mainly leading members of the Ukrainian cultural elite, who staunchly oppose the Russification of Ukraine!

TRAMPLE U.N. UNIVERSAL DECLARATION OF HUMAN RIGHTS

Both the government of the USSR and that of the Ukrainian SSR are signatories to the Universal Declaration of Human Rights, adopted in December 10, 1948 by the U.N. General Assembly, and both of them make a big noise about this in massive propaganda drives abroad.

Art. 18 of the Declaration reads:

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship of observance.

Art. 19 reads:

"Everyone has the right to freedom of opinion and expression: this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

All these and other provisions are crassly violated by the Soviet government and its subservient lackeys in Kiev.

For instance, Valentyn Moroz, 36-year-old Ukrainian historian, was sentenced to 9 years at hard labor for writing A Chronicle of Resistance in Ukraine, describing the destruction of Ukrainian churches by the Soviet government. Svyatoslav Karavansky, sentenced to 25 years at hard labor for sending petitions in defense of the non-Russian nations, and the Jewish minority in the USSR. Alla Horska, a painter, was murdered by the KGB near Kiev.

Unlike in Russia proper where anti-Soviet dissidents are tried publicly, political trials in Ukraine are held in camera, that is, behind closed doors! Some Ukrainian writers have been arrested for circulating copies of the address by the late President Dwight D. Eisenhower, delivered at the unveiling of the Shevchenko monument on June 27, 1964 in Washington, D.C., and for distributing copies of the encyclical, Pacem in Terris, issued by the late Pope John XXIII in 1963.

FELLOW AMERICANS!

The United States is under an agreement with the USSR regarding "cultural exchanges," and we allow here various teams of Soviet scientists, dance and choral ensembles, students, and some Soviet writers and poets, such as the hypocritical Yevgeniy Yevtushenko who, as instruments of the Soviet totalitarian government, eulogize the Soviet system and its alleged cultural and technological "progress" and "freedom."

But, at the same time, the same Soviet government is engaged in the wholesale cultural genocide and ruthless persecution of Catholicism, Orthodoxy and Judaism in Ukraine.

POSITION OF U.S. GOVERNMENT

In his letter, dated February 22, 1972, the Hon. George Bush, U.S. Representative to the U.N., wrote to the Ukrainian Congress Committee of America:

". . . I think that the U.S. Government has clearly shown its disapproval of the persecution going on in the Ukraine. We have considered the activities of the Soviet Government, including the current wave of arrests, contrary to the Universal Declaration of Human Rights and to the Soviet constitution. . . . For our part, members of the U.S. Delegation have frequently raised this issue (in the United Nations) and we shall continue to make our position clear as appropriate occasions arise. . . . We do indeed support the just attempts of the Ukrainian people to secure their legitimate rights. . . ."

FELLOW AMERICANS!

As we know, the spotlight of world media has kept Alexander Solzhenitsyn, great Russian writer, free thus far. Also, under the impact of international public opinion, the Kremlin has allowed many Jews to emigrate from the USSR!

Therefore, we ask you to voice your protest against the barbarous persecution of Ukrainian intellectuals and other patriots in Ukraine!

Join us by protesting through your Senators and Congressmen, and let President Nixon know how you feel about the oppression and persecution in Ukraine!

Support us through the American press and the mass communication media, and stand up in defense of the captive but brave Ukrainian people, because their cause of freedom is also the concern of Free America.

UKRAINIAN CONGRESS COMMITTEE OF AMERICA.

Mr. Speaker, Harry Homewood, a well-known news analyst for WAIT Radio, editorialized on Radio Free Europe and Radio Liberty, a subject over which I have been very concerned, in the Suburbanite Economist of Wednesday, March 22. Since these two stations have received a temporary reprieve, but do require further funding, I trust that this objective commentary will receive the attention of the Members.

HARRY HOMEWOOD COMMENTS

The money to finance Radio Free Europe and Radio Liberty is being cut off. The two radio stations beam their broadcasts at the Communist nations of Eastern Europe and at the Soviet Union. They ran into trouble last year when Sen. Clifford P. Case (R.-N.J.) revealed that both radio stations had been secretly financed for more than 20 years by the Central Intelligence Agency, at a total cost of something more than $456,000,000. The Congress then voted to stop the CIA funding of the two stations.

President Nixon would like to see the two radio stations keep broadcasting and has said so. The President has sent a bill to the Congress calling for direct Congressional financing with a non-profit organization to be created—free of government influence—to oversee and evaluate the operations of the two stations. Sen. J. William Fulbright (D.-Ark.), who is the chairman of the Senate foreign relations committee, wants the radio stations to stop operating. Sen. Fulbright says they are relics of the Cold war.

There is not much doubt that it was a grave error to allow the CIA to finance both radio stations and to do it secretly. And it was wrong to maintain the fiction that Radio Free Europe drew its operating funds from the public by means of yearly appeals. The plain fact of the matter was that in nearly 20 years of public appeals Radio Free Europe managed to raise only $46,000,000. The CIA, meanwhile, gave Radio Free Europe more than $300,000,000 to keep it operating.

Nevertheless, both stations have done excellent work. Radio Free Europe broadcasts to Poland, Czechoslovakia, Hungary, Rumania and Bulgaria in the languages of each nation. Radio Liberty beams its programs directly at the Soviet Union in Russian and other Soviet languages. Both stations have tried to provide a "free press," a medium of communication to provide news that could not be obtained within the Communist nations. The fact that the Soviet Union has for years tried to get both stations shut down and has threatened West Germany (where one of the transmitters for Radio Free Europe is located) with diplomatic reprisals if it allowed the transmitter to operate, seems to be proof of the effectiveness of both stations. Further, experts on the Soviet nations have given both stations high marks for their professionalism and their effectiveness.

Despite the taint of CIA funding (which might be thought to destroy the stations'

credibility) both are believed. One reason for this is that both have broadcast the facts on racial and campus disturbances in the United States. That brought fire from a number of Congressmen who did not believe that the United States should wash the dirty linen over the airwaves to Communist nations—but it also established the credibility of the news about Communist nations that was broadcast by the stations.

Radio Free Europe and Radio Liberty will both die unless the Congress acts favorably on President Nixon's legislation to keep them alive. In view of the good work both stations have done—and are doing—their death would be premature.

Mr. Speaker, radio station WIND, Chicago, has a very spirited pattern of editorial comments. In a brief, but penetrating, commentary broadcast on Wednesday, March 22, they editorialize on the plight of senior citizens in, I believe, a very effective fashion:

SENIOR CITIZEN

One of the tragedies of modern society is the plight of many senior citizens. Today's tax climate hits everybody, but it strikes a serious blow at those on fixed incomes.

It is one thing to afford the rising costs of living, including taxes, when a family is supported by a regular income. But it is still another to try to meet those demands off an income based on social security, even if it is buttressed by a pre-inflation pension plan.

Senior citizens are penalized in many ways. Often their needs, particularly for medical care, rise sharply at the very time when they can least afford them. Many industrial fringe benefits end with retirement, but the needs continue.

Possibly, the ultimate blow comes when persons have spent their lifetime around a community only to find, in retirement, they can no longer afford to live there. That's got to come pretty close to turning the American dream into a bitter satire.

Some relief may be in the offing. There is a proposal to increase social security benefits. There is legislation in Springfield to provide tax relief for homeowners and renters alike who are over 65 and on relatively limited income.

These are all steps in the right direction, and they deserve the support of everybody, regardless of age.

SOVIET GENOCIDE IN KATYN FOREST

Mr Speaker, lest we forget the history of the Soviet Union and its conduct of international affairs, I direct the attention of the Members to a tragic page of World War I history.

We all remember the genocide as practiced by the Nazis, who were in power in Germany from 1933 to 1945. Half of this 12-year period was taken up by World War II, during which they overran a large part of Europe, but we should continue to be aware of genocide as practiced by the Communists, who assumed power in Russia in 1917 and are still in the saddle. They, too, took over a large part of Europe, which they still control.

The Nazis committed many terrible crimes during the years they ruled Germany and dominated other nations. Had they continued in power they would have committed many more crimes. Fortunately, they were eventually defeated and the hellishness of Nazism is a thing of the past. Ironically, in defeating one form of totalitarianism we strengthened another. Communism is more firmly in power in Eastern Europe than it was before World War II.

One of the reasons it has become intrenched in Russia and its satellite nations is its ruthlessness. Large-scale purges, mass starvation, and wholesale deportations are some of the means it has used to strengthen and extend its power. It has even used population control to prevent a new generation of leaders from being born.

World War II began when the Nazis and their Communist bedfellows invaded Poland during September 1939. Poland fell after putting up a heroic resistance and its territory was divided between Nazi Germany and the Soviet Union. Thousands of Polish army officers, professional men, and intellectual leaders were killed by the Nazis. But, for reasons of their own, mass murders of Poles were perpetrated by the Soviets.

After the conquest of Poland, a quarter of a million Polish officers and soldiers were incarcerated in 100 Soviet prison camps. Approximately 15,000 officers, including 12 generals, 250 colonels, 500 majors, 2,000 captains, more than 5,000 young lieutenants, and 7,000 selected noncommissioned technicians, were sent to three prison camps. Camp Ostashkov contained 6,900 Polish officers, Camp Kozielsk 4,500, and Camp Starobielsk 3,920.

These three special camps were transferred from the jurisdiction of the Red army and placed under the control of the vicious Lavrenty P. Beria and his Soviet secret police. It is a remarkable tribute to the loyalty of these more than 15,000 Polish officers that only 20 of them yielded after 5 months of intensive brainwashing by the Communists and became candidates for the roles of betrayers of their homeland. Those who withstood the pressures of Communist indoctrination were to pay for their devotion to a free Poland with their lives.

In March 1940, Beria received an order from Josef Stalin to secretly exterminate the Polish officers who had stubbornly refused to sell out their country. Beria had the officers transferred during the period from April 3 to May 12 to Katyn Forest, a point about 550 miles southwest of Moscow.

Each of the 15,000 men was shot through the back of his head with a pistol, many having their hands tied behind their backs. They were buried in seven mass graves, each being 50 yards long and 30 yards wide. One excavation was filled with the corpses of two generals, 12 colonels, 50 lieutenant colonels, 165 majors, 440 captains, 542 first lieutenants, 930 second lieutenants, and 146 military physicians. This constituted the greatest single mass execution of prisoners during all of World War II.

Following the wholesale murders and interments, the area was replanted with pine and spruce trees. With the passage of time all traces of this heinous crime would be obliterated, or so the practitioners of genocide assumed. Things were to work out differently, however.

The allies of 1939 had become the enemies of 1941. Hitler's armies invaded Russia during the latter year and occupied the area where the mass murders had been committeed. On April 13, 1943, the German radio announced that several mass graves had been discovered under some small trees in the Katyn Forest. Following the identification of 155 corpses through personal effects found with the clothing, the German Army commander asked neutrals to witness the exhumation. The Moscow radio charged that the Nazis had murdered the Poles.

On April 30 a group of scientists of forensic and criminal medicine assembled at Katyn. These men came from Belgium, Italy, the Netherlands, Switzerland, and the Balkan and Scandinavian countries. While members of the Polish Red Cross were present, the International Red Cross could not, under its charter, send investigators unless both Germany and the Soviet Union requested it to. The Kremlin refused to consent.

Two American officers, Lt. Col. Donald Stewart and Maj. John H. Van Vliet, who were prisoners of war held by the Nazis, joined the observers. The witnesses were flown to the scene by the Germans.

After examining 982 bodies, of whom 70 percent were identifiable, the witnesses agreed that the dead men had been Polish officers who had been murdered and buried 3 years before, prior to the occupation of the area by the Nazi army. The Germans located seven mass graves in all and had opened three of them by September 1943, when Soviet forces retook the Katyn Forest area.

On May 11, 1950, Van Vliet, who had risen to the rank of lieutenant colonel, wrote his impressions of the investigation:

We followed our guide right down into each grave, stepping on bodies that were piled like cord wood, face down usually, to a depth of about five to seven bodies, covered with about five feet of earth. . . . All bodies have a bullet hole in the back of the head with the exit wound of the bullet being in the forehead or upper front part of the skull . . . German photographers . . . took both still and motion pictures of our party while we inspected the graves. Copies of the still pictures were later given us.

Van Vliet continued:

I hated the Germans. I did not want to believe them . . . I tried every way to convince myself that the Germans had done it . . . We pursued every line of attack to weaken the German story . . . It was only with great reluctance that I decided finally that . . . for once the Germans were not lying; that the facts were as claimed by the Germans. I believe that the Russians did it. The rest of the group that visited the site stated to me that they believed that the Russians did it.

On October 11, 1951, Colonel Stewart appeared before the select committee of the House of Representatives that was investigating the Katyn Forest massacre. He estimated that 10,000 corpses, all Poles, had been found in the three mass graves that the Germans had opened.

Stewart testified:

I left Katyn convinced that the Russians had executed these men. That massacre just could not have been falsified or planted . . . We did not like the Germans. But these men had been executed by the Russians!

He continued:

I can never forget those men were killed by the Russians while they were prisoners of the Russians.

Mr. Speaker, eventually, most of the individuals who perpetrated crimes of

genocide during the Nazi period were brought to justice. This was not the case with the Communists who murdered Polish officers in Katyn Forest. I have no doubt that justice will one day be served in the ultimate restoration of freedom to Poland since it was in the cause of our country's struggle for survival that these men died.

Mr. Speaker, yesterday, the Chicago Tribune carried a front page story by James Yuenger, chief of the Moscow Bureau, reporting on the petition by Lithuanian Catholics protesting the religious persecution to which they are subject.

This is another dramatic report on conditions in the Soviet Union, and it certainly demonstrates that communism does not mellow. The dictatorship there is determined to wipe out religion, religious beliefs, and the national spirit of the non-Russian captives within the U.S.S.R.:

ABOUT 17,000 LITHUANIAN CATHOLICS HIT RUSS

(By James Yuenger)

Moscow, March 27.—More than 17,000 Lithuanian Catholics have signed a bitterly worded petition to Communist Party Chief Leonid Brezhnev demanding an end to religious suppression.

The petition was signed by 17,054 individuals during last December and January. It is the most massive protest of its kind ever known to have emerged from Lithuania, where most of the U.S.S.R.'s estimated 3 million Catholics live.

SENT TO U.N.

The inch-thick document is a packet of 123 identically worded petitions. It was sent to United Nations Secretary General Kurt Waldheim, who was asked to forward it to Brezhnev.

The signers asserted that earlier petitions protesting official inhibition of their religious practices had gone unanswered, except in the form of "intensified repression."

Threats and arrests by Soviet Militia and Secret Police prevented the Lithuanians from gathering even more signatures and prompted them to seek U.N. help in getting their message to the Kremlin, they said.

"Freedom of conscience is still absent for the believers among our people, and the Church is still subjected to persecution," they told Brezhnev.

TELLS OF EXILES

The petition said that two Lithuanian bishops had been sent into unlimited exile without trials "altho they committed no crime." The two were identified as Julionas Steponavicius and Vincentas Sladkevicius.

Also noted were the one-year prison terms handed out last November to two priests, Juozas Zdebskis and P. Bubnis, for preparing children for their first communion at the request of their parents.

Father Zdebskis' mother charged that he was beaten so badly in prison before his trial that he was unrecognizable.

The petition complained of a shortage of priests, saying that even invalid and elderly priests were forced to work. This was attributed to Communist control of the sole remaining seminary in Lithuania, at Kaunas, which no more than 10 students are allowed to enter each year.

TEACHER DENIED WORK

It said a teacher in the Vilkavisskis district, one O. Briliene, was fired for being a practicing Catholic and since has been refused any kind of work, even menial.

"The authorities do not allow believers, even at their own expense, to restore burnt-out churches, for example, in Batakiai Gaure and Sangruda parishes," the petition said.

"Believers must obtain from the authorities, with great difficulty, permission to conduct services anywhere in a home, but in no case is it permitted to set up even a clock-tower in a former churchyard. At the same time, a dance hall was allowed to be built in the parish of Andreivas where the church had stood."

The petitioners charged that religious persecution goes unpunished, in direct violation of Lithuania's Constitution. It also notes that the Soviet Constitution guarantees freedom of religion. [Russian authorities insist that such freedom exists.]

"By contrast, atheism is forcibly inculcated in Lithuania's Soviet schools, the petition said. "The faithful children of Catholics are made to speak, write, and act against their conscience."

[Sources reported about 10 children were called as witnesses at Father Zdebskis' trial. Several of them wept openly on the stand or remained silent under question.]

LIFE CALLED WORSE

The plea to Brezhnev also charged that the quality of life in Lithuania has worsened noticeably since the country was annexed by U.S.S.R. in 1940.

"This present memorandum is the outgrowth of a national calamity: in the years of Soviet power in Lithuania, such vices as juvenile crime, alcoholism, and suicide have grown tenfold, and divorces and abortions have taken on threatening proportions as well," it said.

"The further we are removed from the Christian past, the clearer become the terrible consequences of forcible atheistic upbringing and the more widespread becomes an inhuman way of life deprived of God and Religion."

The signers said the petition was gathered despite a concerted campaign by the authorities to stop it. Several collectors were detained and lists of names were confiscated.

The petitioners said they will address themselves to the Pope in Rome or the U.N. rather than the Soviet government if the official attitude persists.

It is little short of amazing that the effort was as sucessful as it was and that the petition was forwarded to Moscow for inspection by Western newsmen before being sent out of the country. [It is expected to arrive in New York soon.]

Mr. Speaker, in the midst of the rhetoric from news writers and "informed" political commentators who have for months been instructing all who would listen that the Vice President of the United States no longer commands enough respect or friends to warrant his renomination, two very interesting events have come to pass.

First while there has been little attention paid to the Republican vice presidential vote in the New Hampshire primary, it does not mean what happened is not important. To the contrary, the write-in vote that Vice President SPIRO AGNEW received ought to go a long way in informing this Nation just how much respect and how many friends the Vice President has. Never before in New Hampshire history has a write-in received so many votes. The AGNEW name was written in by more than 40,000 people—a larger vote than any Democratic presidential candidate listed on the ballot. Seventy-five percent of all those who voted for a Vice President wrote in SPIRO AGNEW, even though another candidate for Vice President was listed on the ballot.

Second, some have contended that the Vice President's popularity is not what it once was, and that he is a victim of falling popularity. Unfortunately, for those who would like to believe that, the recent Harris survey statistically demonstrates that it is simply not the case. The survey proves that the Vice President is the overwhelming choice of Republicans and independents, and that sentiment is growing.

The political facts of life are, of course, that President Nixon will decide who his running mate will be, and this will be duly approved by the Republican National Convention. Within the administration, Mr. AGNEW's ability, loyalty to the President, and his numerous accomplishments are greatly admired and respected.

Ultimately then, it is the voting citizens of the United States who will determine who will serve them in the offices of President and Vice President for the next 4 years. It is my opinion that the "silent majority" will prove to be strong supporters of Vice President AGNEW.

Mr. Speaker, I insert the Willard Edwards, Chicago Tribune report on the New Hampshire primary and the most recent Harris survey in the RECORD:

AGNEW'S WRITE-IN

(By Willard Edwards)

WASHINGTON.—The extraordinary write-in vote given Vice President Agnew in New Hampshire—the largest in history—has temporarily brought to a halt a quiet undercover campaign to keep him off the ticket as President Nixon's running mate.

Although Agnew disavowed the write-in effort organized in his behalf, 70 percent of Republicans indicating a preference for Vice President named him as their choice.

His vote total exceeded the previous write-in record compiled in the state by Lyndon B. Johnson in 1964 and was double the Vice Presidential vote for Richard Nixon in 1956, which made his place on the ticket secure.

Moreover, 5 percent of Democrats voting for Vice President picked Agnew for the No. 2 spot. His vote total exceeded the total given Sen. Muskie, winner of the Democratic Presidential primary.

These results were studied in dismay by a group of "progressive" Republican senators and a number of wealthy Republicans who help fill GOP coffers in campaign years. They have been meeting quietly in New York and Washington and discussing methods to keep the Republican Party from swinging to the right in the 1972 campaign.

In pursuit of this goal, they hoped to convince Nixon that he should replace Agnew.

Their first session, organized by Sen. Jacob Javits (R., N.Y.), attracted a number of GOP senators who classify themselves as "moderates" and such business and financial world figures as Walter Thayer, former president of the now-defunct New York Herald Tribune.

All are politically shrewd, and they decided that an open "Dump Agnew" drive would be suicidal and only solidify the Vice President's position on the ticket.

They are happy with Nixon, whom they regard as a former conservative now recruited to their "progressive" stand, but they are concerned with Agnew's conservative positions and regard him as a drag on the ticket.

The strategy adopted at these meetings was to delegate the job of denigrating Agnew to the businessmen who would talk to the President, delicately hinting that their party donations might be diminished if Agnew remained on the ticket.

Agnew would be acceptable, they agreed, only if he could be restrained in the future from the militantly conservative positions he has taken in the past.

The write-in vote for Agnew in the New Hampshire primary—an unusual demonstration of strength for an unsanctioned candidacy—has admittedly stalled the Javits group in its move to undermine Agnew.

The "drag on the ticket" argument they agreed, would no longer be convincing, especially with a President whose most recently announced position has been that he would be highly unlikely to break up a winning team. New Hampshire made Agnew look like a winner—a partner who could more than pull his weight in the campaign.

Agnew declined comment except to express his gratification at the vote given him and his appreciation of the campaign waged in his behalf by Peter Booras, a greeting card manfacturer from Keene, N.H., whom he has never met.

Perhaps the most important aspect of the New Hampshire vote for Agnew is its impact on the Vice President himself.

According to those who have talked with him privately, he has not been eager to serve four more years in a post which he often found frustrating. Only a hint from Nixon would be needed to secure his voluntary withdrawal.

Now, he can't ignore and cannot help find heartening a 70 percent vote of approval in a primary where his candidacy was advanced without his consent.

THE HARRIS SURVEY—AGNEW GAINS AS TOP CHOICE FOR VICE PRESIDENT

(By Louis Harris)

Vice President Spiro Agnew has gained substantially as the top choice of Republican voters to be renominated with President Nixon at the GOP National Convention in San Diego in August. Agnew receives 49 per cent of the preference votes of rank-and-file Republicans, more than the combined total for the other men tested against him: Treasury Secretary John Connally (17 per cent), Gov. Ronald Reagan (14 per cent), Gov. Nelson Rockefeller (6 per cent), and Sen. Edward Brooke (5 per cent).

In a similar test last August, Agnew led the field with 37 per cent as the first choice of Republican voters to be Mr. Nixon's running mate. Since then, of course, the President said in a January interview that he had no plans to replace Agnew on the ticket. And the survey also indicates that the Vice President is not presently viewed by voters as being as much of an extremist as he was a year or two ago.

In mid-February, a cross section of 633 enrolled Republicans and 344 independents across the country were asked:

"Which one person on this list would be your first choice for the Republican nomination for Vice President in 1972?"

[In percent]

	Republican and Independent	Republican	Independent
Vice President Agnew:			
February 1972	42	49	27
August 1971	32	37	22
Treasury Secretary Connally:			
February	16	17	13
August	20	19	22
Governor Reagan:			
February	13	14	12
August	17	20	15
Governor Rockefeller:			
February	8	6	14
August	13	12	19
Senator Brooke: [1]			
February	8	5	13
None or not sure:			
February	13	9	21
August	18	18	22

[1] Not asked about in August.

Among independents, the Vice President is not as strong as among fellow Republicans. But he still easily leads any of the more prominently mentioned alternatives to him for the No. 2 spot on the ticket.

In the way he is perceived by voters. Agnew now appears to be coming back to the ideological profile he possessed in 1968. Periodically, the Harris Survey has asked voters:

"How would you describe the political philosphy of Vice President Spiro Agnew—conservative, middle-of-the-road, liberal, or radical?"

[In percent]

	1972	1970	1968
Conservative	36	23	21
Middle-of-the-road	20	19	18
Liberal	9	8	6
Radical	12	21	4
Not sure	23	29	51

Two years ago, 21 per cent of the voters judged the Vice President had become "radical" in his political positions. He did not do notably well for candidates he campaigned for in the 1970 off-year elections. Now the number who feel he is a "radical" has shrunk almost in half. The majority rate him conservative to moderate.

IN REGARD TO BEEF PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. SHOUP) is recognized for 5 minutes.

Mr. SHOUP. Mr. Speaker, one of the paramount issues during these past few weeks is that of the price of food. Everybody is complaining about the increase in grocery store prices, especially that of beef. The American consumer is rising up, it would appear, in frustration, in anger, over what he has to pay for his food. There is currently a move afoot to repeal the beef import quota laws, by some urban Congressmen, a move that would be totally ineffective in dropping the price of meat to the consumer. Many Americans are complaining about beef prices, and I would like to very clearly show to the Members of this body where all of this increase is being generated. I have heard many people condemn beef growers, a condemnation totally erroneous. The following information should clarify where those Congressmen who would lower beef prices should concentrate all of their energy.

The latest available figures from the Department of Agriculture reflect a wide gap in what everyone else in America is making and the amount of return farmers receive for their labor. Farmers are in fact working for 25 percent less than the rest of us. The average disposable income is only three-quarters that of the average nonfarmworker group. Between 1951 and 1971 the prices for food products in America went up 6 percent, substantially below the average cost-of-living increase. In fact while farmers were holding the line on their price demands, the average wage rate in nonfarm fields went up more than 6 percent every single year. While farm prices increased 6 percent over 20 years, everything else in America increased 130 percent over the same period. Yet the biggest argument for increased wages, and one which organized labor continually uses to demand higher and higher wages in industry, and justifiably so, is increased productivity. Well, since 1965 American farmers and ranchers have increased farm output per man-hour 26 percent, while off-farm output in this country only went up 8 percent. If collective bargaining was the vehicle for determining the amount of money paid to the farmer, as it is in many other sectors of the economy, Americans would be paying at least 300 percent more for food than we are.

One of the most interesting things is that the amount of money being paid to the farmers and ranchers for their beef in Iowa was 75 cents cheaper per hundredweight last week, March 24, 1972, than carcass beef was selling for in Iowa on August 13, 1971, just before the wage-price freeze began. In the case of carcass beef, the wage-price freeze did not just hold the line, the line actually sank. Currently cattle prices for the man who raises beef have only regained their price levels of 1952. That has happened over a 20-year period when the average wage in America increased 230 percent—when money for wage supplements and fringe benefits demanded by organized labor increased 700 percent and dividends to stock market investors jumped up 300 percent. All of that while farm prices barely budged, moving up only 6 percent total for the 20 years. Frankly it is about time cattle prices moved up. Obviously those Members of this body who are talking so long and hard about keeping a lid on farm prices simply do not know what they are talking about. The farmer's share of the food dollar has decreased from 49 to 38 percent since 1951. If that kind of loss were incurred in industry, plants would shut down. If that kind of loss were incurred in labor agreements, we would be ravaged by strikes in every sector of the country's economy. In just the baking of bread, the middle man causes the markup. The farmer is getting about 4 cents per pound of bread, the baker nearly 15 cents and the retailer just over a nickel. The big increase in cost is not with the farmer, it is with the people between the farmer's gate and the consumer's table.

The American farmer is not making the huge sums of money some would have us think he is making. Over the last 20 years the average farmer has seen the cost of machinery nearly double and the general cost of prices he must pay for general equipment, seed and other incidental costs jump 50 percent. Meantime his price to the wholesaler who buys his products has only gone up 6 percent, leaving the American farmer nearly 50 percent behind. Most farmers are mortgaged to the hilt, continually having to borrow money just to stay even. At the current rate of economic skidding that they are feeling, it would not be 20 years before there just is not anybody left to grow the vast quantities of foodstuffs this Nation needs to exist. The American farmer is very near to going the way of the American buffalo.

Food prices have gone up, and gone up dramatically in this country at the grocery store, not because of the insatiable greed of the farmer, as some would have us believe, but because of increases in other areas, specifically the middle

men handling the raw products from the farm. The average wage rates per hour of production workers in manufacturing are 2.3 times higher now than 20 years ago. They were $1.56 per hour in 1951, but now the hourly wage has increased to $3.57. Food marketing employees wages are up 2.5 times, from a 1951 hourly wage of $1.31 to a current average of $3.24.

When we look at the entire picture, rather than from some narrow viewpoint through rose-tinted glasses, we find that the increase in food prices has nothing to do with the farmer, but with the middlemen.

Farm prices for food products are up just 6 percent in 20 years. Over that same period of time wholesale prices have jumped 20 percent and retail prices 43 percent. While the cost of food to the consumer has gone up 69 percent in the last 20 years, only 6 percent of that is attributable to the farmer.

One of the contributing factors to the misinformation which is going around blaming the farmer for something that is not his fault, is blatantly false or misleading advertising by certain food stores. Secretary of Agriculture Butz pointed that out in a dramatic example. One food chain in Washington, D.C. took out full page advertisements in newspapers last week—March 20–26—urging people to eat less meat. They suggested instead, that people eat fish, all on the inference that fish is a less inflated buy than meat. The contrary is true. The fact of the matter is that since 1967 fish prices have increased more than beef. At any rate the consumer is being misled by those full page ads. According to the advertisements meat prices from suppliers to the food chain had skyrocketed. Yet wholesale prices for Iowa beef carcasses are actually lower now than they were 7 months ago. Currently carcass beef is selling wholesale for 1 percent less than it was when the wage-price freeze went into effect.

A compounding factor to public, and congressional misunderstanding over the food price controversy, is simply bad, or negligent reporting by some, though certainly a minority of news people. The public ought to take a fair and honest look at what has been going on, but frankly, they are not getting accurate, unbiased, factual information.

After the Secretary of Agriculture told Texas cattlemen recently that strong, stable cattle prices are needed to insure expanded production of beef, which incidentally would help to lower the price to the consumer, a Washington newspaper story completely mislead the public. Its headline read, "Butz praises soaring meat prices." Obviously some headline writer who simply does not know anything about farm gate prices and their relationship to consumer prices wrote a headline that was not factual. Secretary Butz praised stable, strong prices to the farmer, not soaring, inflated markups by wholesalers and retailers who take out full page advertisements trying to foist off the blame for high food prices on everybody else.

Recently the dockworkers on the west coast settled their strike with a contract calling for some 26-percent increase in wages and fringe benefits. The pay board rolled that increase back to within their guidelines of 5.5 percent per year. Yet, while it is considered acceptable for the industrial workers of this country to get 5.5 percent more a year in wages, it is considered inflationary for American farmers to get 6 percent in 20 years. Productivity of industrial workers has gone up 8 percent since 1965; farm productivity has jumped 26 percent. But are farmers being justly compensated for their increased productivity, often a valid point in labor negotiations? No; and they have not been justly compensated for that in 20 years.

The curious thing about inflation is where it is generated most profoundly. Getting back to that Washington, D.C., newspaper that said Secretary Butz was all for "soaring meat prices" when in fact he was not. That paper has seen some interesting price hikes of its own. Secretary Butz, in a wry observation, pointed out that that newspaper Sunday edition now costs 40 cents, where it only cost 10 cents 20 years ago. While you could buy a page of their advertising space for about $1,300 20 years ago, now you have to pay $3,000 a page. Obviously people in glass houses should not throw stones. What is undue inflation and what is a justifiable price increase just depends on who is looking at it, or who is writing about it in the newspaper.

There is no question that if you demand services of some nature, whether it be the services of a carpenter or the services of a farmer, you are going to have to pay for those services. Farm production, as I pointed out earlier, is way up; so is the cost of operating a farm; so are farm real estate taxes. Yet farmers are spending 10 hours a day, 7 days a week just to earn 25 percent less than if they were average nonfarmworkers. In every other sector of the economy the 10-hour, 7-day workweek has been gone for years, but not on the farm. Down on the farm they have to work that long and that hard just to keep the kids in shoes, much less afford a house in the suburbs with two cars, like many other nonfarmworkers.

When we go into the supermarket for meat, we look for texture, low fat content, the lowest price possible. We do not give one thought to whether the meat is even safe enough to eat. We have the best meat production and packing facilities in the world and we take all that for granted. Well, somebody has to pay for those butchers who get over $4 an hour, those store employees who stock the shelves and check you through the cash register. Nothing is free. In many countries the biggest concern when buying meat is whether it is even safe enough to eat, and you cannot really be sure it is until you either die of food poisoning or live through it for another day of buying meat at an open-air market complete with an overwhelming fly population.

There are some Members of Congress who would like to remove the import quotas on foreign beef. But importing that beef would not decrease the price, because American packers and shippers, and shelve stockers, and checkout personnel, and butchers, and everybody else will still have to process that meat from the dead carcass to the package of hamburger. And the meat processors will not begin to import enough foreign meat to affect the meat market, because if the price drops, so does their markup margin, something no smart businessman would begin to advocate.

It would be wrong to say any one group is at fault for higher food prices. Higher outlays for supermarket facilities, higher labor costs at packinghouses and food processing plants, higher costs of transportation and handling, higher taxes, higher pay for store employees, all contribute substantially to the higher cost of meat along with everything else. The reason there is so much uproar about the cost of meat is that it is just catching up with everything else. Rather than take advantage of the need for food and raising his prices in the past, the American farmer has kept his prices down, down too far.

The place to look for the reason of higher food prices, and I cannot underscore this more, is that great void between the farmer's gate and the consumer's table; a great void where many people handle the food, and each must be paid. A great void where the price is raised every step of the way to pay those wages of handling and to build those shiny new supermarkets we all like so well. That is where it is costing more.

The simple facts show that in the last 20 years the farmer has not even stayed even with the cost of living in this country; rather he has slipped precariously near to extinction as we know him. There will be special hearings on the cost of food April 12 before the Price Commission. I am confident they will put the blame squarely where it belongs in this emotional controversy. The solution to holding the line on food prices is not going to be found by importing poorer grade, poorly inspected, foreign carcass meat that the food processors and retail outlets are going to have to handle just as many times, and thus charge just as much for anyway. The solution is not to be found in damning the American farmer who has done more to combat inflation in this country than anyone else in the last 20 years. The solution, my friends, is to be found where the solution to all of our inflation problems are to be found—with the continual demand from every sector, from every member of society, to continually have more and more money to spend more and more places on more and more junk we do not need. The solution is for all of us to stop saying that inflationary controls are fine for the other guy but not for me, and realize that we all are in this ball game together. Regardless of what some recent grandstand plays have indicated, we cannot pick up our ball and go home if we do not like having to sacrifice as much as the next guy.

If you want to stop the increasing cost of meat, find a way to control the cost of processing it, not growing it. It is the best buy there is at the farm gate.

The American farmer should be patted on the back for his production and low rate of return, rather than being condemned by those who are incredibly naive though tremendously outspoken. He should be championed rather than being chastized by an uninformed public being

kept that way by irresponsible analysis of the situation and blatantly false advertising.

ON THE REGULATION OF MEDICAL DEVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, I introduced today legislation which would prevent the marketing of potentially dangerous medical devices by giving the Food and Drug Administration mandatory power—which it does not now have—to recall defective instruments and require that the devices be precleared by the Federal Government before they may be marketed. This measure is known as the Medical Device Safety Act of 1972.

Unsafe and defective electrical equipment is causing an estimated 1,200 hospital electrocutions yearly and countless cases of accidental injuries. It is shocking and hard to believe that the law does not require the FDA to approve medical devices that are used to diagnose, cure, treat, and prevent diseases.

I do not want to alarm anyone, but some manufacturers are callously disregarding the public interest. For instance, a New York hospital has reported that 40 percent of incoming instruments are defective and a survey suggests that of 1,500 devices tested, 1,200 had unfavorable or untoward reactions.

My bill, known as the Medical Device Safety Act of 1972, would amend the Federal Food, Drug, and Cosmetic Act to regulate carefully defined categories of medical instruments so they would not be confused with some loose definitions of drugs. Since there are presently no standards for devices, the FDA would also be empowered to create and enforce standards after consulting with other Federal agencies and experienced technicians and doctors.

The bill also contains a "state of the art" clause, allowing the FDA to withdraw approval of a device if new research proves it to be harmful or ineffective. But the bill's critical provision is the creation of a premarket clearance procedure.

Only after a device is marketed and proven dangerous to people's health can the FDA now attempt to have it removed. This procedure is a joke. First, the FDA usually spends several months finding out about a problem—if they ever do. Then the manufacturers can only be asked to recall a device voluntarily. The FDA can at that point ask the court for an injunction, which manufacturers usually appeal. This process can take up to 5 years, during which time the producers continue to sell the device. For instance, a Philadelphia researcher has concluded that a resuscitator used for emergency first-aid to counter heart failure, smoke inhalation and drowning failed to provide respiratory support for victims. Yet the manufacturer refused to recall the product from the market, even though using the device involved a possibly serious hazard.

Ingenious new breakthroughs in medical technology are helping to save and cure many medical patients, but unfortunately, too many manufacturers are producing unsafe and unreliable instruments. Improper design, high electrical leakage from equipment, shoddy cables, and poor assembly of parts are a few of the frequent complaints.

Unfortunately, Mr. Speaker, I am not talking about isolated instances of a lapse in a piece of equipment's performance. Hospitals and doctors are reluctant to discuss it publicly, but the complaints are mounting of faulty anesthesia devices, heart valves, catheters, contact lenses, X-rays, radiation, plastics, prostheses, IUD's, and cardiovascular apparatuses, to cite a few. These reports have been gathered from independent surveys made by hospitals, doctors, and reports reaching the Food and Drug Administration. For instance, there are reports of artificial heart valves with surface defects that can cause fatal blood clots; artificial kidney machines discharging water intravenously which could endanger patient's lives, and hip prostheses mechanically disrupted, thereby causing severe tissue injury.

It is certain new electronic devices, however, that are causing the real danger—electrocution. For instance, there are defibrillators which have tendencies to discharge high voltage into a patient's heart before a surgeon calls for an electrical charge. In such circumstances, it is difficult to determine whether the patient's heart failed or whether he was killed by the electrical jolt. Some doctors suggest that cheap molded plastic plugs on machinery or poor maintenance could cause such a malfunction.

Mr. Speaker, there can be no further delay on this issue. Medical devices must be regulated and controlled, and to this end, I recommend swift passage of the Medical Device Safety Act of 1972, which reads as follows:

H.R. 13793

A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety, reliability, and effectiveness of medical devices

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medical Device Safety Act of 1972."

TITLE I—AUTHORITY TO ESTABLISH STANDARDS

SEC. 101. Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C., ch. 9, subch. V) is amended by adding at the end thereof the following new section:

"STANDARDS FOR MEDICAL DEVICES

"Authority To Set Standards

"SEC. 513. (a) Whenever in the judgment of the Secretary such action will protect the public health and safety, he may by regulation establish for any device (including any type or class of device), a reasonable standard relating to the composition, the properties, or the performance of the device or devices involved (or relating to two or more of such factors) and that such standard be based on the present state of the art and that approval by the Secretary does not necessarily constitute an infinite time approval should the present state of the art change sufficiently to require a review of the safety and efficacy aspects of the device in order to protect the public.

"Weight Given Other Standards—Consultation With Interested Groups

"(b) In the development and consideration of proposals for the issuance of standards under this section, and in particular prior to the commencement of formal proceedings on his own initiative pursuant to subsection (c), the Secretary shall to the optimum extent consult with, and give appropriate weight to relevant standards published by, other Federal agencies concerned with standard setting or other nationally or internationally recognized standard-setting agencies or organizations, and invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, and consumer organizations that in his judgment can make a significant contribution to such development.

"Procedure for Issuance, Amendment, or Repeal of Standards

"(c) The provisions of section 701 (e), (f), and (g) of this Act shall, subject to the provisions of subsection (d) of this section, apply to and in all respects govern proceedings for the issuance, amendment, or repeal of regulations under subsection (a) of this section (including judicial review of the Secretary's action in such proceedings). The Secretary may suspend the running of any applicable time limit under section 701(e) pending receipt of the report of an advisory committee under subsection (d) of this section and consideration of the committee's report by the Secretary.

"Referral to Independent Joint Advisory Committee

"(d)(1) In any proceeding for the issuance, amendment, or repeal of a regulation establishing a standard under this section, whether commenced by a proposal of the Secretary on his own initiative or by a proposal contained in a petition, the petitioner, or any other person who will be adversely affected by such proposal or by the Secretary's order issued in accordance with paragraph (1) of section 701(e) if placed in effect, may request, within the time specified in this subsection, that the petition or order thereon, or the Secretary's proposal, be referred to a joint advisory committee of experts for a report and recommendations with respect to any matter involved in such proposal or order that requires the exercise of scientific judgment. Upon such request, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint such a joint advisory committee and shall refer to it, together with all the data before him, the matter so involved for study thereof, and for a report and recommendations thereon, in accordance with the applicable provisions of paragraph (5)(C)(ii) of subsection (b), and subject to paragraph (2) of subsection (d), of section 706. A person who has filed a petition or who has requested the referral of a matter to a joint advisory committee pursuant to this subsection, as well as representatives of the Department, shall have the right to consult with such joint advisory committee in connection with the matter referred to it. The request for referral under this subsection, or the Secretary's referral on his own initiative, may be made at any time before, or within thirty days after, publication of an order of the Secretary acting upon the petition or proposal.

"(2) The appointment, compensation, staffing, and procedure of such committees shall be in accordance with subsection (b)(5)(D) of section 706 as amended.

"(3) Where such a matter is referred of an expert joint advisory committee upon request of an interested person, the Secretary may, pursuant to regulations, require such person to pay fees to pay the costs, to the Depart-

ment, arising by reason of such referral. Such fees, including advance deposits to cover such fees, shall be available, until expended, for paying (directly or by way of reimbursement of the applicable appropriations) the expenses of joint advisory committees under this subsection and other expenses arising by reason of referrals to such committees and for refunds in accordance with such regulations."

CONFORMING AMENDMENTS

SEC. 102. Section 501 of such Act (21 U.S.C. 351) is amended by adding at the end thereof the following new paragraph:

"(e) If it is, or purports to be or is represented as, a device of a type or class with respect to which, or with respect to any component, part, or accessory of which, a standard established under section 513 is in effect, unless such device, or such component, part, or accessory, is in all respects in conformity with such standards."

TITLE II—PREMARKET CLEARANCE OF CERTAIN MEDICAL DEVICES

SEC. 201. (a) Section 501 of such Act, as amended by section 102 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(f) If (1) it is a device, and (2) such device, or any component, part, or accessory thereof, is deemed unsafe, unreliable, or ineffective within the meaning of section 514 with respect to its use or intended use."

(b) Chapter V of such Act, as amended by section 101 of this Act, is further amended by adding at the end thereof a new section as follows:

"PREMARKET CLEARANCE FOR CERTAIN MEDICAL DEVICES

"When Premarket Clearance Is Required

"SEC. 514. (a) A device shall, with respect to any particular use or intended use thereof, be deemed unsafe, unreliable, or ineffective for the purpose of the application of section 501(f) if—

"(1) its composition, construction, or properties are such that such device is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety, reliability, and effectiveness of such device, to be safe, reliable, and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; and

"(2) such device (A) is intended to be secured or otherwise placed, in whole or in part, within the human body or into a body cavity, or directly in contact with mucous membrane, and is intended to be left in the body or such cavity, or in such direct contact, permanently, indefinitely, or for a substantial period or periods (as determined in accordance with regulations issued after notice and opportunity to present views), or (B) is intended to be used for subjecting the human body to ionizing radiation, electromagnetic, electric, or magnetic energy (including, but not limited to, diathermy, laser, defibrillator, and electroshock instrumentation), or heat, cold, or physical or ultrasonic energy, or is intended for physical or radio or electronic or electric communication in either direction with any part of the human body or with a device placed within or connected with the human body, or (C) is a device which the Secretary, by special order made on the basis of a finding (for reasons stated in the order) that there is probable cause to believe that the device is not effective for its use or intended use, or that it is not safe for use or not reliable, under the conditions prescribed, recommended, or suggested in its labeling, has declared to be subject to the requirements of this subsection with respect to such use or intended use,

unless either—

"(3) an application with respect to such device has been filed pursuant to subsection (b) and there is in effect an approval of such application by the Secretary under this section.

"(4) such device is exempted by or pursuant to subsection (j), (k), or (l) of this section, or

"(5) such device is intended solely (A) for use in the cure, mitigation, treatment, or prevention of disease in animals other than man or (B) to affect the structure of any function of the body of such animals.

The Secretary shall, by regulation issued or amended from time to time under the authority of this sentence, insofar as practicable promulgate and keep current a list or lists of devices, and of the particular uses (or conditions of use) thereof, which he finds are generally recognized, among experts qualified by scientific training and experience to evaluate the safety, reliability, and effectiveness of such devices, to be safe, reliable, and effective for use (under the conditions, if any, referred to in such list or lists), and the inclusion, while in effect, of a device in such a list shall, in any proceeding under this Act, be conclusive evidence against the United States of the facts stated in that list with respect to such device.

"Application for Clearance

"(b) Any person may file with the Secretary an application for determination by the Secretary of the safety, reliability, and effectiveness of any device to which paragraphs (1) and (2) of subsection (a) apply. Such persons shall submit to the Secretary as a part of the application (1) full reports of all information published, or otherwise available to the applicant, concerning investigations which have been made to show whether or not such device is safe, reliable, and effective for use; (2) a full statement of the composition, properties, and construction, and of the principle or principles of operation, of such device; (3) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of such device; (4) an identifying reference to any standard, applicable to such device, which is in effect pursuant to section 513, and adequate information to show that such device fully meets such standards; (5) such samples of such device and of the articles used as components thereof as the Secretary may require; (6) specimens of the labeling proposed to be used for such device and (7) such other information, relevant to the subject matter of the application, as the Secretary may require.

"Time for Initial Consideration of Application

"(c) Within one hundred and eighty days after the filing of an application under subsection (b), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

"(1) approve the application if he then finds that none of the grounds for denying approval specified in subsection (d) applies, or

"(2) give the applicant notice of an opportunity for a hearing before the Secretary to be held under subsection (d) on the question whether such application is approvable.

The Secretary may suspend the running of the applicable time limit under this subsection pending receipt of the report of an advisory committee under subsection (h) and the period allowed to the Secretary for consideration of the report thereafter.

"Bases for Approval or Disapproval; Opportunity for Hearing

"(d)(1) If, upon the basis of the information submitted to the Secretary as part of the application and any other information before him with respect to such device, the Secretary finds, after due notice to the applicant and opportunity for a hearing to the applicant, that—

"(A) such device is not shown to be safe and reliable for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof;

"(B) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g);

"(C) there is a lack of substantial evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

"(D) based on a fair evaluation on all material facts, such labeling is false or misleading in any particular;

he shall issue an order denying approval of the application. If, after such notice and opportunity for hearing, the Secretary finds that clauses (A) through (D) of this subsection do not apply, he shall issue an order approving the application.

"(2) As used in this subsection and subsection (e), the term 'substantial evidence' means evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the device involved, on the basis of which it could fairly and responsibly be concluded by such experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

"(3) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety, reliability, and effectiveness shall be determined in the light of such intended use.

"Withdrawal of Approval

"(e)(1) The Secretary may, after due notice and opportunity for hearing to the applicant, issue an order withdrawing approval of an application with respect to a device under this section if the Secretary finds—

"(A)(i) that clinical or other experience, tests, or other scientific data show that such device is unsafe or unreliable for use under the conditions of use upon the basis of which the application was approved; or (ii) on the basis of evidence of clinical experience, not contained in such application or not available to the Secretary until after the application was approved, or of tests by new methods or by methods not reasonably applicable when the application was approved, evaluated together with the evidence available to the Secretary when the application was approved, that such device is not then shown to be safe or reliable for use under the conditions of use on the basis of which the application was approved;

"(B) on the basis of new information before him with respect to such device, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof;

"(C) that the application filed pursuant to subsection (b) contains an untrue statement of a material fact;

"(D) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records, or to make required reports, in accordance with an applicable regulation or order under subsection (a) of section 515, or that the applicant has refused to permit access to, or copying or verification of, such records as required by paragraph (2) of such subsection;

"(E) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(F) that on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the labeling of such device, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(2) If the Secretary (or in his absence the officer acting as Secretary) finds that an imminent health or safety hazard is involved, he may suspend the approval of such application immediately, and give the applicant prompt notice of his action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this paragraph to suspend the approval of an application shall not be delegated.

"(3) Any order under this subsection shall state the findings upon which it is based.

"Authority To Revoke Adverse Orders

"(f) Whenever the Secretary finds that the facts so require, he shall revoke any previous order under subsection (d) or (e) denying, withdrawing, or suspending approval of an application and shall approve such application or reinstate such approval, as may be appropriate.

"Service of Secretary's Orders

"(g) Orders of the Secretary under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by mailing the order by registered mail or certified mail addressed to the applicant at his last known address in the records of the Secretary.

"Referral to Independent Advisory Committee

"(h)(1) In the application filed by the applicant under subsection (b), or at any time prior to the expiration of the time for action by the Secretary under clause (1) or (2) of subsection (c), or within such reasonable period after notice of opportunity for a hearing to be held under subsection (d) or (e) as may be specified by the Secretary in such notice, the applicant may request that such application or the Secretary's action thereon, or the matter or matters with respect to which notice of opportunity for hearing is given, be referred to an advisory committee of experts for a report and recommendations with respect to any question therein involved that requires the exercise of scientific judgment. Upon such request, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint an advisory committee and shall refer to it, together with all the data before him, the question so involved for study thereof, and for a report and recommendations thereon, in accordance with the applicable provisions of paragraph (5)(C)(ii) of subsection (b), and subject to paragraph (2) of subsection (d) of section 706. The applicant, as well as representatives of the Department, shall have the right to consult with such advisory committee in connection with the question referred to it.

"(2) The appointment, compensation, staffing, and procedure of such advisory committee shall be in accordance with subsection (b)(5)(D) of section 706.

"(3) Paragraph (3) of section 513(d) shall also apply in the case of a referral to an advisory committee under this subsection.

"Judicial Review

"(i) The applicant may, by appeal, obtain judicial review of a final order of the Secretary denying, or withdrawing approval of, an application filed under subsection (b) of this section. The provisions of subsection (h) of section 505 of this Act shall govern any such appeal.

"Exemption for Investigational Use

"(j)(1) It is the purpose of this subsection to encourage, to the maximum extent consistent with the protection of the public health and safety and with professional ethics, the discovery and development of useful devices and to that end to maintain optimum freedom for individual scientific investigators in their pursuit of that objective.

"(2) Subject to the provisions of paragraph (3), there shall be exempt from the requirement of approval of an application under the foregoing provisions of this section any device which is intended solely for investigational use (in a hospital, laboratory, clinic, or other appropriate scientific environment) by an expert or experts qualified by scientific training and experience to investigate the safety, reliability, and effectiveness of such device.

"(3)(A) The Secretary shall promulgate regulations relating to the application of the exemption referred to in paragraph (2) to any device that is intended for use in the clinical testing thereof upon humans by separate groups of investigators under essentially the same protocol, in developing data required to support an application under subsection (b).

"(B) Such regulations may provide for conditioning the exemption in the case of investigations intended for such use, upon—

"(i) the submission to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of an adequate plan for the investigation, together with a report of prior investigations of the device (including, where appropriate, tests on animals) adequate to justify the proposed investigation.

"(ii) the manufacturer, or the sponsor of the investigation, of a device to be distributed to investigators for such testing obtaining a signed agreement from each of such investigators that humans upon whom the device is to be used will be under his personal supervision or under the supervision of investigators responsible to him;

"(iii) the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of the device, as the Secretary finds will enable him to evaluate the safety, reliability, and effectiveness of the device in the event of the filing of an application pursuant to subsection (b), but nothing in this clause or in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of devices; and

"(iv) such other conditions relating to the protection of the public health and safety as the Secretary may determine to be necessary.

"(C) Such regulations shall also condition such exemption upon the manufacturer, or the sponsor of the investigation, of the device requiring that investigators using the device for the purpose described in subparagraph (A) certify to such manufacturer or sponsor that they—

"(i) will inform individuals upon whom such device or any controls in connection therewith are used, or the representatives of such individuals, that the device is being used for investigational purposes, and

"(ii) will obtain the consent of such individuals or representatives,

except where they deem it not feasible or, in their professional judgment, contrary to the best interest of such individuals.

"(D) Such regulations shall provide—

"(i) that whenever the Secretary determines that a device is being or has been shipped or delivered for shipment in interstate commerce for investigational testing upon humans as described in subparagraph (A) of this paragraph, and that such device is subject to the foregoing subsections of this section and fails to meet the conditions for exemption for investigational use of the device, he shall notify the sponsor of the Secretary's determination and the reasons therefor and that the exemption will not apply with respect to such investigational use until such failure is corrected, and

"(ii) that in determining whether subparagraph (A) of this paragraph (3) is applicable and, if so, in determining compliance with the conditions of exemption, including the adequacy of the plan of investigation submitted to the Secretary, or upon application for reconsideration of his determination with respect to any such matter, the Secretary shall, if so requested by the sponsor of the investigation, or may on his own initiative, obtain the advice of an appropriate expert or experts who are not otherwise, except as consultants, engaged in the carrying out of this Act.

"Exemptions for Devices Complying With or in Anticipation of Standards, Custom-Made Prescription Devices, and Devices Made to Specifications of Licensed Practitioners for Use in Their Practice

"(k) In addition to the devices exempted by subsection (j) the Secretary shall, by or pursuant to regulation, exempt the following devices, with respect to any particular use or intended use thereof, from the requirement of approval under this section:

"(1) Any device which, with respect to such use fully conforms to an applicable standard in effect pursuant to section 513, or pursuant to section 358 of the Public Health Service Act, to the extent that the Secretary finds that the standard provides assurance that the device will be safe, reliable, and effective for such use.

"(2) Any device of a type or class with respect to which there is in effect a notice by the Secretary, published in the Federal Register, that in his judgment the establishment, within a reasonable time, of a standard that would adequately meet the requirements of public health and safety with respect to such use of the device (without subjecting such device to the requirement of approval under the foregoing subsections of this section) appears to be feasible; that he intends to propose the establishment of such a standard; and that the nonapplication of the foregoing subsections of this section to such type or class of device with respect to such use pending the establishment of such standard would involve no undue risk from the standpoint of the protection of the public health and safety.

"(3) Any device made to the lawful order, and in accordance with specifications, of a practitioner licensed by law to use or prescribe the use of the device if—

"(A) a device meeting such specifications is not generally available in finished form for purchase or for dispensing upon prescription and is not stocked, or offered through a catalog or advertising or other commercial channels, by the maker or processor thereof, and either

"(B) (i) such device is intended for the use of a patient, named in such order, of such practitioner, or (ii) such device is intended solely for use by such practitioner, or by persons under his professional supervision, in the course of his professional practice.

"Other Exemptions

"(l) (1) The Secretary shall also by regulation exempt from the requirements imposed by or pursuant to the provisions of this section preceding subsection (j), or from one or more of such requirements, devices licensed by the Atomic Energy Commission under the Atomic Energy Act of 1954 to the extent he finds it to be appropriate to avoid duplication of regulatory controls or procedures and to be consistent with the purposes of this Act.

"(2) The Secretary shall further, by or pursuant to regulation, exempt from such requirements, or from one or more of such requirements, devices with respect to which in his judgment the application of such requirements is not necessary for the protection of the public health, either because of the small number of devices involved, the negligible significance of the device from the standpoint of the protection of the public health and safety, or for other reasons."

PROHIBITED ACTS

SEC. 202. (a) Paragraph (e) of section 301 of such Act is amended (1) by striking out "or" before "507 (d) or (g)", and (2) by inserting "514(j), or 515," after "512(j), (l), or (m).".

(b) Paragraph (j) of section 301 of such Act is amended by inserting "514," immediately after "512,".

(c) Paragraph (l) of such section 301 is amended (1) by inserting "or device" after the word "drug" each time it appears therein, and (2) by striking out "505," and inserting in lieu thereof "505 or 514, as the case may be,".

TITLE III—REQUIREMENT OF GOOD MANUFACTURING PRACTICE

SEC. 301. Section 501 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351), as amended by sections 102 and 201 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(g) If it is a device and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, holding, or installation do not conform to, or are not operated or administered in conformity with, current good manufacturing practice to assure that such device is safe and reliable and has the properties and performance characteristics which it purports or is represented to possess and othewise meets the requirements of this Act."

TITLE IV—RECORDS AND REPORTS: INSPECTION AND REGISTRATION OF ESTABLISHMENTS

SEC. 401. (a) Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C., ch. 9, subch. V) is further amended by adding at the end thereof the following new section:

"RECORDS AND REPORTS ON DEVICE EFFECTS AND EXPERIENCE

"SEC. 515. (a) (1) Every person engaged in manufacturing or processing, or in distributing, a device that is subject to a standard in effect under section 513, or with respect to which there is in effect an approval of an application filed under section 514(b), shall establish and maintain such records, and relating to clinical experience and other data or information, received or otherwise obtained by such person with respect to such device, and bearing on the safety, reliability, or effectiveness of such device, or on whether such device may be adulterated or misbranded, as the Secretary may by general regulation, or by special regulation or order applicable to such device, require. Regulations and orders prescribed under the authority of this subsection shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, wherever the Secretary deems it appropriate, for the examination, upon request by the persons to whom such regulations or orders are applicable, or similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(b) Subsection (a) shall not apply to—

"(1) pharmacies which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs or devices, upon prescriptions of practitioners licensed to prescribe such drugs or devices, to patients under the care of such practitioners in the course of their professional practice, and which do not, either through a subsidiary or otherwise, manufacture or process drugs or devices for sale other than in the regular course of their business of dispensing or selling drugs or devices at retail;

"(2) practitioners licensed by law to prescribe or administer drugs and devices and who manufacture or process devices solely for use in the course of their professional practice;

"(3) persons who manufacture or process devices solely for use in research or teaching and not for sale;

"(4) any person, with respect to any device—

"(A) which (and the components of which) have not been in interstate commerce, and

"(B) which are not introduced or intended for introduction into interstate commerce; or

"(5) such other classes of persons as the Secretary may by or pursuant to regulation exempt from the application of this subsection upon a finding that such application is not necessary to accomplish the purposes of this subsection."

INSPECTION RELATING TO DEVICES

SEC. 402. (a) The second sentence of subsection (a) of section 704 of such Act (21 U.S.C. 374) is amended by inserting "or prescription devices" after "prescription drugs" both times it appears.

(b) The third sentence of such subsection is amended (1) by striking out "for prescription drugs", (2) by striking out "and antibiotic drugs" and inserting in lieu thereof ", antibiotic drug, and devices," (3) by striking out "or section 507 (d) or (g)" and inserting in lieu thereof ", section 507 (d) or (g), section 514(j), or section 515", and (4) by inserting "or devices" after other drugs", inserting "or of a device subject to section 514" after "new drug", and inserting "or section 515" after "section 505(j)".

(c) (1) Paragraph (1) of the sixth sentence of such subsection is amended by inserting "or devices" after "drugs" each time such term occurs.

(2) Paragraph (2) of that sentence is amended by inserting ", or prescribe or use devices, as the case may be," after "administer drugs"; and by inserting ", or manufacture or process devices," after "process drugs".

(3) Paragraph (3) of that sentence is amended by inserting ", or manufacture or process devices," after "process drugs".

REGISTRATION OF DEVICE MANUFACTURERS

SEC. 403. (a) Section 510 of such Act (21 U.S.C. 360) is amended as follows:

(1) The section heading is amended by inserting "OF DRUGS AND DEVICES" after "PRODUCERS".

(2) Subsection (a) (1) is amended by inserting "or device package" after "drug package"; by inserting "or device" after "the drug"; and by inserting "or user" after "consumer".

(3) The first sentence of subsection (b) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or of any device" after "drug".

(4) The first sentence of subsection (c) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or of any device" after "drug".

(5) (A) The first sentence of paragraph (1) of subsection (d) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such paragraph is amended by inserting "or any device" after "drug".

(B) Paragraph (2) of such subsection (d) is amended by inserting "or any device" after "drug".

(6) Subsection (g) is amended by inserting "or devices" after "drugs" each time such term occurs in paragraphs (1), (2), and (3) of such subsection.

(7) The first sentence of subsection (l) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or devices" after "drugs".

(b) The second sentence of section 801(a) of such Act (21 U.S.C. 381(a)) is amended by inserting "or devices" after "drugs" both times such words appear.

(c) Section 301 of the Drug Amendments of 1962 (76 Stat. 793) is amended by inserting "and devices" after "drugs" each time such word appears, except that "or devices" is inserted after "which drugs" and after "intrastate commerce in such drugs".

TITLE V—DEFINITIONS

SEC. 501. Section 201(g) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(g) The term 'drug' means (1) those articles which have been investigated for their pharmacological activity and which are recognized, accepted, and used by virtue of this pharmacological activity in the (A) diagnosis, treatment, mitigation, prevention, or cure of disease in man or other animals, and (B) articles intended because of their pharmacological activity to affect the structure or function of the body of man or other animals, and (C) articles intended for use as a component of any article specified in clause (A), (B), or (C); but does not include devices or their components, parts, or accessories; and (2) those articles recognized by virtue of their pharmacological activity in the official United States Pharmacopeia, official Homopathic Pharmacopeia of the United States, official National Formulary, official National Compendium, or any supplement to any of them."

SEC. 502. (a) Section 201 of the Federal Food, Drug, and Cosmetic Act is amended by inserting the following subsection (h) after subsection (g):

"(h) The term 'pharmacological activity' is defined as the action and fate of drugs in man or other animals, including their use in medicine (therapeutics) and their poisonous effects (toxicity)."

(b) Subsections (h) through (x) are redesignated as (i) through (y), respectively.

SEC. 503. Section 201(h) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(h) The term 'device' means those articles which are instruments, apparatus, and contrivances including their components parts, and accessories lacking pharmacological activity, which because of their physical

or mechanical characteristics are (1) (A) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or (B) to effect the structure or any function of the body of man or other animals, and (2) are recognized in the official United States Pharmacopeia, official National Formulary, official Government Compendium, or any supplement to any of them, but does not include those items that are drugs."

TITLE VI—GENERAL PROVISIONS

ADVISORY COUNCIL ON DEVICES, ETC.

SEC. 601. Chapter VII of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new section:

"ADVISORY COUNCIL ON DEVICES, AND OTHER ADVISORY COMMITTEES AND EXPERTS

"SEC. 708. (a) For the purpose of advising the Secretary with respect to matters of policy in carrying out the provisions of this Act relating to devices, there is established in the Department (in addition to the ad hoc advisory committees that may from time to time be appointed under sections 513 and 514) an Advisory Council on Devices consisting of members appointed by the Secretary without regard to the civil service and classification laws. Such members shall consist of persons chosen with a view to their special knowledge of the problems involved in the regulation of various kinds of devices under this Act, members of the professions using such devices, scientists expert in the investigational use of devices, and members of the general public.

"(b) The Secretary may also from time to time appoint, without regard to the civil service and classification laws, in addition to the advisory councils and committees otherwise authorized under this Act, such other advisory committees or councils as he deems desirable.

"(c) In order to facilitate the carrying out of this Act, the Secretary may employ experts and consultants, as authorized by title 5, United States Code, section 3109.

"(d) Members of an advisory council or committee appointed pursuant to subsection (a) or (b) who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the council or committee or otherwise engaged on its business, and experts or consultants employed pursuant to subsection (c) shall, while so employed, be compensated at rates fixed by the Secretary but not in excess of $100 per day (or, if higher at the time of such service, the rate established for grade GS–18 of the General Schedule), including traveltime, and while so serving 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 title 5, United States Code, section 5703, for persons in the Government service employed intermittently."

SEC. 602. Section 706(b)(5)(D) of such Act is amended by inserting "and National Academy of Engineering" after "National Academy of Sciences" each place it appears.

EFFECTIVE DATES AND TRANSITIONAL PROVISIONS

SEC. 603. (a) Except as provided in subsections (b), (c), and (d) of this section, the foregoing provisions of this Act shall take effect on the date of the enactment of this Act.

(b) Except as provided in subsection (c) of this section, paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act, as added to such section by section 201(a) of this Act, shall, with respect to any particular use of a device, take effect (1) on the first day of the thirteenth calendar month following the month in which this Act is enacted, or (2) if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under section 514 of such Act as added by section 201(b) of this Act.

(c)(1) Where, on the day immediately prior to the date of enactment of this Act, a device was in use in the cure, mitigation, treatment, or prevention of disease in man, or for the purpose of affecting the structure or any function of the body of man, such paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act shall become effective with respect to such preexisting use or uses of such device on the closing date (as defined in this subsection) or, if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under such section 514 of such Act.

(2) For the purposes of this subsection, the term "closing date" means the first day of the thirty-first calendar month which begins after the month in which this Act is enacted, except that, if in the opinion of the Secretary it would not involve any undue risk to the public health, he may on application or on his own initiative postpone such closing date with respect to any particular use or uses of a device until such later date (but not beyond the close of the sixtieth month after the month in which this Act is enacted) as he determines is necessary to permit completion, in good faith and as soon as reasonably practicable, of the scientific investigations necessary to establish the safety and effectiveness of such use or uses. The Secretary may terminate any such postponement at any time if he finds that such postponement should not have been granted or that by reason of a change in circumstances, the basis for such postponement no longer exists or that there has been a failure to comply with a requirement of the Secretary for submission of progress reports or with other conditions attached by him to such postponement.

(d) Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any establishment in any State (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act) engaged in the manufacture or processing of a device or devices, shall, if he first registers with respect to devices, or supplements his registration with respect thereto, in accordance with subsection (b) of section 510 of that Act (as amended by section 403 of this Act) prior to the first day of the seventh calendar month following the month in which this Act is enacted, be deemed to have complied with that subsection for the calendar year 1972. Such registration, if made within such period and effected in 1973, shall also be deemed to be in compliance with such subsection for that calendar year.

URGENTLY NEEDED FOR WAR ON DRUGS: COMPLETE EXPLANATION OF PAST AND PRESENT ROLE OF RED CHINA IN ILLICIT DRUG TRAFFIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 60 minutes.

Mr. ASHBROOK. Mr. Speaker, most Americans agree that the drug problem is one of the most urgent and difficult challenges to face us in this era. Domestically, the administration has announced that it will make it a number one priority item on its agenda. We have a right to ask if everything is being done that is within the power of the administration to fight this problem, particularly the hard drug, heroin, aspects of the dilemma. I think not. In fact, I believe there is a conscious effort to cover up Red China's nefarious part in the international illicit drug traffic. The Nixon administration is engaging in managed news to cover up the Communists' complicity in hard drug traffic.

One of the unfortunate aspects of governmental policy is that sometimes the policy is so politically important that the facts are altered to fit the program. This is often done in announcing economic policies, poverty programs or defense commitments. It is clear that the Nixon administration wants to work for peace. It makes peace more palatable if you downplay the actual intentions of an enemy or diminish it actual military threat to us. This fits peace policies better. If you want to cozy up to Red China. There is more public receptivity if you say that Red China has stopped its old ways. It no longer exterminates 20 or 30 million people and it no longer traffics in hard drugs. The facts show otherwise, particularly in the latter category.

When the President journeyed to Red China many of us who had observed the Red Chinese participation in the opium traffic hoped that at least Mr. Nixon would pressure the Red bandits to stop this illicit contribution to world misery. Communism and misery go hand in hand and it was probably a bit optimistic to expect that they would take this decent step. It now appears that Mr. Nixon never even broached the subject, the illicit drug trade, to Mao or Chou. Henry Kissinger vetoed bringing up the issue because it would have been too explosive at the initial meeting. So committed was our President to the public relations aspects of his China trip that this fundamental issue was left off the agenda. The Communists won once more and American interests were subordinated to the personal whims of the Presidential advisers who are more interested in elections than the welfare of our country.

Syndicated Columnist Paul Scott accurately hits the target in a recent column. He wrote, in part:

Discussion of the heroin issue with the Chinese Communists also would contradict the official Nixon Administration position that "there is no hard evidence that the Chinese Communist government is involved in the covert drug traffic from the Asian mainland."

This "fig leaf" policy, as it is refererd to within the American intelligence community, was adopted by the White House as part of the new Nixon policy toward accommodating Red China as a part of a new global balance of power strategy.

TO STAY IN EFFECT

Under this preconceived policy, government officials must not reveal any information of heroin traffic from China or the direct involvement of the Peking government.

This "fig leaf" policy is to remain in effect until a high-level policy decision is made by President Nixon and his advisers on what the U.S. should or can do, if anything, about this illegal heroin traffic.

Since the President's major foreign policy objective is to improve relations with Communist China, it is very doubtful that he will make any decision that might cause public embarrassment to the Peking government at this time.

It is this box that the President has worked himself into that is causing deep concern among government intelligence-security officials who see the heroin threat from China

growing as contacts between the U.S. and the mainland expand.

Mr. Speaker, this analysis of the unfortunate situation is totally accurate and is one more indication how foreign policy considerations outweigh all other aspects of policy. American interests are subordinated time and time again—in trade, in the monetary field, in the military, in security—to the judgments of those who view themselves as experts in the diplomatic field and in foreign policy. This is one more area where we need a reversal of policy. American interests must come first, foreign considerations second. We are now fighting a paper tiger war against hard drugs because we have granted a special dispensation to the world's worst offender in the hard drug market, Communist China. Before considering other aspects of the war on drugs, I refer to an extensive article on the past and present involvement of the Red Chinese in the drug traffic which I inserted in the CONGRESSIONAL RECORD of October 13, 1971. Written by Mr. DeWitt S. Copp, a Washington-based free-lance writer and an expert on national affairs and the China area, the article begins with this statement:

A shocking British government document has come into this reporter's hands; it is Great Britain's 1969 estimates of the contribution Communist China makes to the world's illicit production of opium. According to the British, as of two years ago the total illegal world production of the drug from which heroin is derived was "5,000 tons, 1,000 tons coming from the Middle East and minor producers," the remaining "4,000 tons" emanating from "Southeast Asia (including Burma, Thailand, and Laos)" and the "Chinese People's Republic." Of this amount, the official British estimates is *"3,500 tons" coming from Red China!*

The confidential document goes on to point out that all opium grown in Red China is illicit, that the average yield of opium per hectare of poppy field is seven kilos and that the total area under cultivation is estimated at a half-million hectares or 200,000 acres. The poppy-growing provinces are listed as Yunnan—where production is figured at 1,000 tons, Szechwan, Kwangsi, Kwangtung, Hopei and Honan. The annual revenue to Peking is placed at a half-billion U.S. dollars.

THE DOMESTIC WAR

On March 20 of this year President Nixon made a quick trip to New York City to inspect the first of nine planned regional offices of the Justice Department's new offices of Drug Abuse Law Enforcement. A UPI dispatch of that date, reporting on the President's visit, stated in part:

NEW YORK.—Vowing "no sympathy whatever" for the drug pusher, President Nixon called today for tougher law enforcement and harsher court penalties to help sweep narcotics from the Nation's streets.

"There isn't a penalty that is too great for drug traffickers who prey upon youth, the President declared. That is "the most reprehensible of all crimes. It is worse than a crime like murder, a crime like robbery, a crime like burglary."

"For those who traffic in drugs, those who make hundreds of thousands of dollars . . . and thereby destroy the lives of young people throughout this country, there should be no sympathy whatsoever and no limit insofar as the criminal penalties are concerned."

I would be congratulating President Nixon for his announced strong stand if the facts did not undercut all he is saying. If he really did what he said in New York, he would apply the "no sympathy whatever" policy to the Red China drug lords. It is easy to make the street pusher a target but the Government gives the green light to Red China and, in fact, protects them by managed news to deny their part in the international hard drug traffic.

Concerning the domestic drug abuse problem in Turkey and Red China, President Nixon, as reported in another UPI dispatch on his New York visit, stressed the need for tough enforcement:

Nixon spoke approvingly of the Government action which he said has eliminated the use of opium and other narcotics in Turkey and China. He credited tough law enforcement programs in both nations.

"Are the penalties adequate?" Nixon asked the gathered narcotics law enforcement officials. "Should there be more?"

Robert Morse, U.S. Attorney for the eastern district of New York assured Nixon that under present laws the penalties are enough.

But the President insisted that he wanted to know the attitude of the enforcement officers "in the trenches."

"No heroin is produced in the United States but more heroin is used in the United States than anywhere in the world," Nixon said.

"The Turks produced a lot of it but they don't use it," he said. "They don't use it because the government is very, very tough."

Nixon noted that during his trip to China last month Chinese officials told him they have eradicated the opium addiction problem forced on China in the last century by European nations.

"In a totalitarian country where they can have complete control and the penalties can be the highest, there can be an all-out effort . . . and absolute prohibition," Nixon said.

Although the President addressed himself to the subject of drug abuse domestically in Red China, no mention was made, as far as I can ascertain, of the very controversial issue of the exportation of drugs by the Red Chinese to other countries for illicit use. That the subject of the exportation of drugs for illicit use is a matter of confusion can be ascertained by reviewing conflicting statements of U.S. departments and agencies alone. A clear pattern of news management and coverup emerges when the matter is studied in detail.

Consider the responses of Nelson Gross, senior adviser to the Secretary of State and Coordinator for International Narcotics Matters, at a news conference on December 28, 1971, which text appeared in the Department of State Bulletin of February 7, 1972:

Q. I see. Do you have any evidence pro or con that any of the opium comes from China?

A. We have no evidence that any opium is coming from China at all. In fact, we have even had reports that some has moved up from Burma across the border into China. I might say here that the Chinese and our own government have had virtually an identity of interest and an identity of policy for a century. We have consistently been with the Chinese Government over the years in trying to eradicate not only production but obviously trafficking and use of opium and derivatives.

Q. How would you know if it were coming from China or not?

A. Well our intelligence sources indicate that it is coming from those areas (indicating "golden triangle" area on map). There is more than enough supply in those areas to account for all of the material which comes either into Southeast Asia, into victim areas—South Viet-Nam or the United States. We have no reports—and we would tell from those who might be arrested as to where they were acquiring the material—we have no report of any coming from China.

Now compare Mr. Gross' statement that "we have no evidence that any opium is coming from China at all" with this excerpt from the justification statement of the Bureau of Narcotics and Dangerous Drugs—BNDD) on March 10, 1970, before Congressman ROONEY's Appropriations Subcommittee on Departments of State, Justice, and Commerce, the Judiciary and Related Agencies: when referring to BNDD's overseas operations which are divided into three regions:

The third Region is in Asia with a Regional Office in Bangkok and District Offices in Seoul, Hong Kong and Singapore. The countries of Burma, Thailand, Laos, and China (Yunan Province) are sources of opium which moves to Bangkok, Macao, and Hong Kong to be made into heroin which enters the West Coast of the United States."

BNDD refutes Mr. GROSS' "no evidence" statement even more emphatically in its Fact Sheet 2—"Illegal Traffic in Narcotics and Dangerous Drugs":

There are two main currents of illicit traffic in opium and the opiates. One begins in the Middle East and ends in North America. The other pattern is from Southeast Asia directed to Hong Kong, Japan, China (Taiwan), and the west coast of America. . . . In the Far East, opium is cultivated in *vast quantities in the Yunnan Province of China* and the Shan and Kachin States in Burma. Although much is consumed by opium smokers in the region, considerable amounts of the drug find their way to the United States. . . . (Emphasis added.)

The involvement of Yunnan Province in Red China's illicit drug traffic comes as no surprise to anyone familiar with the work of former Commissioner Harry Jacob Anslinger, the U.S. Commissioner of Narcotics for many years until his retirement in 1953, and 1954 Anslinger remarks inserted by Congressman JOHN SCHMITZ on August 4, 1962. (*See* CONGRESSIONAL RECORD.)

As the U.S. representative to the United Nation's Commission on Narcotic Drugs, Mr. Anslinger had many occasions to warn the free nations of Red China's illicit narcotics trade. Here are several excerpts from his remarks before the U.N. Commission, in April 1955, concerning the now familiar Yunnan Province:

"At the end of 1953 a group of smugglers, including an official of the Bank of Canton, smuggling 23 pounds of heroin and morphine from Yunnan to Chiengrai to Bangkok and thence to another transhipment point. . . .

"Despite the efforts of the Burmese Government to control the illicit traffic in narcotics, hundreds of tons of cleaned and packaged opium in 1-kilogram units are brought into Burma each year from Yunnan Province. . . .

"The hub of the traffic on the Yunnan side of the border is Tengyueh. Along the border are found trucks, military vehicles, carts, mules and pack trains used for the transporting of opium. . . ."

Several months before his retirement in 1962, Commissioner Anslinger further illustrated the extent to which Yunnan contributed to the Red Chinese dope traffic. The following is from the Report

of the Seventeenth Session (1962) of the U.N.'s Commission on Narcotic Drugs:

92. With reference to the question of the origin of opium in the Burma-mainland China-Laos-Thailand border areas, information was reported by the representative of the United States concerning investigations carried out in recent months in co-operation with control authorities in the Far East. Three witnesses, former inhabitants of Yunnan province in mainland China, had made detailed statements to United States Treasury Department officials on the cultivation of opium in Yunnan and its export from there to the Shan States in Burma. One witness had himself been a cultivator, and in 1953 and 1956 he had also, with his mules, joined caravans transporting opium to the Shan frontier, where he assisted in its transhipment into trucks for transport to a trading company at Kentung, Burma. Two caravans, of 108 and 82 mules, had transported over 4 and 3 tons respectively, two sealed tins of 20 kg being carried by each mule. The cultivator estimated that some 6 tons of opium had been produced annually in the area where he lived, and that the total production of the region in 1961 had been of the order of 1,000 tons.

A POLICY SWITCH?

In view of the evidence as presented by sources mentioned above regarding opium coming out of Red China, it might have been prudent for Mr. Gross to have checked with his own State Department colleagues before exposing himself to the press on the thorny Red Chinese drug issue. For instance, on October 27, 1971, Mr. Louis J. Link, Chief of the Public Inquiries Division of the State Department, in a written reply to an inquiry on the Red Chinese international drug traffic, gave a more sophisticated reply. His reply in part stated:

Over the last several years news stories have from time to time purported to give details of alleged dealings by Communist China in the international drug traffic. Some of these stories have achieved widespread credence and have been cited in support of the view that Peking is so implacable in its hostility toward the United States as to rule out all possibility of a improvement in our relations.

The US Government has been concerned by these stories and has made every effort to investigate their authenticity. These investigations have determined that there is no reliable evidence that the Communist Chinese have ever engaged in or sanctioned the illicit export of opium or its derivatives. Nor is there any evidence of that country exercising any control over or participating in the Southeast Asian opium trade. From our investigations it appears that the drug traffic in Southeast Asia is carried on by individuals, some of them ethnically Chinese, who are inspired by motives of financial gain rather than political considerations.

In comparing the Gross statement with that of Mr. Link, it can be seen that Mr. Link was not boobytrapped into stating that there is no evidence that opium is now coming out of Red China. Mr. Link is vulnerable, though, in the light of past official U.S. statements, in stating that:

There is no reliable evidence that the Communist Chinese *have ever* engaged in or sanctioned the illicit export of opium or its derivatives" (emphasis added).

Here again we are indebted to Mr. Anslinger for his remarks of April 15, 1953 before the U.N. Commission on Narcotic Drugs to prove that the Red Chinese Government did in fact, engage in and sanction the illicit export of opium and its derivatives:

When the Communists occupied the whole of China, opium-smoking was prohibted in the land by order of the Communist Administrative Department, but it soon became known that traffic in narcotics would be permitted if it was contrived behind the scenes so those who wished to export opium applied to the government organization controlling special items and received licenses to export opium which amounted to a license to buy and sell opium and heroin.

Tientsin and Canton are the chief opium and heroin export centers in China.

Within the Communist government there is the Opium Prohibition Bureau of the People's Government. Within this Bureau the responsible persons are: Po I Po, Chief of the Finance Division; Yie Chih Chuang, Chief of the Trade Division; and Wang Feng Chi, who as Chief of the Hwapei Opium Prohibition Bureau is the actual person in charge.

The Opium Prohibition Bureau amounts to a government monopoly which, in the Tientsin district, is known as the Yuta Concern which is located at 5, Aomen-lu, 10 Ward, Tientsin. Wang Tsu Chen is the head of this concern, Li Tsu Feng is the managing director, and Sung Han Chen is an active partner. Wang is a native of Nanking and was formerly a bandit; Li is a leader of bandits of the Tseng Jen Wang clique; and Sung is a famous opium dealer in Tientsin.

The opium business in the Canton district is monopolized by the South China Trade Bureau under the name of "Lin Chi Hang." Wang Jui Feng, a senior Communist leader, is in charge.

In Hankow stockpiling and transportation are carried out by the Hankow Agency of the Central and Southern District Tobacco Bureau. The person in charge is Lo Wen, Chief of the Accounting Department of the Central and Southern Army District.

Mr. Anslinger then proceeded to cover other areas of China, giving the names of the individuals and offices involved—all approved by the Red Chinese Government for the export of opium and its derivatives to the outside world:

The opium stored in the Shihkiachwang Warehouse, with Kuo Hua Yuen in charge, includes the stockpile of opium which was accumulated before the Communists took charge of the government.

The person in charge of the Northern Shensi Warehouse is Kung Liang who is responsible for the planting, harvesting, and processing of opium in the northern Shensi district.

The Jehol Agency, the original name was the Jehol Agency of the Central Tobacco Bureau Superintendent's Office, is headed by Wu Chih Ho who is in charge of the seeding, harvesting, and processing of opium in the Jehol district.

In Shanghai opium transactions are prohibited, but Chu Yu Lung, who is a public security officer, of the Shanghai district is in charge of the liaison office. His principal job is to negotiate with buyers of opium.

Further looking in the Red Chinese Government to opium exportation, the former narcotics commissioner outlined the coordination of the narcotics people with other agencies:

The traffic in narcotics is closely related to other organs of the Communist government. For example, there is a close relation with the People's Bank of China and the Bank of China both of which have local branches throughout the country with special counters to handle loans, extend credit, and handle mortgages for opium. The transportation of opium is guarded by the armed forces. These agencies along with the Tobacco Monopoly are also the organs for handling the transactions in opium. The responsible persons of the Tobacco Monopoly in the various districts have close connections with the big opium dealers. They employ the names of recognized firms for their export business and conduct narcotic transactions under the protection and cover of various subterfuges.

For further proof on this theme, these remarks of Mr. Anslinger appear in full in the valuable insertion in the CONGRESSIONAL RECORD, volume 117, part 22, page 29695, mentioned above.

A WHITE HOUSE MEMO

A memo dated February 15, 1972, was sent by one of my Republican colleagues to members of the Task Force on Drug Abuse of the House Republican Research Committee. It was entitled "Alleged Involvement of the People's Republic of China in Illicit Drug Traffic." The memo, which was confirmed as a White House memo by my colleague, was, interestingly enough, on plain white paper with no heading, no agency identification, no attribution—a real "backgrounder." It was real propaganda, too. If you think the statements of Messrs. Gross and Link are misleading the American public, read the White House memo which is inserted at this point. It is an example of managed news at its worst:

ALLEGED INVOLVEMENT OF THE PEOPLE'S REPUBLIC OF CHINA IN ILLICIT DRUG TRAFFIC

Since the early 1950's there has been a persistent propaganda campaign designed to convince the American public that the People's Republic of China is producing thousands of tons of opium annually and is actively engaged in the illicit export of opium and its derivatives to the United States and other Free World countries. This campaign is being promoted in this country by a number of groups who have consistently supported the Republic of China and have opposed *de facto* or *de jure* recognition of the People's Republic of China; and at least to some extent by the Government of the Republic of China. In the latter connection, an anti-Communist exhibit in Taipei in September, 1971, in which eight Republic of China agencies participated, featured charges that the People's Republic of China was smuggling at least ten thousand tons of narcotics into Free World countries annually, and branded the Peking government as the "world's number one drug pusher."

Most of the propaganda leaflets which are being circulated "document" their charges against the People's Republic of China by quoting remarks allegedly made by Chou En-lai on June 23, 1965, in a conversation with Nasser. Speaking of the demoralization of American troops in Viet-Nam Chou is alleged to have said ". . . some of them are trying opium and we are helping them. We are planting the best kinds of opium especially for the American soldiers in Viet-Nam. . . . Do you remember when the West pushed opium on us? They fought us with opium. And we are going to fight them with their own weapon. We are going to use their own method against them. We want them to have a big army in Viet-Nam which will be hostage to us and we want to demoralize them. The effect which this demoralization is going to have on the United States will be far greater than anyone realizes."

It should be noted that while the Chou-Nasser conversation reportedly took place in June, 1965, it was not until mid-1970 that

drug abuse among U.S. servicemen in Viet-Nam reached serious proportions. Moreover, no evidence has yet been produced to indicate any attempt on the part of Peking to introduce opium or heroin into Viet-Nam.

The following appraisal of the allegations of Chinese Communist opium production and trafficking is based upon current information. This appraisal is as follows:

1. The government of the People's Republic of China (PRC) has for years officially forbidden the private production, consumption, and distribution of opium or its derivatives. There is no reliable evidence that the PRC has either engaged in or sanctioned the illicit export of opium or it derivatives to the Free World nor are there any indications of PRC control over the opium trade of Southeast Asia and adjacent markets.

2. In the latter connection, Parish authorities in Hong Kong have consistently denied the existence of illicit drug traffic from Mainland China. They have, however, identified other sources in Southeast Asia for opium and its derivatives which have entered Hong Kong by sea.

3. Stringent controls over opium poppy production and use were adopted at the 21st session of the State Administrative Council of the PRC on February 24, 1950. Basically the statute prohibited the private importation, processing, and sale of opium and other narcotics. However, government-controlled production continues and is reflected in the small quantities of raw opium and poppy husks which are legally exported from time to time. The tight political control exercised by the government over its citizens has probably made the enforcement of these laws quite effective in most areas of the country.

4. Though control over production and trade in the southern border areas of the PRC, particularly Yunnan Province, has been more difficult, there is no confirmed evidence that the PRC is illicitly exporting opium or its derivatives across its borders. Despite occasional reports indicating cross-border movement of opiates between China and Southeast Asia the relatively rigid governmental controls in effect in Mainland China would seem to preclude any significant illicit cross-border movements.

WHY THE RED CHINA COVERUP?

The very first sentence of the memo logically raises the question: Does the "persistent propaganda campaign" of the early 1950's include the overwhelming factual statements of the U.S. Commissioner of the Bureau of Narcotics and our narcotics representative to the United Nations, Mr. Anslinger? Does this campaign also include reports by the governments of Burma, Thailand, Japan and South Korea? In June, 1955, Mr. Anslinger appeared before a subcommittee of the Senate Judiciary Committee and testified on the illicit narcotics traffic. Here is an excerpt from that testimony:

Senator DANIEL. Mr. Commissioner, we are, of course, going into the sources of supply of heroin and other drugs that are coming into the country later in your testimony or whenever you desire to do so. But while you are on the subject here about Red China, you testified before our Internal Security Committee already this year that actually the manufacture of the drug is being encouraged in Communist China in violation of their own laws. Is that the true picture, even up to date?

Mr. ANSLINGER. Up to date and continuing. Now, on behalf of the United States I have made four statements at the United Nations, well documented, in relation to the traffic out of Communist China. At the last session, which just wound up here the 12th of May, 2 weeks ago, I made this statement which I will submit for the record as to the illicit traffic in the Far East.

Now, this was not only supported by the delegate of Nationalist China, but he had at his command probably much better information than we have because of his contacts on the Chinese mainland.

Now, the Polish delegate and the Russian delegate said that these charges were fantastic, as they have before. Of course, coming out of Peiping you get these news releases that this is pure slander, and so on. However, in rebuttal I was able to produce the reports of the Government of Burma, which showed that they had made 500 seizures of opium across the Burma border, which is right on the border of Yunnan, and had also made many seizures of crude morphine. Crude morphine is the drug from which heroin is obtained.

The Government of Thailand also made a report showing that the source was Red China. Then we go on to Hong Kong, and, of course, the traffic flows through Hong Kong, although the British authorities have done a great deal in suppressing the traffic.

Then the Japanese report and the reports from South Korea—and in rebuttal I confronted them with all this information. Of course, I did get a reply to that because that was also documentation in addition to this report I would like to submit for the record.

It is indeed ironic that, if the White House memo had been written at the time of the above-mentioned debate in the U.N., the United States would have been supporting the Russian and Polish delegates and the charges of slander by the Red Chinese.

Priorities at this time do not permit an exhaustive review of the memo, but information presented above is, I believe, sufficient to label the memo as grossly misleading. Item No. 1 of the appraisal makes the same claim that Mr. Link advanced, namely, that Red China has neither engaged in nor sanctioned the illicit export of opium or its derivatives to the Free World, which assertion was dealt with above. The claim that the Chinese people are forbidden to produce opium for their own consumption is of course true as indicated above, but the production of opium by the Red Chinese for illicit export is a long established policy which, of course, they deny.

Item No. 3 of the appraisal states that government-controlled production of opium continues and is reflected in the small quantities of raw opium and poppy husks which are legally exported from time to time. Read again the above statement by the Bureau of Narcotics and Dangerous Drugs concerning the illicit traffic in opium and the reference to the "vast quantities in the Yunnan Province of China," which along with the output from the Shan and Kachin States in Burma "find their way to the United States," as the BNDD put it, in "considerable amounts."

Item No. 4 of the White House memo raises some very interesting points. For ease in reference, Item No. 4 reads as follows:

4. Though control over production and trade in the southern border areas of the PRC, particularly Yunnan Province, has been more difficult, there is no confirmed evidence that the PRC is illicitly exporting opium or its derivatives across its borders. Despite occasional reports indicating cross-border movement of opiates between China and Southeast Asia the relatively rigid governmental controls in effect in Mainland China would seem to preclude any significant illicit cross-border movements.

Here at last we have some degree of consistency between two Administration sources. The memo does indicate that there is evidence that there has been "cross-border movement of opiates between China and Southeast Asia. This, of course, confirms, to some extent, the BNDD claims that illicit opiate shipments have come from Yunnan Province. However, the White House memo puts the responsibility for such shipments on individual Chinese efforts which, they infer, violate Red Chinese Government regulations. Information presented above shows that such individual efforts would violate Government regulations only if such traffic were for domestic consumption in China, whereas illicit export is approved and encouraged by the Government of Red China.

THE QUESTION OF EVIDENCE

The Baltimore Sun of March 7, 1972, carried a story from Vientiane, Laos, by Michael Parks with the caption "CIA Reporting Shifting Attention in Laos From Communists to Opium." The first two paragraphs read:

American intelligence agents here are turning their attention from Communists to drug runners, according to informed sources.

The United States Central Intelligence Agency has been given a top-priority assignment, American officials say, of discovering the routes used to smuggle opium from northern Burma through Laos to Thailand and pinpointing opium refineries in the area.

Later in the article this statement appears:

Other intelligence sources report, however, that some of the small guerrilla teams that used to probe China's Yunnan province for the Central Intelligence Agency have been shifted to tracking and occasionally attacking the opium caravans.

If the above account is true, it would indicate that, in this instance at least, Red Chinese operations are being deemphasized.

Another item, this from the New York Times and datelined July 28, 1971, from Washington, reads: "U.S. Spy Flights Over China Ended To Avoid Incident." The first two paragraphs read:

Administration officials said today that the United States had suspended flights over Communist China by manned SR–71 spy planes and unmanned reconnaissance drones to avoid any incident that might interfere with President Nixon's forthcoming visit to Peking.

But, it was reported, American reconnaissance satellites will continue missions over China. Such missions are considered relatively unprovocative since they are well above the airspace of China.

The article goes on to say that the bulk of photographic reconnaissance is done by spy satellites operating at an altitude of about 100 miles. The spy satellites, however, can spot aircraft on the ground but are not adequate to discern smaller details of the object. This assignment is left to the SR–71 plane flying at approximately 80,000 feet and equipped to photograph small details.

With reference to the above, some interesting testimony on the surveillance of poppyfields as one device for policing a worldwide opium cultivation ban was given in August, 1971, before the House select committee on crime by Dr. Walter F. Yondorf of the Mitre Corp., a research and development think-tank with heavy experience in space and defense. In answer to a question Dr. Yondorf stated:

I would suggest that sensing from satellites would require much more development. It is easier with our present technology to identify poppyfields with airborne sensing equipment; that is, with minor adaptations of sensor equipment now existing on aircraft.

It would appear from the foregoing that we have relinquished our capability of photographing poppyfields in Yunnan Province, for instance, by means of aircraft overflights while retaining the spy satellite program which, according to Dr. Yondorf, is inadequate to identify poppyfields.

The foregoing two examples of the administration's dropping two possible means of securing information on opium production in Southwest China poses the question as to just how serious are we about gathering evidence on the Red Chinese drug traffic. Have we, for instance, checked with the Nationalist Chinese for possible defectors from Mainland China who had knowledge of the opium traffic, as Mr. Anslinger obviously did in the 1950's? Here again is one reference from an excerpt mentioned above:

Three witnesses, former inhabitants of Yunnan Province in mainland China, had made detailed statements to United States Treasury Department officials on the cultivation of opium in Yunnan and its export from there to the Shan States in Burma."

Another question is whether the administration people have checked the claims of the Nationalist Chinese that numerous opium plantations exist on the mainland, the locations and acreages of which the Nationalist Government list in their publications.

Have we, for instance, put to use the airborne sensing equipment mentioned above by Dr. Yondorf to photograph the plantations, thereby possibly confirming or refuting the Nationalist claims?

In the foregoing remarks I have tried to bring to light some aspects, past and present, of the Red Chinese drug traffic and how the administration has handled this very vital issue. Whether one agrees with me that this is a case of managed news and administrative coverup, it must be admitted that the American public is not receiving a straightforward, consistent explanation of the past and present history of Red China in the illicit drug traffic.

It is impossible to wage an all-out war on hard drugs if the administration continues in its policy of covering up the "Red Connection" in the world illicit drug market. Again we see foreign policy interests, in this case good relations with Red China, overruling a vital issue of national interest, namely, the protection of the American people from the scourge of drug addiction. American self-interest demands that the administration be open and candid in this vital area. The record should be set clear and the true position of the Red Chinese should be explained to the American people.

At this point I am inserting in the RECORD two recent accounts dealing with the Red China's illicit drug trade. The first item is by George Putnam, veteran West Coast newsman, whose investigative reporting has been widely appreciated in his area. The second item is from the pen of Allan C. Brownfeld, lawyer, lecturer and writer, who recently returned from the Far East.

NEW EVIDENCE OF NARCOTICS FROM RED CHINA
(By George Putnam)

Recently, a shocking British government document came into the hands of Washington based author and correspondent Dewitt S. Copp. It is Great Britain's 1969 estimates of the contribution Communist China makes to the world's illicit production of opium.

According to the British in this report, as of two years ago, the total illegal world production of the drug from which heroin is derived was five thousand tons. One thousand tons coming from the Middle East and minor producers—the remaining four thousand tons emanating from Southeast Asia. And of the four thousand tons, the British estimate thirty-five hundred tons come from Red China. Now this makes Red China the world's number one dope peddler.

The confidential document points out that all opium grown in Red China is illicit, and the total area under cultivation is estimated at 200,000 acres. The poppy growing provinces are listed as Yunan, where production is figured at one thousand tons, Szechwan, Kwangsi, Kwangtung, Hopei, and Honan. The annual revenue to the Red Chinese—a half billion dollars. I said, a half billion dollars!

Yet, reporter Dewitt Copp's effort to gain information on Peking's role in this most vicious of all traffic has been met at the U.S. Bureau of Narcotics by inconclusive, evasive replies. And when the U.N. Narcotics Commission was approached, the answer was equally evasive.

But these facts are known—in 1949–1950, the U.N. Narcotics Commission noted that Chinese authorities were marketing large quantities of opium abroad, much of it smuggled into Burma. Earlier, Great Britain informed the Commission that Peking representatives offered to sell 500 tons of opium to a British firm in Hong Kong.

When that offer was declined, an attempt was then made to sell three hundred tons of opium to the United States in exchange for cotton.

During the Korean war, much evidence showed that Peking was intent upon injecting the drug habit upon our GI's.

In 1950, U.N. forces in North Korea discovered three hundred boxes of opium which originated in Red China.

In 1952, another seizure was made, amounting to six thousand pounds.

In 1954, Dr. Harry Anslinger, the former Director of the U.S. Narcotics Bureau, and a member of the U.N. Commission, charged that Red China was spreading narcotics addiction to obtain funds for political purposes. And said Anslinger, "This is the practice of the entire Red Chinese regime, and the United States is the key target of illicit traffic from Red China."

Said Harry Anslinger, "Trafficking in narcotics for monetary gain and to undermine and to demoralize free people has been a policy of the Communists in China from the beginning.

In 1963, U.S. Narcotics Commissioner Henry Giordano charged, "The Red Chinese are extensively engaged in Drug traffic."

Th following year, the Chairman of the Japanese National Committee for Struggle Against Drug Addiction stated, "Peking has become the world's principal producer of opium poppies which yield opium, morphine, and heroin." He estimated that Red China was realizing 170 million dollars annually by smuggling narcotics to Japan, Southeast Asia, and to the United States."

September thirteenth, 1964, Moscow—this is Moscow speaking now, via PRAVDA, accused Communist China of being a major supplier of illegal drugs. And PRAVDA said, "The drugs yielded five hundred million dollars annually to the Red Chinese leaders and has become one of the main sources of convertible currency for the leadership of the Chinese Communist Party."

And the Prime Minister of Thailand accused Peking of flooding that nation with narcotics.

In Hong Kong, a doctor at the anti-narcotics center stated, "There are upwards of a half million addicts in the British Colony supplied with narcotics flowing out of Communist China."

Well, my friend, it is interesting to note that until five years ago, there was a clear official record from a variety of sources and nations pointing to Red China as the world's leading dope peddler. And then, as the drug problem exploded with more and more addicts, less and less was heard about the Red Chinese part in this vicious traffic. Officially, the major sources of opium growing were reported to be Turkey and that area of Southeast Asia referred to as the "Golden Triangle." In other words, Burma, Laos, and Thailand.

It is interesting to note that this vast area bordering on China is bandit controlled, and thus serves as a cover for Red China's opium and heroin exports. The heroin is produced in government owned, government controlled factories in Communist China, and then transported to agents in the Golden Triangle for delivery to seaports, airports, and couriers who are on diplomatic missions.

How curious it is that this confidential British document claims that thirty-five hundred tons come from Red China, while American officials make no reference to illicit supplies from Red China—not at all!

Peking is now seated in the United Nations. The President is planning to journey to Communist China. The drug traffic remains one of our most serious American problems. In the past, heroin has been discovered aboard ships and planes in cargo sealed in automobiles, in luggage, strapped to the bodies of travelers.

But now that Red China has moved into a new area of acceptability, of respectability, will it be carried into this country by Red Chinese diplomats—Communists with immunity—in their diplomatic pouches?

Ten p.m. news report, KTTV, Channel 11, October 28, 1971.

[From Roll Call, Feb. 24, 1972]

COMMUNIST CHINA AND NARCOTICS
(By Allan C. Brownfeld)

As President Nixon meets in Peking with Communist Chinese leaders there is one subject which does not appear to be on the agenda, but which many concerned observers, both in this country and abroad, would like to see discussed. That subject is the question of Communist China's involvement in the world-wide traffic in narcotics and dangerous drugs.

Speaking to a small group of legislative aides on Capitol Hill, A. H. Stanton Candlin, a British narcotics expert who has spent many years in the Far East, declared this month that "When President Nixon goes to see Chou En-Lai he is seeing the biggest drug pusher in the world, with 80,000 acres under cultivation."

This idea is neither new nor novel. According to Mohammed Hassanein Heikal, editor of Cairo's semi-official *Al Ahram* newspaper and a confidant of the late Egyptian President Nasser, Premier Chou En-Lai told

Nasser in 1965 that Communist China planted opium in Vietnam, hoping to demoralize U.S. troops there with drugs.

Even a brief review of the facts with regard to narcotics addiction now afflicting American servicemen in Vietnam leaves open the question of where the massive amounts of heroin, not to mention marijuana and other drugs, are coming from.

This writer recently discussed that question while in the Far East. American officials in Hong Kong and elsewhere in that area declared without a doubt that "Communist China is not responsible for narcotics." They were, however, the only ones to say this. Americans outside of the government, and officials of other governments expressed the view that Communist China was deeply involved. They pointed out that the answers received from American officials were "political" answers, meant not to damage the President's efforts at "reconciliation" with the Communist Chinese.

U.S. spokesmen, up to the highest level, have consistently asserted that 80% of the heroin brought into the United States is manufactured from Turkish opium. Originally, the Bureau of Narcotics and Dangerous Drugs calculated this figure not just for Turkish opium, but for Middle Eastern and especially Iranium opium. Iran remained a major opium producer and purveyor long after 1955, when it prohibited the planting of poppy. Cultivation was again authorized in 1969.

Turkish authorities have been restricting poppy cultivation from 21 to 9 provinces, with most of the planting restricted to four. As of June, 1971, all cultivation was prohibited. Production itself was curtailed long before 1971. During this same period, heroin consumption in the U.S. and elsewhere went up dramatically. With a dynamic growth of consumption in the U.S. and elsewhere, and a concurrent reduction in the output of Turkish opium, the contribution of Turkey to the American heroin market cannot possibly have remained static at the 80% level.

There is some undisputed history with regard to the past involvement of the Communist Chinese in opium and heroin production. In the course of the long march from southern China to the Yenan caves in Shensi, some 400,000 Communists were forced into a mountainous region which lacked agricultural and other income-producing resources. The Communists turned to the cultivation of opium as the most expeditious means of survival and of financing the "protracted struggle."

They began to market their product by 1938–39, and they were helped in their efforts by the Japanese who rescinded the prohibition on opium smoking that had been imposed by the Chinese Nationalist Government. The Japanese were anxious to stimulate opium consumption among the Chinese and the Communists were eager to trade opium for metals, including gold, and they reportedly also used opium as a bank reserve.

According to Mr. Stanton Candlin, the Chinese Communists are now using a policy of "psychochemical warfare," first used by the Japanese on the Chinese themselves in the 1920s and 1930s. The Japanese established brothels and spread morphine. It was done by intelligence services of the army and the Chinese method being used today "can be traced to the Japanese. They saw it done to themselves and they are improving on it." Much of this material is set forth in the volume, Traffic In Narcotics by Henry Anslinger, former U.S. Narcotics Chief.

In 1950, after the Chinese Communists established control of the Mainland, Mao forbade opium smoking in China and a few opium growers were executed with great publicity. Yet shortly thereafter, Commissioner Anslinger placed an American complaint before the United Nations to the effect that the Communist Chinese were smuggling narcotics into Japan. His evidence was overwhelming and proved that during the early 1950s China was heavily engaged in the illicit drug trade. Mr. Anslinger testified in 1955 before the Senate Judiciary Committee. He declared that Red China "had singled out the United States as a primary target for its illicit traffic in opium and heroin."

In a speech of September 21, 1961, Rep. Francis E. Walter (D-Pa.) referred to Communist Chinese "dope warfare" against American and United Nations troops during the Korean War. He added that many of the narcotics were peddled "at bargain prices by young women pushers near all military installations in Korea." He stressed that the products were of high quality and reported that during 1952 the Japanese police arrested over 2,000 pushers near American installations. He stated that opiates were coming into Hong Kong, Burma, and Thailand from the North, and he quoted the U.N. Commission on Narcotics Drugs as the source of this information. During the Korean War, U.S. troops found an opium processing plant in Pyongyang which was producing prepared opium and morphine.

Heroine addiction among American troops in Vietnam steadily rose toward epidemic proportion beginning in December, 1969. It has also been stated that a heavy heroin influx followed shortly after the Cambodian invasion in the spring of 1970. This influx was estimated from service deaths resulting from drug overdoses by Assistant District Attorney John Steinberg of Philadelphia who investigated the Vietnam drug scene in the fall of 1970 as a special consultant to the Senate Subcommittee to Investigate Juvenile Delinquency. Shortly after the Cambodian operation "large quantities of heroin began arriving in Vietnam . . . uniform packaging and refining indicated a single highly organized source."

Reviewing the available information, Professor Stefan T. Possony, Senior Fellow at the Hoover Institution of Stanford University, stated that "I am satisfied that while much detail remains hidden and statistical accuracy is not attainable, the overall story has emerged rather clearly. The various sources have—on the whole—been mutually confirmatory. The sources do reveal a cleavage of opinion on the role of Maoist China, but I believe this difference can be resolved. I also want to record that denials of Chinese Communist involvement which I have seen were in the nature of flat assertions and were never accompanied by analysis.

Professor Possony notes that "In terms of production, the Chinese Communists have the capacity of replacing suppliers like Turkey who may go out of business. They are also able to satisfy a larger market and/or growing market demands." It is high time that this question was discussed openly.

TO AMEND THE INTERNAL REVENUE CODE OF 1954

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAMS) is recognized for 15 minutes.

Mr. WILLIAMS. Mr. Speaker, today, in a strong showing of bipartisan support, I am joined by 16 members of the Pennsylvania delegation from both sides of the aisle in introducing a bill which will amend the Internal Revenue Code of 1954. The purpose of this bill is to give a tax incentive to companies to promote the construction of any power-producing facility that uses waste products to generate power. This will contribute to conserving our dwindling supply of fuel and also to cut down on the pollution of our environment. For many years we have all been guilty of the systematic poisoning of the environment of our planet, and I am deeply concerned with all phases of this problem. I am also concerned about our critically declining reserves of premium types of fuels, particularly natural gas and oil.

As an example of the type of facility which my bill would encourage, we should consider the incinerator plant at Hogdalen, just outside of Stockholm, Sweden. This plant consumes the domestic and commercial refuse from the Stockholm area and uses the heat energy to produce electrical power. The ultimate electrical output of the plant is approximately 25,000 kilowatts, which is enough power to satisfy the needs of nearly 25,000 people.

The continuance of our society and our economy is heavily based on our ability to produce power and our ability to use available energy resources effectively and efficiently. The technological achievements of our power industry are the most advanced in the world and, yet, I believe we have overly concentrated our efforts on producing power abundantly and inexpensively. We now must concentrate our efforts on technological solutions to producing power from otherwise little-tapped energy sources at the same time we seek to conserve fuel. We must find all available means of reducing the pollution of our environment.

Today, we are facing problems of disposing of millions of tons of waste materials and, yet, these materials have energy content. Incineration is an acceptable solution, provided equipment used has all the benefits of the latest improvements. I ask simply, why not combine the incineration plants with the production of power—it would seem to make a great deal of sense.

Major metropolitan centers in this country are, today, facing a critical shortage of natural gas. Even in the Washington area, new housing developments which are nearing completion are being told that it will be impossible to supply them with natural gas. Just a few short years ago, while these developments were in the planning stage, commitments were made to provide gas, but now demand has far outstripped supply. We are faced with a situation where there is insufficient gas for cooking and heating needs for our rapidly expanding population. New housing is being planned with more and more substitution of electrical appliances to make up for this deficiency, but we already know that our electrical energy generating capacity cannot always meet our power demands. In summer time, we will be faced with the possibility of brownouts, or blackouts, and the possible need to face restrictions on the hours in which air-conditioning units may be operated. We must find new sources of electrical energy.

I believe a large portion of our electrical power requirements can be generated with clean combustion of otherwise disposed materials. Why cannot we provide the industry with some incentive to develop and install the most advanced systems available? They can do it. They

merely need the proper direction and encouragement that we in the Federal Government can provide through an effective tax incentive program.

Today, we are consuming a staggering amount of energy. Without going into technical definitions, we may state that the consumption is fairly evenly divided amongst four uses: First, electrical power production; second, is energy for household and commercial use; third, is for transportation; and fourth, is for industry. What boggles the imagination is that only about half the potential energy that can be produced is used. The other half goes into our environment as some form of waste product. It is obvious that much of the energy we throw away could be put to use. If we were to combine various systems and get greater benefit from our fuels, the result would be less pollution. My bill would encourage and stimulate the industry to combine more effectively the various energy systems in order to accomplish the combined goal of conservation of fuels and the reduction of pollution.

There are those who say stop building power plants and preserve our ecology. Unfortunately, I do not believe it is possible to support a 20th century population with 19th century technology. Rather, I believe that it is going to take the advancement of the 20th century technology to carry us into the 21st century.

I feel that properly directed, we can continue to have an abundant power supply and a cleaner environment while preserving our precious fuel reserves until technology finds some workable means to tap some of the more technologically advanced energy stores.

HON. F. BRADFORD MORSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, all of us in the Congress and across the Nation share in the enthusiastic reception given the appointment of our distinguished colleague, F. BRADFORD MORSE, as Under Secretary General of the United Nations.

Mr. MORSE's exceptional service in the field of international relations is well known here and abroad, not only through his work on the House Committee on Foreign Affairs, but also as the principal architect of the Grid plan for deescalating U.S. involvement in Vietnam, which led to negotiations in the spring of 1968. He has brought distinction to this body as chairman of the Members of Congress for Peace Through Law, as delegate to the Interparliamentary Union, as official U.S. observer at the Council of Europe and the Latin American Parliament, and as congressional adviser to countless international conferences.

He is highly respected for these activities. But I wish to emphasize also that the imagination and maturity our colleague has displayed in the field of foreign affairs is matched by his grasp of national issues during one of the most challenging decades in our history. His understanding of the impact of drastic technological and social change is reflected in his unflagging support of sound domestic legislation.

We will greatly miss our esteemed colleague. But we know that he will bring fresh vigor to the important work of the United Nations, and we wish him well.

PROUD BIRMINGHAM STEERING INTO MAINSTREAM, U.S.A.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 5 minutes.

Mr. BUCHANAN. Mr. Speaker, I have addressed this body on many occasions to outline the progress made in the city of Birmingham, which it is my privilege to represent in the Congress.

In my judgment, Birmingham is giving every evidence that its second century, which it is beginning this year, will even overshadow the city's first 100 years.

Our city is changing daily in every respect, from the shape of its skyline to the attitudes of its people. In this connection, I would commend to the attention of my colleagues an article which appeared in Tuesday's New York Times by Roy Reed entitled "Proud Birmingham Steers Into Mainstream, U.S.A."

I include herewith a copy of this article so that my colleagues can see that I am not the only one impressed with the magic city of Birmingham, Ala.:

PROUD BIRMINGHAM STEERS INTO MAINSTREAM, U.S.A.

(By Roy Reed)

BIRMINGHAM, ALA.—As it begins its second century, Birmingham has finally become sufficiently Americanized that Northerners who move here feel right at home. Some like it so well they refuse to leave.

"I've been here two and a half years and I wouldn't trade it for New York," John Woods, president of the First National Bank, said recently. He was an executive on the Chemical Bank of New York before moving here.

"We love it here," said Jane Lysinger, who moved here six years ago from Boston. Her husband, William R., recently turned down a transfer to his insurance company's home office at Hartford.

"About 50 per cent of the people we know here are from other places and they all feel the same way," she said.

SOME REMAIN UNSATISFIED

Some might find it hard to believe Mr. Woods and Mrs. Lysinger were speaking of "Bombingham," the police dog capital of the nation, the place that the Rev. Dr. Martin Luther King Jr. once called "the most segregated city in America," the city that 10 years ago was so ill-regarded that its businessmen and civic leaders were frequently snubbed when they went to other cities.

But it is true—Birmingham has changed. Just how much is not easy to measure; and some say that whatever the change, it is not enough, that some of the old rigidities of race, power and thought are still intact.

There are those here, too, who believe that this maligned city was never as different from the rest of the country as the country once thought. A nation that has accommodated the assassinations in Dallas, Memphis and Los Angeles and the mass killings in Detroit, Watts, Mylai and Attica, they say, has lost its right to feel superior to Birmingham.

"Except for the four girls being killed, Birmingham's trouble in 1962 was minor." Mayor George G. Seibels Jr. said the other day. "But that's history. What we're worried about now is where we're going."

Where Birmingham and its suburbs (population 731,668) seem to be going is straight into mainstream America.

Blacks are participating in city politics and most of the city's white political leaders are now considered racially progressive.

The downtown skyline is rising and sparkling. Beauty and equality are becoming more important.

A new spirit can be felt, partly because of newcomers who are slowly beginning to dilute the steel industry's power here. Other industries are moving in.

A MAJOR MEDICAL CENTER

The city is rapidly becoming a major medical center and, if the present trend continues, it could also become one of the South's leading centers of higher education.

Birmingham even has an expressway, at last. The first leg of $422 million worth of interstate highways for the metropolitan area was opened in 1970, years after other cities of similar size were crisscrossed with expressways.

As if to certify that Birmingham was finally catching up with the country, the national Municipal League and Look Magazine, just before the magazine went out of business, presented the city with an "All America City" award last year.

The most obvious change here during the last 10 years has been in racial matters.

The second black man was elected to the City Council last fall. Dr. Richard Arrington, a biochemist, won in a city-wide race although nearly 60 per cent of the city is white. He estimates that 8,000 of his 29,000 votes came from whites.

Elected with him were two white liberals, David Vann, a lawyer who was once a law clerk for the late Justice Hugo Black of the Supreme Court, and Angie Grooms Proctor, the daughter of a Federal judge who has written a number of anti-segregation school decisions. With a white moderate and a Negro already on the council, the city's governing body now has a 5-to-4 moderate-liberal majority.

One of the new council's first acts was to appoint the city's first black judge. Peter A. Hall, a long time civil rights lawyer. There was virtually no adverse public reaction.

Mayor Seibels, a Republican, was re-elected last fall with black support. He has tried, with more enthusiasm than success, to hire additional black policemen. Police Chief Jamie Moore, said to be an obstacle to the hiring of more blacks, resigned a few days ago.

After a series of black complaints against the police two years ago, the city's white leaders agreed to serious talks on a broad range of black grievances. Twenty-seven black and white leaders joined in a no-holds-barred discussion group called the community affairs committee. It still meets for breakfast every Monday.

One of the main changes the committee gets credit for is quietly doing away with the old separate lines of progression for black and white workers in the steel mills.

As in other southern cities, the young seem less concerned than their elders with racial differences. The students of the University of Alabama in Birmingham, which is 10 per cent black, recently elected a black student president.

Physically, Birmingham has never been beautiful except in pockets of rich, exclusive residential areas. It was gourged out of the mountains as a mining, smelter and railroad town and the scars have never quite healed.

The most distinguishing thing about the city in the past was the smoke from steel mills. It hung over the valley and darkened the uninspired squares of houses and low brick commercial buildings. The downtown area was laid out on a perfect grid, emphasizing its plainness.

No one seemed interested in building new buildings. During the late nineteen-fifties

and early nineteen-sixties, the city went through an economic depression as the steel mills began to automate and lay off workers.

Now the look and smell of the place are changing. Twenty-three industrial plants were closed during a period of especially bad air pollution last fall. The big steel companies have since announced ambitious and expensive pollution abatement programs.

A building boom is under way. A convention hall that is the first part of a $35-million civic center has been finished, and two 30-story office buildings are being opened this winter. They are the tallest buildings in town, rising, almost as high as the big statue of Vulcan, the god of fire and metal-working, which looks down on the city from the top of Red Mountain.

It is reported that 180 companies looked at Birmingham last year and 25 decided to move or build branches here. Building permits show that the value of construction in the city increased from $52-million in 1968 to $110-million in 1971.

Plans for several million dollars worth of new hotels have been announced in recent months. The city's most famous old hotel, the Tutwiler, which once refused a room to the late Ralph Bunche, is bankrupt.

Perhaps the depth of the new pride here can be gauged more accurately in smaller projects designed mainly to make the city more livable.

For example, the city will spend $40,000 this spring to spruce up Kelly Ingram Park. the scene of most of the racial violence in the city in 1963.

The arts are increasingly well supported, too. The well-to-do now compete for $135 tickets to the annual Galaxy Ball to help maintain the Birmingham Symphony. And one day recently, the city art museum was showing paintings by Thomas Eakins, Andrew Wyeth and Winslow Homer.

One of the most far reaching changes of the last decade, one already affecting almost every facet of the community from economics to taste, has been a phenomenal enlargement of the University of Alabama in Birmingham.

Dr. Joseph F. Volker, the school's president, remarked recently that Birmingham was once the only major Southern city without a university.

The university in Birmingham, once a few branches of the main campus at Tuscaloosa, was made autonomous in the mid-nineteen-sixties. It now has 8,000 students, 5,000 employes (second only to U.S. Steel's 12,000) and a budget of $68-million.

The University Medical Center, surrounded by private and semi-private clinics and hospitals, has become one of the nation's best known. It is especially well regarded for studies and treatment of the heart.

And on some 54 blocks obtained through urban renewal, the university is building $41-million worth of new facilities.

Some believe that Birmingham will eventually be known as an educational and medical center rather than as a steel town. In all, there are seven institutions of higher learning here, and they are growing and attracting out-of-state professionals who would not have given a thought to Birmingham 10 years ago.

A few years ago, Birmingham hired an out-of-state public relations firm to change its image. There now appears to be some danger that the city's leaders have swallowed their own propaganda.

During conversations recently with a large number of prominent citizens, only one white man, the Mayor, seemed really worried about the city's remaining problems.

The growing self-satisfaction here is illustrated by an apparent belief among most whites that Birmingham has practically solved its race problem.

Emory Jackson, managing editor of The Birmingham World, a black newspaper, said: "Going from zero to where we are, it looks good. But when you measure in terms of where we ought to be, it doesn't look so good."

For example, few whites seem to be aware that many blacks are still dissatisfied with the progress of school desegregation. After years of pressure from the Federal courts, the students of Birmingham—like those, of many other larger cities—still live and attend classes largely in racial isolation.

The American Friends Service Committee says that 56 per cent of the city's 89 schools are more than 90 per cent black or white. It says the school board, which has one black member, continues to build schools in racially isolated places that will almost guarantee their being segregated.

The suburbs here become whiter each year. Birmingham lost 40,000 persons during the nineteen-sixties (down to 300,000) and most of them were whites moving to the suburbs.

The leadership euphoria extends beyond race. The same white leaders who believe that the race problem is substantially solved seem to be unquestioningly committed to more skyscrapers and freeways, even though urban thinkers in cities that have plenty of both have begun to question the value of massive office buildings that attract more people to congested areas and of automobile facilities that subtract money from mass transit.

And only a few here are yet willing to assert themselves publicly against the absentee-owned steel companies, most of which have headquarters in the North.

Charles Morgan Jr., southern director of the American Civil Liberties Union, who was hounded out of Birmingham, where he grew up, several years ago because of his liberal racial utterances, told an audience of fellow Birminghamians recently, "We were a province of steel and to a large degree still are. Steel still has tremendous power in this city."

One way the industry has exercised its power over the years has been to keep the city's boundaries from expanding. The steel companies own large tracts of land that would be taxed more heavily if they were annexed to the city.

The most recent annexation attempt was defeated last year. Some leading citizens say that once again the steel interests were instrumental in the defeat. However, it may be noteworthy that steel's influence was wielded quietly. In the past, the industry campaigned openly; once a major company threatened to close if the city annexed its property.

Optimism flourishes now in spite of the problems here. Mrs. David Roberts 3d, a liberal leader who has been appointed by Gov. George C. Wallace to head the Alabama State Council on the Arts, talked recently of the changes she has seen.

She has not received a threatening telephone call for several years, she said, and Mr. Wallace, who once had little use for Birmingham and its cultural leaders, has now publicly proclaimed it "the queen city of Alabama."

NEED TO END THE DRAFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. ESCH) is recognized for 10 minutes.

Mr. ESCH. Mr. Speaker, the draft has been one of the most controversial and far-reaching issues to come before the Congress over the past few years. Although there is no specific legislation pending before us on the Selective Service at the present time, I strongly believe that we should analyze just where we stand now and where we are going so that when it comes before the Congress next year we will be fully prepared to take intelligent and forceful action.

The Congress made a commitment last year to move toward a volunteer army. I feel very strongly that we must keep that commitment and end the draft before June of 1973. With that thought in mind, I want to review the past decade, our present situation, and urge action for the future.

The debate on the future of the armed services has been far-reaching. Those of us who have argued for the volunteer concept contend that the draft is unfair; that it is disruptive of the lives of young men whose plans are held in abeyance while the system decides whether or not they will serve in their country's military forces; that it is, in fact, contrary to the concepts of a democracy and individualism on which this Nation was founded. Those who favor maintaining the present selective service system question the workability of the volunteer system. Some claim that men would not enlist; others argue that a volunteer military would lead to a separate military caste in our society; still others raise the fear that a volunteer army would lead to easier involvement in wars.

When I came to Congress in 1967, one of the first major issues to reach the House of Representatives was the extension of the draft for 4 years. At that time, there were only a few of us who were fighting for the volunteer military. The Johnson administration was strongly opposed to the concept of a volunteer army and they vehemently opposed us in the debate. The leaders in the House were so adamantly against it that they refused to hold a record vote on the question. We were soundly defeated at every turn.

This being the case, we increased our efforts to inform the public about the issues and to enlist their support for our cause. In 1968, for instance, I was a contributor to the book, "How To End the Draft: The Case for an All-Volunteer Army." I wrote an extensive defense of the volunteer military which was widely used as an information guide for high school debate teams. Many others, in Congress and out, joined me in writing articles, speaking before civic groups, and arguing against the draft.

By the end of 1968, the draft had become a major national issue. Shortly after President Nixon was inaugurated, he named a high-level commission to study the draft and the alternative of establishing an all-volunteer military. The Commission was headed by the distinguished former Secretary of Defense, Thomas Gates, and included as its youngest member a former member of my congressional staff. The Gates Commission undertook an exhaustive study of the Selective Service System and military manpower policy.

The report provided us with the ammunition we needed to prove our case. It unanimously recommended that we move to an all-volunteer Army through a system of improved personnel policies and

greatly increased pay, especially in the lower ranks.

Many of those personnel changes have already taken place. Efforts are being made to make the barracks more homelike. Harassment during boot camp has been reduced or eliminated in many situations. At Fort Ord is has been entirely replaced by an experimental program of merit points. KP and other nonmilitary jobs which used to plague the new recruit are being shifted to civilian employees. New regulations allow haircuts which more closely approximate those in vogue in civilian society. Recruits can now frequently choose their initial posts. Finally, efforts are being made to match civilian skills with military jobs.

With the Selective Service Amendments of 1971, the financial incentives recommended by the Gates Commission were also instituted through major pay increases for members of the armed services. These raises concentrated on increasing the basic pay of recruits and other short-term servicemen. While they added more than $3 billion to our defense budget, I am convinced the increases were warranted and necessary. Before the increase, recruits and draftees were making only $2,888 a year—far below the federally established poverty level. We were asking the young men who serve in the military not only to give the Nation their time and their lives, but to make tremendous financial sacrifices as well. In essence, we were extracting an extra tax-in-kind from these young men instead of spreading the financial burdens of our defense over the population as a whole. The pay increase went a long way toward making service in the military more than mere servitude.

Since making the personnel and pay changes recommended by the Gates Commission, events have proven how right we were in arguing that a volunteer military could work. In the months since the passage of the Selective Service Act of 1971, there have been only 2 months of draft calls—for a total of less than 17,000 versus 133,444 in the same period just 1 year ago. Enlistments were up despite the low draft calls and the fact that the draft was actually suspended during much of that period. Skeptics who used to argue that enlistments were only inspired by the fear of being drafted have been shown to be wrong.

Having been confounded on their "practicability" argument, our opponents now base their opposition on the argument that a volunteer army might lead to domination of our foreign policy by the military. They contend that without the draft and the consequent concern of people for the lives of their sons, the military could more easily involve this Nation in war. Yet it is difficult to imagine us drifting into a war more easily than we did under President Johnson with the draft in full force. Indeed, I believe it can be demonstrated that the readily available manpower allowed the President to expand the war without recourse to Congress. Had it been necessary for him to come to Congress to ask for greatly increased appropriations for recruitment or new authorization to draft men into the military, the question of our involvement in a massive ground war would have been publicly debated. Rather than serving as a deterrent to war, the draft actually made it possible. The volunteer military with a standby draft which could be activated only by a vote of Congress would prevent such undebated involvement in massive troop buildups.

There has already been a major benefit from the reduction of draft calls and from the institution of national uniform random call which puts the draft on as equitable a basis as possible. Young men now have a reasonable chance to plan their lives and their futures without the question of the draft hanging over their heads for 7 years. It is no longer necessary to find majors which are popular with draft boards. If students are not doing well in their major or in a given school, they do not need to feel the draft breathing down their necks because they are not "maintaining normal progress." In short, they can plan their schooling and make such important decisions as marriage, buying a home, or starting a family with little consideration of the draft entering their thoughts. Hopefully, that consideration will soon be eliminated altogether.

Mr. Speaker, we are quickly approaching the time when the abolition of the draft will result in the elimination of one of the greatest detriments to freedom in this Nation. Although the draft has been held constitutional on a number of occasions, it is clearly in opposition to the ideals of a free society in which individuals are allowed to determine the course of their lives with minimal governmental interference.

I believe the events of the past few months have provided proof that the volunteer military can work. However, it is now up to us to see that it will work—that we will in fact end the draft and not let it continue past its present expiration date.

I urge all Members of Congress and all candidates for congressional seats to join me in making a public commitment, now, that they will not vote to extend the draft past the expiration date of June 1973 for any reason. That firm public commitment on the part of the Congress will go a long way toward encouraging those in the military who are pushing for progessive personnel policies.

Second, we as a Congress and the people as a whole, must be willing to accept the $4 billion in additional costs which are necessary to maintain a volunteer military. It is, of course, important to keep our military expenditures to a minimum—but I do not believe that cuts should be made at the expense of draft age young men in our Nation. We have a commitment to volunteerism. We have recognized that it is an important and worthwhile goal for the Nation. We must now be willing to pay for it. I believe those costs can and should be met.

Third, we must begin to consider now the complications which are foreseeable with relation to our reserve forces and the National Guard. Those questions received little debate during past congressional consideration of draft reform. It is now obvious that they will be seriously affected by the end of the draft. I urge the Congress to begin hearings now on the need for these reserve forces, their training and employment and their recruitment policies. It seems clear that major changes are going to be necessary to make them more relevant to their new military missions as well as more attractive to volunteers. If we delay action on this important question until next year, it will serve as a significant deterrent to strong action to end the draft.

We must continually review military personnel and recruitment policies to insure that the goals of volunteerism are being carried out. The top leadership in the Department of Defense, the administration, and the Congress, are committed to volunteerism. There is some doubt as to whether that commitment extends down into the ranks of the military where the policy can be made or broken. We must maintain vigilance to assure that our will is carried out.

Mr. Speaker, the end of the draft will be a symbol to all America, both the young and the old, that change can come through the system. It will show that the system can be responsive. It will enhance our national ideals of democracy and individual freedom.

EIGHTIETH BIRTHDAY OF JOSEPH CARDINAL MINDSZENTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, today is the 80th birthday of Joseph Cardinal Mindszenty and I know I speak for all our colleagues when I extend congratulations and best wishes to this great religious leader and champion of freedom for the Hungarian people.

President Nixon has also sent birthday wishes to the cardinal in a telegram which reads:

> It is a pleasure for me to extend to you congratulations and best wishes on the occasion of your 80th birthday.
>
> May your celebration on this significant anniversary find you in good health.

Although this is a day of celebration for the cardinal I am sure that it is tempered by his sorrow at not being able to join his people. He has spent his last 16 birthdays separated from the Hungarian people—15 of those years in the U.S. Embassy in Budapest where he sought sanctuary on November 4, 1956, and this one in Austria where he is now living in exile.

I pray that the day will soon come when he will be able to return to his native land. Until that day, let us remind the world that we have not forgotten him or the people of Hungary.

INVESTIGATION INTO THE OPERATION OF THE POSTAL SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, in early 1971 I became interested in acquir-

ing information concerning the U.S. Postal Service's announced plans for a bulk mail facility to be situated in the Midsouth. I learned that this facility was planned for location in the general area which includes east-central Arkansas, northwest Mississippi, and southwest Tennessee.

Thus began my investigation into the operation of the Postal Service.

My principal interests were two. First, I wanted to help insure that the taxpayers who financed such facilities got the full value for their dollars, both in the short- and long-term analysis. Second, and equally important, I wanted to help insure compliance with the intent of Congress to establish for the Nation a balanced growth policy which enhances the national environment by encouraging development in areas which are not already overburdened by population.

The search for information which I have conducted has convinced me that neither interest has been protected.

In line with my concern in this matter, I urged the Postal Service to consider sites in Crittenden County, Ark., which provide excellent access to transportation networks, which had unemployment rates higher than the national annual average in both 1969 and 1970, and where the added vehicular traffic would not create serious problems.

In addition, I requested specific data about the number of persons to be employed in the facility, the cost of the facility's construction, expected site costs, and building specifications. The inquiries were made through telephone calls and written correspondence.

It was not until March 21, 9 days ago, that the unequivocal answers from the Postal Service began being received by my office. While I had been told earlier that a preferred site in Memphis, Tenn., had been pinpointed, I did not learn of negotiations to buy it until a Postal Service news release surfaced in a Memphis newspaper.

The news story said the site had been purchased. But, the officials of the Postal Service tell me that that is not quite true. An option on the land has been taken. My request for a copy of the option has been rejected by the Postal Service.

I have been told, though, by officials of the Postal Service, that the site cost —which is described as a "rolling cost" that could increase or decrease during completion of procedures for acquiring the site—is $3.55 million. That price, I am told includes site preparation costs. And by simple division, it means that the taxpayers are being committed to pour more than $62,000 per acre into the purchase of the bulk mail center site in Memphis.

In addition, the Postal Service officials tell me that the facility will cost $20 million to build. That is a cost which I understand would be the same regardless of where the facility is built.

It is my understanding that the Postal Service expects to employ 620 persons in the facility. This does not include the personnel handling vehicles used for moving the bulk mail. These persons, I am told, are contract employees and therefore are not included in the facility's labor force. But, the vehicles which they will be using will certainly add significantly to the congestion already existing in the streets and expressway serving the general area of the site.

Postal Service officials tell me that they expect a minimum of 110 trucks and a maximum of 230 to be used at the facility daily.

As I indicated early in this speech, my interests in the bulk mail facility matter have been twofold. To see that the taxpayer's money is used with the goal of achieving the fullest value and, to see that the congressional intent of developing a truly balanced national growth policy is complied with.

Information currently available to me persuades me that the fiscal and environmental interests of the people of Memphis, the Midsouth and the Nation are being violated by the plan to establish the bulk mail center at the designated Memphis location.

I have also developed a third concern. I find it absolutely incredible that an agency of the executive branch, an agency established expressly for the purpose of carrying out congressional intent, should be found so reluctant to provide Members of the Congress with information concerning the Agency's activities. For months on end my inquiries for specific information were answered with general responses.

I was originally told that the U.S. Corps of Engineers, which handles site studies for the Postal Service, would make a detailed report on the bulk mail center site search. Then my office was told, on March 21, that no such data was available outside the general, brief responses I had already been given. Then, after insisting that there must be documentation of the search available, I received slightly more detail on a site which was considered in Crittenden County rather than the copy of the Corps of Engineers' report which I had requested.

I might point out here, that all too often the information which I have received from the Postal Service on this matter has come through the confrontation route. My office would request data. We would either be told it was not available or be given the barest details and only receive fuller information when we made it known that we were already in possession of more information than the Postal Service was doling out.

In my search for information on this matter, I have been told repeatedly that transportation costs in operation of the bulk mail facility are a major consideration in the site selection. It would seem that despite all the rhetoric of the administration, the decision boils down to initial dollars and cents—and, the environment and long-range public interest be damned.

The site costs, the construction bill, the transportation expenses—taken together, these are hardly going to add up to the total bill for locating a bulk mail facility in Metropolitan Memphis—or any other metropolitan city. The total bill must surely include those public service costs which inevitably evolve from creating a situation which encourages more human and vehicular congestion in a municipality which already finds its agencies struggling with transportation problems, housing problems, social welfare problems.

The reluctance and incompletion with which the postal officials have met my inquiries can lead only to one conclusion. For some reason, this Federal agency in the executive branch is jittery about the public and congressional reaction to the kind of short-sighted logic which has been employed in locating this bulk mail facility.

If the taxpayer does not have the right to full and complete information on the manner in which a public agency will spend tax money, who does? If the Congress does not have the right to full and complete information on this matter, then who does?

This is a new agency. It is in its trial period. There appears to be an obvious need for close oversight from the Congress to insure that there is strict adherence to the intent with which the Postal Service was established. I would urge my colleagues to give careful attention to the activities of the U.S. Postal Service to see that the objectives established by the Congress are accomplished.

IRISH-ITALIAN IMMIGRATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, since the House approved H.R. 9615, the so-called Irish-Italian immigration bill on Thursday, March 16, I have heard from countless persons commending the committee for bringing this measure to the House. All of the persons who spoke to me expressed their concern for the families that have been separated and for the young new seed immigrant who is unable to compete for an immigrant visa as a result of the 1965 amendments to the Immigration and Nationality Act.

Although no one expressed any fear that the aliens who might benefit from this act would have an effect on our high rate of unemployment, I would like the legislative history to show that this temporary legislation, H.R. 9615, was not intended to be a predicate for future legislation which would eliminate the labor certification as a condition for admission to the United States.

U.S. labor must be protected from an onslaught of foreign workers who would displace American workers, depress wages, or in other ways adversely affect labor conditions. Likewise, the labor certification procedures must be administered in a uniform, fair, and reasonable manner.

TAX REFORM NEEDED NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 10 minutes.

Mr. FULTON. Mr. Speaker, some sage analyist recently was quoted as saying, in effect, that tax reform is an idea

whose time may be nearer than many think.

I agree. The time for tax reform is now. And I have written the chairman of our House Ways and Means Committee urging that, despite the press of business, the committee begin hearings on this matter within the next 60 days.

We recognized with passage of the Tax Reform Act of 1969 that our business was not completed. The administration seemingly concurred and, in cooperative spirit, promised to forward to the Congress and our Ways and Means Committee its recommendations on reform of estate and gift taxes.

Mr. Speaker, that was more than 2 years ago and those recommendations are still awaited.

When this body recently considered an increase of the debt limit Mr. MILLS announced that he was writing the President asking for the administration's recommendations for tax reform.

Those recommendations are still awaited.

While I have no first hand information on the subject it is obvious from what is speculated in the press, from recent remarks on the subject by the Secretary of the Treasury and by inaction on promises made by and request made to the administration regarding the matter, that the administration simply has no stomach for tax reform.

I fail to understand this because millions of overtaxed Americans are crying for consideration and we definitely need the support and influence of the administration to pass new tax reform legislation.

I will not attempt to spell out here the impressive list of inequities in our present tax laws which cost the Treasury billions of dollars each year.

This has been done by my colleague from Ohio (Mr. VANIK) in remarks made on this floor on March 15 and March 21 of this year.

However, there are some pertinent facts which should be pointed up.

The established rate of corporate taxation is 48 percent, yet a recent study of 60 of the top 500 corporations in America revealed that 17 were paying less, some far less than the 48-percent rate.

The Treasury might pick up an additional $3 billion by fully taxing capital gains on property bequeathed at the owners' death.

The Treasury could gain an estimated $2 billion by ending the accelerated depreciation rules put into effect by the administration last year.

These are just a few of the areas that demand examination.

But what is most disturbing to the average taxpayer is the seeming inequity in our tax laws. There are all varieties of legal escapes available to the wealthy individual and corporation to evade taxation to maintain current and produce future income. But these are not available to the workingman. He cannot income average, depreciate assets, employ the investment credit, write off income on tax-free bonds, or employ any of a number of tax advantages available.

He becomes particularly restive when he reads of recent studies such as that compiled by the Brookings Institute concerning the effective as opposed to the scheduled individual income tax rates. The legal rate in our tax laws runs from 14 to 70 percent. But the actual rate, according to the study, was only about 32 percent for those families with a million dollars or more annual income while families with incomes running from $50,000 to $100,000 paid at a real rate of 25 percent when the scheduled rate is much higher.

The average American taxpayer carries about 80 percent of the tax load. Generally he does so without complaint under the belief that it is his right and duty to support his country in this manner.

But today he is growing more and more aware that he is paying more and more in total taxes, while his dollar is buying less and less and the more economically fortunate are not paying their fair share as he sees it.

He resents this and is not to be blamed. But more than resentment is being expressed today by these Americans. They are also voicing the demand that something be done about the problem and they are looking with concern and expectation to the Congress to get on with the job.

There is a growing movement in the country for tax reform and, I am pleased to note, there is rising support within this body for action. At the same time the view is held by some today that 1973 will be the year when Congress will act. I see no reason for such delay. If tax reform is needed next year then it is needed now and we should be about it.

REMARKS ON FINAL ENVIRONMENTAL IMPACT STATEMENT ON PROPOSED TRANS-ALASKA PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, earlier this month the Interior Department issued its final environmental impact statement on the proposed trans-Alaska pipeline. The impact statement consisted of a six-volume environmental study and a three-volume economic study.

I have read much of the study since its issuance. My reactions are mixed. The six-volume environmental study is clearly superior in many respects to a draft environmental study published early last year. However, the final impact statement still appears uneven, and some parts are still imbued with advocacy. Far more will be said on the environmental aspects of this study in the coming weeks by myself and many others.

I would like to address my remarks today primarily to the three-volume economic study of the trans-Alaska pipeline and the alternatives to it. This study can be categorized only as pseudo-economics, a sham and a hoax. Unfortunately, much of the press has been misinterpreting even the distorted and inaccurate conclusions reached by this so-called economic study by saying that it concludes that the trans-Alaska pipeline would be economically superior to a trans-Canadian pipeline, which would terminate in the Midwest. That is simply wrong. The study clearly states that an oil pipeline through the Mackenzie Valley of Canada would be an "equally efficient alternative" (p. 1, vol. 1 of the Economic Study).

In fact, a Canadian pipeline terminating in the Midwest would be far superior economically to a trans-Alaska route for various reasons, including the fact that the present price of oil in the Midwest is considerably higher than on the west coast, where oil from the trans-Alaska pipeline would wind up.

Incredibly, the Interior study's conclusion that both lines would be "equally efficient" ignores the fact that tremendous savings will result from building an oil line parallel to the trans-Canadian gas line. "A trans-Alaska-Canada gas pipeline transportation system is almost certain to be established if the Prudhoe oil is extracted and transported," the study states on page 317 of volume 1 of Environmental Study. This is hardly a revelation since even the oil companies with large interests in Alaskan oil have admitted in the past that the only practical means for getting the Prudhoe Bay natural gas to market was via a trans-Canadian pipeline terminating in the Midwest. But, in the economic study, the Interior Department admits that it did not consider the economies that would result from building an oil pipeline through this same corridor. On page C-23 of volume 1 of the economic study, it states:

> It is probable that economies of transportation cost and environmental impact will result from moving oil and gas through a common corridor (possibly, but not necessarily through the same pipe or concentric pipes). The extent of such economies is not estimated in the present analysis.

This gross omission makes the study's conclusion that the Mackenzie Valley oil route through Canada would be only economically equal to the trans-Alaska pipeline totally ridiculous.

Moreover, it is clear that the economic data used in the Interior study was directly supplied by Alyeska—the pipeline company that wants to build the trans-Alaska pipeline.

As you know, Mr. Speaker, a consortium of seven oil companies has applied to the Interior Department for a permit to build a 780-mile hot oil pipeline from Alaska's North Slope to the southern ice-free port of Valdez, where the oil will then be shipped by tanker primarily to west coast ports.

Because it is considered economically infeasible to liquify natural gas so that it can be shipped by tanker, it is generally admitted that a natural gas pipeline across Canada will have to be built to transport the huge amounts of gas reserves in the North Slope. I, along with many environmental groups, have argued that a Canadian pipeline route to the Midwest would involve far less environmental risk than the trans-Alaskan pipeline route, primarily because such a route would avoid the use of tankers and would not run through the worst earthquake zones in North America as would the trans-Alaska route. The Interior Depart-

ment Environmental impact study gives strong support to our assertions.

Unfortunately, Secretary of Interior Rogers C. B. Morton is still maintaining that the Interior Department cannot seriously consider a Canadian route until it receives an application to build one. This is pure baloney. The reason the Interior Department has not received an application to build the Mackenzie Valley route pipeline—the most prominently mentioned Canadian route—is for the very simple and obvious reason that the same oil companies which dominate the Alyeska—trans-Alaska pipeline—consortium also dominate the Mackenzie Valley pipeline company. They are hardly likely to submit an application in competition with themselves. Mr. Morton knows this as well as I do. But, if the application for the trans-Alaska pipeline is rejected, we will see an application for a trans-Canadian pipeline so quickly it will make the Secretary's head spin.

I am sad to say that I strongly suspect that a decision to give the trans-Alaska pipeline a go-ahead was made long ago. The major oil companies which dominate both the Alaska and Canadian pipeline companies want to go through Alaska. Their concern is, quite naturally, for their own profits. The Interior Department's concern should be to find the route that makes the most economic and environmental sense for the United States. Unfortunately, this does not appear to be the case. The only circumstance under which I can see the administration deciding against the Alaska pipeline is if the White House feels that approving it would hurt Mr. Nixon, politically.

THE INDEFENSIBLE AIR WAR IN INDOCHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 15 minutes.

Mr. DRINAN. Mr. Speaker, I find myself more appalled every day at the escalation of the air war conducted by the Nixon administration. The Defense Department admits the current average number of sorties—one flight by one plane—by American war planes in Indochina is 10,500 a month.

Until the recent past President Nixon frequently referred to the bloodbath which he alleged the North Vietnamese would conduct if they could achieve a military victory in South Vietnam. The hideous and indefensible air war which now goes on every single day suggests that it is the American military in Indochina which is carrying on the bloodbath.

In early 1971 President Nixon said:

> I will not place any limits on the use of air power.

The air war was the primary cause of the deaths of 114,734 Vietnamese soldiers in the first 11 months of 1971. These figures, from the very reliable Washington Newsletter of the Friends Committee on National Legislation, bring the total number of deaths conceded by the Department of Defense to 715,000 Vietnamese soldiers. Any estimate of civilian deaths is only speculation but a total of 3 million might not be too high.

Before I go into some of the hideous things that have been done in the escalated air war in the past few months it is necessary to review the painful facts about the disasters caused in the earlier phases of the war by U.S. military power in Indochina.

THE MASSACRES OF 1965–71

The cost to the United States for the war in Vietnam in the years 1965 through 1971 was at least $120 billion. This comes out to about $600 for every single person in the United States. The tax structure continues to force every American to commit crimes condemned and punished at Nuremberg.

The cost to the American public may well be $50 billion more than the $120 billion already expended when the educational and medical benefits to the 2.4 million soldiers who went from the United States to Vietnam have finally been calculated and paid for.

At least 200,000 orphans have been created in South Vietnam along with at least 400,000 widows. These are but a few of those who have been victimized in a war in which one in 15 Vietnamese citizens has been killed, one in every seven wounded and one in every four turned into a refugee. When one considers that the two Vietnams have a total population of about 35 million people the total cost in human life and human suffering is beyond calculation and comprehension.

One-seventh of the total land of Vietnam has been destroyed by chemical herbicides. During the years 1965–70 some 23 billion pounds of explosives have been dropped onto the soil of Indochina—an area about the size of Texas.

As a result of the saturation bombing at least 10 million craters with a diameter of 40 feet and a depth 20 feet have been created. These craters, now filled with poison-laden water, are the results of an average frequency of B–52 bombers dropping their payload every 90 minutes of every day since 1965.

The Department of Defense—DOD—admits that 1 or 2 percent of the 108 500-pound bombs dropped by each B–52 do not detonate. As a result some 300,000 unexploded bombs remain on the ground in Vietnam where they constitute a major problem for the farmers who desire to resettle their devastated farmlands.

A bulldozing operation designed as an antiambush device has scraped bare sections of South Vietnam the size of Rhode Island. Forests have been turned into useless bamboo jungles as a result of land-clearing operations calculated to deprive the Vietcong of any place for regrouping.

Since Mr. Nixon took office the average number of civilians killed, wounded and left homeless in Indochina has gone up to 130,000 per month. During the Johnson years of 1964 to 1968 the number of these civilians ran at an average of 95,000 per month.

George Orwell grimly predicted all of this in his book "1984" when he wrote that some political actions are too brutal to face without flinching. Orwell wrote that:

> Defenseless villages are bombarded from the air, the inhabitants driven out into the countryside, the huts set on fire with incendiary bullets and this is called pacification.

Orwell goes on to describe the events in "1984" which, however, have happened in Indochina in 1972. He notes that—

> Millions of peasants are robbed of their farms and sent trudging along the roads with no more than they can carry and this is called "transfer of population."

THE AUTOMATED BATTLEFIELDS AND THE AIR WAR

As hideous as past American military conduct in Vietnam has been the present automated battlefield and the brutal air war exceed in savagery anything done by the United States in Vietnam or in all probability anything done by any nation in any war in all of history.

At this time some 73,000 air personnel—45,000 of whom live outside of Indochina—operate off of aircraft carriers in the South China Sea. These individuals operate an electronic battlefield which is automated, computerized, and designed to give allweather and day-night capability.

Before May 1, 1972, the number of U.S. airmen outside of Indochina will be greater in number than the American forces on the ground in Vietnam. If the defense of the Pentagon is that the massive bombing continues to protect the remaining American troops in South Vietnam the obvious untruth of this assertion should be clear.

The South Vietnamese air force has now become the sixth largest in the world. It is becoming ever more clear that the President and the Pentagon expect to continue the bombing on an indefinite basis. It does not bother our military authorities apparently that 22 tons of bombs have now been dropped for every square mile in Vietnam or that 250 pounds of explosives have been rained on every man, woman, and child in Vietnam.

The majority of all of this bombing has been done during the 39 months of the Nixon administration. A total of 61,000 tons was dropped in December 1971.

The full impact of this continued bombing may be made dramatic by the simple assertion that every month the United States drops two and one-half times the amount of explosives which this nation used at Hiroshima.

Aircraft in eight different categories continue to execute the first automated, anonymous, and secret war in American history. In all four countries of Indochina air-dropped devices detect vibrations of people. The signals from these devices are relayed to a central computer in Thailand where the responses of the various sensors are correlated and the decision to strike a particular region is made. No one sees the victims. No one knows the extent of their injuries or whether any medical care is available. But the central point of the air war is to injure while not necessarily killing individual persons.

Some 50 percent of all of the bombs now dropped in Indochina are antiper-

sonnel weapons. These bombs are not designed to strike any military objective nor are they sent out against any military target. These bombs are designed exclusively to injure human beings.

American airmen drop pineapple bomblets which contain 2,500 steel pellets. These sharp instruments go out in a horizontal pattern and wound the bodies of any person they strike.

Military personnel also drop flechettes. These devices contain several hundred 1-inch barbed nails. These nails enter the body of human beings shredding the muscles and organs and are difficult to remove by surgery.

Military personnel also utilize incendiary bombs, napalm, magnesium, and white phosphorus.

All of these antipersonnel weapons are made by some of the most famous corporations in America. The officials of these corporations have undeniable knowledge that the only possible objective of the weapons which they manufacture is to injure unseen and unwarned civilians whose presence in a particular place, whether related to warlike activities or not, is reported by the sensor to the computer in Thailand and is thus made vulnerable to a bombardment by B–52's 7 miles above the ground.

The cruel details of the air war are revealed in a handbook prepared by Project Air War and the Indochina Resource Center. This document entitled "Air War: The Third Indochina War," can be purchased for $1.50 from the Indochina Resource Center, 1322 18th Street NW., Washington, D.C. This document has been placed in the CONGRESSIONAL RECORD by Senator MIKE GRAVEL on Thursday, March 23, 1972, at page 9813.

The air war is a form of the "enclave" theory. The United States is now raining terror from aircraft carriers at sea upon four nations from which the United States is gradually withdrawing its ground troops.

It seems clear that the automated, computerized, and clandestine air war carried on by the United States against the 50 million people of the four nations of Indochina is unprecedented in its hideousness in all of human history. It is clearly in violation of international law since The Hague Convention in article 25 condemns "the attack or bombardment by whatever means, of towns, villages, dwellings or buildings which are undefended."

Since the average monthly number of sorties comes to 10,500 the average daily number of aircraft that drop bombs is about 30. It is estimated that at least 300 Asians are killed each day by explosives unloaded by American war planes.

How long will the Pentagon and the President continue this assault? They have given absolutely no indication that they will diminish this savagery in order to negotiate. Indeed, President Nixon on March 23, 1972, personally broke off all talks with the North Vietnamese in Paris.

How much longer will the American people tolerate a policy of this administration which, according to its own testimony, requires the invasion of two neutral countries, and the bombing of four nations in order to withdraw from one country?

The overwhelming majority of the American people agree with Senator GEORGE MCGOVERN who said that—

> The war in Indochina is the greatest military, political, economic and moral blunder in our national history.

There is reason to think that at least another 114,000 Vietnamese people will be killed by American bombs during 1972.

Unless the Congress and the people of America find a way to expose the electronic battlefield, the air war in Indochina will continue to escalate. That war is not winding down but is in many ways worse than ever before.

Hundreds of thousands of Indochinese peasants are at this very moment huddling together in caves, holes, trenches, and tunnels as each day 30 or more B–52's each drop 108 500-pound bombs on undefended villages.

What can half of humanity that lives in Asia think of this kind of conduct carried out by the most affluent nation of the earth using the world's most advanced technology to rain further terror on the most devastated and bombed people in the entire history of mankind?

On December 16, 1971 Air Force Secretary Robert C. Seamans, speaking in reference to the air war in Indochina, claimed that:

> No matter how you look at the air activity of the U.S. over there, the trend is definitely downward.

Since that appraisal of the Secretary of the Air Force President Nixon and the Department of Defense have sharply increased the tonnage of bombs. During February of 1972 67,536 tons of bombs were dropped on all of Indochina—a 35-percent increase over the figures for the latter part of 1971 and higher than the monthly average for all of 1971.

On March 23, 1972, I filed legislation to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia and Laos. That bill (H.R. 14056) provides that no funds may be utilized to conduct offshore naval bombardment or to bomb by the use of napalm, incendiary devices or chemical agents or to attack in any way by air anywhere within the four nations of Indochina.

The bill provides for the withdrawal of American troops subject to arrangements being made for the release and repatriation of American prisoners of war.

It is to be hoped that this bill can be enacted within the immediate future so that the United States of America can stop carrying on the first automated and computerized air war ever conducted by any nation at any time in all of human history.

JOBS FOR THE INNER CITY YOUTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. BOGGS) is recognized for 15 minutes.

Mr. BOGGS. Mr. Speaker, for the past four summers America's inner city youth have been provided with recreation and job opportunities through the Recreation Support program and the Neighborhood Youth Corps. These programs enable youngsters from underprivileged families to productively spend their summer months learning valuable skills and enjoying meaningful recreation experiences, often for the first time in their lives. Each year these programs have been crash funded through a supplemental budget request of the Department of Labor. These requests have been, without exception, grossly inadequate to service the demand in our metropolitan areas. To compound this problem, the moneys appropriated for the Neighborhood Youth Corps-Recreation Support Programs have usually been provided for local use no more than 3 weeks prior to the programs' starting dates. This has made it virtually impossible for local administrators to properly implement the programs.

In the summer of 1971, my city of New Orleans requested 5,000 summer Neighborhood Youth Corps job slots. We received only 1,914 slots. This insufficient service allotment becomes even more inadequate when you consider that an estimated 10,000 of New Orleans youth qualified for this program last summer.

In recent months there has been a strong effort in the House, initiated by my friend and colleague the Honorable DAN ROSTENKOWSKI, to secure additional and early funding for these important summer recreation programs. Mr. ROSTENKOWSKI deserves high praise for his diligent work with these programs. I understand that as a result of his efforts more than 50 House Members have petitioned the House Appropriations Committee urging them to raise the funding level for NYC–RSP.

In connection with these programs, Mr. Speaker, I would like, at this time, to submit a statement which was presented to the Legal Action Committee of the U.S. Conference of Mayors by the Honorable Moon Landrieu of New Orleans, on March 23, 1972, in Newark, N.J. Mayor Landrieu's testimony before the committee points out the desperate need for increased funding for NYC–RSP, not only in New Orleans, but throughout the Nation as well.

The testimony follows:

STATEMENT OF MAYOR MOON LANDRIEU

Summer Youth Programs to provide opportunities for our cities' young people are vital; at a time when general unemployment is high, jobs for youth are even more scarce. For many urban youth, summer jobs are absolutely vital to provide them the basic necessities. We, as Mayors of our cities, find the alarmingly high rate of youth unemployment appalling. We refuse to accept an unemployment rate of 18.8% of all youth now residing in our urban poverty areas. Neither can we accept a 30% unemployment rate for our cities' black and Spanish youth. Jobs must be made available and the Federal Government is simply not meeting this critical need.

A U.S. Conference of Mayors needs survey indicates the cities can effectively utilize nearly a million youth jobs in the summer now fast approaching. This survey was not conducted to determine the *overall* need. That figure would be even higher than the figure represented in the Conference of May-

ors' survey. The needs survey is not "pie in the sky" figures. It is one which reflects the number of jobs cities can *effectively utilize*. In addition to jobs, supplemental recreation and transportation funds are essential to provide a successful summer youth program.

For summer 1972, our survey indicates the total number of summer jobs needed is 947,928, costing $444 million. Unfortunately, the current Administration budget request only calls for $164 million. While the Administration is requesting $95 million in supplemental funds, there is still a major gap in the amount requested and the amount our Nation's cities must have for the summer of '72.

For the Summer Lunch Program—food for the children—we will need $52.5 million and our estimates show that only $13 million will be available. Last year we fought to expand the summer portion of the Special Food Service Program. The Congress gave the Administration the authority to spend funds from the Special Section 32 Fund up to $135 million, and information indicates that, because of the surtax, there is within Section 32 funds over $600 million. Our cities' children are without adequate diets; our cities' children are hungry. We joined with members of Congress last year to obtain autnority to release funds to feed hungry children. The President's Office of Management and Budget refuses to release these funds. We deplore this action and urge the Administration to recognize that there is no higher priority than assuring that thousands of children within our Nation's cities are not without such a basic necessity as food.

As we indicated last month, we are opposed to the arbitrary guidelines that hamper the effective implementation of the Summer Food Program. We urge the Department of Agriculture to rectify these guidelines immediately so that we can, without additional burden, go forward with a Summer Food Program.

Gentlemen, this morning we are talking about basic necessities. We are discussing today for the urban youth of this Nation essentials that many citizens of this country take for granted. We are talking about food and jobs. On behalf of the thousands of urban children of all ages who face the summer of '72 without adequate diets, without sufficient food and without jobs, we urge the Congress and the Administration once again not to turn their backs on this critical problem.

It must be said that today we have leaders within the Congress who are now involved in this effort. Senator Jacob Javits of New York and Senator Clifford Case of this State have been in the forefront for summer jobs; we heartily commend them for their efforts. In addition, Congressman Dan Rostenkowski has lent his efforts on the House side, and we commend his initiative in this critical area.

As Mayor Gibson of Newark has said so many times, "The greatest natural resource of our Nation is our people". Today we are talking about the future and hope of America: its young people. We, the Nation's Mayors, ask the Federal Government to join with us, throughout America, to make the summer of '72 one with much less hunger than in previous years, with far less idleness and frustration than many youth have experienced recently. With hunger, idleness, and frustration, only the worst will result. We urge action now. In April Congress will have a second opportunity to provide supplemental funds for these programs. We pledge our determined efforts to fund fully these vital programs. We must have the support of the Administration and the Congress in this effort.

WILL UNDERWORLD PROFIT FROM ALASKA PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 10 minutes.

Mr. DANIELSON. Mr. Speaker, the recent dialog surrounding the planned trans-Alaska pipeline has centered around the environmental effects that the project will or may have.

Little has been said about another type of pollution that may surround the multi-million-dollar pipeline preparations—the prospect of extensive land speculation with polluted money.

An excellent article, appearing in the Los Angeles Times on December 6, 1971, documents the possibility that underworld financing and prior knowledge of the pipeline route will almost assuredly turn a large profit for someone.

Mr. Speaker, I insert the article, written by Times staff writer Al Delugach, at this point in the RECORD:

ALASKA MYSTERY—WHO FINANCED BIG LAND DEALS?

(By Al Delugach)

VALDEZ, ALASKA.—Philip J. Matthew of Los Angeles went on an Alaskan land buying spree three years ago. A short time later the route of the trans-Alaska oil pipeline was announced.

The bulk of some 200 parcels of land Matthew had bought in central and southern Alaska turned out to be along the pipeline route.

And here in Valdez, selected over three other cities as terminus of the pipeline, Matthews had acquired much of the town's undeveloped land, including a waterfront site for possible docking facilities.

The pipeline, yet to be constructed, is to bring oil out of Prudhoe Bay on the North Slope. In 1968 drillers struck what is believed to be the biggest oil find in North America.

VALUE OF $1 MILLION CLAIMED

The land—totaling about 500 acres—was purchased for an estimated $300,000. Conservative estimates place its value today at more than $600,000. Matthew, himself, has said that it is worth $1 million.

Who is Philip J. Matthew?

The same question has been asked by the federal government and by people in Alaska. Still a question is who may be associated with him in his Alaskan land deals.

While he has remained out of the news, Matthew, who is 49, had a meteoric rise in the world of finance about 10 years ago. His ventures included savings and loan associations in Los Angeles, Baltimore and Honolulu.

Key financing was provided through a little known but rich Caribbean entity called the Bank of World Commerce, Ltd., Nassau, Bahamas.

The list of his associates at that time included:

Clifford A. Jones, former Nevada lieutenant governor, friend of Bobby Baker and one-time casino owner in Las Vegas and the Caribbean.

Edward A. Levinson, a big-time Las Vegas gambler who was fined in a gambling profits "skimming" case involving the Fremont Hotel.

Meyer (Mike) Singer, now dead, an ex-Teamsters official widely considered as the West Coast representative of James R. Hoffa.

NO INDICTMENTS RETURNED

Alvin Malnik, Miami lawyer, a key figure in the 1966 federal grand jury investigation of suspected underworld involvement in the multi-million-dollar stock promotion of Scopitone, a movie-jukebox invention. People from coast-to-coast were subpoenaed as witnesses. No indictments were returned.

Other assorted Las Vegas gamblers, including Irving (Niggy) Devine, G. C. Blaine, Charles Turner, Ben Sieglebaum and Charles (Kewpie) Rich, as well as James (Jake) Gottlieb, casino owner and friend of Hoffa.

None of these names appears in the public record as being associated with the Alaskan ventures.

Nor is there any public record on who owns the more than 600,000 shares of stock issued in Matthew's firm—Financial Land Investment Corp.—in whose name the Valdez properties are held.

Records he has filed in Juneau show the corporation was incorporated in Delaware in February, 1969, the month he bought the Valdez properties. He is listed as president and treasurer. The vice president is a retired Los Angeles intelligence agent for the Internal Revenue Service, Walter E. Schlick.

The corporation secretary is Eugene Hettleman, a lawyer of Baltimore, which is listed as the corporation's principal place of business. Directors are Matthew, his wife Elayne and Hettleman.

One year after Matthew bought the Valdez land, Mel Personett, then Alaska commissioner of public safety, appeared before the state Senate Judiciary Committee.

While answering questions about Alaskan law enforcement problems, he voiced concern about the entry of associates of organized crime figures into legitimate business.

Personett then told of a man operating in the Valdez area who he said had associates who are underworld figures or who associate with them. Under further questioning. Personett named Matthew as the man he was talking about.

WITNESS CRITICIZED

Several senators at the hearing criticized Personett for naming in public hearing a man who had not been charged with any crime in Alaska.

Sen. Terry Miller (R-Fairbanks), who was committee chairman and now is Senate majority leader, says he later wrote a letter to Matthew inviting him to appear before the committee "in case he wanted to rebut anything anybody said about him at the hearing." Matthew didn't answer the letter, Miller says.

The subject was not pursued. "We felt the least said the better for everybody," says Miller. Personett was replaced as department head when a Democratic administration was elected last year.

INTERVIEW DENIED

Matthew, a wiry man with a moustache who wears lumberjack shirts at his handsome home in Tarzana, doesn't care to answer questions about his Alaska activities or associates.

Several weeks ago, in declining an interview, he said deprecatingly: "We don't have very much up there now."

After a review of his holdings in public records in Alaska, a reporter again sought to talk to Matthew.

"Write what you want," he snapped. "I have nothing to say."

Matthew is known by acquaintances in Alaska to have a more expansive side. They have heard him talk of his bank in the Bahamas, the savings and loan associations, the right hand man who is an ex-IRS agent. Matthew showed up at the state land office in Anchorage in January, 1969, and proceeded to snap up most of the nonhomestead land available for sale by the state.

Contrary to an impression widely held by outsiders, Alaska is not a place where unlimited land is available for purchase. The federal government still owns most of it, and the state presently has a "minuscule" amount for sale to the public.

Matthew appeared to have considerable financial resources, and thus attracted unusual interest in the land office.

Although nearly three years have gone by, a veteran state employee clearly recalled Matthew's wholesale land purchases. In two visits

about a week apart, she said, he bought in his and his wife's name almost all the residential and commercial lots available in a number of scattered cities and towns in central and southern Alaska.

CHECKS FOR 10 PERCENT

He put up cashier's checks for the 10% down payment (balance payable at 10% a year) on each parcel. The sales prices totaled $175,000.

This was before even the tentative pipeline route was generally known. The state land on sale over the counter on a first-come-first-serve basis was considered cheap by experts.

Then Matthew turned up in the southern port of Valdez (pop. 1,008) on Prince William Sound. Making friends with the city administration at the time, he bought up much of the remaining property in the new townsite (adjacent to the one destroyed by the 1964 earthquake).

When the oil industry filed its proposed pipeline route several months later, the terminus selected was Valdez.

A land developer recently recalled meeting Matthew in Valdez in February, 1969.

"I had figured out the pipeline had to end there," Jerry McCutcheon said.

How had Matthew figured it out? He was accompanied by a financial writer, the developer recalls. Matthew may have found out some information about the pipeline route from this man, who presumably learned it from his sources, McCutcheon theorizes.

Even now Matthew's name is little known in Alaska except in Valdez, where he visits a couple of times a year.

HELPED TEAM

He has the image here of an outsider with money to invest, a high pressure style and a lot of business savvy.

His admirers, generally the town's old establishment, recall that Matthew once laid out $500 to help send a boy's basketball team to a distant playoff game.

"I don't know who his backers are—that's his business," says Ed Walker, a motel man who was on the Valdez city council that cooperated with Matthew after his arrival.

It is the attitude Alaskans have traditionally taken. There is a widely observed convention that one does not nose into a newcomer's life prior to his arrival in what is aptly called the nation's Last Frontier.

Matthew's name is no better known in Los Angeles than in Alaska, though it is there he lives.

He resigned from the California Department of Savings and Loan in the late 1950s to go to work for Empire Savings and Loan in the San Fernando Valley, where he became executive vice president.

In 1961 Matthew emerged as a business investor on his own—to the tune of hundreds of thousands of dollars. One of his first associates was an old acquaintance, Teamster business agent Singer.

This was followed by a surge of well-financed business ventures that kept them busy on a circuit that included Honolulu, Los Angeles, Las Vegas and Miami.

Key to the ventures was the formation in June, 1961, of the Bank of World Commerce at Nassau with Miami lawyer Alvin Malnik.

Matthew, who had also formed a Bahamian bank for his former S&L employer, was the biggest shareholder in Bank of World Commerce with a listed investment of $230,000. Jones, Levinson and Devine, were among the early investors.

LANSKY ASSOCIATE

Another, who became president, was John Pullman. He is known to federal investigators as a long-time associate of gambling kingpin Meyer Lansky. Pullman is said by government sources to have been a courier between Las Vegas and Switzerland and in recent years has handled investments for American organized crime figures in Swiss banks.

The Bank of World Commerce, whose address was reportedly only an office with one employe, has been described by government sources as organized to finance a financial empire.

One of the bank's first acts, under directors that included Matthew and Malnik, was to make an unsecured loan of $250,000 to Allied Empire, Inc., Beverly Hills. Matthew and Singer, having bought about 19% of Allied's stock in the several months preceding, were turning the former television cartoon producing firm into an S&L holding company.

Matthew, who had become Allied's president, used the $250,000 toward purchase of San Gorgonio S&L, in Banning, for $1.5 million.

The $250,000 loan was just for openers for the Bank of World Commerce, which lent a lot more to Allied. Between July, 1961, and September, 1962, the average unpaid balance on the loans reportedly ranged from $250,000 to $750,000.

A sidelight on the Allied venture was that Hoffa and his daughter reportedly got in on the ground floor of a tremendous market rise in Allied's stock.

About June 1, 1961, the Hoffas bought 1,100 shares at prices ranging from $4.75 to $6.75 per share and sold 600 shares six months later at $50.50 to $53.50 per share. At its peak, Nov. 24, 1961, Allied's stock hit $76 per share.

HONOLULU VENTURE

Busy as they were, Matthew and Singer found time in September, 1961, to launch the Waikiki Savings and Loan Assn. in Honolulu.

Matthew was the biggest original shareholder of record, as well as president. Other original subscribers included Levinson, Devine and other Las Vegas gamblers, as well as Jones and Pullman.

A later investor was Robert (Bobby) Baker, once secretary to the Senate Democratic majority. Baker, who was sold 2,500 shares by Matthew, later went to prison for his role in financial scandals unrelated to the Hawaiian venture.

(It was disclosed in 1963 that Baker endorsed Jones and Levinson for gambling casino concessions in hotels of a Pan American World Airways, subsidiary in the Caribbean. Baker was quoted as saying he was doing a political favor.)

ISLAND PLANTATION

By December, 1961, Matthew was spearheading a takeover attempt on the big Ewa Plantation in Honolulu through his bases in Waikiki S&L, Allied Empire and the Bank of World Commerce.

The attempt was beaten down by major Hawaiian interests. But the price of Ewa stock was driven up in the process—greatly enhancing the value of the minority holdings.

Matthew's base at Allied Empire crumbled in January, 1963, when he resigned as president. Minority stockholders reportedly forced a change in management.

A long legal battle began between Matthew and his successor at the helm of Allied, Philip Nasser. While maintaining his family residence in Tarzana, Matthew spent the next couple of years in Israel.

Matthew and Nasser accused one another of fraud in civil suits which dragged out for years.

Nasser tried to attach Matthew's 43,476 shares in Allied Empire, which had changed its name to Riverside Financial Corp. But, in a key ruling, the Los Angeles Superior Court held that Matthew had previously transferred his interest in the stock to Clifford Jones on behalf of some 40 persons.

GAP IN RECORD

These included gamblers Levinson, Devine, Blaine, Turner, Siegelbaum and Rich, as well as Gottlieb.

There is a gap in the public record as to Matthew's business activities in the two or three years preceding his arrival in Alaska in January, 1969.

In Valdez he found a city administration receptive to selling him commercial and residential tracts remaining for development.

The present city manager, however, views as a mistake the leniency toward Matthew and a few others who signed up as "developers" under an urban redevelopment program for the land in the new townsite.

By promising to develop the property in specified ways, Matthew and the others got lots for as low as $400. Such lots would cost perhaps 10 times the amount they paid if bought in another Alaskan city.

The new city council in Valdez has recently begun legal action to declare some of the development contracts in default.

Matthew avoided the situation by selling back to the city about 50% of his holdings after a dispute over which side was responsible for failure to develop the land.

Matthew has not built anything whatever on any of his Valdez properties, says city manager Herbert Lehfeldt, former Southern Californian who was city manager of Bell Gardens and Palmdale in the 1960s.

For many months, he said, the previous council granted one time extension after another to the developers.

"The council never forced the issue until now," added Lehfeldt. "We've got to break it open. People who move to and want to build a house in Valdez can't even buy a piece of land here.

"The city is strangling as a result of these redevelopment contracts."

In addition to the purchases from the city, Matthew bought a seafood processing plant in Valdez in 1969 from the Small Business Administration.

An SBA official in Anchorage refused to give the figures, commenting that "the media has not always been kind to the SBA."

However, it is reported by others familiar with the deal that Matthew bought the plant from the SBA for about half the original cost—and on easy terms—after the SBA's original deal went sour.

The federal agency had foreclosed in 1967 a loan reported at around $100,000 to a local group in Valdez. Last spring, Matthew finally was able to lease the plant to a major seafood processor.

Matthew writes long and frequent letters to city and state officials and to the local newspaper to air his grievances.

One is the city's refusal to sell him some land near the seafood plant which he said he was promised and which the processor needs.

Another is rejection of his $100,000 bid for a tract that was sold for half that amount to a Montana developer.

In contracts to the earlier honeymoon mood, Matthew and the attorney for his corporation have threatened to sue the city.

The new city council and Lehfeldt have established the policy of dealing firmly with Matthew.

Lehfeldt described the attitude previously as one in which councilmen were "overpowered and perhaps a little frightened" at Matthew's high-powered style.

A long Matthew letter of complaint directed to Lehfeldt and the council last Aug. 30 concluded with this typical flourish:

"I refuse to believe that the answer lies in going back in history and not having law and order in the City of Valdez. Maybe 100 years ago there was not law and order in Alaska or the Far West. But we are civilized today and we should be thankful for that.

"We cannot advise our children to live the golden rule and then act in hyprocritical fashion by breaking the law just because we are mature in age . . . Will the City of Valdez act in a just and honorable way in its dealings with redevelopers, regardless of whether they are so-called outsiders or not?"

LEGISLATION TO REPEAL THE MEAT QUOTA LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 5 minutes.

Mr. ROSENTHAL. Mr. Speaker, today, I am joining with my distinguished colleague from Ohio (Mr. VANIK) and other Members, in introducing legislation which would repeal the Meat Import Quota Law of 1964. This repeal is urgent if we are to restore sanity and reasonableness to the cost of meat and meat products.

In 1964, Congress responded properly to a serious, but temporary decline in cattle prices by enacting the quota restriction. Now, the emergency situation has shifted to America's consumers who are forced to pay outrageously high prices for beef; and Congress must respond as quickly to the plight of consumers as it did to the plight of farmers 8 years ago.

I think we can all agree that retail meat prices are simply far too high. Why they are to high is something we must find out so that we can adopt an overall governmental policy which will result in fair prices to cattlemen and reasonable prices to consumers. In the interim, there is something Congress can do quickly to help lower the cost of meat—particularly hamburgers, hot dogs, and cold cuts. Congress can and must repeal the quota law on the importation of lean beef from foreign nations.

Not only will this repeal result in lower meat prices, it will also strike a blow against the entire inflation problem.

I must express shock and dismay over the fact that the Secretary of Agriculture is now waging war against the American consumer's food pocketbook in the face of a seriously inflationary economy, high taxes, and wide-spread unemployment. His unbridled enthusiasm for soaring meat prices demonstrates his lack of sensitivity to the plight of the buying public and calls into question the legitimacy of the hidden procedures based on which quotas are established.

Nor am I impressed by the activities and attitude of the Secretary of the Treasury with respect to high food costs. By merely blaming the chainstores, he demonstrates an unwillingness to examine the across-the-board reasons for high prices. We will never have a responsible food price policy in the country so long as the President permits his Cabinet officers to choose up sides in this unfortunate struggle between producers and consumers.

Again, Mr. Speaker, Congress must take this vital first step of repealing the meat quota law. I urge my colleagues to join in this effort.

REPORT TO THE RESIDENTS OF THE NEW FOURTH CONGRESSIONAL DISTRICT OF WEST VIRGINIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. KEE) is recognized for 15 minutes.

Mr. KEE. Mr. Speaker, I have asked for this time to include in the CONGRESSIONAL RECORD a brief preliminary official report on my services to date in the 92d Congress to the residents of the new Fourth Congressional District of West Virginia.

While the 92d Congress is extraordinarily diligent and hard working, we do have a great amount of important business yet to be considered.

Today, I was especially pleased that the House of Representatives passed the Federal Water Pollution Control Act Amendments of 1972, which I deem to be one of the most vital national issues to be considered during the current Congress.

As a member of the Committee on Public Works, and the Committee on Interior and Insular Affairs of the House of Representatives, I have been extremely fortunate to be assigned to seven subcommittees, which are vital to the future of southern West Virginia, our State, and our Nation.

With reference to the Committee on Public Works, I am a member of the Flood Control and Internal Development Subcommittee; Subcommittee on Public Buildings and Grounds; Special Subcommittee on Economic Development Programs, and I have the responsibility of serving as the chairman of the Conservation and Watershed Development Subcommittee.

On the Interior and Insular Affairs Committee, I continue to serve on the Subcommittee on Mines and Mining; Public Lands; and the Environment.

With reference to the Flood Control and Internal Development Subcommittee, it was my privilege in 1965 to change the name of the Justice Reservoir in Wyoming County to the R. D. Bailey Reservoir, in memory of the beloved late Judge R. D. Bailey. While I have continued to work with the Corps of Engineers and the Appropriations Committee of the House of Representatives, to obtain the maximum appropriations possible each year for the completion of the R. D. Bailey Lake, this $108 million project will provide adequate flood protection from Baileysville downstream to the Ohio River in the city of Huntington.

As the chairman of the Subcommittee on Conservation and Watershed Development, we have made preliminary investigations of the Buffalo Creek disaster and we are in the process of determining the actual cause of this tragedy. The Public Works Committee will take a close view of all such water retaining structures in an effort to prevent reoccurrence of such a needless loss of lives and property throughout southern West Virginia and the entire Appalachian region. As a matter of fact, I have called a preliminary bill which will be referred to the Subcommittee on Conservation and Watershed Development to greatly expand the role played by the Soil Conservation Service in constructing adequate watersheds wherever justified and requested by local residents in various areas.

It was my privilege to originally cosponsor the Appalachian Regional Development Act, which provides financial assistance for the construction of the Appalachian Development Highway System, vocational education facilities, airport facilities, access roads, housing, land treatment, erosion control measures, and additional medical services and facilities, such as the Southern West Virginia Regional Health Council and financing for the continued operation of the Appalachian Regional Hospitals, reclamation of land damaged by past mining practices, comprehensive water resources survey, sewage treatment facilities, plus supplemental grant in aid to acquire land for construction of public facilities.

It was also my privilege to be the original cosponsor of the Public Works and Economic Development Act, under which the new community hospital at Princeton—Mercer County—and the Hinton Hospitals—Summers County—obtained necessary financing for these medical facilities which are now in existence.

In addition, the Economic Development Administration has assisted local communities in financing adequate water and sewage disposal plants.

Congress does not actually build roads. The Subcommittee on Roads of the House Public Works Committee authorizes the Federal funds for the construction of highways and the responsibility for determining the actual location of these improved highways lies with the State department of highways which initiates the request for Federal funds.

As a matter of fact, the House Public Works Committee approved and the Congress passed my recommendation to include the West Virginia Turnpike as a part of the Interstate Highway System.

I recommended that U.S. Highway 52, between Bluefield and Huntington, be designated as part of the Interstate Highway System and to be upgraded to a four-lane highway, hopefully that the West Virginia Department of Highways would request such improvements.

I also recommended that West Virginia Route 10 from Princeton to Huntington be upgraded to a modern multi- or four-lane highway since both of these highways are essential to the opening up of our beautiful scenery in West Virginia.

In 1965, my amendment authorizing the construction of the Panther Creek Lake was adopted and, in addition, the Congress has authorized additional flood proofing and flood protection downstream for the communities of Matewan and Williamson. The flood wall to protect the Williamson Appalachian Regional Hospital from floods in South Williamson has been constructed.

The various projects which I have worked on in conjunction with responsible local citizens are too numerous to mention in this report. Many of these have been completed and others are on the way for final approval and financing.

With reference to pneumoconiosis, more popularly referred to as black lung, the facts are that as of December 31, 1971, 28,700 of 49,000 West Virginians currently receiving benefits are located in the new Fourth Congressional District of West Virginia. These figures have been officially presented to me by the Social Security Administration and this confirms the fact that approximately 60 percent of the total current beneficiaries for the State of West Virginia are from

within the new Fourth Congressional District.

As a matter of fact, I introduced the very first bill in the U.S. Congress, H.R. 9850, on April 2, 1969, designed to provide Federal payments to those coal miners suffering from this dreadful disease, as well as their widows and children.

Under House Joint Resolution 748, which passed the House on July 19, 1971, authorizing the establishment of new medical schools, I immediately recommended that Marshall University be designated as the new medical school in conjunction with the Veterans' Administration in Huntington. This legislation is currently under consideration in the U.S. Senate and it is my hope that it will be signed by the President this year in order that facilities will be available to train additional physicians and nurses.

With reference to airports, improvements are underway for Kee Field, Wyoming County; Mercer County Airport; Raleigh County Airport; as well as substantial improvements at the Tri-State Airport which is located in Wayne County near the city of Huntington; Mingo County Airport, plus a planning program for a Logan County Airport.

During the latter part of May or early June, I will submit a more detailed account of my stewardship as your Representative in the U.S. House of Representatives.

In conclusion, my invitation continues to be extended to all constituents to advise me concerning any matter on which you feel I may be helpful. Your comments and suggestions are always welcome and I value your views on proposed legislation or any other matter involving the Federal Government where I may have the opportunity to be helpful.

My Washington address is 215 Cannon House Office Building, U.S. House of Representatives, Washington, D.C. 20515, Telephone: Area Code 202—225–2176.

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS CONCERNING THE PRESIDENT'S MESSAGE TO CONGRESS AND PROPOSED LEGISLATION ON BUSING AND EQUAL EDUCATIONAL OPPORTUNITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS), is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, the U.S. Civil Rights Commission has today released a statement concerning the President's recent message on busing and equal educational opportunity.

Members of the Commission, which is chaired by the Rev. Theodore M. Hesburgh, C.S.C., president of the University of Notre Dame, are: Stephen Horn, president, California State College, Long Beach; Mrs. Frankie Muse Freeman, an attorney from St. Louis, Mo.; Manuel Ruiz, an attorney from Los Angeles; Maurice B. Mitchell, chancellor of the University of Denver; and Robert S. Rankin, professor emeritus, Duke University.

Because of the importance of the issues discussed by the Commission, I ask permission to insert this statement in the RECORD at this point.

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS

On March 17, 1972, the President sent to Congress a message and proposed legislation dealing with the most deeply felt and most divisive domestic issue troubling the American people today. The issue is commonly characterizes as "busing" but it involves far more fundamental questions. It involves questions concerning the kind of education we want our children to have, the firmness of our resolve to redeem the Nation's pledge of equal rights for all, and, in the final analysis, the kind of society we want our children to inherit.

The Commission has serious disagreement with the proposed legislation. We believe that it can have no other effect than to roll back the desegregation advances made so slowly and so painfully over the 18 years since the Supreme Court of the United States declared that "separate educational facilities are inherently unequal." This proposed legislation is retrogressive on several counts:

It seeks to alter the substantive standards by which the illegality of school segregation could or should be judged and found wanting.

It seeks to hinder the capacity of the courts to provide relief to those whose constitutional right to a desegregated education has been violated.

It seeks to curb the Executive Branch as an active participant in the effort to desegregate the schools.

It seeks to enshrine the neighborhood school as a fundamental cornerstone of educational policy when, in light of pervasive patterns of neighborhood segregation, this can only have the effect of perpetuating segregated schools.

It would accept the inevitability of the continuation of school segregation and seek to create equal educational opportunity by equalizing racially separate schools, in other words, a reversion to the doctrine and practice of "separate but equal."

These and other provisions in the legislation would render lifeless many of the legal principles established in the Supreme Court's classic Brown decision.

Although the Commission has serious disagreement with the President's premises and recommendations for legislation, we believe that it is not only right and proper, but essential, for the President to address this issue. The Commission is mandated by law to advise both the President and the Congress on these matters, and we speak out with the hope that we may contribute to constructive debate and to successful resolution of the difficult problems involved.

What has divided the Nation on school busing is not so much sharp disagreement on the merits, but confusion as to what the issues really are. Public discussion has not served to illuminate these issues. The complex matter of overcoming in a few years the inequities of the long past through the medium of desegregated schools has been reduced to the question of whether one is for or against busing.

In his message, the President has recognized the need to address these important issues rationally and analytically. In addition, the President has sought to quiet the fear that his legislation placing curbs on busing will mark an end to the effort to achieve equal rights and even undo the advances made in the 18 years since the Supreme Court of the United States declared that "separate educational facilities are inherently unequal."

Despite the President's assurances, we fear that this legislation will nonetheless have that result. It focuses on the wrong issue—busing—and in so doing will make rational debate over the true issues of school desegregation and quality education much more difficult. Further, if enacted, it would mark a major governmental retreat in the area that has been at the heart of the struggle for equal rights. Retreats in other areas might well follow.

In its fifteen-year history, the Commission has been continuously studying the problems of achieving quality, desegregated education. We have issued numerous reports dealing with various aspects of the problem North and South, and exploring ways in which it can be successfully resolved. We issue this statement out of our present concern that progress in school desegregation not be halted and not be diluted.

LEGAL BACKGROUND

In 1954, the Supreme Court in Brown v. Board of Education of Topeka established that officially sanctioned segregation in public schools violates the 14th Amendment. Most clearly this holding applied to those States in which segregation was expressly required or authorized by law. In recent years, this principle of law has been applied as well to Northern school districts where the courts have concluded that official policies and actions have just as effectively resulted in racial isolation in the schools.

In the 18 years since Brown, not only have the courts continued to interpret what constitutes illegal segregation, but the courts and other agencies of government have been seeking to devise effective remedies for achieving full school integration.

Throughout the late 1950's and 1960's, many school districts adopted a variety of plans which produced little integration—in fact, less than 3 percent in 10 years. In 1968, the Supreme Court made clear that Brown requires the actual abolition of dual school systems—so that there no longer are "white schools" or "black schools," but simply schools.

The loss of time, the loss of opportunity for a generation of our children has been discouraging. But remedies have been developed. A variety of techniques for achieving desegregation have been applied successfully, including the use of attendance zones, pairing of schools, construction of new facilities, such as education parks, and, as a last resort, busing.

The appropriateness of these remedies was fully dealt with last April by the Supreme Court in Swann v. Charlotte-Mecklenburg. In that case, the Court recognized the validity and necessity of each of these remedies—including busing—which courts, with the guidance of Federal, State and local officials, had concluded were the proper means for achieving desegregation and fulfilling the promise of the Brown decision.

It is against the background of this history that the legislation proposed by the President must be viewed.

CURB ON THE COURTS

As the President points out, all three branches of the Federal Government have participated in the effort to end the system of State-imposed segregation in the public schools. As he also points out, however, they have been unequal partners. The courts have carried the heaviest share of the burden. During the ten years following the 1954 Brown decision, the courts labored virtually alone with little if any backing from the executive and legislative branches. The pace of desegregation was painfully slow, in contrast to the court's injunction of "all deliberate speed."

It was not until a decade later that Congress, through enactment of the Civil Rights Act of 1964, and the Executive Branch, through enforcement of Title VI of that law, joined the battle. In recent years the courts again have had to carry the main burden, but the dramatic increase in the pace of desegregation since 1964 demon-

strates the impact that all three branches, working together, can have.

The appropriateness of these remedies was the courts has been unfair. Further, the case-by-case approach, which is inherent in the judicial process, is not the most effective way to deal with a problem of national scope and concern. The limited range of remedies available to courts further limits their capacity to meet the problem. Congress, with its power to enact new programs and to appropriate funds, and the Executive Branch, with its power of flexible administration, are necessary partners. Thus we agree with the President when he urges that Congress accept additional responsibility and use its authority under the 14th Amendment for purposes of joining the effort to desegregate the schools.

The courts need support and assistance. However, the legislation proposed by the President would curb, not help, them. It would seek to limit the remedies available to the courts by restricting and, in some cases, removing, their power to order transportation of students. It would also blunt the force of the Executive Branch through similar restrictions. The proposed "Student Transportation Moratorium Act of 1972" would bar, until July 1, 1973 or until appropriate legislation is enacted by Congress, all new busing order, despite the unmistakably clear and strong mandate of the Supreme Court that further delay in carrying out the requirements of Brown is not acceptable. As the Court has said:

"The burden on a school board today is to come forth with a plan that promises realistically to work, and promises realistically to work now."

The proposed "Equal Educational Opportunities Act of 1972" also would place severe curbs on the power of the courts and the Executive Branch to remedy constitutional violations. It would generally prohibit the ordering of desegregation plans that involve an increase in the amount of transportation. For elementary school students, this prohibition would be absolute. It should be stressed that this anti-busing proposal, unlike the one in the "Moratorium" bill, would be permanent. Thus the power of Federal Courts to provide relief to those whose constitutional rights have been violated would be impaired—indefinitely. Further, existing court orders or desegregation plans under Title VI of the Civil Rights Act of 1964 could be reopened and changed.

The legislation also would seek to alter the standard by which courts judge constitutional rights and remedies. Provisions of the bill, such as those emphasizing the appropriateness of neighborhood school assignment and the inviolability of school district lines, would not only impair the courts' power to provide remedies, but also, by seeking to lower the standard of constitutionality, would intrude on the traditional prerogative of the courts. Thus this proposed legislation raises serious constitutional questions concerning separation of powers.

The Commission urges that Congress fully examine these questions, especially those concerning constitutionality, before acting. The courts are the final judges on issues of constitutionality, but Congress has its own heavy responsibility to assure that legislation it enacts is authorized under the Constitution. The Commission believes that the anti-busing provisions in this legislation not only would impede desegregation efforts, but would also undermine the integrity of our Federal judiciary.

Ours is the longest enduring Constitution in the world today precisely because the founding fathers wisely balanced the powers to preserve constitutional and equal rights for all citizens. To tamper with this balance is a threat to the Nation and its future life and health which far transcends the issue of busing.

NEIGHBORHOOD SCHOOLS

What Americans must keep in mind, in the furor over the busing debate, is that to restrict busing in most communities is simply to restrict desegregation. This is so because of the segregated neighborhoods that exist from coast to coast, North and South. It is so because even with a concerted effort to eliminate well-entrenched patterns of housing segregation, it would take generations to undo or even significantly alter them and thus to alter the educational opportunity of the children who live in segregated neighborhoods near inferior, segregated neighborhood schools. What you really say to these children when you say "no busing" is "stay in your place and attend your inferior schools." This will, in reality, cost us another whole generation of badly educated minority children, denied their constitutional rights to equal educational opportunity. No amount of talk about new expenditures to create what, in fact, is a reversion to the unconstitutional and bankrupt policy of "separate but equal" will long delude minority parents or even minority students.

This is not to say, however, that busing is the only means of achieving desegregation. In many towns and cities, busing is not necessary and desegregation can be achieved within the confines of neighborhood school attendance. Great progress can be made through the use of such techniques as redrawing school attendance lines, pairing schools, and creating central schools.

But in many cases these techniques, no matter how skillfully and conscientiously applied, cannot bring about desegregation without busing. That is because very often school attendance areas must be enlarged in order to accomplish desegregation, and some pupils would be too far away from school to walk. In these instances, some pupils have to be transported to school. Sincere and dedicated school officials, school boards and courts across the Nation have sought ways to desegregate schools in a number of cities without busing and have had to conclude, finally, that in some cases there is no other way.

To be sure, busing for desegregation purposes can be inconvenient—but no more so than busing for a number of other educational purposes. The key question is the value we place—for the sake of our children and our society—upon having quality, integrated education. The Commission is convinced that the relatively small amount of busing that is conducted for desegregation purposes is not only justified, but is necessary. The Supreme Court recognized this fact in the Swann case.

The Supreme Court, in Swann, did not ignore the worries of parents about "excessive" busing. The Court said that children should not be bused if the time or distance would endanger either the child's health or education, and that seems a reasonable standard to this Commission. None is endorsing the busing of any child to an inferior school, although just this happened to many past generations of minority children. The fears and concerns about busing, and the extent and inconvenience of it, have been greatly overstated in the course of the debate now sweeping the Nation. Regretfully, too many leaders have been speaking to the base prejudices of the American people rather than to their inherent sense of justice and idealism.

What are the plain facts about busing? Every day nearly 20 million school children go to and from school by bus and their parents seldom complain about inconvenience. Some parents prefer to have their children go to school by bus rather than brave dangerous traffic on foot. Some school boards provide buses for handicapped and gifted children, so that they can attend special schools away from their neighborhoods. Rural areas have virtually abandoned the once-familiar one-room school in favor of modern consolidated schools reached by bus. School districts often take pride in providing transportation for these purposes, sometimes at great cost, knowing that the improved education that awaits the children at the end of the bus ride is what really matters and this is well worth the inconvenience. Only when busing occurs for the purpose of desegregation are objections raised. Some would have us believe that for this purpose, busing is not an inconvenience, but an absolute evil.

The neighborhood school represents, in a sense, the opposite side of the coin of busing. That is, just as the fifty-year old practice of busing represents an inconvenience, not an absolute evil, neighborhood schools represent a convenience, not an absolute good.

As noted, neighborhood schools have been abandoned by the thousands in rural areas in favor of larger consolidated schools commonly reached by bus. The trend of modern educational thought generally is away from the neighborhood school and toward the larger central units that can provide facilities, teachers, services and curriculum not financially feasible in smaller neighborhood schools.

Neighborhood schools realistically should be viewed as only one of several forms of school units, and not as the foundation upon which our entire system of public education should rest. In plain fact, it does not. Therefore it would be a serious mistake for the proposed "Equal Education Opportunities Act" to elevate the neighborhood school concept to the position of a new national policy and purpose. To do so would not only undermine desegregation; it would discourage the efforts of educators seeking to improve the organization of their school system toward providing quality education for every pupil.

EQUAL EDUCATION

The cornerstone of the proposed "Equal Educational Opportunities Act" is the declaration of national policy that:

"All children enrolled in public schools are entitled to equal education opportunity, without regard to race, color, and national origin."

The substantive provisions of the bill, however, seek to carry out this policy at the same time curtailing efforts to desegregate the schools. Indeed the President's message, as well as the legislation, accept the inevitability of continued school segregation and seek other means—the channeling of money into ghetto schools—to achieve equality of educational opportunity.

The essence of the President's proposal is that infusion of money can make racially isolated schools equal and he would allocate up to $2.5 billion in previously requested funds to this purpose. The Commission doubts the value of this approach. In fact, it has not worked even with a larger per student allotment in the schools of Washington, D.C.

In seeking to achieve equal educational opportunity by equalizing segregated facilities, the legislation returns to the tradition of the discarded "separate but equal" rule of Plessy v. Ferguson, which the Brown decision expressly overturned as unconstitutional.

But even if true equality could be achieved under segregated conditions, there is little reason to believe that the expenditures contemplated would accomplish this result. A recent report prepared by Mosteller and Moynihan of Harvard University has reaffirmed that the least promising way to improve education in ghetto schools is through the expenditure of additional funds. Many studies, including the Commission's own, have concluded that amounts far in excess

of those presently contemplated would be necessary before compensatory programs in ghetto schools would in fact "compensate" in any significant degree.

Is pupil integration any more likely than increased expenditures to achieve our goals? A basic finding of the 1966 Office of Education study, "Equality of Educational Opportunity," (the Coleman Report) was that a child's own family background was by far the most important influence on his school achievement and later life experience. Some have concluded from this finding that the schools are virtually powerless as a positive influence on our children, and that the effort, instead, must be in the area of jobs and income.

We believe there are severe fallacies in this reasoning. First, the reasoning assumes incorrectly that there is only one road to the achievement of equality for minorities. In fact, efforts must be made across the board—in jobs, in housing, and in education—if that goal is to be realized. Experience has taught us that none can be ignored, that there is no quick or simple cure to the social and economic injustices which have been allowed to grow and fester for decades.

Second, this reasoning would lead us to write off at least one more generation of children, knowingly abandoning efforts to help them develop into productive participants in American society and condeming them to lives of inequality.

Third, the conclusion that the schools are powerless to increase and improve their impact on the young is wrong. As the Office of Education study found, as the Commission on Civil Rights' own study, "Racial Isolation in the Public Schools," later confirmed, and as the Harvard University report recently has reaffirmed, the social and economic backgrounds of a child's classmates bear very significantly on his or her achievement in school. It therefore does matter greatly that disadvantaged children not be educated in isolation.

But schools play a much more important function than merely providing children with the technical tools necessary to perform well on achievement tests. It is a function which one commentator has described as "to prepare people not just to earn a living but also to live a life—a creative, humane, and sensitive life." In short, the true measure of how well schools are performing cannot be gained solely by reference to test results. Two years ago, the President underscored the uniqueness of the school as an institution of society:

"It is a place not only of learning but also of living—where a child's friendships center, where he learns to measure himself against others, to share, to compete, to cooperate."

It should also be a place where a child is not isolated in inferior surroundings as part of an unwanted class or race and thus told from the beginning of the process that he is inferior.

The school is the most important public institution bearing on a child's development as an informed, educated person and as a human being with hope for the future. It represents the single most important opportunity afforded to society to interrupt the endless cycle of poverty and, above all, to heal the great social divisions that trouble the Nation. For children of white, affluent society, as well as for minorities, integrated education is essential if they are to thrive in the multi-racial world they will enter and help redeem America's promise, which school children each day are asked to recite and believe in—"One Nation, under God, indivisible, with liberty and justice for all." The Commission believes it would be a serious mistake for Congress to enact legislation—especially legislation entitled "Equal Educational Opportunities Act"—that accepts the inevitability of school segregation, with its demonstrated denial of equal educational opportunity.

Two years ago, the President emphasized the close tie between quality education and desegregation: "Quality is what education is all about; desegregation is vital to that quality."

In that statement the President took a position with which we concurred then and concur now. It is a stand that is just as correct and essential today as it was two years ago. It is a stand from which the President, Congress, American education and the Nation should not retreat.

CONCLUSION

The Commission has discussed its reservations about the proposed legislation mainly in terms of its effect in slowing down progress in school desegregation. Our concerns, however, are much deeper.

Since the Supreme Court decision in the Gaines case in 1937, requiring the admission of a black man to the law school of the University of Missouri, there has been a slow but steady and progressive attack on segregation and discrimination in this Nation. Executive Orders of Presidents beginning in 1941, acts of Congress beginning in 1957, along with other decisions of the courts, have all been directed toward the creation of legally supported standards of behavior that would lead the Nation toward human cohesiveness and racial equality.

Now for the first time in 35 years we are faced with a series of legislative proposals including an amendment to the Constitution that lead us back along a road that this Nation should never see again. These proposals require the Nation to turn its face away from finding solutions to the difficult task of seeking effective ways of implementing the decisions of the courts and the civil rights laws enacted by the Congress. We must now defend the results of 30 years of effort that we thought were fast becoming an accepted part of American manners and morals.

Our fear is that what appears to be an assault on school desegregation, will in fact have the effect of providing solace, comfort, and support to those who opposed all civil rights advances in the past and who may now attempt to roll back the progress made in other areas.

We are also greatly troubled that millions of American citizens of minority group background may well conclude that the laws and court decisions that had begun to generate hope and faith in America's commitment to a desegregated society, with equality and justice for all, was never a true commitment, but only a device designed to muffle the voices of discontent and frustration.

Any legislation that deprives or makes more difficult the process by which American children of all races learn to understand each other—through the kind of creative contacts that can take place in the schools of the Nation—is, in our view, antithetical to the creation of a society with the capacity to provide equal justice to all, and lessens the hope, not only for American education but for American children and our Nation.

THE FARMER IS NOT TO BLAME FOR RISING FOOD PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 10 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, in recent weeks, we have seen mounting criticism of farmers, and more specifically cattlemen, because of increases in food and meat prices.

It is true that prices have risen. But, does it necessarily follow that the farmer and cattlemen are to blame? I think not, as an examination of all of the facts tends to demonstrate that current food and meat prices are not out of line and in fact are real bargains. Furthermore, in the last 20 years, farmers' prices for food products have gone up only 6 percent, and the current beef prices received by the American cattlemen are just now back up to a level of 20 years ago. It is interesting to note that in the same 20-year period, money paid the wage earners increased 340 percent, business and professional incomes advanced 200 percent, and dividends rose 300 percent.

Notwithstanding the fact that the increased food prices being paid by the American consumer are obviously going into the pockets of the middlemen and the retailers, criticism of the farmers continues to mount and is approaching the point of the absurd. The latest example of this came from the Chairman of the Price Commission, C. Jackson Grayson, who recently criticized the Secretary of Agriculture's explanation of higher farm prices as being "damaging to the stabilization program," and who announced that hearings will be conducted by the Price Commission concerning farm prices.

I welcome these hearings, Mr. Speaker, for I am confident that enough facts will be brought out to prove to Mr. Grayson that Secretary Butz' points were well made, and that farm prices have fallen far behind the national average.

In the same 20-year period which I have mentioned, farmers today are paying 2.3 times higher wages for help than they did in 1952; farm machinery prices are nearly twice as high; production expenditures have doubled; and farmers' debts have increased five times. During this period the farmers' prices at the farm gate have risen all of 6 percent.

Why then do we hear so much criticism against the farmer? The only reason I can determine is because retail food prices in stores have gone up 43 percent.

The public is angry, but its anger is misdirected against the farmer and cattleman. The 43 percent increase in retail food prices has gone into increased freight rates; container costs; added services and conveniences built into frozen, precooked, premixed, prepeeled, and prepared foods; and higher wages up and down the line.

I am sure that Mr. Grayson was not aware of these facts when he criticized the Secretary of Agriculture, but I know that he will diligently research the record, and will uncover these additional facts.

Though people are complaining about the price of beef, they do not realize that the price per hundredweight is actually lower today than it was 20 years ago. The reason why this is all possible is the fact that farmers' productivity per man-hour is 3.3 times more than it was 20 years ago. Our Nation's farmers are producing two and one-half times as much beef as 20 years ago, and four times as much choice beef. The American consumer is eating twice as much beef per person as 20 years ago, and this is notwithstanding the fact that the farmers' prices increased only 6 percent in the last 20 years.

I was somewhat astonished to read public statements by so-called consumer experts and by some of my Eastern colleagues in the Congress who are urging people to eat less meat. The consumer expert for a food chain in the Washington, D.C., area stated recently that people should eat less meat because the store's meat prices from their suppliers had "skyrocketed." Mr. Speaker, I am genuinely intrigued by this allegation, as the truth of the matter is that wholesale prices for Iowa beef carcasses are today 1 percent less than last August 13 before the freeze went into effect. She would also be interested to know that farmers' cattle prices are 4½ percent less than a month ago, and hog prices are 8 percent less than a month ago.

It is apparent that many of these so-called consumer experts have not the slightest conception of the farmer's position in the marketplace, and that they have even less of an understanding of the fact that retail food costs are increasing because of the processing and distribution costs. Once these costs are up, they harden and stay up. Conversely, the prices of farm products are soft costs in that they fluctuate from month to month but do not harden.

In summary, I believe it is significant to note that today's producers of beef earn about 3 percent return on their investment, compared with the average return on investment for industry of 12 percent. I am quite confident that an examination of the financial records of the food chain which took out the advertisement urging people to eat less meat would reveal that their profit margin in the same period would be considerably greater than 3 percent.

With these facts in mind, we can appreciate that, compared to the rise in the costs of living generally, beef is a real bargain. I am confident that the facts which will be uncovered at Mr. Grayson's hearing will document this, as well as the fact that farm prices are currently exempt from controls for the sound reason that they are subject to severe price competition. As the foregoing facts indicate, this competition is far more effective and beneficial to consumers than that imposed on other businesses by the Government.

So, Mr. Speaker, I suggest that all of these points should be dispassionately considered by the Price Commission, and that the Commission should thereafter report to the American public—in nonemotional language—that the public can harbor no complaints against the farmer and cattlemen. Rather, they are really in their debt for a job well done for a long time.

CONCURRENT RESOLUTION OF THE NEW YORK STATE LEGISLATURE ON THE PLIGHT OF SOVIET JEWS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I should like to place in the RECORD a concurrent resolution of the Senate and the assembly of the State of New York memoralizing the President of the United States and the Congress to encourage the Government of the Soviet Union to end its persecution of the Soviet Jews and other minorities and to permit the free exercise of religion and emigration.

It would be redundant for me to repeat any of the statements made in the resolution which so accurately depict the persecution by the Soviet Union of its Jewish citizens.

The Members of this Congress have heretofore demonstrated their support for these Soviet Jews and the administration, to its credit, has done the same by granting what is tantamount to refugee status to every Soviet Jew permitted to leave the Soviet Union. The Attorney General's commitment on that subject, which permits every such Soviet Jew to enter the United States without regard to quota restrictions, has been hailed as one of the great humanitarian actions of this administration.

I believe it would strengthen the President's position if the Members of this House were to urge him by letter to exert his influence when he meets with Soviet officials on May 22 to persuade them to end the persecution of the Jews and other minorities in the U.S.S.R.; permit the free exercise of religion by all; and allow these Soviet citizens desiring to emigrate to a country of their choice willing to receive them, to do so.

The resolution follows:

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY OF THE STATE OF NEW YORK MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS TO ENCOURAGE THE GOVERNMENT OF THE SOVIET UNION TO END ITS PERSECUTION OF SOVIET JEWS AND OTHER MINORITY AND TO PERMIT FREE EXERCISE OF RELIGION AND EMIGATION

Whereas, In the Soviet Union men and women are denied freedoms recognized as basic by all civilized countries of the world and indeed by the Soviet Constitution; and

Whereas, Jews and other religious minorities in the Soviet Union are being denied the means to exercise their religion and sustain their identity; and

Whereas, The government of the Soviet Union is persecuting Jewish citizens by denying them the same rights and privileges accorded other recognized religions in the Soviet Union and by discriminating against Jews in cultural activities and access to higher education; and

Whereas, The right freely to emigrate, which is denied Soviet Jews who seek to maintain their identity by moving elsewhere, is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations; and

Whereas, These infringements of human rights are an obstacle to the development of better understanding and better relations between the people of the United States and the people of the Soviet Union; now, therefore, be it

Resolved (if the Assembly concur), That the Legislature of the State of New York memorialize the President of the United States to exert his influence during his upcoming trip to the Soviet Union to call upon the Soviet government to end its persecution of the Jews and other minorities and to permit the free exercise of religion by all its citizens in accordance with the Soviet Constitution; and be it further

Resolved (if the Assembly concur), That the Legislature of the State of New York, in the interest of justice and humanity, memorialize the President of the United States to call upon the Soviet government to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights; and be it further

Resolved (if the Assembly concur), That the Legislature of the State of New York petition the United States government to use all appropriate diplomatic means to engender the fullest support possible among other nations for such a request to the Soviet Union; and be it further

Resolved (if the Assembly concur), That in order to effectuate the purposes of this resolution, copies of this resolution be transmitted to the President, Vice President and Secretary of State of the United States, to the Secretary of the Senate and the Clerk of the House of Representatives of the United States, *and to each member of the Congress of the United States from the State of New York.*

TAX EQUITY FOR SINGLE TAXPAYERS AND MARRIED PERSONS FILING SEPARATELY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on April 10 the Ways and Means Committee will consider legislation to correct the problems of inequitable tax treatment of single persons and married persons where both the husband and wife are working. On the first day of this Congress I introduced H.R. 850 to remove the tax inequities affecting unmarried taxpayers. Today, I have revised H.R. 850 through the introduction of H.R. 14193 to take care of the problem of higher taxes that married persons filing separately are now confronting in paying their 1971 tax bill.

Over 30 million unmarried taxpayers will be penalized this year because of their marital status. They will be taxed at a rate that is up to 20 percent more than that applied to married taxpayers filing joint returns. An additional and equally serious inequity exists for married people, both of whom work; if these people file separately for taxable year 1971 their taxes will be even higher than those of single taxpayers. I have received many letters from constituents suggesting that our tax structure now encourages divorce and relationships without marriage. My own view is that these higher rates for married persons filing separately are a result of the mistaken belief by many that salaried work by a wife is a luxury. While it may be true that some family incomes are substantially increased because of a wife's work, the greater majority of working women come from lower and middle income families and they are working to meet today's high cost of living. Women are already victimized by a labor market that underpays them; they should not be further penalized by a tax structure that extracts higher taxes from them.

H.R. 850, as amended, would eliminate these rate inequities by simply establishing a uniform rate structure for all taxpayers. This means that all earned income would be taxed at the same graduated rate, regardless of one's marital status.

I believe that taxes should reflect differences in a taxpayer's responsibilities

for dependent support, but the way to do this is through exemptions for dependents, not through different tax schedules. Requiring as we do today that single persons pay at a higher rate is simply arbitrary. The joint tax return rate for married taxpayers does not reflect the different financial responsibilites in supporting six dependents as opposed to, say, one dependent. Furthermore, under the present rate structure a divorcee or widow with three dependents, using the head of household schedule, pays taxes at a higher rate than a married couple with no children. Family responsibilities can most effectively be reflected through an adequate dependent exemption. I have introduced legislation to increase the personal exemption and the exemptions for dependents to $1,200.

It is important that the Congress act this year to remove these inequities; the distinguished chairman, Mr. MILLS of Arkansas and his colleagues on the Ways and Means Committee are to be commended for their initiative in taking up this matter.

COMMENTS ON SECTION 202(B)(2) OF H.R. 11896

(Mr. GROVER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GROVER. Mr. Speaker, some question has arisen as to the committee's intent in using the phrase "injected into" in section 202(b)(2) of H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972, and for purposes of legislative history, I would like to discuss its meaning in the context of the bill.

Paragraph (2) is concerned with situations where drinking water shortages may force added treatment of the effluent from a treatment plant so that it may be returned to the ground in order to recharge the fresh water supply. Such recharge would prevent the loss of valuable drinking water which would otherwise be disposed of into the navigable waters through the use of a sewer outfall.

"Injected into" is a term of art, and is not limited to use of so-called injection wells, or any other specific method of recharge. In this context the phrase means any method which will result in the treated effluent being returned to the ground water consistent with acceptable technological standards.

A reading of the committee report on the bill confirms this interpretation. House Report 92–911, pages 89–90, 99. The report speaks in terms of recharge, which, as suggested above, encompasses all methods of returning the effluent to the water supply.

Such interpretation makes good sense. It allows for maximum flexibility, and does not lock any project into a specific method which would preclude the development of a better, and less expensive approach in the future.

Such flexibility and upgrading of treatment methods, through technological advances, is precisely the kind of development we are trying to encourage in H.R. 11896.

COSTS OF ACHIEVING ZERO DISCHARGE BY 1981 AND 1985

(Mr. GROVER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GROVER. Mr. Speaker, a great deal has been said about the costs of achieving the "Zero Discharge" goal by 1981 by industries, and by 1985 by municipalities. We have heard one estimate after another, and each has been attacked or supported, depending upon where one stands.

One of the most recent cost estimates, although of a very limited nature, has been cited as proving pollution abatement would not cost so much after all, that it is within our means. This is the report entitled "The Economic Impact of Pollution Control," prepared by consulting firms for the executive branch of the Government. But a most significant part of that report, which failed to get into the headlines, was that this study related only to present water quality standards, and that it has no relationship whatsoever to any pending legislation. It certainly did not relate to zero discharge.

It is not my purpose to attack or support any estimate that has been made. Rather, I think we in Congress should agree that we really do not know the answer, and then do the best we can to see the most definitive, sophisticated, and scientific information as possible before we enact legislation that would set up on a course which could result in enormously wasteful expenditures without comparable benefits before the course could be redirected.

New York's present water quality standards and policies require that its waters be suitable for recreation, with the exception of four shipping harbors. Even now, boating is a perfectly safe recreational use in our harbors, providing a pleasure craft is not run down by a commercial vessel. It will cost an additional $5 billion to achieve New York's standards, largely by 1976, but it can be achieved only if adequate funds are available. This will be a heavy burden on New York State taxpayers. Should not they be told what it will cost them to go to a pre-Christopher Columbus water quality standard for its waters, particularly in its commercial shipping areas, since there may not be a comparable benefit to man and the ecology? I think they should.

We have one major example of higher costs to achieve a high degree of removal right here in our own backyard—the Blue Plains sewage treatment facility, which serves much of the Washington, D.C., area. The official estimate for increasing the capacity from its present 240 million gallons a day to 309 million gallons a day, and to provide a high degree of secondary treatment of 90 percent removal, was $80 million. However, the decision was made to increase the level of treatment to 97 to 98 percent removal; this decision increased the cost to $360 million, but no more than 309 million gallons a day is to be treated.

An even more dramatic example of higher costs was given by Governor Rockefeller last July 28 before the House Public Works Committee. The 1967 estimated cost for primary treatment at the North River plant serving 1 million people in New York City was $42.5 million; following an enforcement conference a minimum of secondary treatment was required, and the cost was escalated to $220 million. There was another enforcement conference calling for a higher degree of secondary treatment, and the cost was escalated to $395 million. Due to a number of factors, especially including inflation because of time delays, the cost of the project now is estimated at $765 million. Mr. Speaker, I insert in the RECORD an excerpt from Governor Rockefeller's testimony, which provides further details of the escalated costs at the North River plant:

> Perhaps the most dramatic example of what has happened to treatment plant costs and why states and localities must have more Federal aid is the mammoth North River project in New York City.
>
> This plant, which will serve over one million people living on Manhattan, was estimated in 1957 to cost $42.5-million. With the completion of detailed design in 1962, the cost was revised upward to $100-million which the City was unable to finance. However, planning for the project resumed with passage of the State's Pure Waters Bond Issue in 1965, which guaranteed the City 60 per cent of costs between State aid and State pre-financing of Federal aid.
>
> Following the agreements reached at the Federal-State Lower Hundon River Enforcement Conference for a minimum a secondary treatment, the cost of the North River project was estimated at $220-million. This price allowed for, but did not include, the cost of park on top of the plant which had been added as a community amenity.
>
> Following the upgrading of the requirements to an even higher degree of secondary treatment at a second Federal-State conference, the cost estimate was raised to $395-million, of which $133-million is firm and under construction.
>
> At the end of June 1971, bids were received for the substructure of the main plant, a $97-million project not yet under contract. The low bid, however, was $228-million. The total cost, therefore, may escalate from $305-million to $600-million or more, from an initial estimate 14 years ago of $42.5-million.

Mr. Speaker, if we are to start on the road to zero discharge now, why not use these known yardsticks of the costs involved and the benefits to be gained, and simultaneously authorize the money to pay for it? If we do not we are fooling the American people, and no wonder they are losing faith in their governments.

Last November the Council on Environmental Quality estimated that it would cost $316.5 billion to carry out the zero discharge policy in the Nation. This estimate included only municipal and industrial facilities. It did not include treatment of urban storm drain water, which is a requirement under the Senate bill. Neither did the estimate include land acquisition or the costs of relocating thousands of families, so that their land could be used to dispose of the treated sewage. Nor did the estimate include the cost of building holding basins for storm water.

A month later Governor Rockefeller testified again before the Public Works Committee. He said it would cost $239 billion to carry out zero discharge in New York State alone.

NEW YORK STATE

A. CONSTRUCTION COSTS

[Costs of achieving differing levels of abatements for its 1-year and 5-year programs, as required in S. 2770]

I. MUNICIPAL TREATMENT PLANTS

[Including interceptors, pump stations, and related facilities eligible for grants under present programs, the costs for which would increase through growth or inflationary factors]

[In billions of-dollars]

Level of removal	Present facilities (2.5 b.g.d.[1])		Future facilities[2] (1 b.g.d.)		Total (3.5 b.g.d.)	
	Additional	Cumulative	Additional	Cumulative	Additional	Cumulative
100 percent	$4.3	$5.2	$1.7	$6.0	$6.0	$11.2
Tertiary 90 to 99 percent	.9	.9	.4	4.7	1.3	5.8
Secondary 85 to 90 percent (present)	0	0	4.3	4.3	4.3	4.3

II. STORM WATER

[To provide treatment capacity to handle about 86.5 b.g.d.[1]. This does not mean it would rain this much each eay, but even though the equipment would be idle much of the time, we would have to be prepared for this capacity]

100 percent	0	0	$65.0	$150.0	$65.0	$150.0
Tertiary	0	0	32.0	95.0	32.0	95.0
Secondary	0	0	63.0	63.0	63.0	63.0

[1] Billion gallons per day.
[2] 1-year; 5-year lists (does not include replacement costs).

III. INDUSTRIAL

	Volume: 0.4 b.g.d.[1]	Volume: 0.6 b.g.d.[1]	Volume: 1.0 b.g.d.[1]
100 percent	.93	1.40	2.33
Tertiary	.45	.67	1.02
Secondary	0	.48	.48

[1] Billion gallons per day.

IV. POWERPLANTS—COOLING WATER

Level of removal	Present facilities (10 b.g.d.[1]) cumulative	Future facilities (30 b.g.d.[1]) cumulative	Total (40 b.g.d.[1]) cumulative
100 percent	$0.5	$1.5	$2.0
None	0	0	0

[1] Billion gallons per day.

V. SEPARATION OF COMBINED STORM AND SANITARY SEWERS

	1969 dollars[1]	1971 dollars
National	$48	$61
New York State	13	16

[1] American Public Works Committee report estimated total separation would cost about $48,000,000,000 ($30,000,000,000 public, $18,000,000,000 private).

VI. SUMMARY OF COSTS OF 100 PERCENT REMOVAL ("NO DISCHARGE")

	Amount
1. Municipal plants	$11.20
2. Industry	2.33
3. Powerplants: Cooling water	2.00
Subtotal	15.53
4. Storm water	150.00
5. Separation of combined storm/sanitary sewers	16.00
Total	181.53

Note: Estimates based on 1971 dollars. If consideration were given to "normal" economic growth of 5 to 6 percent a year (which is regarded as noninflationary), or to the current rate of inflation in construction costs (now at the rate of about 1½ percent per month), the figures would be a great deal higher.

B. ANNUAL OPERATION AND MAINTENANCE COSTS

I. MUNICIPAL TREATMENT PLANTS

[Millions of dollars (all 1971 dollars)]

Degree of removal	Existing facilities (2.5 b.g.d.[1])		Future facilities (1 b.g.d.[1])		Total (3 b.g.d.[1])	
	Additional	Cumulative	Additional	Cumulative	Additional	Cumulative
100 percent	$242	$472	$97	$189	$339	$661
Tertiary	195	230	49	92	234	322
Secondary (present)	[2] 45	[2] 45	43	43	88	88

[1] Billion gallons per day.
[2] Many existing facilities provide less than secondary treatment; thus, operation and maintenance costs are low.

II. INDUSTRIAL

	Volume: 0.4 b.g.d.[1]	Volume: 0.6 b.g.d.[1]	Volume: 1 b.g.d.[1]
100 percent	$76	$114	$190
Tertiary	37	55	92
Secondary	17	26	43

III. POWERPLANTS—COOLING WATER

	Volume: 10 b.g.d.[1]	Volume: 30 b.g.d.[1]	Volume: 40 b.g.d.[1]
100 percent	$30	$70	$100
None	0	0	0

[1] Billion gallons per day.

IV. STORM WATER RUNOFF IN URBAN AREAS

[10 percent of New York's land area; assuming all storm and sanitary sewers are separated]

100 percent	$0	$1,350	$1,350
Tertiary	0	658	658
Secondary	0	309	309

Note: Yearly volume: 2,610 billion gallons per year. Daily rate: 86.5 billion gallons per day. Assumption: 30 days of rain each year (i.e., 2,610 billion gallons per year divided by 86.5 billion gallons per day equal 30). 75 percent of rain now runs off to streams; 25 percent soaks into ground. Capital cost for construction of a 1,000,000-gallon-per-day treatment facility for storm water is the same as for treatment of municipal waste. However, O. & M. costs, based on 30 days a year that the plants would operate, would be much lower for storm water.

C. WORK SHEET

Construction Costs: 1-year; 5-year programs for municipal treatment plants. Replacement costs not estimated.

Operation and maintenance: Costs projected over 20 and 25 years.

O. & M. figures from administration showed costs over 20 to 25 years; the paper did not include storm water costs.

	In billions
20 years:	
Municipal—$0.661×20	$13.22
Industrial—$.190×20	3.80
Power plants, cooling water—$1×20	2.0
Storm water—$1,350×20	27.0
Total O. & M., 20 years	46.02
Construction costs (see paper A)	181.53
Total	$227.55
25 years:	
Municipal—$0.661×25	15.525
Industrial—$0.190×25	4.750
Powerplants, cooling water $1×25	2.5
Storm Water—$1,350×25	33.750
Total O. & M., 25 years	57.525
Construction costs (see paper A)	181.53
Total	239.055

V. SUMMARY OF O. & M. COSTS OF 100-PERCENT REMOVAL

[In billions of dollars]

	Annual	X 20 years	X 25 years
Municipal	$0.661	$13.22	$15.525
Industrial	.190	3.80	4.750
Powerplants/cooling water	.100	2.0	2.50
Storm water	1.350	27.0	33.750
Total	2.301	46.02	57.525

He extrapolated this across the Nation, and estimated it would cost between $2 and $3 trillion to carry out zero discharge nationwide.

Governor Rockefeller's estimate was based on demonstrated experience in New York, and no State has more professional competency to deal with the problem of estimating costs for even a slightly higher degree of treatment. The State's estimates must be within the "ball park," since the State has had to commit its own funds to pay for the treatment—only $210 million of the costs are being paid by the Federal Government for all New York's projects approved through June 30, 1971, compared to the State commitment of about $1½ billion.

There were several key omissions in the Governor's estimate, however, just as there were in CEQ's. Although the Governor dealt with the treatment of storm water, he did not estimate how much it would cost to acquire the three northern counties in New Jersey on which to dispose of the wastes of New York City. He did not say how much it might cost to relocate the families that live in those three counties. He did not say how much it would cost to build a holding basin for storm water, which might be the size of Long Island Sound.

Those three northern counties in New Jersey would be inadequate for New York City's wastes unless the effluent were treated to a very high quality prior to spraying it on the land. Otherwise, those three counties would be incapable within a very short time of absorbing the city's wastes, and we would be left with a poisoning of the land and an odor pollution of the environment beyond anyone's imagination.

Over 5,000 square miles would be required for all the wastes in the State, even if all discharges were treated to zero. Since New York has approximately 10 percent of the pollution in the Nation, 50,000 square miles would be required. That is more land than is in New York, which has 47,000 square miles.

If land, holding basins, and relocation of families had been included in Governor Rockefeller's estimate, the costs surely would have to be doubled, and the national cost would zoom to $5 trillion.

It would cost an estimated $5 billion to finish the job of meeting present water quality standards in New York State; these standards call for recreational quality water in most cases. It may cost $500 billion to achieve zero discharge in New York State. This is a vast difference, and for what purpose?

We should find out with such as the detailed Academies of Science and Engineering costs and benefits study provided in the committee bill and specific determination of direction by the Congress based on facts rather than emotional rhetoric. Otherwise both the environment and the economy may suffer from our ecological impetuosity.

NO TOLERANCE FOR FILTH

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today, the Food and Drug Administration released the text which appears below, of its "defect level in foods" or standards which sanction the presence of contaminants in our food. I was shocked and dismayed to learn that the FDA is in the business of allowing such foreign matter in our food—and has been since about 1910—and that it has taken this long for the facts to come out into the open. This information should have been made public long ago. Also, I share the concern of consumers who now know they can never be sure they are buying pure food. Maybe the FDA will tolerate these filth levels, but I doubt that the American consumer will or should.

Unfortunately, the issue of food contamination is not simply a matter of esthetics, as some portray it, but is a matter of health. In a study of contamination of black pepper, which appears below, originally published in 1967 in Applied Microbiology, Dr. C. M. Christensen, of the University of Minnesota, revealed that such extraneous matter present in pepper produces dangerous toxins which may be hazardous to humans.

Although the FDA claims to upgrade its allowances as technology progresses, I have ascertained that there has never been a wholesale review of the "defect level" policy and many allowances have apparently remained unaltered on the books for decades. Rather than meekly accepting the word of manufacturers who claim they cannot eliminate filth, the FDA should see to it that the processing and storage of foods result in as pure products as are technologically possible. And rather than setting permissible levels, the FDA should regard any "defect" as a signal that something more must be done to assure wholesome food.

As I see it, these defect levels run counter to the very heart of the Federal food laws which prohibit the sale of adulterated and misbranded foods. Several weeks ago, I called upon the House Public Health Subcommittee to conduct an investigation of the food industry based on evidence that unwholesome and contaminated food was being sold to American consumers. These "defect action levels" dramatically emphasize the need for Congress to investigate quality of food production in the United States.

The following is the text of the FDA's "Defect Action Levels":

FOOD AND DRUG ADMINISTRATION—DEFECT ACTION LEVELS

Current Levels for Natural Or Unavoidable Defects in Food For Human Use That Present No Health Hazard:

PRODUCT AND DEFECT ACTION LEVEL

Chocolate and Chocolate Products:

Chocolate and Chocolate Liquor: Average of 150 insect fragments per subdivisions of 225 grams or 250 insect fragments in any one subdivision of 225 grams. Average of 4 rodent hairs per subdivisions of 225 grams or 8 rodent hairs in any one subdivision of 225 grams. Shell, in excess of 2% alkali-free nibs.

Cocoa Powder, Press Cake: Average of 150 insect fragments per subdivisions of 100 grams or 250 insect fragments in any one subdivision of 100 grams. Average of 4 rodent hairs per subdivision of 100 grams or 8 rodent hairs in any one subdivision of 100 grams. Shell in excess of 2% alkali-free nibs.

Cocoa Beans: 4% show mold or 4% insect infested or damaged or total of 6% show mold and insect infested.

Coffee Beans: 10% or more by count are insect infested, insect damaged or show mold.

Eggs & Frozen Egg Products:

Dried Whole Eggs, Dried Egg Yolks: Decomposed as determined by direct microscopic count of 100,000,000 bacteria per gram.

Frozen Eggs and Other Frozen Egg Products: Two cans contain decomposed eggs; and subsamples examined from cans classed as decomposed have counts of 5,000,000 bacteria per gram.

Fish, Shellfish, and Seafood:

Blue Fin and Other Fresh Water Herring:

Fish averaging 1 lb. or less: 60 cysts per 100 fish provided that 20% of the fish examined are affected.

Fish averaging over 1 lb.: 60 cysts per 100 lbs. of fish, provided that 20% of the fish examined are affected.

Rose Fish (Red Fish and Ocean Perch): 3% by count of the fillets examined contains one or more copepods.

Fresh and frozen fish: 1. 5% by count of fish or fillets in sample (but no less than 5) show class 3 decomposition over at least 25% of their areas; or,

2. 20% of the fish or fillets in the sample (but not less than 5) show class 2 decomposition over at least 25% of their areas; or

Fresh and frozen fish, as listed, Tullibees,

3. The percentage of fish or fillets showing class 2 decomposition as above, plus 4 times the percentage of those showing class 3 decomposition as above, equals at least 20 and there are at least 5 decomposed fish or fillets in the sample.

Definition of classes of Decomposition: Class 1—no odor of decomposition; Class 2—slight odor of decomposition; and Class 3—definite odor of decomposition.

Ciscoes, Inconnus, Chubs and White Fish: 50 cysts per 100 pounds (whole fish or fillets), provided that 20% of fish examined are infested.

Flours and Cornmeals:

Corn Meal: 1. 20% of the subdivisions contain over 100 insect fragments per 50 grams or 2 insects of equivalent per 50 grams and an additional 20% of the subs show over 25 insect fragments per 50 grams or one insect or equivalent per 50 grams; or

2. 20% of the subs contains over 5 rodent pellet fragments per 50 grams and an additional 20% of these subs contain over 2 rodent pellet fragments or detached rodent hairs per 50 grams.

Fruit:

Apricots (canned): Average is 2% or more by count insect infested or insect damaged.

Caneberries (canned and frozen) (blackberries, raspberries, etc.): Frozen black raspberries: microscopic mold count average exceeding 60%. Insects: Canned or frozen caneberries (blackberries, raspberries, etc.) average of 4 larvae per 500 grams or average of 10 larvae and insects per 500 grams (excluding thrips, aphids, and mites).

Cherries brined, fresh canned and frozen:

1. Brined and Maraschino—average of 5% rejects due to larvae.

2. Fresh, canned or frozen—average of 10% rejects due to rot.

3. Fresh, canned or frozen—average of 4% insect infested cherries.

Citrus fruit juices, canned: Microscopic mold count average exceeding 15%. Drosophila and other fly eggs—10 per 250 ml. Drosophila larvae—2 per 250 ml.

Currants: Average of 5% by count have larvae.

Figs: More than 10% by count insect infested and/or show mold and/or dirty fruits or pieces of fruit.

Lingon Berries (canned): 3 or more larvae per lb.

Multer Berries (canned): Average of 40 thrips/No. 2 can.

Olives: Pitted: average of 1.3% by count of olives with pit fragments 2 mm. or longer measured in the longest dimension, exclusive of whole pits.

Salad olives: average of 1.3 pit fragments per 300 grams, including whole pits and fragments 2 mm. or longer measured in the longest dimension.

Salt cured olives: Insect: average of 15% by count of olives with 10 scale insects each; or, average of 25% by count of olives show mold.

Imported Black or Green: average of 10% by count wormy or worm-cut.

Salad Type: Average of 12% by weight insect infested and/or insect damaged due to the olive fruit fly.

Peaches: Average of 5% wormy or moldy fruit by count or 4% if larva or equivalent is found in 20% of the cans.

Pineapples (canned, crushed): Microscopic mold count average exceeding 30%.

Plums (canned): 5% by count of plums with rot spots larger than the area of a circle 12 mm. in diameter.

Prunes, dried: 10% by count insect infested and/or show mold and or dirty fruits or pieces of fruit.

Pitted Prunes: average of 3% (by count) prunes with whole pits and/or pit fragments 2 mm. or longer; and four or more of the 10 subs examined exceed 3% prunes (by count) with whole pits and/or pit fragments 2 mm. or longer.

Raisins: Mold: natural raisins average more than 5% by count that show mold.

Sand: average is more than 40 milligrams of sand and grit per 100 grams of natural or Golden Bleached raisins.

10 or more insects or equivalent and 35 or more drosophila eggs per 8 ounces of Golden Bleached raisins.

Strawberries: Microscopic mold count average exceeding 55% and the mold count of ½ or more of the subsamples is more than 65%.

Grains:

Popcorn: 1. One rodent pellet in one or more subs upon examination of 10/225 gram subs or 6/10 oz. consumer size packages and one rodent hair in other subs; or

2. Examination shows two rodent hairs per pound and rodent hairs in more than half the subs; or

3. Examination shows 20 gnawed grains per pound, provided that rodent hairs are found in more than half the subs;

4. Examination shows field corn in the popcorn exceeds 5% by weight.

Wheat: One rodent pellet per pint. 1% by weight of insect damaged kernels.

Jams, Jellies, Fruit Butters and Fig Paste:

Apple Butter: Microscopic mold count average exceeding 12% Rodent: average of more than 8 rodent hairs per 100 grams of apple butter.

Insects: average of more than 5 insects or insect parts (not counting mites, aphids, thrips, scales) per 100 grams of apple butter.

Black Cherry Jam: Microscopic mold count exceeding 50% in the average of the subs.

Black Currant Jam: Microscopic mold count exceeding 75% in the average of the subs.

Fig Paste: Over 13 insect parts per 100 grams of fig paste in each of 2 or more subsamples.

Miscellaneous:

Corn Husks (for tamales): Over 5% by weight of the corn husks examined are insect infested (including insect damaged) or moldy.

Nuts:

Tree Nuts: Nuts in Shell and Shelled Nuts.

Reject nuts (rancid, moldy, gummy & shriveled or empty shells) determined by microscopic examination in excess of the following limits:

Unshelled percent—Almonds 5%, Brazils 10%, Green Chestnuts 15%, Baked Chestnuts 10%, Filberts 10%, Pecans 10%, Pistachios 10%, Walnuts 10%, Lichee Nuts 15%, and Pili Nuts 15%.

Shelled percent—Almonds 5%, Brazils 5%, Cashews 5%, Dried Chestnuts 5%, Filberts 5%, Pecans 5%, Pistachios 5%, Walnuts 5%, and Pili Nuts 10%.

Mixed Nuts in Shell—The percent of reject nuts for any one variety exceeds the above percentage for the same variety. The above limits apply for orchard type insect infestation.

Peanuts and Peanut Products:

Peanuts, shelled and unshelled: *Unshelled:* average more than 10% deteriorated or unsound nuts.

Shelled: average more than 5% deteriorated or unsound nuts.

The shelled peanuts contain an average of 20 or more insects or equivalent per whole bag sifting (100-pound bag basis).

Peanut Butter: Average of 50 insect fragments per 100 grams; or, average of 2 rodent hairs per 100 grams. Grit: gritty to the taste and the water-insoluble inorganic residue is more than 35 milligrams per 100 grams.

Spices:

Allspice: Average of more than 5% moldy berries by weight.

Bay (laurel) Leaves: Average more than 5% moldy pieces by weight; or average more than 5% insect infested pieces by weight; or average of 1 milligrams excreta per pound after processing.

Capsicum: *Capsicum Pods:* average of more than 3% insect infested and/or moldy pods by weight; or average of more than 1 milligram of excreta per pound.

Capsicum Powder: Microscopic mold count average exceeding 20%; or average of more than 50 insect fragments per 25 grams; average of more than 6 rodent hairs per 25 grams.

Cassia or Cinnamon (Whole): Averages 5% or more moldy pieces by weight; or averages 5% or more insect infested pieces by weight; or average of more than 1 milligram of excreta per pound.

Cloves: Average of more than 5% stems by weight.

Condimental Seeds other than Fennel Seeds and Sesame Seeds: Average of more than 3 milligrams of excreta per pound.

Cumin Seed: Average of more than 9.5% ash and/or more than 1.5% acid insoluble ash.

Curry Powder: Average of more than 100 insect fragments per 25 grams or average of more than 8 rodent hairs per 25 grams.

Fennel Seed: 20% or more of subsamples contains excreta and/or insects or average of more than 3 milligrams of excreta per pound.

Ginger (Whole): Averages more than 3% moldy and/or insect infested pieces by weight; or average of more than 3 milligrams of excreta per pound.

Hops: Average of more than 2500 aphids per 10 grams.

Leafy Spices, other than Bay Leaves: Averages more than 5% insect infested and/or moldy pieces by weight; or average of 1 milligram of excreta per pound after processing.

Mace: Average more than 3% insect infested and/or moldy pieces by weight—or average of more than 3 milligrams of excreta per pound; or average of more than 1.5% foreign matter through a 20-mesh sieve.

Nutmegs: Average more than 10% insect infested and/or pieces showing mold by count.

Whole Pepper, Black: Averages more than 1% insect infested and/or moldy pieces by weight; or average of more than 1 milligram of excreta per pound. Average of more than 1% pickings and siftings by weight.

Sesame Seeds: Average of more than 5% insect infested or decomposed seeds by weight; or average of more than 5 milligrams of excreta per pound; or average of more than 0.5% foreign matter by weight.

Vegetables:

Asparagus, Canned or Frozen: 15% of spears by count are infested with 6 attached asparagus beetle eggs or egg sacs.

Beets, Canned: Pieces with dry rot exceed 5% by weight in the average of the subs.

Broccoli: Over 80 aphids or thrips/100 grams in the average of all subs examined.

Brussel Sprouts (frozen): Average is more than 40 aphids and/or thrips per 100 grams.

Corn (Sweet, canned): Examination of 24 pounds (24 No. 303 cans or the equivalent) shows the following: two 3 mm or longer larvae, cast skins, larval or cast skin fragments of corn ear worm or corn borer, *and* aggregate length of such larvae, cast skins, larval or cast skin fragments exceeds 12 mm.

Greens Canned: Average of more than 10% of leaves by count or weight show mildew over ½" in diameter.

Mushrooms, canned: 1. Average of over 20 larvae per 100 grams of drained mushrooms and proportionate liquid; or average of over five 2 mm. or longer larvae per 100 grams of drained mushrooms and proportionate liquid.

2. Mites—average of 75 mites per 100 grams drained mushrooms and proportionate liquid.

3. Decomposition—average of over 10% decomposed mushrooms.

Peas, Black-Eyed, Canned (cowpeas, field peas): Average of 5 cowpea curculio larvae or the equivalent per No. 2 can.

Peas, Black-Eyed, Dried (cowpeas, field peas): Average 10% or more by count insect damage.

Peas and Beans—Dried: Average more than 5% by count insect infested and/or insect damaged by storage insects.

Spinach, canned or frozen: Canned only: average of more than 60 aphids per 100 grams of drained spinach, and 25% of the subsamples contain more than 100 aphids per 100 grams of drained spinach; or 2 spinach worms (caterpillars) of 5 mm. in length are present in 12 No. 2 cans.

Canned or Frozen: if spinach leaf miners average over 9/100 grams with more than half the larvae over two mm. in length. Average of more than 10% leaves by count or weight show mildew over ½" in diameter.

Tomatoes and Tomato Products:

Canned Tomatoes: 10 fruit fly eggs per 500 grams or 5 fruit fly eggs and 1 larvae per 100 grams, or 2 larvae per 100 grams.

Tomato Juice: 10 fruit fly eggs per 100 grams or 5 fruit fly eggs and 1 larva per 100 grams, or 2 larvae per 100 grams.

Tomato Puree: 20 fruit fly eggs per 100 grams or 10 fruit fly eggs and 1 larvae per 100 grams, or 2 larvae per 100 grams.

Tomato Paste, Pizza and Other Sauces: 30 fruit fly eggs per 100 grams, or 15 fruit fly eggs and 1 larvae per 100 grams, or 2 larvae per 100 grams.

Tomato Catsup: Microscopic mold count average exceeding 30%.

Tomato Juice: Microscopic mold count average exceeding 20%.

Tomato Paste or Puree: Microscopic mold count average exceeding 40%.

Tomato Sauce (Undiluted): Microscopic mold count average exceeding 40%.

Canned Tomatoes, with or without added tomato juice: Microscopic mold count average of the drained juice exceeding 15%.

Canned Tomatoes Packed in Tomato Puree: Microscopic mold count average of the drained packing media exceeding 25%.

Pizza Sauce (Based on 6% Total Tomato Solids after Pulping): Microscopic mold count average exceeding 30%.

Tomato Soup and Other Tomato Products: Microscopic mold count average exceeding 40%.

The following is the text of Dr. Christensen's article:

MICROFLORA OF BLACK AND RED PEPPER

(By C. M. Christensen, H. A. Fanse, G. H. Nelson, Fern Bates, and C. J. Mirocha, Department of Plant Pathology, and College of Veterinary Medicine, University of Minnesota, St. Paul, Minn.)

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Dilution cultures of 30 samples of ground black pepper yielded an average of 39,000 colonies of fungi per g, with a range of 1,700 to 310,000 per g. Total numbers of colonies of bacteria from 11 samples averaged 194,000,000 per g, with a range from 8,300,000 to 704,000,000 per g. A variety of fungi grew from nearly all surface-disinfected whole peppercorns that were cultured. Thirteen samples of ground red pepper from the United States yielded an average of 1,600 colonies of storage fungi per g and an equal number of other fungi; five samples from India yielded an average of 78,900 colonies of storage fungi per g and 169,400 colonies of other fungi per g. Among the fungi from both black and red pepper were *Aspergillus flavus* and *A. ochreceus*, some isolates of which, when grown for 8 to 10 days on moist autoclaved corn and fed to white rats or to 2-day-old Pekin ducklings, were rapidly lethal to them. Aflatoxin B_1 was isolated from one of the samples of corn which *A. flavus* from black pepper was grown. Among the bacteria isolated from ground black pepper were *Escherichia coli, E. freudii, Serratia* sp., *Klebsiella* sp., *Bacillus* sp., *Staphylococcus* sp., and *Streptococcus* sp. No cultures of *Shigella* or *Salmonella* were found.

Black pepper is the fruit of *Piper nigrum* L., and is produced chiefly in India and Indonesia; white pepper consists of seeds of the same plant, divested of the tissues that make up the fleshy outer portion of the fresh fruits. Red peppers are the fruit of several species of *Capsicum*, cultivated in many countries. These spices do not undergo any processing, other than drying and grinding, before being added to foods. Over the past 15 years, one of us (C. M. Christensen) has repeatedly cultured various food products to determine the numbers and kinds of fungi present in them. Samples of whole or ground black pepper from various sources usually were included among these, and every sample of black pepper so cultured yielded large numbers of colonies of several species of *Aspergillus*. The *A. glaucus* and *A. restrictus* groups predominated in most samples, but occasionally rather large numbers of colonies of *A. flavus* and *A. ochraceus* were found. In view of the present interest in some of these fungi as possible producers of toxins, a more thorough investigation of the microflora of black and red pepper was thought to be of interest, and the present paper summarizes the results to date.

MATERIALS AND METHODS

Number and source of samples. A total of 55 samples of black pepper were cultured, 50 of ground black pepper and 5 of whole peppercorns. A few samples of whole and ground white pepper were included. Of the 55 samples of black pepper, 30 were bought in stores in or near St. Paul, and comprised 8 brands; 4 came from homes; 3 from passenger planes of different airlines; 1 from a U.S. Navy supply ship; and the rest from restaurants and clubs in Minnesota, Massachusetts, New York, Maryland, and Washington, D.C., in the U.S.; and from London, England; Warsaw, Poland; and New Delhi, India. Nineteen samples of red pepper were cultured; 13 were bought in stores in St. Paul, and were presumably from fruits grown in this country; the other 6 were from India.

Microscopic examination. Whole peppercorns, usually 100 of each sample, were sectioned, and the cavities within the outer rind and within the seed were examined for mycelium, sporophores, or decayed tissues.

Culture media and methods. Several culture media were tested, as described below. Whole peppercorns, usually 100 to 200 of each sample, were cultured with and without previous surface disinfection (surface disinfection consisted of shaking the kernels for 1 min in 2% NaClO, followed by a sterile water rinse). The samples of ground pepper were cultured by various means. If only a small amount of pepper was available, as was true of many of the samples collected in restaurants and planes, or obtained from homes, portions of 10 mg each were weighed out on sterile metal foil and scattered on each of two or more culture dishes. Where larger amounts were available, as with the samples bought in stores, dilution cultures were made as follows: for fungi, 100 mg of ground pepper was suspended in 50 ml of 0.12% solution of sterile agar in water contained in milk dilution bottles: the dilute agar solution kept the particles suspended uniformly. Each bottle was shaken briskly 100 times; then two or more portions of 1 ml each were put in sterile petri dishes, melted agar cooled to 50 to 52 C was added, the contents were swirled to suspend the material uniformly, and the agar was allowed to harden. Alternatively, 1-ml portions were pipetted onto the surface of the agar in each of two or more replicate dishes. Some of the lots of pepper, in which the first tests had revealed large numbers of colonies of fungi per gram, were cultured repeatedly, at different dilutions up to 1:5,000, with 4 to 10 plates per dilution. To determine the total number of colonies of bacteria per gram, 1 g of ground pepper was comminuted in 500 ml of the suspension medium in a blender for 1.5 min, and 5 ml of the resulting suspension was placed in 500 ml of suspension medium and shaken 100 times; 5 ml of this was placed in 500 ml of the suspension medium and similarly shaken. Portions of 1 ml of each of the second and third suspensions were pipetted into each of four dishes, and tryptone-glucose-yeast-agar (1) cooled to 50 C was added. The dishes were swirled to distribute the suspension uniformly and were incubated at 30 C. Colonies were counted after 24 and 48 hr. Controls consisted of autoclaved ground pepper or autoclaved sand, cultured by all of the above methods. All dilutions and cultures were made in a sterile air hood. No colonies of fungi and very few colonies of bacteria developed in any of the control cultures.

RESULTS

Microscopic examination. Some kernels of almost every lot of black pepper had relatively conspicuous mycelium or sporophores in cavities of the outer rind, and masses of mycelium were present in at least a few kernels of all of the several samples of whole white pepper examined. One sample of whole white pepper yielded almost no fungi from surface-disinfected seeds, but a mass of mycelium occupied the center of approximately 5% of the split seeds. The central portion of the seeds of a small percentage of both black and white pepper kernels of every sample was discolored and soft, presumably as a result of decay. In one sample of whole black pepper from a local store, *an animal dropping, presumably that of a rodent*, was found, of about the same size as the peppercorns; in another sample, most of the central portion of one seed had been *consumed by an insect and the resulting cavity was partly filled with insect excretia*. Peppercorns presumably hollowed out by insects are shown in Fig. 1 (not reproduced).

Protozoa. About 50 kernels of each of the five samples of whole black pepper were put in sterile distilled water in petri dishes, incubated at 25 C. and examined daily. Within 3 days, large ciliated protozoa were numerous in three of the samples, especially in the one from New Delhi, India, that had been harvested only a few months before it was cultured. The protozoa were similar in appearance to those isolated from "weathered" (fungus stained) barley (6), but were not identified.

Culture media for fungi. Numbers of colonies of fungi per gram cultured from one sample of ground black pepper on four agar media are given in Table 1. The largest numbers of colonies were obtained on media containing 6% NaCl. Other media tested were acid potato-dextrose-agra (PDA) with 0, 6, and 10% NaCl, and 2% malt extract-agar with 6 and 10% NaCl. Media with high osmotic pressure have long been used to detect osmophilic fungi in stored grains and other materials (3, 4, 8). Some samples of ground pepper yielded larger numbers of colonies of the *A. glaucus* and *A. restrictus* groups when cultured on media with 10% NaCl than on those with 6% NaCl, but many fewer colonies of the *A. flavus* and *A. ochraceus* groups. The medium designated T6A (Difco powdered Tomato Juice Agar, 25 g; agar, 15 g; NaCl, technical grade, 60 g; distilled water, 900 g; plus 30 ppm of chlortetracycline added just before the agar was poured into plates usually yielded a larger number of colonies of more species of fungi than any of the others tested, and so was used as the standard throughout the subsequent work.

TABLE 1.—INFLUENCE OF THE MEDIUM ON THE NUMBER OF COLONIES OF ASPERGILLUS GLAUCUS AND A. FLAVUS CULTURED FROM 1 SAMPLE OF BLACK PEPPER

Medium [1]	Colonies per g.	
	A. glaucus	A. flavus
Cz3	100	500
Cz6A	1,000	250
Cz6	3,000	800
T6A	5,000	650

[1] Cz3=Czapek's agar with 3 percent sucrose; Cz6A=Czapek's agar with 3 percent sucrose, 6 percent NaCl, and 30 p.p.m. of chlortetracycline; Cz6-Czapek's agar with 3 percent sucrose and 6 percent NaCl; T6A=Difco powdered tomato juice agar, 25 g; Difco agar, 15 g; NaCl, technical grade, 60 g; and distilled water, 900 g; 30 p.p.m. of chlortetracycline was added just before the agar was poured into petri dishes.

TABLE 2.—FUNGI ISOLATED FROM SURFACE-DISINFECTED WHOLE PEPPERCORNS

Sample No.	Percentage of surface-disinfected peppercorns yielding—				
	A. glaucus	A. dacus	A. ochraceus	A. niger	Sporendonema
1	100	5	31	0	30
2	100	4	11	0	(1)
3	100	2	5	5	[2] 25
4	100	11	13	6	0
8	100	54	84	8	50

[1] Scopulariopsis from 10 percent of surface-disinfected peppercorns.

[2] Plus Scopulariopsis from 20 percent of surface-disinfected peppercorns.

Fungi isolated from whole peppercorns. All whole peppercorns cultured without surface disinfection yielded a heavy growth of fungi, principally *Aspergillus* and *Sporendonema*, from all over their surfaces. The fungi cultured from surface-disinfected peppercorns are listed in Table 2. Cereal grains are not invaded by storage fungi to any significant degree before harvest (10, 11), and the nature of the pepper fruit, with a pulpy flesh and heavy skin, makes it highly probable that it, also, is not invaded by storage fungi before harvest. It seems likely that the samples tested were, subsequent to harvest, exposed to conditions that permitted moderate to heavy invasion by storage and decay fungi. We have encountered *Sporendonema* (in several of our published reports misiden-

tified as *Geotrichum*) in many lots of grains that had undergone deterioration in storage (2), and we consider that its presence in large numbers in such grains is circumstantial evidence that some spoilage has occurred. *Scopulariopsis* (Table 2) is described (9) as ". . . abundant in nature, especially upon vegetation in the later stages of decay . . .," further evidence that some lots of peppercorns may have undergone decay.

Fungi isolated from ground pepper. Numbers of colonies of fungi per gram of black pepper were determined in the 30 samples of which sufficient amounts were available for repeated tests. The average number of colonies per gram in these 30 samples was 39,000 (range, 1,700 to 310,000). Ten of the samples contained more than 10,000 colonies per g and five had more than 100,000 per g. The *A. glaucus* and *A. restrictus* groups predominated in nearly all samples, but relatively large numbers of colonies of *A. flavus* and *A. ochraceus* were obtained from some samples. The sample from which the largest number of colonies of *A. flavus* was cultured (20,000 per g) was a lot of 5 lb. bought through the University Food Stores; this same sample was one of the five that yielded more than 100,000 total colonies of fungi per g. Of the other four which yielded such high numbers of colonies per gram, two were 2-oz. tins bought in local stores and sealed until opened in the laboratory (both were of the same brand but were bought in different stores and at different times), one came from the dining room of an armed services officers' club in Washington, D.C., and the other was from a plane of an international airline. *A. niger* was moderately abundant in a few samples, whereas *A. candidus* and *Penicillium* were uncommon.

The numbers of colonies of fungi per gram were also determined in 19 samples of red pepper.

13 from the United States and 6 from India. The fungi isolated were classified into two groups: storage fungi (*A. glaucus, A. cundidus, A. flavus,* and *A. ochrceus*) and other fungi (mainly *A. niger, Penicillium* spp., and *Rhizopus* spp.). The samples from the United States averaged 1,600 colonies of each type per g. With the samples from India, the average number of colonies per gram was 78,900 for the storage fungi and 169,400 for the other fungi. Two of the samples of red pepper from India yielded slightly more than 200,000 colonies of *A. flavus* per g.

Portions of 10 mg each of a number of samples of ground black and red pepper were scattered directly on the surface of T6A agar in petri dishes, which were then incubated at 25 to 30 C for 20 hr and examined microscopically through the bottom of the unopened dishes. From many particles of some samples, masses of hyphae had grown out in that short time, as shown in Fig. 2. Many individual germinating spores were observed also, but these had given rise to only one or two relatively short germ tubes with a few hyphal branches; it seems probable that the masses of hyphae arose either from a relatively large number of spores or from clumps of mycelium. This is circumstantial evidence that the pepper had been invaded by the fungi, not merely contaminated by airborne spores from some other source.

Bacteria. Total numbers of bacteria were determined in 11 samples of black pepper; the average was 194,000,000 per g with a range from 8,300,000 to 704,000,000 per g. (the latter from the sample of 5 lb of black pepper mentioned above.) Portions of six samples of black pepper were combined and cultured to determine the presence of various kinds of bacteria; the following were identified: *Escherichia coli, E. freundii, Serrratia* sp., *Klebsiella* sp., *Bacillus* sp., *Staphylo coccus* sp., and *Streptococcus* sp. Although media and techniques designed for their detection were used, no *Shigella* or *Salmonella* were found.

Toxicity tests. Ten isolates of *A. flavus* were selected from dilution cultures of each of two samples of black pepper bought in local stores; both samples had yielded more than 100,000 colonies of fungi per g including up to 15,000 colonies of *A. flavus* per gram. Each isolate was inoculated into autoclaved moist corn and incubated for 8 days at 25 C; then the corn was dried and each sample was fed to four 2-day-old Pekin ducklings as the sole ration. Six of the 10 isolates from one sample of pepper, and 1 of 10 from the other resulted in death, in from 1 to 4 days, of all four ducklings to which each was fed. Five isolates of *A. flavus* from one sample of red pepper were similarly grown, and fed to two 21-day-old white rats as their sole ration; three of these resulted in death, in 6 to 7 days, of both of the rats to which each was fed. Ten isolates of *A. oehraceus* from the same sample of red pepper were similarly grown and each was fed to a pair of rats; eight of these resulted in death, in from 4 to 10 days, of both members of the pair to which they were fed, and the remaining two isolates resulted in death of one member of each pair, in 6 to 9 days. In all cases of death, symptoms included subdural hemorrhages, hemorrhage into the gastrointestinal lumen, and hemoglobinuria.

Aflatoxin determination. The corn samples inoculated with *A. flavus* as described above were pooled and analyzed according to the method developed by the Food and Drug Administration (7) for determining the presence of aflatoxin B_1 in an attempt to identify the lethal factor responsible for the death of the Pekin ducklings.

Thin layer chromatography of the extract revealed the presence of a chemical constituent which had the same R_F value as aflatoxin B_1. The identity was based on comparing the migration distance of the unknown compound with and without an internal standard. The chemical constituents suspected of being aflatoxin B_1 on the chromatograph were eluted off with ethyl alcohol, and the ultraviolet absorption maxima were compared with that of the aflatoxin standard. The absorption characteristics were found to be identical. The extract was also incorporated into clean corn and fed to four Pekin ducklings; death resulted after 3 days. *All three tests substantiated the presence of aflatoxin in the corn on which the A. flavus isolates ha. grown.*

One isolate of *A. flavus* found to be toxic in the feeding tests above was tested for its ability to produce aflatoxin in the liquid YES medium (5) containing 10% sucrose. Cultures of this isolate were grown for 5 and 7 days at room temperature and then were extracted with chloroform. The chloroform was concentrated on a flash evaporator, and the constituents of the concentrate were separated by thin-layer chromatography. The extracts of both the 5- and 7-day cultures contained compounds with R_F values identical with that of aflatoxin B_1. These compounds were eluted off the chromatography plates with ethyl alcohol; their ultraviolet absorption spectrum was compared with that of aflatoxin B_1 and was found to be different. The absorption maximum at 360 mμ was lacking, and the 265-mμ band shifted to 270 mμ. Other tests in our laboratory have shown that aflatoxin B_1 can break down when subjected to ultraviolet irradiation or column chromatography on silica gel with absorption changes similar to those found in the culture filtrate above. The data obtained showing the liability of aflatoxin B_1 on chromatography columns suggest that the metabolite obtained from the culture filtrate was a breakdown intermediate of aflatoxin B_1.

The extract of the filtrate from the 5-day-old cultures was incorporated into corn and fed to four Pekin ducklings, all of which died within 2 days. These results support the conclusion that the chemical constituents of the culture filtrate of *A. flavus* having the R_F value identical to that of aflatoxin B_1 was a closely related derivative of the latter.

DISCUSSION

The results here reported constitute a preliminary survey of the microflora of black and red peppers. All of the samples of black pepper, and all of the samples of red pepper that came from India, were heavily invaded or contaminated with both fungi and bacteria. The fungi comprised mainly species of *Aspergillus*, including *A. flavus* and *A. ochraceus*. Several isolates of both of these group species, from samples in which one or both were abundant, when grown in moist autoclaved corn for 7 to 10 days and fed to ducklings or rats, resulted in rapid death of the test animals. Whether these spices, which may contain up to several hundred thousand fungus spores per gram, including some potentially toxic species, and up to several hundred million bacteria per gram, including *E. coli*, ever constitute a hazard to the health of those who consume them, is a question that eventually must be answered, and it is expected that our work with these products will continue. In any case, the results indicate that many samples of black and red peppers that originate in the tropics, although "pure" in the sense that they are not grossly adulterated with foreign matter, are far from pure microbiologically.

LITERATURE CITED

1. American Association of Cereal Chemists. 1962. Cereal laboratory methods, 7th ed. American Association of Cereal Chemists, St. Paul, Minn.

2. Christensen, C. M. and H. H. Kaufmann. 1965. Deterioration of stored grains by fungi. Ann. Rev. Phytopathol 3:69–84.

3. Christensen, C. M., and P. Linko. 1963. Moisture contents of hard red winter wheat as determined by meters and by oven drying, and influence of small differences in moisture content upon subsequent deterioration in storage. Cereal Chem. 40:129–137.

4. Christensen, C. M., G. C. Papavizas, and C. R. Benjamin. 1959. A new halophilic species of Eurotium. Mycologia 51:636, 640.

5. Davis, N. D., U. L. Diener, and D. W. Eldridge. 1966. Production of aflatoxins B_1 and G_1 by *Aspergillus flavus* in a semisynthetic medium. Appl. Microbiol. 14:378–380.

6. Kotheimer, J. B., and C. M. Christensen. 1961. Microflora of barley kernels. Wallerstein Lab. Commun. 24:21–27.

7. Nesheim, S. D. Banes, L. Stoloff, and A. D. Campbell. 1964. Note on aflatoxin analysis in peanuts and peanut products. Assoc. Offic. Analytical Chemists 47:586.

8. Raper, K. B., and D. I. Fennell. 1965. The genus Aspergillus. The Williams & Wilkins Co., Baltimore.

9. Thom, C. 1930. The penicillia. The Williams & Wilkins Co., Baltimore.

10. Tuite, J. F. 1961. Low incidence of storage molds in freshly harvested seed of soft red winter wheat. Plant Disease Reptr. 43:470.

11. Tuite, J. F., and C. M. Christensen. 1957. Grain storage studies 23. Time of invasion of wheat seed by various species of Aspergillus responsible for deterioration of stored grain, and source of inoculum of these fungi. Phytopathology 47:265 268.

STATEMENT OF JONATHAN BINGHAM FOR THE BODY OF THE RECORD UPGRADING NURSING AND LONG-TERM CARE FOR THE ELDERLY

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am introducing today a package of bills which

are aimed at providing a comprehensive solution to the problems of nursing and long-term care for America's elderly citizens. The measures are similar to ones introduced in the Senate by Mr. Moss of Utah. Among other things, they would expand medicare coverage to include nursing home services, encourage strict compliance with Federal standards for nursing homes, and develop new programs to insure better health and long-term care.

The present nursing home system has perpetuated substandard care for many of the 1-million residents of such homes, and has failed to minimize suffering and to enhance the lives of the elderly. I believe the Congress must fashion a creative attack on the root causes of poor care and neglect of the elderly, which include indecisive Federal leadership, lax compliance with proper health and safety standards, and inadequate delivery of proper medical care.

The five proposals I am introducing today would deal directly with these basic problems in several ways. They would:

First, commit the Federal Government to supporting proper long-term care for the elderly.

Presently, only a small minority of elderly qualify for long-term, post-hospital care. But under my legislation, the cost of 365 days a year in a skilled nursing home would be covered by medicare, and home health care and private duty nursing services would be covered by medicaid. Furthermore, the legislation would encourage development of alternative long-term care programs. For example, certain families would be subsidized to care for their elderly at home. Other senior citizens would be encouraged to attend "senior citizen day care centers" which would assist the elderly during the day, thus freeing relatives to work and eliminating much of the premature institutionalization we have today. In addition, new "campuses for the elderly" with many facilities, from nursing homes to community centers and residential dwellings, would be built to provide a new way of life for the elderly.

Second, require greater compliance with Federal safety standards and expand public awareness of health and safety standards at nursing homes.

Last year, the General Accounting Office revealed that 50 percent of the nursing homes in New York, Michigan, and Oklahoma, did not meet minimum Federal fire safety standards. My legislation would make it mandatory for all homes receiving Federal assistance to comply with the life safety code of the National Fire Protection Association. Further, the bills would require full disclosure of nursing home licensing, certification, and inspection records to provide reliable information to consumers about homes and stimulate administrative action to upgrade substandard homes.

Third, stimulate scientific research into the medical problems of aging and expand the number of trained personnel caring for the elderly.

Few of our Nation's medical schools emphasize the specialty of geriatrics—the branch of medicine dealing with the health problems of aging. Further, as Senator Moss' Subcommittee on Long-Term Care discovered, the practice of medicine at nursing homes is substandard, with doctors conducting it almost entirely by telephone. My bills would encourage new interest in the medical problems of the elderly by creating a National Institute of Geriatrics in the Public Health Service and establishing departments of geriatrics in our Nation's medical schools. Additionally, approximately five times as many trained nurses work in hospitals as in nursing homes. The bulk of the staff is overworked and the turnover rate runs as high as 75 percent per year. To help increase skilled staff, I propose training veterans and others to serve as medical assistants and paraprofessional aides.

Mr. Speaker, only a massive Federal effort directed at the causes of neglect and poor care of the elderly can permit all Americans to age with reasonable dignity, comfort, and security. We must insure that life in nursing homes is not marred by loneliness, despair, and inadequate or irresponsible care. Our Nation has shamefully cast elder Americans aside as if aging were a crime. To permit aging with grace and proper care must be our goal for the coming years.

CONFLICTS ON CONTRACT AWARDS

(Mr. GREEN of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GREEN of Pennsylvania. Mr. Speaker, let me get right to the point. I would like to see this House or the Senate committee which is looking into the affairs of IT&T take a hard look at the Treasury Department to determine whether any conflicts exist there on contract awards. I will say at the outset that I have no proof, but some companies are given such preferential treatment that one must wonder whether Treasury Department officers have been in the employ of these companies in the past or whether contributions have been made by the company officials to the campaign. A look at the record is in order. I suppose every administration helps its friends but it become unconscionable when that help actually hurts this country, its economy, its industry, and its labor force.

Over the past few months, there has been some very strange shenanigans taking place at the Treasury Department and the Bureau of Engraving with respect to an invitation to bid on certain presses to be utilized in printing U.S. stamps.

The invitation to bid was issued to the Crown, Cork & Seal Co., of Philadelphia, on May 3, 1971, by the Bureau of Engraving.

However, the specifications for the presses were loosely drawn, and it was necessary for Crown personnel to meet with Mr. John Seymour, the Bureau's chief engineer, on three different occasions in order to get the specifications narrowed. During these meetings, it was obvious that the specifications were drawn on the basis of presses manufactured by a foreign company—the DeGiori organization of Germany. Nevertheless, Crown personnel worked diligently with the Bureau to clarify the specifications, and assured Mr. Seymour that Crown could, and would, fully comply with them.

The bids were first opened on June 22, 1971, and Crown's was higher than the foreign manufacturer's bid by $1.4 million. Bureau personnel admitted that this high bid resulted from excessively broad specifications, and that it was rejected because it envisioned a "Cadillac" rather than a "Ford." Crown personnel were not informed that the company's bid did not conform to specifications. The foreign competitor's bid was also rejected, however, because it contained an open escalation clause which violated Federal Procurement Regulations.

On June 31, 1971, Crown was invited to negotiate the bid. On August 4, 1971, a meeting was held with Mr. Conlon of the Bureau at which broad public policy questions regarding domestic employment needs, the balance of payments situation, and the Bureau's need for domestic supplies were discussed.

The negotiation meetings took place on August 17, and Crown was informed for the first time of its need for an "automatic transfer press" and of the Bureau's beliefs that such a press was not available from U.S. sources and that Crown could not obtain one from the foreign market. Crown indicated that, although it had no design for, and did not manufacture, such a press, it would develop or procure one from American sources. Also at this meeting, Bureau personnel mentioned "standard related attachments" for the first time, but refused to indicate what such "attachments" included, despite inquiries by Crown.

On September 2, 1971, Crown's engineer informed Dr. Seymour that it had made arrangements to subcontract the required Automatic Transfer Press to the General Electric Co.

On September 7, 1971, Crown submitted its new bid which, due to price differentials allowed under the Buy America Act and regulations regarding manufacturers in areas of substantial unemployment, was below the foreign competitor's bid by approximately $250,000. Later, the foreign company, through some unexplained maneuver, unilaterally reduced its price so that it was $9,000 below Crown's.

Subsequently, Crown personnel called the Bureau daily for 2 months to inquire about the bid's status. The Bureau refused to respond until November 3 when it informed Crown that, because of price and because of "noncompliance with certain technical aspects," its bid was rejected, and that the contract was awarded to the foreign company.

Crown filed a protest with the Comptroller General on November 11, 1971. It also urged the Treasury Department to exercise its discretion and set aside the award for reasons of announced U.S. policy to buy American, to reduce unemployment, and to surtax imports.

On November 17, 1971, Mr. John F. Connelly, Crown's esteemed chairman of the board, was advised in a telephone

conversation with William L. Dickey, Deputy Assistant Secretary of the Treasury for Enforcement, Tariff, and Trade Affairs, and Operations, that the award had been postponed pending investigation. However, on December 16, Crown's attorney was informed by Roy T. Englert, deputy general counsel, Treasury Department, that the award had, in fact, never been set aside, but that, rather, it had been in full force since originally made on November 3, 1971.

In the meantime, Crown had been trying, in vain, to learn what "technical objections" existed to its bid. However, a meeting with Bureau personnel did not take place until December 23, 1971, at which time Crown was first presented a letter setting forth the objections. Crown personnel were accorded no time to study the objections, and were forced to respond to them hastily.

Mr. Connelly protested vigorously to Secretary of the Treasury John B. Connally on January 10, 1972, to no avail.

How the Treasury Department can, in good conscience, seek to have this award upheld is beyond me. The foregoing chain of events reveals a number of improprieties. First, the Bureau of Engraving's specifications were, by its own admission, unclear and overbroad, and this caused an erroneous initial bid. Also, they were drawn with foreign manufacturers in mind. Second, the Bureau misled Crown into believing that its initial bid was rejected only because of price differential. Third, the Bureau delayed telling Crown of the "automatic transfer press" requirement, and it refused to make itself clear as to what was meant by "standard related attachments." Fourth, when it realized that Crown had underbid the foreign company, the Bureau permitted the foreign company to alter its bid without explanation. Fifth, the Bureau unduly delayed making a decision, and it refused to advise Crown of the bid's status. Sixth, the Bureau refused to explain its "technical objections." Seventh, when the Bureau finally did decide to explain these objections, it did not premit ample time for response thereto. Eighth, the Department of Treasury lied about the award's postponement.

And these improprieties are compounded by the fact that the Bureau and Department ignored the policy considerations involved. Indeed, it would seem that there was a bias in favor of the foreign company and that such bias was, and continues to be, paramount to the public interest. Had Crown been awarded this contract, 300 jobs would have been created in the Baltimore area, and many more would have resulted from the subcontract with General Electric. Also, the Bureau would have attained a domestic supplier for its needs, and more money would have been added to the American, Philadelphia, and Baltimore economies. All of this notwithstanding, the contract was awarded to a foreign competitor.

At this point, Mr. Speaker, I am inserting Mr. John F. Connally's letter to the Secretary of the Treasury. This letter clearly amplifies the outrage that has taken place in this case.

CROWN CORK & SEAL CO., INC.,
Philadelphia, Pa., January 10, 1972.

Re: The Bureau of Engraving and Printing Solicitation No. 93.

Hon. JOHN B. CONNALLY,
The Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. CONNALLY: On September 7, 1971, we submitted our proposal of $3,257,000 to build printing presses to print American stamps in accordance with the specifications furnished by the Bureau of Engraving and Printing (BEP).

We were informed by BEP that this would be a competitive bid and that our manufacturing facility in Baltimore, Maryland, would have to be inspected and approved by the BEP before the final award.

Thereafter, nearly every day some member of our organization contacted various personnel of the Bureau of Engraving to inquire if any additional help or information might be needed, or if any deficiency existed in our proposal. We also inquired when the Bureau would make the inspection of our Baltimore Plant which they had emphasized was very necessary before reaching a final decision.

We were shocked to receive a letter on November 3, stating that the order was awarded to a German company because their bid was $9,000 lower than ours, and further, for alleged non-compliance with certain undefined technical aspects.

Never once during the time between September 7 and November 3, nearly two months, in spite of our numerous inquiries, was any mention ever made of any deficiency nor was any attempt made by the Bureau's personnel to clarify our proposal, if any clarification was necessary.

Immediately after receiving the Bureau's letter of November 3, which is enclosed, a formal protest was made to The Honorable Elmer B. Staats, the Comptroller General of the United States, and the Bureau of Engraving and Printing was advised at the same time.

To avoid loss of time, we protested in your absence directly to the Under Secretary of the Treasury, Dr. Charls Walker, stating that the award to the German company was contrary to the expressed policy of President Nixon to buy American, to reduce unemployment, that it was obviously contrary to the purpose of surtax against imports. It was also in opposition to your own efforts to reverse the balance of payments situation and stop the flow of money out of the country.

We repeatedly asked that until a proper investigation could be made that the Bureau of Engraving be asked not to place the formal order with the German company and, if commitments had been made, to put a hold on the order and prevent any work being started.

Shortly after filing the protest, I was personally informed by telephone by Mr. William L. Dickey, Deputy Assistant Secretary of the Treasury, that a hold on the order was in effect. There is no reason for any misunderstanding over this for we had asked that the order be held up. The call was made by him and when he made the statement I expressed surprise and delight, and asked if he was sure there was a hold on the order. He assured me that there was.

At the time of the telephone call, two men were in my office, Mr. Matthew McCloskey and Mr. Richard Krzyzanowski. Both heard my part of the conversation. I made a memo of the conversation and advised our supporters accordingly. I am stressing this matter since later we were advised that the award to the German company was never held up.

We were encouraged in our efforts by the support of the Office of the Vice President of the U.S.A., Senator Hugh Scott, Senator Beall, Senator Mathias, Governor Mandel of Maryland and various congressmen.

We made many attempts to arrange a conference with members of your staff. Our efforts were completely futile. Finally a meeting was arranged on December 15, 1971 by Mr. James W. Riddell, our attorney. This meeting was attended by: Dr. Charles Walker, Under Secretary of the Treasury; Eugene Rossides, Assistant Secretary of the Treasury; Kenneth Davis of Senator Scott's office; David Markey of Senator Beall's office; and representatives of Crown Cork & Seal Company, Inc.

At the meeting, we presented to Dr. Walker the evidence of our technological competence to meet the requirements of the Bureau and he appeared favorably impressed. He suggested that we immediately send a letter to Mr. Conlon, Director of the BEP requesting a meeting to discuss the alleged technical aspects not complied with. A letter requesting such a meeting was sent that same day, Wednesday, December 15. Because of the critical aspect of time, we telephoned the BEP several times each day on Thursday, the 16th, Friday, the 17th, Saturday, the 18th, Monday, the 20th and Tuesday, the 21st, but each time we were advised that Mr. Conlon was not available.

Late Tuesday afternoon, December 21, Senator Hugh Scott called and said he had also tried to get Mr. Conlon and was advised he was not available and stated he would insist that the meeting suggested by Dr. Charles Walker be arranged.

At 9:20 that night (Tuesday, December 21), Senator Scott called me at home and advised that he had scheduled a meeting for 10:00 A.M. on Thursday, December 23, and that a letter outlining alleged deficiencies would be delivered to us the following morning.

I learned that Mr. Laverne Butcher, Vice President of Crown, at about 6:45 P.M. on the 21st had received a call from Mr. Conlon advising of the meeting, which was apparently forced on the Bureau through Senator Scott's intervention.

We attended the meeting on Thursday, December 23, unprepared because we had not received the letter from BEP. We were then handed a letter dated December 22, a copy of which is attached, with a casual explanation that there had been some problems in getting it typed. We asked for a caucus to read the letter. Normally we would have asked for a postponement in order to study the letter and to present our reply, but because of the many previous delays and the Christmas season being on hand, we feared further delay, so we returned to the meeting.

Mr. Conlon, Director of the BEP, very eloquently defended the actions of the Bureau but the more he explained, the more obvious it became that it is not a technical deficiency at the base of this problem, but uncalled for, unfair favoritism towards the German company with a total lack of consideration on their part for Crown or for any other American company.

His letter is filled with comments and questions that should have been asked of any prospective bidder prior to a decision. Each and every item could have been adequately answered. His letter even claims that we submitted a new offer on August 17, and then withdrew it. Mr. Conlon admitted that he was in error and that this did not occur, yet he made it seem important by including it in his letter. Why?

Mr. Conlon made numerous references about wanting twentieth century equipment. We made what we considered a very good suggestion that they combine the ink drier for both the letter and offset printing, which would save considerable money to the Government. Mr. Conlon and his associates rejected this suggestion. This is their right and we accepted their decision and

included their system in our proposal, but Mr. Conlon and his associates will *live* to see the day that this fine feature will exist in future equipment. How in the world can this good practical suggestion be called a major deficiency?

Let me give another example dealing with the automatic transfer press:

Mr. Conlon stated that BEP specifications in this matter are such that no U.S. company could manufacture this component. To obtain the Bureau's contract, we told the BEP that we would develop this component or could procure it from a U.S. source. BEP was informed that we contacted the General Electric Company, and we assured the BEP that it would be ready prior to the delivery of the presses. Instead of giving an opportunity to a U.S. company, Mr. Conlon chose to procure it from abroad, and fitted his specifications to that very purpose.

Mr. Conlon on Page 3, Paragraph 2 of his letter writes: "Since that time (November 3, 1971) until receipt of your letter of December 15 we have received no request from Crown Cork & Seal for discussion of the deficiencies identified in your proposal." How can this statement be made in the light of our official protest to the Controller General of the United States, to the BEP and to the Treasury Department? It was not until the meeting was forced on the BFP that we succeeded in learning anything about so-called deficiencies.

We charge that the attitude of the BEP is full of bias and prejudice in favor of this particular German company and feel that if Crown had been given a fair opportunity, this problem would not exist.

We think it is now time to make the following statements:

1. Crown is confident of its ability and does have the technical know-how to build this equipment in accordance with the specifications of the BEP, and has included into its bid all the items contained in the specifications.

2. It is our opinion that if Crown had not bid then the BEP, through lack of competition, would have had to pay a higher price to the German company.

3. That in the future if Crown, as the only American manufacturer, is excluded or withdraws, the BEP will be wholly dependent on a single foreign source of supply and will find themselves in a noncompetitive position.

4. That $9,000 is a ridiculously low sum to save in comparison to the corporate taxes that Crown will pay to the U.S. Treasury in building this and future equipment.

5. That $9,000 is a ridiculously low sum to save in comparison to the income taxes that the United States will receive from the wages of the men and women employed in manufacturing this equipment.

6. That this machinery will be built in Baltimore, an area of persistent and substantial unemployment, and more than 300 members of the International Association of Machinists will be employed.

7. That Crown has been since 1892 a builder of very precise equipment and has a splendid engineering department to design and build special equipment.

8. We invite you to visit and inspect our machine plant and engineering department in Baltimore.

9. It was specifically to expand our efforts on a worldwide basis that we purchased the most highly respected printing press manufacturer in the world—R. Hoe Company. This company has for many years built printing presses for printing and decoration on metal, an art that is far more difficult than printing on paper.

10. Later we augmented our organization by buying the Huck Company, a splendid organization with many fine engineers of great experience. This organization was headed by W. F. Huck, a brilliant, imaginative genius.

11. Our sales analysis indicates that there is a need for more than $100,000,000 worth of printing equipment throughout the world, not including the U.S.A., and we hope to get a good share of it. We have the ability to properly solicit this business because we successfully operate wholly-owned subsidiaries in the following countries: Angola, Argentina, Belgium, Brazil, Canada, Chile, Colombia, Congo, Costa Rica, Ecuador, Ethiopia, France, Great Britain, Indonesia, Ireland, Italy, Kenya, Malaysia, Mexico, Mozambique, Morocco, Netherlands, Nigeria, Peru, Portugal, Puerto Rico, Rhodesia, Singapore, South Africa, Spain, Thailand, Trinidad and Tobago, West Germany and Zambia. All of these subsidiaries are well established, profitable, and are headed by prominent nationals of the respective countries.

12. It is our desire to build the best equipment for the U.S. Government for that honor would allow us to better solicit and deserve similar business from other governments and industry in these countries.

Mr. Connally, in support of your own policies to aid American industry, to give employment to many people, to gain on your own balance of payments program, the Bureau of Engraving and Printing must be made to conform to the policies of the United States Government as decreed by President Nixon.

Therefore, we ask that you cancel the order placed unfairly with the German company even if it is necessary to pay a cancellation charge and award the order to Crown Cork & Seal Company, Inc.

Sincerely yours,

JOHN F. CONNELLY.

Mr. Speaker, we in the Congress cannot let questionable and harmful practices such as this continue. Such injustices—such disregard for the public interest—must not go unchecked. Many Members of Congress and many Senators have urged correction, but their efforts have been ignored. There is something wrong here. Anyone can see that American employees have lost jobs and that American industry has lost a contract. I hope this House or some public-spirited reporter will dig out the truth.

CORPORATE FREELOADERS

(Mr. VANIK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VANIK. Mr. Speaker, in recent days I have endeavored to direct attention to the sharply reduced contribution of American corporations to the support of our Government. The "revenue giveaway act of 1971," the administration's accelerated asset depreciation range, and the flood of tax-break decisions being machined out by the Treasury Department are depleting the Treasury at a shocking rate. Under these circumstances, the American corporation is no longer a partner—it is becoming a freeloader—shifting the obligation of supporting the Government onto the shoulders of the individual taxpayer.

In fiscal 1970 corporate refunds totaled $2,208 million. In fiscal 1971 corporate refunds rose to $3,535 million.

With the new giveaway programs of last year, I estimate that the corporate income taxes refunded by June 30, 1972, will approach the $5 billion mark.

It is utterly impossible to restore solvency in our Government accounts—it is utterly unlikely that we will be able to reduce the Federal deficit—with these tremendous escalating revenue losses which will compel higher individual taxes next year.

USE OF USIA MATERIALS

(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, from this morning's press reports it appears that use of a USIA film on Czechoslovakia in a television program prepared for use in New York was a deliberate violation of congressional intent that USIA materials prepared for use overseas not be distributed within the United States.

From the context in which the film was reportedly used it is hard to escape the conclusion that the film's use in this instance was exactly the kind of partisan political abuse the Congress and previous administrations wanted to avoid.

In showing its contempt for congressional intent, the USIA has strengthened rather than weakened the position of those who believe that the time of the agency's usefulness has passed. As a long time backer of the USIA, I am greatly disturbed at the effect the agency's own action is likely to have on its ability to carry on its worthwhile functions in the future.

Another disturbing aspect of this morning's press accounts is a quote attributed to a high USIA official appearing on the same program which purportedly describes the chairman of the Senate Foreign Relations views of the USIA as "very naive and stupid."

Mr. Speaker, This gratuitous insult of one of America's foremost foreign policy thinkers serves no useful purpose. If any agency should support the concept of the need for a wide range of views, it is the USIA. On many issues Senator FULBRIGHT and I have widely divergent views but clearly our Nation profits from the clash of differing ideas and concepts.

I hope that the USIA will offer its apologies to the Senator and that they will in the future fully comply with current congressional policy that USIA materials not be distributed within the United States.

ROMNEY'S CANDID STATEMENT ON HOUSING MESS

(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, the Government Operations Subcommittee on Legal and Monetary Affairs, which I have the privilege to chair, has in recent months conducted hearings on the increasing rate of foreclosures on FHA-insured properties in Detroit, Mich., and the subsequent acquisition of these properties by the Department of Housing and Urban Development.

The statistics reported to the subcommittee are staggering. We received testimony which revealed that thousands of homes are being abandoned by their own-

ers and acquired by HUD and that the FHA insurance fund stands to lose up to $200 million in Detroit alone.

The subcommittee also received testimony which indicated that speculators in Detroit were, as late as last month, making profits of 70 percent or more on properties held as little as 50 days. In many cases these speculators made cosmetic repairs and sold the houses to poor people, who too late discovered that their new homes had major structural defects.

Recently HUD Secretary George Romney has taken several actions which point to his awareness of the magnitude of the problem which exists in Detroit and elsewhere:

First, a special task force has been formed in an attempt to put a stop to the exploitation of FHA programs by unscrupulous speculators. Among the members of that task force are the director of the HUD area office in Detroit, the U.S. attorney for southeastern Michigan, agents of the Federal Bureau of Investigation and the Internal Revenue Service, and the Michigan State Attorney General.

Second, over a dozen brokers have been removed from the HUD list of approved real estate brokers and two mortgage bankers have been suspended from doing business with the Department for 30 days.

Third, HUD has issued new regulations designed to curb excessive speculator profits on the sale of inner city properties.

Fourth, the Secretary has assigned a task force of HUD auditors to the Detroit HUD office to analyze transactions involving 5,000 Detroit homes sold with FHA-insured mortgages.

Fifth, the Secretary has rehired Lawrence Katz, the former FHA Director in Milwaukee, who testified before the Legal and Monetary Affairs Subcommittee in February regarding the successful low-income housing programs in that city.

Yesterday the New York Times carried a report of Secretary Romney's address to the Detroit Economic Club on Monday, March 27. The Secretary's remarks are exceptionally candid: he deals directly with the problems of incompetence, favoritism, bribes, fraud and "legal" profiteering which have plagued HUD's low-income housing programs. I am submitting the New York Times account of his speech for the RECORD and recommend it for consideration by my colleagues.

I observe that the Secretary states that:

> The nation "needs one example" of a city concerned about saving its residential areas as well as its downtown business areas . . . "We don't have one," he said.

If this is true, the House should take it into consideration before passing the President's urban special revenue sharing proposals, which will turn over to these "unconcerned" cities several billion dollars in Federal money which should be used to save residential areas. The Congress must determine that these cities have the will and the capacity to spend shared revenue on their own in a way which will lead to true urban development.

Mr. Romney also mentions the referral by his Department of over 400 cases to the FBI and the Department of Justice. In Detroit, subsequent to our subcommittee's hearings, the Justice Department has assigned several additional assistant U.S. attorneys to deal with FHA frauds. I hope this same action will be taken where needed in other cities.

The Legal and Monetary Affairs Subcommittee is at the present time preparing a report on its findings in Detroit. At the same time we shall be continuing our investigation in other cities. We shall be endeavoring to determine whether profiteering, large-scale foreclosures, and abandonment of housing are confined to the central cities or whether these problems can affect noncentral city areas where there has been extensive, HUD-supported, new construction.

The extent of the problems in HUD's mortgage insurance programs is not yet known, but the implications of what is known are grave. I urge my colleagues to read the attached article.

ROMNEY SAYS HIS AGENCY CAN'T SOLVE HOUSING PROBLEM; CONCEDES ERRORS

(By Jerry M. Flint)

DETROIT, March 27.—The Federal Government cannot and will not solve the massive housing deterioration going on in the central cities, George Romney, Secretary of Housing and Urban Development, said today.

Mr. Romney acknowledged that his agency's policies increased the blight and said that the department would cooperate with state, local and private groups working on the problem.

However, he emphasized that Washington did not have the answers and charged that the cities themselves did not care. The nation "needs one example" of a city concerned about saving its residential areas as well as its downtown business areas, he shouted in a speech at the Economic Club of Detroit.

"We don't have one," he said.

A MAJOR SCANDAL

The policies in Detroit of the Federal Housing Authority, which is part of HUD, have turned into a major scandal that could cost the Government $100-million and possibly much more.

Under the guise of programs to help the poor buy their own homes, thousands of welfare residents were pushed into old or dilapidated dwellings. Real estate speculators roamed old neighborhoods buying up houses for a few thousand dollars each, getting them appraised by F.H.A. appraisers at double, triple or quadruple the purchase prices, then selling them to the poor, including thousands of welfare recipients who could not keep them up.

To date about 6,500 homes under these programs have been foreclosed in Detroit, and 750 to 1,000 more are foreclosed every month. The total could surpass 20,000, about 7 or 8 per cent of the homes in the city. The abandoned houses, in turn, help to blight entire blocks and neighborhoods.

"It was a mistake, in part, not to realize the F.H.A. lack of preparation for its role in central cities and their exposure to speculators and fastbuck artists," Mr. Romney said. "And there is no city where there are more of them than in Detroit. I think they got their training in the used car business."

Mr. Romney once headed the American Motors Corporation here.

CHARGED WITH ARSON

In Detroit in recent weeks in the continuing investigation of the housing scandal, a former F.H.A. appraiser has been charged with arson, burning inner city homes he had bought as a real estate speculator, and another F.H.A. appraiser admitted in court he did not know that homes had to conform with the local building codes before they could qualify for a Government-insured mortgage.

In other cases, real estate men have been indicted or blacklisted by the F.H.A. for making false statements about potential buyers and the properties in F.H.A. mortgage applications.

"We have made mistakes in the design and administration of the programs that were proposed to alleviate this human suffering," Mr. Romney said. "I acknowledge with deep regret the things that have gone wrong with our housing subsidy program.

"I am angered and determined to eliminate incompetence, conflict of interest, favoritism, graft, bribes, fraud, shoddy workmanship and forms of 'legal' profiteering that take advantage of technicalities to defraud the home buyer and the tax paying public.

"Across the country we have referred over 400 cases to the F.B.I. and Department of Justice in the last year and a half."

He said that the Government had moved to curb the speculation, but he made clear that he had no answers on how to repair the damage already done. One key, he said, is getting private developers involved.

"The widespread abandonment of the central city, except for the downtown business districts, by private investors and private leadership is continuing, Mr. Romney said.

"Indeed, there are several major cities in this country, including Detroit, where there is hardly any purely private money for mortgages in most of the central city."

DOMINANT USE AND ITS RELATION TO PUBLIC LAND USE PLANNING

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, perhaps no recommendation of the Public Land Law Review Commission has generated more comment than:

> Management of public lands should recognize the highest and best use of particular areas of land as dominant over other authorized uses.

This recommendation, contained in the chapter on Planning Future Public Land Use and appearing on page 48 of the Commission report, "One Third of the Nation's Land," is, in turn, a part of the overall admonition to manage public lands generally according to principles of multiple use and sustained yield.

Addressing a society of American Foresters meeting in Milwaukee, Wis., recently, Perry R. Hagenstein analysed, in as clear a manner as I have seen, the concept of dominant use and the manner in which the Commission approached its treatment of land use conflicts. Dr. Hagenstein, now executive director of the New England Natural Resources Center, was assistant chief of the Resources and Evaluation Group of the Commission staff, and as such had an opportunity to observe development of the Public Land Law Review Commission recommendation.

Because of the widespread comment on dominant use—and, in my opinion, the widespread failure to understand the concept as the Commission understood it—I commend Dr. Hagenstein's remarks to you and offer them for the RECORD:

THE PUBLIC LAND LAW REVIEW COMMISSION AND ITS APPROACH TO LAND USE CONFLICTS

(By Perry R. Hagenstein*)

It is not surprising that the Public Land Law Review Commission spent much of its effort on the problem of resolving use conflicts on public lands. This, after all, was the issue that precipitated the establishment of this temporary study commission.

Congress had shown interest for some years in a review of the status of the remaining unreserved public domain lands. But it was not until the Wilderness Areas Preservation bill generated wide support in 1962 that one Congressman was able to transform his interest in the problem of resolving conflicts in uses of public lands to the establishment of a commission to review this problem.

Congressman Wayne Aspinall of Colorado, then, as now, Chairman of the House Interior and Insular Affairs Committee, wrote to President Kennedy. He offered his efforts on behalf of the wilderness bill in return for Presidential support for a review of public land policies. The problem with the wilderness bill, as he viewed it, was that yet another portion of the public lands was to be set aside for a particular use without simultaneous consideration of all of the other many needs that the public lands help meet. Some new policy guidelines were needed if the public lands were to provide an appropriate share of the various demands being placed on them by the citizens of the country.

You all know at least something of the results of this effort. The Public Land Law Review Commission made its report to the President and the Congress in June, 1970. Among its 137 major recommendations was one that said, "Management of public lands should recognize the highest and best use of particular areas of land as dominant over other authorized uses." The Commission saw the concept of zoning public lands for dominant uses as the best administrative means of resolving land use conflicts.

The storm of protest on release of the Commission's report was immediate. Within hours after the release of the report, it had been announced that the report and its dominant use recommendation were all part of a plot by the timber industry to resurrect the worst features of the proposed National Timber Supply Act, which had only recently been defeated in the House of Representatives.

The "quick-to-draw" conservationists saw the notion of zoning lands for dominant use as a means of giving permanent status to the "defacto" priorities that have been given through administrative action, and with some statutory support, to timber production and other economic uses of public lands. They saw the Bitterroot National Forest as the prime example of what would happen to all public forest lands if this purported scheme of the western user interests were to be implemented.

The professional land managers in the public land agencies were less quick in their denunciations of "dominant use". They realized that the Commission recommendation came very close indeed to what they were already doing. We had all learned in forestry school that land management involved drawing lines on maps and identifying this area for this use and that area for that use. And this is just what most land managers were doing, at least informally. But the land management agencies in the end added their voices to the criticism of dominant use. They argued that their managerial responsibilities would somehow be jeopardized if Congress would direct them to use any particular means of classifying public lands.

Perhaps lying behind this concern was the usual fear of the land management agency that the extent of its domain will somehow be reduced. To some, the classification of some national forest lands for recreation purposes suggests that the lands should be transferred to the Park Service, which is sometimes thought of as "the" Federal recreation agency. The notion that this could be done for every tract of land used for recreation would, of course, create an administrative monstrosity, and the Public Land Law Review Commission refused to be drawn into support of it. Nevertheless, a good part of the opposition of the land management agencies to dominant use zoning is probably based on fears of losing control over some lands.

But very little of the criticism of the Commission's dominant use recommendation has focused on the important question: Is this indeed the best means of resolving conflicts among various possible uses of the public lands? And if not, what alternative means are there? The Public Land Law Review Commission reached its dominant use recommendation only after considerable study and after rejecting the alternatives that it considered.

The Wilderness Act itself offers one way of resolving conflicts among possible uses of a parcel of land. This Act turns the job of defining uses of particular areas of land over to the Congress. Indeed, the Public Land Law Review Commission was inclined to go this route for many major land use decisions. The Wilderness Act, which was the last major piece of public land legislation prior to the Commission's report, says that Congress will be responsible for establishing wilderness areas, and for the determination of their boundaries. And, of course, once a wilderness area has been established, the Act resolves conflicts among possible uses by defining those that are incompatible.

Not only did the Public Land Law Review Commission agree with the Wilderness Act concept of having the Congress be clearly responsible for setting aside public lands for wilderness areas, parks, and wildlife refuges, but it also sought to broaden further the Congressional role in deciding uses of parcels of public lands. Some of the Congressional members of the Commission were unhappy with the way the Bureau of Land Management and, to a lesser extent, the Forest Service had used classification authority to limit economic and private uses of public lands. Some thought was actually given to reserving all withdrawal and classification authority to the Congress. But it soon became evident that Congress could not resolve all conflicts among uses of public lands, if for no other reason that the job is too big. There are too many decisions that have to be made.

Having rejected the notion of Congress being the immediate problem solver for all public land use conflicts, the Commission looked for a means to provide some form of Congressional guidance for the decisions that would have to be left to land management agencies. Now, what were the kinds of problems it saw in the existing process whereby the Federal agencies decide on the uses to which a parcel of public lands will be put?

First of all, the Commission saw what it believed to be a lack of consistency among public land decisions. While recognizing that the public lands present a vast range of conditions and possible choices to the land manager, the Commission could find no clear rationale guiding these choices. Especially the Congressional members of the Commission saw the lack of direction in the Multiple Use and Sustained Yield Act of 1960 as the problem. Inconsistent decisions had their root in a lack of clear Congressional direction. The heat generated by conflicting interests over decisions made by the land management agencies under their broad management authorities was making life uncomfortable for Congressmen from public land districts. Perhaps clearer Congressional direction was the answer.

Second, the Commission saw that some of the problems were created by a lack of assurance that the land management agencies would stand with the decisions they made. A timber firm complained that it had put in a new plant in response to a significant increase in allowable cut on the adjacent national forest. Right in the middle of a 10 year plan, its investment was jeopardized when the allowable cut was reduced to previous levels.

The cutback was attributed to pressures from wilderness and other recreation users. On the other side, the Commission saw the need for protecting endangered species of wildlife, such as has been done by the Forest Service for the Kirtland Warbler in upper Michigan and the California Condor, both on national forest lands. The Commission saw that Congressional recognition of the need for protection of this kind would help to assure that it be used elsewhere in the country and that it be used to protect recreation, watershed, and environmental values as well. But it also saw that effective protection of these values required a commitment that would not be reversed whenever there were pressures for competing uses.

Third, the Commission saw a need to clarify land use for the public. What constitutes multiple use management for the professional and expert viewer can simply be multiple confusion for the citizen trying to get away from urban pressures for a week in the wilds. Many from urban areas have grown to expect at least a degree of pattern and repetition in land uses. A clearcut area astride a hiking trail can well lead the casual visitor to charges of bad faith on the part of a public agency managing multiple use lands. Even the regular user of public lands, whether his use is for enjoyment or profit, can become confused when restrictions on his use, in the name of multiple use, are not set out until his use has been initiated.

What the Commission was after here was some means of assuring that the land management agencies would be "fair" in their dealing with the individual citizen. Fairness to the citizen—whether he be a casual visitor from the city, to whom fairness may simply mean understandability, or a rancher grazing cattle on the public lands every day of the year, to whom fairness may mean a degree of certainty in his use—was more important to the Commission than the more convenience of the public land manager.

These were some major concerns over the manner in which conflicts among land uses are now resolved. Given such concerns, what sort of methods might be used to make better land use decisions—methods that would meet the Commission's objective of providing greater Congressional direction and backup to decisions that must necessarily be made by the land management agencies? Several possibilities were considered by the Commission.

One method that had a ring of plausibility to it was to establish statutory priorities among various land uses. State laws in the West, with which most Commission members were familiar, establish priorities among kinds of water use. Irrigation of agricultural crops, for example, has priority over industrial use, and conflicts among competing users are resolved on this basis. Couldn't some such system be devised for uses of public lands wherein Congress would identify certain uses that would take priority over other uses whenever conflicts arise?

The fact is, of course, that the Mining Law

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of 1872 already provides such a priority for hardrock minerals on public domain lands. This law takes the decisions to develop minerals away from the land management agencies and gives it to the prospector, who decides where he will go and what he will develop. But it is for this very reason that the Mining Law has come under fire not only from the conservationists, but from many who are concerned with the problem of allocating limited public lands to a number of legitimate and important uses. The priority afforded development of hardrock minerals over all other uses of public lands creates unnecessary conflicts and defeats land management and rational decision-making. Minerals, whatever the degree of their importance to the industry, simply don't deserve priority over all other uses of public lands in all circumstances. And this, of course, is the criticism of any general priorities among uses, especially if established in statutes for the Nation at large. This was recognized by the Public Land Law Review Commission and it rejected generally applicable priorities among uses as a means of resolving land use conflicts.

The Commission turned to a second possible approach. Some had argued before the Commission that it should establish a particular objective as having priority over all other objectives that might be served by the public lands. Some saw enhancement of environmental quality as the major objective to be served. They suggested that management choices should always be resolved in favor of the alternative that was best from an environmental viewpoint. This idea had an appealing political ring to it because of the current concern with environmental quality.

Still others, however, had recommended that the Commission place greater emphasis on economic stability, especially in public land areas, as the major objective of public land management. The public lands, in fact, are the source of the resources that support numerous towns in the West. Thousands of people are directly dependent on the public lands for employment and income. This idea, too, had an appealing political ring to those representing public land districts. Here, it was argued, was an objective that could be favored over all others when choices had to be made among alternative uses of public lands. The use that would contribute most to employment and income in a localized area would be given preference over alternative uses whenever a choice had to be made.

This was a somewhat different means of resolving conflicts by setting priorities. Congress would declare which objective it believed could best be served by the public lands. But the Public Land Law Review Commission eased away from supporting this concept. Conditions surrounding public land decisions vary widely. In one place, continuing support of employment in an impacted town may be an overriding objective at times. Or in another, protecting a feature of the natural environment may be of overriding importance. A recommendation that an environmental objective, or any other objective, should automatically be considered most important in all cases simply was inconsistent with the variety in public lands and their uses.

Having rejected two plausible ideas—the first to establish priorities among possible uses of public lands and the second to establish priorities among the objectives to be served by the public lands—the Commission turned to the planning process as the key to resolving land use conflicts. It saw the planning process as the only solution that would recognize the great variation in public lands and conditions.

And this is where "dominant use" came in. The result of the planning process would be a zoning of public lands to recognize that in one area timber may be the dominant use, while in another area recreation, or protection of a wildife species, or protection of a frail watershed may be the dominant use. And once an area had been planned and zoned for dominant use, the management agency would recognize this use as having priority over other uses until such time as the whole planning process would be repeated. Priorities would be established, but on a case by case basis that would involve consideration of the demands being placed on the specific parcel of land and on the ability of the land to meet various demands.

Perhaps the Commission was guilty of naivete in reaching this recommendation. However, it had some acceptable models to follow. The land management agencies already use a form of land use zoning, albeit on a relatively informal basis. And local governments have long used zoning to maintain a degree of compatibility between industrial, commercial, and residential uses of land. The argument that the typical frequent changes in local zoning indicate that the concept is inferior can be countered with the argument that the process used by local governments may be more at fault than the concept of zoning itself. If the process of planning and gaining public acceptance of the zoning decisions were improved, changes in zoning may be less frequent.

Perhaps the Commission was guilty of viewing public lands too simply. But here, too, it had models to follow. In the spring, the farmer decides to grow corn in one field and hay in another. This is not only useful in deciding on the kinds of fertilizer and equipment and the amount of effort that will be needed during the summer, but it also clarifies decisions on where the cows will go. Similarly, classification of public lands may improve the present methods of spending public funds and, at the same time, help the public to understand that multiple use does not mean all uses everywhere at all times, or that a particular kind of use should have a claim to all public lands.

In sum, the Public Land Law Review Commission's recommendation that the public lands be classified on an area by area basis for dominant uses was responsive to what it saw as three critical problems in present methods of resolving land use conflicts. It believed that an improved planning process leading to dominant use classifications would bring order out of chaos, would provide assurance that commitments of the Federal government would be met, and would enable the public to comprehend the management of its lands. The alternative means of conflict resolution that were considered failed to gain solid support within the Commission because they were too simple to cope with the vast differences in land and conditions from one area to another.

Sharp criticism of the "dominant use" recommendation in the past 21 months may already have doomed it to oblivion, at least as far as gaining statutory recognition is concerned. But the problems that the Commission sought to correct with its recommendation have not gone away. And the public dialogue over dominant use has not yet produced a viable alternative to cope with the problems that concerned the Commission. Controversy is fun and often constructive. Let us hope that the present controversy over dominant use not continue to be bogged down in theological references to multiple use, but rather lead to better means of resolving land use conflicts.

THE BILL TO ELIMINATE THE HOUSE LIBRARY

(Mr. ROUSH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROUSH. Mr. Speaker, today I am introducing a bill to abolish the "House Library," the library located on the lower level of the Cannon House Office Building. It has nine employees, yet withdrawals from the library last year—as of February 18, 1972—were only 1,170, which certainly is not a significant number. The services of the library are completely duplicated by services of the Library of Congress. Last year we were asked to appropriate $25,000 to climatize the area where books were stored because present conditions literally were causing books to self-destruct through spontaneous combustion. We spend $103,388 currently per year for salaries. I strongly believe these are expenditures we can do without.

This year the Legislative Subcommittee of the Appropriations Committee, of which I am a member, expressed the will to phase out this library by the end of fiscal year 1973. This would be done by imposing a limitation on appropriated funds. My bill will repeal those sections of the law authorizing the operation of the library, thus giving certainty to the phasing out. The saving will amount to thousands of dollars beyond the $103,388 saved in salaries in that no longer would documents, volumes, reports, books, and the like have to be furnished to, or cared for in, this seldom-used library.

ECONOMIC SQUEEZE ON THE FARMER

(Mr. GOODLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GOODLING. Mr. Speaker, it is easy to understand why many consumers in our society think that the American farmer is doing alright for himself, because food items at the store carry price tags that are anything but low.

The truth of the matter, however, is that where returns on food to the farmer are concerned, he is low man on the economic totem pole. Over the last 20 years, for instance, while consumer's food prices, over the counter, have jumped up 43 percent, prices down on the farm have inched up only 6 percent. At the same time, the farmers' share of the consumer's food dollar has dwindled from 49 cents to 38 cents.

It is what happens to food items after they leave the farmer's gate that causes them to carry a price tag which offers little comfort to the consumer. As these food items head for market, they take on a magnetic quality as far as costs are concerned, drawing them from every angle. There are costs for freight, for containers, for added services and conveniences, for labor, and for wide variety of other concepts related to the food items as they travel from the farmer's field to the consumer's table.

Unfortunate for the farmer, a good part of these costs are the "sticky variety," particularly those for processing and distribution. These costs stay put. On the other hand, costs of food are slippery, providing the consumer with up and down price benefits and the farmer with considerable uncertainty. Right

now, for instance, cattle prices for the farmer are 4½ percent less than they were a month ago, and prices for hogs are 8 percent less than 4 weeks ago.

The farmer is caught in a severe economic squeeze, because as he gets a relatively low price for the commodities he sells, he pays a high price for the goods he buys.

The inflation impact hits him harder than it does almost anyone else in the society, and the too bad part about it all is that he does proportionately more than anyone else to counter inflation. This is so because the farmer constantly is increasing his production, and increased productivity is the best offset to inflation.

Proof of this increased productivity can be found in the fact that the productivity of farmers today is 3.3 times as great as it was 20 years ago, something like twice the rate of productivity growth in the manufacturing industries. Still, farmers are working for one-fourth less than the rest of the workers in the economy, making their disposable income only three-fourths of the average for nonfarm people. This is contrary to the doctrine of the free enterprise system, which is supposed to reward productivity. It works in reverse for the farmer, punishing him for his productive proficiency.

Nonfarmers have another advantage, for even though food prices are rising in the stores, they are paying less than they did 20 years ago for food. They will spend $15.60 per $100 for food this year, after taxes, while 20 years ago they spent $23 per $100. Today food takes about 15.5 percent of the budget as compared with 23 percent in 1952.

The consumer should gain a consciousness of his good fortune, remembering, at the same time, that even though food prices at the store might go up, this does not connote a gain for the farmers. Under the strange economics that attend the farmer's circumstances, it could very well be true that the farmer's share of the consumer's dollar is going down.

SCHOOL BUSING

(Mr. THOMPSON of New Jersey asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMPSON of New Jersey. Mr. Speaker, members of the Education and Labor Committee have had the benefit of hearing Secretary Richardson of the Department of Health, Education, and Welfare try to explain, as best he could, the legislative proposals on school busing which the President delivered to the Nation in his television address on March 16. I must confess that I was quite disappointed by the presentation made by the Secretary, and, particularly, with his response to my questions on the legal issues which the President's proposals raise. I think the source of my disappointment will be made abundantly clear when one examines the transcript of the White House administrative aides, including Secretary Richardson. The purpose of that press conference was to respond to questions raised by the press concerning the President's proposed Bus Moratorium Act and the companion equal educational opportunities amendment. Quite frankly, that press conference raised more questions than it answered. If there is any doubt whatsoever on this score, I am pleased to set forth herewith for the benefit of my colleagues and the public, the complete transcript of the White House press conference and my own commentary on that conference.

REMARKS BY CONGRESSMAN FRANK THOMPSON, JR., OF NEW JERSEY

BUSING: PRESIDENT NIXON'S PROPOSED STUDENT TRANSPORTATION MORATORIUM ACT

On March 16, 1972 President Nixon told the nation in a prime time television address that he was opposed to busing, and would send to Congress two bills: *The Student Transportation Moratorium Act,* which would prohibit the courts from ordering the busing of any children up to the sixth grade, and make busing the lowest priority of remedies for children in junior high-school and above; and the *Equal Educational Opportunities Act,* which the President said would guarantee all students the right to a decent education.

On March 17, a number of high ranking Administration officials held a White House press conference to answer questions on the two proposed bills.

Administrative officials at the Press Conference included *John D. Ehrlichman,* Assistant to the President; *George P. Shultz,* the Director of the Office of Management and Budget; *Elliot L. Richardson,* the Secretary of HEW; *Richard Kleindienst,* the Acting Attorney General; *Wilmot Hastings,* General Counsel of the HEW; and others. It was truly a high-ranking and policy making group of administrative spokesmen.

On March 18, Presidential Counsel Clark MacGregor sent me a copy of the transcript of the press conference with the assurance that "the answers provided by Messrs. Richardson, Kleindienst, Ehrlichman, and Shultz" would be of assistance to me as I prepare to consider these two new legislative proposals.

The transcript of the press conference is of assistance to me, but not in the way intended by Mr. MacGregor. It makes it clear that I must oppose the bills, and for several reasons.

1. The bus moratorium bill has no factual foundation, and is designed solely to appeal to popular prejudices.

If there is a case to be made against busing, it was not made by the President. To the contrary, the press conference discloses quite clearly that the President had no interest in the facts, but intended solely to cater to what he believed to be the popular passions of the moment.

Mr. Ehrlichman announced that "This legislation is a culmination of many months of study"; and a reporter asked, quite naturally, "how much busing is going on now for the purpose of desegregation?" The answer from the Administration was:

"We don't have any breakdown. . . . We have no data on miles, distance, or times, the breakdown, or what the relative amount of desegregation busing and non-desegregation busing amounts to."

There was some follow up on this question, and Secretary Richardson answered that "the great majority of all desegregation plans, whether court ordered or negotiated under HEW under Title VI, has not required increased busing."

The question came up again, and a reporter asked how many school districts would be affected by the proposed legislation. The answer of Mr. Ehrlichman was that:

"I do not think any of us are equipped to answer, because *there has been no analysis done that I know of* on the number of districts that would achieve the norms proposed here in terms of transportation." (emphasis added)

A reporter then asked why, "since we do not even know the extent of busing involved in the desegregation process," did the President ask for a moratorium. The answer of Mr. Ehrlichman is at best both cynical and opportunistic:

"I think you have to come from some other planet not to be able to answer that question . . . This is the front burner issue in most local communities . . . That is the evidence. It carries by such a preponderance that it cannot just be swept under the rug by some sort of statistical evasion."

In short, the President did not have any facts on which to buttress the need or desirability of his proposed legislation. He was not interested in the facts. Facts, in the words of his top aides are nothing but "statistical evasions." The issue is a "front burner", so the President wants a bill.

Mr. Ehrlichman terminated the press conference with these remarkable comments:

"You hear talk about moral leadership; I suggest to you this is moral leadership personified."

II. THE EQUAL EDUCATIONAL OPPORTUNITIES BILL IS A PROMISE BROKEN

The President proposed two bills. The first, the Student Transportation Moratorium Act, is designed to prevent the busing of students from the inner city schools to the better schools in the suburbs, and from the suburbs to the inferior inner city schools. The second bill, the Equal Educational Opportunities Act, is designed to improve the educational opportunities for those who henceforth must attend the inner city inferior schools. We were told by the President on television that this would be achieved by a large outlay of capital and operating funds.

Mr. Shultz said in opening the press conference, that the "effort here is to provide additional funds in schools where you find a high proportion of low-income students." That which followed grew "curioser and curioser."

First, Secretary Richardson said that the recent studies showed that "spending a small amount of money has comparatively little, if any, noticeable effect;" and Mr. Ehrlichman said that "a larger amount of money is going to make a difference."

Second, the Administration spokesmen said they were not going to ask for any new monies from Congress, that they intended to utilize the 2.5 billion that "has been planned, if not enacted" under two other bills; Title 1 of the Primary and Secondary School Act, and the Emergency School Assistance Program. Mr. Shultz was asked if the Administration had any plans for asking Congress for new and additional money, and answered no. He said "I think one has to take these things a step at a time."

Third, when asked how the Administration expected to do a better job with the same amount of money, Mr. Richardson said they would "target the money more sharply on the need of poor children, and particularly concentrations of poor children."

Fourth, since the same amount of money would be targeted differently, a reporter asked "Who loses? Where is it coming away from?" Mr. Hastings, General Counsel of HEW, gave a most peculiar answer which in effect adds up to "nobody." Here is what he said:

"Substantially the same districts, with some additions, will be eligible under the new program, as in the old. . . . In terms of the children, the change really is the way the money is used in the District itself . . . the concentration of resources under this combined program must go to the basic learning programs in the schoolhouse; you know, the reading, writing and arithmetic programs, plus supplementary special services

such as nutrition and health care for the kids. It cannot be spent on overhead, general administrative costs and the like. . . . I do not think there is a substantial change in the districts affected or eligible. . . .

To summarize the press conference as I read it, the Administration admits that existing monies are spread too thin to make any difference; they are not asking for any additional money; they intend to put the same amount of money in the same school districts for use for the same children; and this program they glory with the title of an Equal Educational Opportunities Act.

III. THE PRESIDENT'S PROPOSALS DO NOTHING LESS THAN TURN THE CLOCK BACK TO THE SEPARATE BUT EQUAL DOCTRINE OF PLESSY V. FERGUSON

If, as all must admit, there now exists schools which are exclusively or predominately white, and schools which are exclusively or predominately black; and if the only way to achieve desegregation is to bus the children back and forth; and if the President prohibits busing; what is this but a proposal to turn the clock back to the separate but equal (unequal is a more appropriate description) doctrine repudiated in the 1954 Brown and subsequent Supreme Court decisions; including the most recent 1971 decision of *Swann* v. *Charlotte-Mechlinburg School District?*

This thought occurred to several reporters. One asked this question: "The Court has set a standard under Swann which it deems to be constitutional. Now, are you saying that what Congress should ordain is something less than what Swann declared? Would it be constitutional then?"

Mr. Morgan gave a peculiar answer. He replied that "We are not in any way attacking the constitutional right", but, merely seeking "to define the limitations on the remedy."

This answer is not adequate. Every first year law student knows that a right without a remedy is no right at all.

A second reporter asked the question more directly. He referred to "the net effect of these two bills" and asked: "Why is this not a return to separate but equal, if the moratorium on busing stops future busing plans and the financing of inner city schools encourages and develops those schools." Mr. Kleindienst took this one on. He pointed out that a "whereas" type clause in one of the proposed bills "prohibits the maintenance or establishment or re-establishment of a dual school system."

This answer is not adequate either. Every first year legislator knows that a whereas clause is a pretty empty thing when the substantive clauses go in an opposite direction.

A third reporter asked a follow-up question:

"You have said that the thrust of this legislation is to shift the focus away from transportation as a remedy to alternative remedies. How would you implement these alternative remedies without some form of transportation, since the facts of life are that blacks and whites don't live together."

Dr. Shultz handled this one: *"There is no necessary reason why one must desegregate everything."*

The Administration not only wants to take away the only practical remedy in many situations to end the unconstitutional segregation practices in education, it also wants to roll back the clock and undo the integration of schools where it has been achieved: often at a bitter price.

Mr. Ehrlichman in his opening remarks pointed out that "once this legislation passes," the integration gains of the past can be nullified. He said: "on the motion of local education agencies existing court orders could be reopened if they go further than what is provided for in this legislation."

Mr. Kleindienst then added that if such motions are made, the Department of Justice would intervene in the court proceedings on the side of segregated education.

Mr. Hastings of the HEW pointed out that school districts which had desegregated voluntarily, without court order, could now come in and ask the HEW for a modification of plans. "The procedure", he said, "would simply be an application by the school district to HEW to reopen this Plan."

In short, the President proposes not simply a "moratorium" on future busing, he proposes the nullification of the gains made since 1954—with the Department of Justice lawyers leading the way backward to *Plessy.*

IV. THE PROPOSED BILLS THREATEN THE "SEPARATION POWERS" DOCTRINE AND THE INDEPENDENCE OF A FREE JUDICIAL SYSTEM

What we have here is the President asking Congress to deprive the Judiciary of a remedial tool which the courts have found to be essential for the vindication of rights guaranteed by the Fourteenth Amendment.

This raises legitimate questions, and, one reporter asked this way:

"I wonder if somebody would address himself to the overall question of constitutionality and particularly the constitutionality of the moratorium legislation."

Mr. Kleindienst answered. He said first,

"I think there can be no legitimate doubt whatsoever that, as a result of the power conferred upon the Congress in Section 5 of the 14th Amendment and also in Article III of the Constitution."

I would like to interject here that Section 5 of the 14th Amendment authorizes Congress *"to enforce"* the earlier substantive provisions of the 14th Amendment, and does not authorize the Congress "to deny" the equal protection rights guaranteed by the Amendment.

In regard to Article III, I assume Mr. Kleindienst has reference to section I thereof, which provides that "The Judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." Perhaps Mr. Kleindienst is suggesting that the power in Congress "to ordain and establish" courts inferior to the Supreme Court carries with it the implication that Congress can deprive courts, already established, of the power to remedy the denial of rights guaranteed elsewhere in the Constitution. He did not explicate, so I do not understand the implications of his oblique reference to Article III.

In any event, Mr. Kleindienst said at the press conference that "many constitutional lawyers have been consulted with respect to this." This comment drew the following question:

"Is there a precedent in case law for this kind of action?" Here is the full and complete answer:

"Mr. Kleindienst: The Congress has dealt with the question of remedy in the courts going clear back to 1793 in one way or another. So, to that extent, there is a precedent, and that I think, is what permits constitutional lawyers to say that Congress has that power.

"There is no precedent in exactly this kind of situation, but the Congress, for instance, in the National Labor Relations Act determined a national policy that was to apply between employees and employers in representation. That, again, is a question of remedy. The Supreme Court has said what the remedy would be under certain circumstances. So, constitutionally, I think there is ample precedent." (emphasis added)

Frankly, I do not understand what Mr. Kleindienst is saying. But I do know that the Administration is the proponent of these bills; and I need more convincing before I will gang up with the President against the courts—and thereby erode the separation of powers doctrine, the checks and balances which have preserved the inter-dependence of the Executive, the Legislative, the Judiciary branches of our government since the Philadelphia constitutional convention whose 200th anniversary we are about to celebrate and enjoy.

THE WHITE HOUSE PRESS CONFERENCE OF MARCH 17, 1972

John D. Ehrlichman, Assistant to the President for Domestic Affairs, George P. Schultz, Director, Office of Management and Budget, Elliot L. Richardson, Secretary of Health, Education, and Welfare, Richard G. Kleindienst, Acting Attorney General.

The panel: Wilmot Hastings, General Counsel, HEW, Daniel J. McAuliffe, Deputy Assistant Attorney General, Justice, Paul O'Neill, Assistant Director, Office of Management and Budget, Kenneth W. Dam, Assistant Director, Office of Management and Budget, Edward L. Morgan, Assistant Director, Domestic Council.

Mr. ZIEGLER. The Leadership meeting this morning lasted close to two hours. I will allow John Ehrlichman to give you a rundown on that.

The way we will proceed here today is that what Mr. Ehrlichman and the members of the Cabinet say, and the panel, is for direct quotation. You can either quote the individual directly or, if you prefer, in the technical responses you can simply say "Administration officials said," and quote directly. You are free to use the name, or "Administration officials."

In order to proceed with what, as I think you have noted, is a highly technical matter, if you would address your questions to John Ehrlichman, then John will call on the expert on the panel to respond to your question.

With that, I will let you hear from John Ehrlichman.

Mr. EHRLICHMAN. Good morning. I am sorry Ron set those ground rules. We have been noticing all the fun that the fellows at the NSC have been having with these kinds of briefings, and had figured out a way of assuring anonymity of the briefers.

We thought that we would take your question and I would designate somebody on the panel to answer, and then we would take a written ballot up here and the ground rule would be that you could report that "Five out of eight Administration Officials believe,"—(Laughter)—but he has blown that now.

I might just tell you that we have come from a very productive meeting which the President had with the bipartisan leadership which ran a little overtime. I apologize for keeping you waiting.

The discussion got into the parliamentary situation which involves a conference on the higher education bill. As you know, there are some busing amendments pending in that conference under instruction to conferees on the House side. There were several of the conferees there, so there was quite a bit of colloquy in the meeting about how the President's proposal, and particularly the moratorium proposal, but also the basic statute, would affect that conference, and what relation the conference might have to the possible early action on the moratorium proposal.

Certainly there were no commitments asked or given, but it was an interesting and I think worthwhile session on that aspect of the problem.

I believe the best way for us to proceed would be for you to hear briefly from George Shultz, the Chairman of the Cabinet Committee which you see here, to give you a brief overview. I know you have had access now to the Message and the Fact Sheet. I think it would be useful for you to hear briefly from George, and then we will move right to your questions.

Dr. SHULTZ: Let me make two background-type comments before discussing the content of the proposal.

The first is that in undertaking to help the President develop these proposals, the Cabinet Committee has talked with a very wide variety of people, with many differing points of view, on this subject. Of course, we have been working on the subject for years in one sense, and in another sense we have been charged in the last couple of months with an intensive effort, particularly on this.

We have talked to Senators and Congressmen with varying persuasions as to their views about this range of subjects. We have talked with a large number of civil rights leaders, constitutional lawyers, with people who are knowledgeable in the education field about some of the programmatic aspects of this. We have talked with the co-chairman of the Southern committees we have put together and have had in operation for approximately two years.

So there has been an effiort for wide consultation so that we would hear a variety of views and have as many ideas in the pot, so to speak, as we possibly could.

The second thing that I would call your attention to before discussing the substance of the legislation is the findings that you see in the Equal Educational Opportunities Act. Here, I think, you see the effort to shift the discussion and shift the emphasis away from transportation and onto education.

But first, this Act sets forth directly the opposition to the dual school system. That is a finding that the dual school system is wrong and should end.

Second, as we think of the dual school system in its sort of formal historical sense, I think it is a fair statement that it has been virtually abolished. A tremendous amount has happened, and particularly in the last two years or so. So there has been a tremendous amount done and accomplished and behind us, so to speak.

Third, this has been attended by a great deal of reorganization and considerable additional busing, and there is in prospect a considerable amount more, although who would know how much more, depending upon what happens to some of the lower court orders that have been emerging.

Then I think it is important to see the costs involved here. There are large dollar costs involved in busing. The dollars could otherwise be used for educational purposes, and there are problems in health and safety, and these are especially important for those in the sixth grade or less.

I know you are familiar with it, but it is perhaps instructive to read from the Supreme Court's Swann decision:

"An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process. It hardly needs stating that the limits on time and travel will vary with many factors, but probably with none more than the age of the students."

Now, finally, in the set of findings that are proposed, again a quotation from the court decision as picked up, the finding is that through the process of case law that has treated this subject, what we have is a situation where we are both incomplete and imperfect. So in this legislation there is an effort to set forward national standards to codify, to add, to strengthen and to set forward a situation that can apply across the country as a statutory matter the same way in every part of the country. So I think that bit of background on the findings is extremely important.

There are two measures proposed, as you know. The first is the moratorium on the implementation of new busing orders. This is a flat moratorium. In a sense, it is analogous to the idea of the wage-price freeze; that you have just stopped the situation as it now is. You do that while the Congress considers a substantive move to replace the present incomplete and imperfect situation with one that codifies and puts forward in statute a new set of policies. So the moratorium is a flat moratorium designed to give the Congress time to act on this subject more generally.

Turning to the substantive legislation, the Equal Educational Opportunities Act, we have in a sense three main parts. The first part is programmatic and is directed to the problem of equal educational opportunity. It is not a racial matter, but a matter that cuts across race, and the effort here is to provide additional funds in schools where you find a high proportion of low-income students.

There has been a good deal of research on this subject, the Coleman report and some subsequent reports, and the suggestion is that if you add a little bit of money, you don't necessarily achieve very much. On the other hand, there is a body of research that shows that if you can add a critical mass, if you can add a large sum of money, you can accomplish quite a lot.

So the effort here is, through a combination of more directed funds from Title I of the Elementary and Secondary Education Act, and the use of the Emergency School Aid Act funds that are now in conference, to provide that critical mass in a compensatory package.

So in a programmatic sense, there is an effort here to improve the quality of education, particularly in schools where you find a preponderance of low-income students. At the same time, there is an incentive for voluntary desegregation in that a student who is in the majority in his or her school can transfer to a school where he or she is in the minority, and the compensatory money, if this is a low-income student, goes with the student, making, in a sense, this choice an effective choice. So there is a programmatic part here that is an effort to move strongly toward more equal educational opportunity.

Second, there is an affirmative statement of rights. This, again, let me remind you, is a national proposition. It goes across the board in all schools, an affirmative statement of rights and specified terms that the statute prohibits a denial of specific things insofar as equal educational opportunity is concerned: deliberate segregation; discrimination as to faculty and staff; failure to eliminate the vestiges of the dual school system; transfers that increase segregation; failure to take action that overcomes language barriers, and here we had in mind particularly the Spanish-speaking. So there is an affirmative statement of rights. It is national compliance, across the board.

Then the third main section has to do with remedies. Where the court finds there is a violation of the 14th Amendment and looks at remedies, the court is faced in this statute with a codification of things that have been used, some additions, some additional money put behind these remedies, and the remedies are rank order, all remedies which have precedence over busing.

The court is instructed to take the first, or the first combination of these remedies, that will handle the problem. The court is then in a position, if it finds that there is no complete and suitable remedy in this list, then the question of additional transportation comes up.

Here, following the Swann language, a distinction is made as to age. Insofar as children in the sixth grade or below are concerned, no additional busing beyond what that district is presently, currently, doing is available to the court as a remedy.

For students above the sixth grade, busing is a last resort type of remedy, to be used as a temporary measure; that is, it is desirable and required to have some kind of a plan that will reconstruct the situation over a period of time, some way the construction of a new school, or something of that kind, that will permit the amount of busing to be reduced, and perhaps reduced to a level that was in effect prior to the court order. So there is a temporary quality to the busing in that case.

Now, insofar as the desegregation orders are concerned, the statute also envisages that if a district is found in violation of the 14th Amendment and an order is put into effect, and the order presumably is going to cure the problem, it is possible for the district to pass through the period of court-ordered operation and, so to speak, cleanse itself. So if you have an extensive busing order, a time limit of five years' duration is placed on that business order itself, and ten years on the desegregation order more generally.

At the end of that period, if there is no subsequent violation, the district is cleansed and it operates on its own motion. The court order ceases to have effect.

Further, finally, in the interest again of treating this problem on a national basis, of treating school systems all over the country the same way, once this legislation passes, then we would foresee the possibility provided for in the legislation that on the motion of local education agencies, existing court orders could be reopened if they go further than what is provided for in this legislation, and a court order consistent with this legislation could be entered.

That, I think, is an overall summary. There are many other aspects that will be foreseen.

Let me ask first if Secretary Richardson or Mr. Kleindienst have anything they want to add.

Secretary RICHARDSON. No, thank you, George. I think we can proceed directly to the questions.

Mr. EHRLICHMAN. Let me just introduce the group at the other table. That is a majority of the working group which has been working with the Cabinet Committee on this problem.

From your right to your left, Will Hastings of the Department of Health, Education, and Welfare; Ed Morgan of the White House staff, Assistant Director of the Domestic Council staff; Dan McAuliffe from the Department of Justice; Ken Dam, an Assistant Director of the Office of Management and Budget; and Paul O'Neill, an Assistant Director of the Office of Management and Budget.

I will start with Mr. Cormier for the first question. If you do not have anything, we will go to someone else.

Mr. CORMIER. Feel free.

Q. How about the parliamentary situation in the House?

Mr. ERLICHMAN. Nothing was determined this morning with regard to that parliamentary situation. The members, particularly those who attended who were conferees, agreed that they would immediately get together and begin to talk about the conference situation in light of the President's proposals.

The feeling was that that would not necessarily forestall consideration of the legislation by the principal bodies during the time that the conferees were seeing whether or not the moratorium on busing and the more basic legislation could be introduced in some germane fashion to the deliberation of the conference, so it is still an open proposition.

Q. Where and when does the Justice Department plan to intervene, particularly inviting your attention to Detroit, San Francisco, San Antonio and Richmond?

Mr. KLEINDIENST. Every open case that exists with respect to this subject matter will be reviewed immediately by the Department of Justice on a case-by-case basis, to make a determination in two parts: (1) whether to intervene now before the passage of the moratorium legislation in an effort

to induce the court to stay any other action until the Congress passes the moratorium legislation; and then after the Congress has passed the moratorium legislation, to again intervene if any Federal District Judge should make a determination that the moratorium legislation is inapplicable or unconstitutional, and to appear before that court and take it on appeal, if necessary, to stay any order of a Federal District Judge after the passage of moratorium legislation.

With respect to just exactly what case or cases we will intervene in, that has not been finally determined, because the basic decision really will be whether or not a particular Federal District Judge is having an order implemented regarding transportation right now, or is about to.

I would feel, however, that as of right now, it is almost certain that we would intervene in the Richmond case and the Denver case.

Q. What about the cases on appeal?

Mr. KLEINDIENST. The intervention would be at all levels of the court.

Mr. EHRLICHMAN. Could I make a general comment that might forestall some questions? Every bureau will get an inquiry, "How does the President's legislation affect such-and-such a place," and every Congressman will get those kinds of inquiries.

The legislation was not drafted with any particular locality or pending case in mind. The effort here was to get a legislative approach that would be non-regional and non-local in effect, but would apply nationally. As a result, there has not been any staff analysis of the effect of the legislation on any particular case or region of the country, or pending piece of litigation, so we are just not in a position to answer those kinds of questions at this time.

I have no doubt that as we proceed, there will be announcements from time to time from the various departments about specific, pending cases. But questions of that type today would be premature.

Q. Mr. Richardson, isn't this going to dilute the funds available for Title I? Has there been a change of focus? Title I has been criticized for spreading money too thin. You are going to give a little more money for a lot more district. Isn't that going to dilute it further?

Secretary RICHARDSON. No. The thrust is in an opposite direction. We have already, through our comparability regulations, sought to target the money more sharply on the need of poor children, and particularly concentrations of poor children.

These regulations, as most of you know, say, in effect, that the money spent under Title I must be over and above the money otherwise spent for all children in the district. The McElroy Commission further recommended that there be a concentration within schools in a district, and we would seek to encourage this.

Without going into an elaborate detail on this, we figure that we can, through the combination of Title I funds, without diverting them from anyplace where they are being used now, and the combination of Emergency School Assistance funds, achieve the critical mass that Mr. Shultz referred to of approximately $300 per child, plus an additional amount of up to $100 in the schools which have the highest concentrations of disadvantaged children.

Q. It seems that you have not just a moratorium, but a rollback. This section which says that court cases and Title VI plans may be reopened seems to be inviting a host of new litigation. I would like to get Secretary Richardson's comment.

Mr. EHRLICHMAN. Let me touch on that first, if I may, and then I will pass it to him.

It is a question of rollback from what? This is the first time that there will have been legislation establishing a national public policy or a national standard. You had different levels and highly fragmented patterns up until now. That section has been designed to attempt to effect a national norm or a national standard.

Obviously, if there are some court decrees that have been more extreme than that, then equity would require that those districts be entitled to make a showing and to be brought to whatever the norm is which the Congress determines to be public policy in the country.

Now I will pass it to Secretary Richardson.

Secretary RICHARDSON. I will make two supplementary points: One, the provision for reopening proceedings is not in the moratorium statute which, as you have heard, establishes a freeze applicable to new busing orders, but does not provide for the reopening of any order that is already in effect.

The section you are referring to is in the substantive legislation which has been designed to establish uniform standards. There would be no reopening proceedings in any case except to the extent that a busing order exceeded the limits established here, so that the great bulk of all desegregation plans that are now in effect would not be touched.

It would be only those where the standards applied exceeded the uniform standards established in the legislation, and then, of course, only on motion of the district itself.

Q. The President said last night that the proposals he was making in the big piece of legislation would encourage desegregation, and yet, other than transfers, voluntary transfers from one school to the other, I don't see anything that encourages that.

Secretary RICHARDSON. There would be a priority in the allocation of funds, and the combination, particularly under the Emergency School Assistance Act, for school systems that are desegregated.

To that extent, we would be carrying out the basic legislation that was proposed by the President in 1970.

Mr. EHRLICHMAN. More than that, there is a grant of rights which, for the first time, would apply not just to de jure situations, but also to de facto situations. This would be the first piece of legislation moving into that area.

Q. How much busing is going on now for the purposes of desegregation, and how do you define massive busing?

Mr. HASTINGS. As to the first question, we don't have any breakdown. Even in court ordered districts, the court has to deal with the transportation pattern of the district as a whole. Some of the busing in court-ordered districts just gets kids to the same school that they would have gone to otherwise. Some of it is for the purpose of desegregation. We have no data on miles, distance, or times, the breakdown, or what the relative amount of desegregation busing and non-desegregation busing amounts to.

On the second question, "massive" is not defined term. We have not used it. It is a descriptive term to describe that range of cases which seems to us to have exceeded the requirements that the Supreme Court laid down in *Swann*. But it is not intended to be a term of art.

Q. I wonder if somebody would address himself to the overall question of constitutionality and particularly the constitutionality of the moratorium legislation.

Mr. KLEINDIENST. What you have here with respect to the moratorium legislation would be the act of the Congress and with respect to the courts dealing with the question of remedies.

I think that there can be no legitimate doubt whatsoever that, as a result of the power conferred upon the Congress in Section 5 of the 14th amendment and also in Article III of the Constitution, in a comprehensive package like this, where the aim of the Congress would be to come up with comprehensive national policy legislation, it has the power to, in effect, declare a moratorium on Federal courts with respect to the use of remedies for a period of time to permit to engage in the enactment of such legislation.

Many constitutional lawyers have been consulted with respect to this. The opinion of all that I know, when they combine the Student Transportation Moratorium Act and the substantive legislation, is certainly that it has the power.

Some even would suggest that the Congress would have the power to bring about the moratorium in terms of a denial of the remedy, even if it wasn't apparent or a matter of stated policy that they were engaged in the study of substantive legislation.

One thing that you want to notice is that the two acts tie themselves together by mutual reference.

Q. Is there a precedent in case law for this kind of action?

Mr. KLEINDIENST. The Congress has dealt with the question of remedy in the courts going clear back to 1793 in one way or another. So, to that extent, there is a pecedent, and that, I think, is what permits constitutional lawyers to say that Congress has that power.

There is no precedent in exactly this kind of situation, but the Congress, for instance, in the National Labor Relations Act, determined a national policy that was to apply between employees and employers in representation. That, again, is a question of remedy. The Supreme Court has said what the remedy would be under certain circumstances. So, constitutionally, I think there is ample precedent.

Mr. EHRLICHMAN. It might be of interest to you to know the process that was followed in determining questions of this kind. This legislation is a culmination of many months of study, a part of which was, of course, an analysis by the Department of Justice and its people of the legal questions involved.

The Cabinet Committee also had the services and the talents of eminent constitutional authorities and practicing counsel from the outside and delved deeply into the questions of the legality and the constitutionality of various alternatives, not just those that are being presented in the legislation, but quite a wide range of possible approaches to the various problems that are addressed by the President's message.

So Mr. Kleindienst and others are drawing upon a body of legal opinion that is broader than might have been referred to in the ordinary situation.

Q. The President believes that a constitutional amendment would take too long. At the same time, he says it deserves careful consideration by Congress. Can you tell us anything more about whether the President considers in the long run a constitutional amendment to be a proper remedy here?

Mr. EHRLICHMAN. I might just tell you what he told the leaders this morning, in substance. In this instance it is not even a paraphrase, but I will try to give you the substance of it. He readdressed the subject very much as he did in his brief remarks on television last night and said he should not be understood to be discouraging the congressional inquiry that is presently underway on the subject of a constitutional amendment.

He was asked a question which got to the matter of what would be his position in the event that the legislation were held unconstitutional. The President said, under those circumstances, it appeared to him that a constitutional amendment would be the only alternative.

I believe that probably answers the thrust of your question. There was some other colloquy about congressional feasibility. But the passage of the constitutional amend-

ment, and so on, would not be outside of the parameters of the questions laid down here.

Q. Isn't this a change in the Administration's position? It seemed like the President, for the last several years, has been saying we don't know what works; we will hold up and do research to find out what really is equal edudcational opportunity.

Number one, that seems to be changed; is it? Number two, what is the critical mass they are talking about? It seems like the new Coleman and the President's Commission on School Finance said that money doesn't really make a difference. What research do you have that contradicts that?

Mr. EHRLICHMAN. The critical mass always used to be the White House press corps. (Laughter.)

I will call now on Secretary Richardson.

Secretary RICHARDSON. I would say that what you see reflected here is a shift of emphasis, but not a radical shift. We have given a good deal of thought to the effectiveness of Title I. We have conducted a number of audits. There have been studies of impact of Title I. The weight of the evidence is in favor, we think, of the proposition that spending a small amount of money has comparatively little, if any, noticeable effect. But, if you spend, as has been referred to here, a critical mass to reach a given threshhold, it can and does.

This is on of the reasons why, as a result of these evaluations, we propose and are now enforcing the comparability requirements. Probably the most significant test on this score and one on which we are relying considerably, is one of the sample of 10,000 disadvantaged pupils in California which is referred to on Page 13 of the President's message along with references also to similar studies in Connecticut and Florida. We can give you more detail on that. I have a summary of these and other studies.

The legislation we already had, though, that speaks for Title I. The Emergency School Aid legislation was proposed by the President in 1970 and the very large proportion of the funds that were requested under that legislation were always conceived to be funds needed to assist children in catching up when they were transferred from a school subject to economic or other isolation or another school as part of the desegragation process. So, what we are doing here is to say we will use the funds for that purpose where a system is desegregated, but we will also seek to provide that kind of concentrated impact, even where children are remaining in a school where there is a large number of disadvantaged children.

Mr. EHRLICHMAN. Do you want to follow up on that?

Q. But this critical mass is saying a larger amount of money is going to make a difference. But this is the same amount of money we have had for the past few years. It is not new money, so how will it make the difference?

Secretary RICHARDSON. The answer to that it is the exceptional school system that has concentrated its Title I money enough to achieve this impact. We have been trying to bring about greater concentrations through the comparability legislation, but our audits show that the money has been dispersed too widely. So, in effect what we are trying to do is to accomplish more of what has been done in a comparatively few systems.

Dr. SHULTZ. I would like to comment on that question. In addition to what Secretary Richardson has just said, the Emergency School Aid money has been proposed for two years, but it has not been available. It has not been there to be used. So, assuming that we get this, that will be new money that we have not really had before. We had a small amount, I think $75 million per year, that was available under special arrangement. But this would be new money, if we get it.

Secondly, it is proposed here that the concept be shifted from the emergency concept where we were talking about $1.5 billion; $500 million the first year and $1 billion the second year, and then it would end, to one in which this is funded at the level of $1 billion per year out into the future. So that is also new money involved.

Mr. EHRLICHMAN. I think that is a very important point. The $1.5 billion was a one-shot deal. This is a proposal for the $1 billion level to be carried on annually in support of this program as long as the problem persists.

Q. Can we assume that your Justice Department interventions will be limited to cases that involve metro area cross-jurisdiction type of busing or desegregation and/or cases that involve de facto segregation?

Mr. KLEINDIENST. Well, I don't think you could make any assumption with respect to our intervention except for the fact that the decision will be made to go into any particular kind of situation that was open before the moratorium bill is passed to request the judge to hold everything until the Congress at least does that and then after the moratorium bill is passed, regardless of the kind of situation, if it is opened, to ask the court not to invoke any remedy until the Congress has had a chance to pass on this legislation.

Q How are you going to prevent school districts from strengthening their opposition or resistance to existing court orders on the hopes that the Justice Department would come in on their side?

Mr. KLEINDIENST. The moratorium bill applies only to new or additional court orders. It has nothing to do with court orders that are now in operation and in existence. The Department of Justice, I believe, would have a concern about an attempt by any school district to openly violate a valid, existing, current court order. That would be just an enforcement function of the Department of Justice.

But our aim with respect to intervention would be to use intervention by the Department of Justice as a means by which this step forward would be accomplished so that the Congress of the United States can declare a national policy with respect to education and get away from a situation where some 400 Federal district judges in effect have been legislating without any uniformity and without having a set of groundrules that are applicable around the country.

Mr. EHRLICHMAN. Secretary Richardson has an unavoidable commitment on the Hill. We will take one more question addressed to him, and then we will have Mr. Hastings move over here and be his alter ego.

Q. I would like to refer to the remark that the great bulk of the district court ordered busing would not be touched on in this situation. It seems to me it is a ban on all busing below the 6th grade. If that became the law, why would it not affect other districts?

Mr. EHRLICHMAN. Let me see if I can repeat the question. It is: How can you say that all busing would not be affected?

Q. He said the great bulk of the districts would not be touched.

Mr. EHRLICHMAN. The great bulk of the districts would not be touched when the permissible busing level in the legislation begins in the 7th grade and goes up.

Secretary RICHARDSON. The answer to that is that the great majority of all desegregation plans, whether court ordered or negotiated under HEW under Title VI, has not required increased busing. The limitation in this legislation for grades one through six says, in effect, that you cannot increase the average amount of busing overall within the system. Many school systems have more busing because they bus white children past the black school or black children past the white school before their desegregation plans than they did now.

Further, it was not the policy of HEW or the Justice Department in the enforcement of desegregation before Swann and Mobile to require noncontiguous zoning and pairing, which in turn leads to transportation, because the courts had not gone that far.

We enforced the law as it stood; that is, what the courts said the Constitution required.

So the substantial extent of the problem we deal with here is a problem that is post-Swann in the district courts, particularly, may have gone beyond Swann in the requirement of busing.

So this is basically why there are a relative few—I don't know how many, but not many—pre-Swann cases that would be affected.

Mr. EHRLICHMAN. I think there may be some confusion about this reopening provision. I wonder if I could address that, perhaps, ancillary to this question.

You get cases in which the court order involves a remedy in excess of what the Congress ultimately adopts as the permissible remedies in the statute. Those districts are entitled, where they are under a court order or under a Title VI HEW plan, to come in and petition to reopen those cases to have their remedies reduced to the level of whatever the Congress decides is the public policy in the area.

Q. I am sorry I did not get this question in before Secretary Richardson left. I would like to know why, since we speak of the quality of education, the Commissioner of Education is not here today.

I have another question, That is just one.

The other one is this: At page 6, Section 402, if I read it correctly—and I am probably reading it wrong—it looks as if you are going to go back and have just what you are starting out not to have: You are going to have every court, department or agency in the United States telling you specifically how to run your neighborhood schools.

Mr. EHRLICHMAN. Mr. Hastings.

Mr. HASTINGS. As to the absence of the Commissioner of Education, I can only say the Secretary is under the impression that he is the Chief Executive Officer of the Department. That is an impression that may not be shared universally in town, but he has made efforts to believe he can represent the Department adequately, not meaning to denigrate the Commissioner.

Q. It is not that. The point is that he has to represent Social Security and NIH and a few other things. We are talking about quality of education here, and some of these questions you did not answer.

Mr. HASTINGS. The question is on page 6 of which piece of paper?

Mr. EHRLICHMAN. It is the basic bill, Section 402. This is the hierarchy of remedies.

Mr. HASTINGS. The sole purpose of Section 402 is a direction to the courts and the Federal agencies, both Justice and HEW, in formulating a remedy for whatever wrong may be covered by the bill, they are to do only that amount of remedial requirement which is necessary to remedy the specific wrong.

For example, if there is a deficiency in the language programs so the Mexican-American children are not able to adequately participate, it is obvious that a busing remedy for that is a remedy which is excessive to the need. That is its only purpose. It is simply a mandate to limit the remedy to the wrong.

Mr. EHRLICHMAN. The way Section 402 works, the district judge starts with number one. If that applies, then that is the one he applies. If that will not work to solve the situation, then he goes to number two, or a combination of one and two. Only if those two will not solve the problem, then he will go to number three, and so on down the list of priorities.

As you see, busing is in the next section

and says only after he has exhausted the alternatives may he move to transportation, and then only on a temporary basis.

Q. What, under your bill, will constitute desegregation? When will it be accomplished? When will you have eliminated the vestiges of a dual system. I notice you do not say "last vestiges."

Mr. EHRLICHMAN. Would anyone like to take that?

Mr. MORGAN. I don't think we interpret "last vestiges" to mean anything but a semantic difference. The remedy for a violation of a desegregation order lasts for a particular period of time, five or ten years. If subsequent to that there is another violation, obviously another action can be brought.

Q. What am I getting around to is racial balance. "Last vestiges," as some lawyers contend means you must have acquired racial balance. At what point have you eliminated the vestiges of a dual system?

Mr. MORGAN. This bill specifically provides you do not have to achieve racial balance.

Q. I know that, but where above that have you achieved it over the nation?

Mr. MORGAN. Once the court found under the Act the remedy fashioned particularly meets the violation, you have accomplished it.

Q. On the reopening question, just for illustrative purposes, could we discuss Charlotte-Mecklenburg? That order went into effect at the beginning of the '70–'71 school year, if there is a reopening there, what would be the level of busing that would be the standard upon which the court would have to fashion a new decree?

Mr. EHRLICHMAN. We don't know that yet, because the Congress has not yet acted. If the Congress adopts the remedies set forth in the President's proposal, then this standard would apply and the judge would be bound by the provisions of this statute.

Q. Do I understand that the standard in the statute would, in the Charlotte-Mecklenburg case, by the amount of busing done in '69–'70; in other words, the preceding year?

Mr. EHRLICHMAN. The statute will speak for itself. I should not be expected to comment on Charlotte-Mecklenburg or Overshoe, Ohio. The provisions with regard to transportation would say to the judge, "If this were adopted, kindergarten through sixth grade, you don't go beyond the quantum in the previous year," and so on, on through. That is the general intent of the statute.

Q. In the event that a district seeks to reopen the Title VI desegregation plan, can you tell me what the procedure would be for it to reopen this plan and whether the plan would remain in effect while the department was considering whether or not they were entitled to have it reopened?

Mr. HASTINGS. The procedure would simply be an application by the school district to HEW to reopen this plan. During the negotiating process, the plan would stay in effect until modified.

Mr. EHRLICHMAN. I have another problem. I have another escapist here. Let me direct your attention to Mr. Kleindienst and take two more questions for him.

Q. Mr. Kleindienst said earlier that it was almost certain that the Justice Department would intervene in the Richmond and Denver cases. Would that happen before Congress acted, probably?

Mr. KLEINDIENST. Yes. Those would be two cases, in all probability, that we would intervene immediately, prior to the adoption of the moratorium bill, and there might be others.

Q. Mr. Kleindienst, the net effect of these two bills—this is a broad-type question. Why is this not a return to separate but equal, if the moratorium on busing stops future plans and the financing of inner city schools encourages and develops those schools?

Mr. KLEINDIENST. There are two answers to that question. One, as Mr. Shultz pointed out, in the substantive legislaion it prohibits the maintenance or establishment or re-establishment of a dual school system as a matter of national policy.

Q. Not re-establishment, but perpetuating the ones that exist.

Mr. KLEINDIENST. There is a prohibition, as a matter of natural policy, of a dual school system based upon race, color or national origin.

Secondly, the answer to the question is that what you are going to do here is to have a national policy which, as it affects the schools, you are going to eliminate transportation to achieve a racial balance or a particular ratio, and you are going to put the emphasis, as a matter of national policy, South, North, East and West, on quality of education.

So instead of going back to anything it really provides a means by which this country can go forward with respect to a very essential aspect of our national society.

Mr. EHRLICHMAN. Could I add something? I think the question is a very good one, because it points up the whole thrust of this legislation.

The question argues that the only way that you will avoid segregation is by transportation. The whole thrust of this legislation is toward other devices to do the same thing, other and better devices. It allows for transportation under certain circumstances, but only if it is temporary and only if the district undertakes, during that time, to move to other devices.

So it is a little bit like having a good eye, and you favor the bad eye by using the good eye a lot, so you have a crutch. We have gotten into that kind of a crutch syndrome on busing here, so we have not listed those other tools in that section.

Q. What are these other court decisions that have exceeded the mandates of the Supreme Court, the lower court decisions?

Mr. EHRLICHMAN. One that would certainly come to mind would be Richmond. I will pass that to the right-hand table here.

Mr. MORGAN. I assume you mean cases that have resulted in racial balance.

Q. Yes.

Mr. MORGAN. Cases which come to mind immediately would be Muscogee County, Columbus, Georgia; Winston-Salem, North Carolina, in which, immediately after that case, the Chief Justice released the memorandum applying to the Swann case. Others I can think of would be Augusta, Savannah, San Francisco, Tampa, Florida, and there are a couple more.

Q. I would like to ask if at any point there was any consideration of a more radical approach, of a rollback on busing completely, and how will this appease the anti-busing advocates who made this a big problem?

Mr. EHRLICHMAN. I would not open up the various options that were considered and set aside. I think that is destructive of the decisional system that we follow. I cannot answer the question as to what the attitude would be on the part of people who might take a more extreme view one way or the other.

I take it that at both ends of the spectrum, they are not going to agree with us. The basis on which this pattern was selected was that it did offer an opportunity for immediate action, it offered a very high possibility of success in the two goals of eliminating this heavy reliance on transportation, and effecting an improvement in the education system and the results for the children.

So that is how it was arrived at, rather than along the lines of any particular alignment.

Q. This is a constitutional question. Do I understand correctly—maybe Mr. Morgan can answer this—do I understand correctly that this bill is a codification of Swann? You are not rolling back anything that the court declared in Swann?

Mr. MORGAN. The substantive legislation sets forth many of those remedies using various cases, but puts them in a ranking and then deals with busing by setting certain limitations which the Congress can do under section 5 of the 14th Amendment as far as remedies are concerned. It is not denying any constitutional rights.

Q. The court has set a standard under Swann which it deems to be constitutional. Now, are you saying that what Congress should ordain is something less than what Swann declared? Would it be constitutional then?

Mr. MORGAN. We are saying that Congress has the power, under the substantive legislation, to define the limitations on the remedy. We are not in any way attacking the constitutional right.

Q. I wonder if you would go over a little more thoroughly the earlier comment you made that a district is cleansed after a certain period of operating a desegregated school system. What does that mean?

Mr. EHRLICHMAN. What do we mean when we say a district is cleansed after the running of a five- or ten-year period? Ed, do you want to take that?

Mr. MORGAN. The intent of that is to say that the courts are not required to run the school system in perpetuity. After they have had that five- or ten-year period, factors may have changed and they could use some of these other remedies, where there could be construction, and they could be deemed to comply, and they should go on out of that court order. There should be a time that it ends, as the Swann case clearly points out.

Q. Does that mean that a district which a few years ago desegregated under court order that comes out of that a year hence, that they could then go back to a neighborhood school system?

Mr. EHRLICHMAN: It is hard to argue a hypothetical case with one dimension. Let me try to put the answer differently. When you get into one of these cases, very often the court retains jurisdiction, but he has entered an order and there is an ongoing plan in execution.

We have seen locally here how simply on application of one of the parties the case is reopened and there is additional judicial intervention in the operation of the school district.

Now, under our judicial system, technically that could go on indefinitely. The purpose here is to bring about a cessation of that judge's jurisdiction in that case at some terminal date. That is not to say that—and the statute clearly provides—if there are, in fact, substantial violations of the Constitution or statutes, then an action can be again sustained for the correction of those violations.

But it is simply to avoid the more or less inadvertent perpetuity that takes places in these cases, because the existing law is all case law; it is not statutory. So any time you draw a statute on the subject, you try to define the terminal limit. That is what that does.

Q. If this legislation is approved, does it eradicate the distinction between de facto and de jure segregation so that segregation in the North is now as liable to solution as segregation in the South was?

Mr. EHRLICHMAN. The question is, does this statute, if adopted, forever more eliminate the distinction between de facto and de jure, North and South?

Mr. DAM. The statute does not attempt to deal with that distinction. The statute does contain certain prohibitions which are defined, and in particular with respect to language barriers, it might be said to deal with something that has been formerly referred to as being in the de facto area. However, whatever the theory of the court might be with respect to a violation, the remedy section applies. You go through the heirarchy of remedies, and so forth.

Q. What do you mean by that answer?

Here it says under equal educational opportunities that students should not be deliberately desegregated either among or in public schools. "Deliberately" in the South means by State law, and that is not true in the North. If this legislation is passed, does "deliberately" mean "deliberately" by housing patterns or by law? Is the North now liable to solutions the same way the South has been?

Mr. MORGAN. The answer to that is yes.

Q. Mr. Hastings, a follow-on to this question. In point of fact, this legislation, aside from upgrading the intent of it being to upgrade schools and pour more money into poverty area schools when it is needed, in point of fact this legislation does not touch de facto segregation in big Northern cities, where there isn't any busing anyway, so you don't have any desegregation in big Northern cities where the poverty area is so great there isn't any busing.

This does not touch those areas as far as desegregation in concerned; isn't that right?

Mr. HASTINGS. This programmatic part of the statute preserves the fundamental purposes of the President's 1970 desegregation emergency school bill. One of its purposes was to encourage voluntary desegregation by the North by providing financial incentives.

In terms of the program, Secretary Richardson said there will remain one of the priority categories: The districts eligible for the compensatory education portion will be those districts which are voluntarily desegregating.

Q. Could we have a translation of that?

Dr. SHULTZ. The Emergency School Aid legislation, as it would be used in this context, would permit money to flow to schools with a heavy proportion of low-income students, whether those schools were desegregated or not. There is, in a sense, a priority of purposes established so that you use the money first for the desegregation purposes.

But the notion is that where you find schools, regardless of what racial composition there is in the schools, where you find schools with a heavy concentration, 30 percent or more with a formula for how it would work beyond that, then you supplement the education budget of that school through the Emergency School Aid fund. So there would be money flowing to these areas that are low income and exist in an area where desegregation is not going to help them much.

Q. Is there a target date set for upgrading the quality of the inner city schools to the point where they are at the level of the suburban schools, and if so, is there any possible projection that goes beyond the $2.5 billion?

Dr. SHULTZ. Let me comment this way: I think one has to take these things a step at a time. Let us see what we can achieve, building on this experimental and demonstration work through this kind of concentration and critical mass approach.

Now, the subject of equality of educational opportunity, in terms of its concept and in terms of the money involved, goes even beyond and broader than this, and as the President said in his State of the Union message, and as there has been considerable discussion following the Serrano case and others, there is a big area of work to be done and addressed that is over and above this, and certainly we need to be bearing down on that subject.

Q. Could we follow up on this de facto? I believe, Mr. Ehrlichman—I have my notes something to the effect—you said there is in this a grant of rights which would apply not just to de jure but also to de facto segregation. Where in Title II, section 201, is there a grant of rights that would apply to the de facto situation?

Mr. EHRLICHMAN. Well, the thing I said I took off of your Fact Sheet, page 2, at the bottom, (B), and you will find there a summary of what I said: that the denials of equal educational opportunity are applicable to all schools, nationwide. It does not just apply to those schools that are found to be in a de jure situation. That is the thrust of what I was trying to say.

I don't know if that answers your question or not.

Q. Is there in 201 something that speaks to that?

Mr. EHRLICHMAN. It says all schools. It doesn't make a distinction that it has to be through the de jure pattern. I think that is the sense that I wanted to get across to you. You don't have to have a de jure finding for that to apply.

Q. But you do have to have a deliberate activity, a racially motivated act by a public entity?

Mr. EHRLICHMAN. That depends on how you read it.

Dr. SHULTZ. If a non-lawyer could get into that, I had the impression that if you had deliberate segregation by an educational agency, that that is de jure segregation. That is a way of defining that word. So you are talking about that, but this is something that is put forward as a national, codified standard.

Mr. EHRLICHMAN. There is no animus required. Some of these are put in the area of simply failure to act, as in the racial barrier situation. So I think it pushes out and gives leadership in some new direction on educational rights.

Q. John, what proportion of educationally deprived students in Title I districts will be able to be covered under the $300 critical mass approach with whatever extra money you have? Obviously you are not talking about an overall program, but an experimental program.

Mr. O'NEILL. Our estimates are that there are about 7 million children attending schools that have concentrations of lower income children exceeding 30 percent, and something over half of those 7 million, in fact, meet the low-income family definition.

Q. Would you be able to cover all those with the extra money at $300 a pupil?

Mr. O'NEILL. Yes, our estimates show that we would be able to supplement the money now present with those schools in Title I with the new dimension added to the ESA program to achieve $300 per child, and in those schools where there is a very significant concentration, we would be able to reach it by $400 per student.

Mr. EHRLICHMAN. It is not a demonstration concept, either.

Q. Is there anything in this that gives relief to a local school district that is under State mandate, that is under orders to bus children for purely racial purposes?

Mr. EHRLICHMAN. No.

Q. What is the net effect of all that? Are we going to see, after it goes into effect, more desegregation or less than we have now?

Dr. SHULTZ. I would expect and hope that one effect would be less prospective busing, so that would be one effect.

Second, in the process of desegregation, the courts would be looking at these other remedies, and we would have in many ways a more imaginative approach to how to do this. John, I think, was saying earlier that the busing should be a last resort, not a first resort, in the sense that it is too easy a thing to turn to.

Third, I would hope that we would get out of this an improved quality of education over a broad base, as well as a greater measure of equality of educational opportunity. So I think these are, if you want a sort of net assessment, the way I would sum up.

Mr. EHRLICHMAN. I realize some of you have deadlines and we will only take three more questions.

Q. I have two questions.

Mr. EHRLICHMAN. Well, there goes two of them.

Q. The $2.5 billion is really deploying money that has been planned, if not enacted, and we know, from your description, who is going to benefit from the redeployment. The question is: Who loses? Where is it coming away from? This money was going to be spent.

The second question is: Earlier Mr. Richardson said that the great bulk of places where there has been desegregation will not be affected, and then it subsequently developed that he was not talking about or limiting his statement to busing.

Would it be a fair statement that three-fourths of the places where there has been enforced busing, and all places where there has been busing with noncontiguous zones, would be rolled back?

Mr. EHRLICHMAN. I do not think any of us are equipped to answer the second part of that, because there has been no analysis done that I know of on the number of districts that would achieve the norms proposed here in terms of transportation.

I think it is fair to say that most of them would be affected in terms of elementary school; that is, kindergarten through sixth grade; but that is obvious on the face of it.

Now, on the first part of your question as to where did the money come from, or who lost it. Will, can you answer that?

Mr. HASTINGS. I can take a start at it.

Substantially the same districts, with some additions, will be eligible under the new program, as in the old. The additional districts will be those with high concentrations of poor children who cannot be reached by traditional desegregation processes.

In terms of the children, the change really is the way the money is used in the district itself. One of the points that has not come out so far is that the concentration of resources under this combined program must go to the basic learning programs in the schoolhouse; you know, the reading, writing and arithmetic programs, plus supplementary special services such as nutrition and health care for the kids.

It cannot be spent on overhead, general administrative costs and the like. So it is a redeployment in terms of the kinds of programs for the children. I do not think there is a substantial change in the districts affected or eligible other than the classic cases I cited in the first part of my answer.

Dr. SHULTZ. I just want to add one point: Remember that this legislation was proposed first two years ago, and a tremendous amount of desegregation has been accomplished during that period. If we had had the money two years ago, I think the people who have been going through this process could have been much better off. We would have been able to help them more effectively.

At the same time, there is a lot of water that has passed under the bridge, so I think the need there is a little bit less.

Q. If, as the experts have testified here, we do not even know the extent of busing involved in the desegregation process, then what is the hard evidence that supports a Presidential call for a moratorium on busing?

Mr. EHRLICHMAN. I think you have to come from some other planet not to be able to answer that question. Every place that you go around this country, as a number of us have and as the Cabinet Committee, particularly, has in its inquiries on this thing, this is the front burner issue in most local communities. The people there, who are the ultimate consumers, so to speak, the parents and those associated with the parents, the community leaders, the church leaders, all kinds of people in those communities, the newspaper people, push that issue right up front and say, "This is the most pressing problem, the most divisive problem and the

most troublesome social situation we have in this community at this time."

Now, that is the evidence. It carries by such a preponderance that it cannot just be swept under the rug by some sort of statistical evasion.

Q. You have said that the thrust of this legislation is to shift the focus away from transportation as a remedy to alternative remedies. How do you implement these alternative remedies without some form of transportation, since the facts of life are that blacks and whites don't live together. They live in different parts of the cities.

Mr. EHRLICHMAN. Who wants to handle that?

Dr. SHULTZ. The living arrangements vary a great deal around the country by city size and parts of the country. There is no necessary reason why one must desegregate everything. What we are talking about is a situation where you have deliberate segregation and court orders are being sought and given to overcome that, and then what are the remedies that are used.

That is the problem that is addressed here, as well as, of course, on a broader basis, following an earlier question, the improvement of educational opportunity more generally.

Q. Isn't the effect of your answer to exclude de facto legislation and to say there is nothing we can do about it? Aren't you limiting this solution you propose in your answer to de jure segregation?

Dr. SHULTZ. Depending on how one may define this, certainly in this legislation the educational problems of students who are economically deprived and racially isolated are treated. An effort is made to do that.

But beyond that, in terms of the definitions of the de jure and de facto segregation, there has not been anything additional laid down here to treat on that problem.

Mr. EHRLICHMAN. I think your question implies an either/or choice. I think if you listened to the President last night—and he repeated it this morning with the leadership—he is most concerned about the capacity of our educational system to transport anywhere like a majority of students in highly impacted, disadvantaged areas.

It is the conclusion of this working group, after a tremendous amount of study, that if you set about to do it you would be years and years and years perfecting some kind of a transportation system that would make up for the inadequacy of educational opportunity in these core cities.

We are just skimming the top, really, of the kids in South Chicago or some of these other heavily impacted, disadvantaged areas. As long as we rely on transportation and say that is the only answer, and if you downplay transportation and you are not going for a solution to the problem, we are never going to solve the problem.

This is an effort to strengthen an attack on the problem through other resources, the handling of other resources and the use of other devices. I think it is a statement of conviction on the President's part that transportation simply is never going to solve the problem. It hasn't demonstrated it has come close to solving the problem. It has simply proved to be a very difficult and divisive additional social problem that has presented itself.

You hear talk about moral leadership. I suggest to you this is moral leadership personified. The President has suggested that we vigorously attack the problem and that we do it in some way that has some chance of success instead of a way that has proved itself to be totally unsuccessful.

With that I will conclude.

PERSONAL ANNOUNCEMENT

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, the March 21 primary elections in Illinois caused me to be necessarily absent for a number of rollcall votes. Had I been present, I would have voted as follows:

Aye on roll 80, final passage of H.R. 8395 extending the Vocational Rehabilitation Act;

Aye on roll 81, final passage of H.R. 11948, authorizing appropriations for U.S. participation in the Hague Conference on Private International Law;

Aye on roll 82, final passage of H.R. 4174, amending the Uniform Time Act;

Aye on roll 84, final passage of H.R. 13120, increasing the par value of gold to $38 per ounce;

Aye on roll 87, final passage of H.R. 13592, the National Sickle Cell Anemia Prevention Act;

Aye on roll 89, final passage of H.R. 13955, legislative branch appropriations for fiscal year 1973.

DISTRIBUTIVE WORKERS OF AMERICA REACHES WAGE SETTLEMENT; IGNORES COUNCIL'S ERRONEOUS INTERPRETATION

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, in enacting the Economic Stabilization Act Amendments of 1971, Congress included a specific exemption for "substandard earnings." This exemption, section 203(d) of the act provides:

> Notwithstanding any other provisions of this title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is a member of the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

The legislative history of this provision makes it quite clear that the intent of Congress was to define "substandard earnings," and "working poor," to mean a level of income of $6,960 annually, or approximately $3.35 an hour.

My bill H.R. 11406, was the origin of the language of this amendment. With respect to this language, the House Banking and Currency Committee report stated:

> It is the intention of the Committee that this exemption from control apply to all persons whose earnings are at or below levels established by the Bureau of Labor Statistics in determining an income necessary to afford adequate food, clothing, and shelter and similar necessities. (Report No. 92-14, p. 5)

Based on 1969 data—which are, of course, now subject to upward correction due to inflation—the Bureau of Labor Statistics 1970 cost estimate for an urban family of four at a lower level is $6,960 annually.

However, in flagrant disregard of this clear legislative history, the Cost of Living Council on January 29, 1972, decreed that only workers earning up to $1.90 an hour—$3,968 annually—will be exempted from wage controls.

The outrageous nature of this decision is highlighted by the fact that it was reached in the face of a unanimous opinion by the Pay Board on January 19, 1972, that the figure of $1.90 an hour was so low as to violate congressional intent. Early in January of this year the Cost of Living Council had submitted the $1.90 figure to the Pay Board and asked for the Board's views on this figure. In rejecting this figure unanimously the Pay Board adopted the following resolution:

> It is the sense of the Pay Board that the $1.90 figure recommended by the Cost of Living Council is inconsistent with the purposes of the Amendments of the Economic Stabilization Act and supporting analysis.

This unconscionable decision by the Cost of Living Council will work an egregious and unacceptable hardship upon the millions of hard-working men and women in this country who try to support themselves and their families on wages of less than $7,000 a year. This ruling will deny them raises they have earned, deserve, and expect.

This decision is being challenged in the courts, and I have filed an amicus curiae brief in that action. It is also being challenged in the bargaining sessions and on the picket lines by at least one union: District 65, Distributive Workers of America.

Called the conscience of the union movement by the late Reverend Martin Luther King, Jr., District 65 has chosen to follow the clearly expressed intent of Congress and ignore the inconsistent ruling of the Cost of Living Council. On Friday, February 4, District 65 called strikes in the following establishments: Modern Miltex, 280 East 134th Street, Bronx; DeLuxe Label, 23 East 21st Street, Manhattan; Rebuilt Auto, 147 Classon Avenue, Brooklyn; Ribbon Narrow, 65 Bleecker Street, Manhattan; Page Studio, 72 Madison Avenue, Manhattan; Atlantic Foam, 330 Morgan Avenue, Brooklyn. The workers in these places of business earn below $7,000 annually.

Settlements have been reached with the following five firms: Modern Miltex, DeLuxe Label, Rebuilt Auto, Ribbon Narrow, Atlantic Foam. The settlements are approximately double the 5.5-percent guideline set by the Pay Board.

More recently, District 65 has called strikes and reached settlements with H. Levey, 418 Broome Street, Manhattan, and Alfred Dunhill, 11 East 26th Street, Manhattan. Again the average increases were 10 percent.

District 65 has not submitted, and does not intend to submit, these agreements to the Pay Board for approval. It is the position of District 65, and I agree with it, that settlements such as these are sanctioned by the working-poor exemption passed by the Congress, the arbitrary ruling of the Cost of Living Council notwithstanding. Therefore, no approval from the Pay Board is required. District 65 has sent a letter communicating its actions and the reasons to each of the members of the Cost of Living Council and the Pay Board as well as to the Director of the Internal Revenue Service, and to the members of the Banking

and Currency Committee of the House and the Finance Committee of the Senate.

I commend the members of District 65 and its president, David Livingston, for their forthright and courageous response to this situation.

UNITED FARM WORKERS—A PLACE UNDER THE SUN?

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, I was pleased to join today with the Black Caucus in full support of the United Farm Workers' stand against the court injunctions sought by the National Labor Relations Board.

In the past there has been widespread support for the boycotts of grapes and lettuce. However, now the issue takes on a new and more saddening dimension.

Although for 37 years farm labor has been outside the jurisdiction of the National Labor Relations Act, the United Farm Workers have suddenly been placed on the altar by a consortium, including the National Labor Relations Board, the Free Marketing Council, and the American Farm Bureau Federation.

The United Farm Workers have been attempting for years to raise themselves from the hardships and discrimination that still pervade their daily lives. Never given any of the benefits or protection of the National Labor Relations Act, they are now facing injunctions sought by the National Labor Relations Board and their newly appointed General Council, Peter Nash. The Black Caucus called the move "morally reprehensible and legally tenuous."

The justification for all this is an awkward juxtaposition of facts and figures. The National Labor Relations Board contends that the United Farm Workers Union contains a handful of statutory workers employed in commercial packing sheds, thereby making the whole union subject to the punitive aspects, dealing with secondary boycotting, of the National Labor Relations Act. It is unfortunate that the United Farm Workers are being placed on the altar, so that the administration's ties with the Free Marketing Council may be maintained.

In seeking this injunction against a union of farm workers, the National Labor Relations Board is violating Public Law 92–80, which prohibits expenditure of National Labor Relations Board funds for this purpose.

Court injunctions have been filed in 10 States and the District of Columbia, and the issue will not subside until the duality in it subsides.

And this is exactly what must be clarified. The National Labor Relations Board was originally created to provide for the fair and equal treatment of management and labor. When the wineries and agribusiness interests recently sought help in ending the boycott, management became the key object of its protectionary powers. The disparity is painful to everyone but a few.

In order to try and remedy the situation, I have written the Chairman of the National Labor Relations Board and urged him to reexamine his agency's position in this matter.

HURRY UP WITH THE TAX PROPOSALS, MR. PRESIDENT

(Mr. ABOUREZK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ABOUREZK. Mr. Speaker, the voters have focused their attention on the economy this year.

They are not just worried about the immediate problems at hand—how we get out of this post-depression recession, or whatever you call it.

They are looking deeper than that this year. They are looking at the basic questions.

They are looking at who owns America's wealth. They are asking if the extreme concentration of economic power in the hands of a few is a good thing.

And they are looking at the consequences of that concentration. Under special scrutiny is who pays how much taxes and why.

And they are finding out that our tax laws are severely distorted in favor of the rich and powerful. They figure quite correctly that favoritism accelerates the concentration of wealth and power into the hands of a few.

They know the simple facts of power. They know that power follows money. They know that the very workability of democracy is threatened.

Moreover, they know that they are paying far more than their fair share. They know that, in effect, they are being soaked. And they understand the vicious irony of that soaking. They know it erodes their own grasp on the process that makes the decisions in this country. They pay most of the bills but make fewer and fewer of the decisions.

They are getting wise to what has been going on. And they are angry about it.

They are angry, because they are learning—

That one in 20 millionaires paid zero taxes in 1970.

That 112 people with incomes over $200,000 paid zero income taxes that same year.

That J. Paul Getty, the oil billionaire with a daily income of $300,000 saves $70 million a year thanks to tax loopholes.

That the average working family and the big oil companies pay almost identical tax rates on their net incomes, thanks to oil loopholes.

The average American gets stuck with unfairly high taxes, while clamps are put on their wages, while prices climb up the ladder, dragging regressive sales taxes up with them.

So far the guts of our national economic policy has amounted to huge and expensive "incentives" to big business—through excise taxes, import quotas, accelerated depreciation, and dubiously effective price "controls."

It seems obvious that if we want to put more money into the average guy's pocket, at a time when that is what the economy so desperately needs, the thing to do is decrease his taxes.

I can point to $77 billion worth of loopholes that will do just that.

It will be interesting to see how close the administration's promised tax reform package comes to those goals.

But we would not be able to see anything, and we would not be able to legislate anything, until the White House gets its recommendations up here.

Mr. Speaker, if there is to be tax reform this year we have to get moving on hearings and a bill. We cannot wait much longer.

POLITICS AND ECONOMICS OF THE ENVIRONMENT

(Mr. BROYHILL of North Carolina asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROYHILL of North Carolina. Mr. Speaker, as we continue to consider the problems of our environment and seek solutions to these questions, I would like to call to the attention of my colleagues the following two talks delivered by Prof. Peter F. Drucker during the Claremont College's annual lecture series April 13-14, 1971.

Professor Drucker is a world-reowned economist and among the first teachers to offer courses in the protection of our environment—long before it was fashionable to do so.

It is because of this long-standing interest and study of the problems of our environment that Professor Drucker is so uniquely qualified to offer his observations on the subject of politics and economics of the environment.

I hope that the Members of the House will find his remarks as interesting as I did and perhaps agree with me that Professor Drucker offers a new perspective from which to view the important issue of protecting our environment:

POLITICS AND ECONOMICS OF THE ENVIRONMENT

(By Peter F. Drucker)

WHY WE ARE NOT MAKING MUCH PROGRESS

I am a very old environmentalist. Way back, around 1947 or 1948, when I taught at a small women's college in Vermont I offered what was perhaps the first course in the environment. I did not get a single student then for such a course; nor could I find any reading matter. It seemed a very strange and wildly reactionary notion at that time that we have to make sure of not destroying too much of the natural inheritance of man.

Having been concerned with ecology for a long time, I should be exceedingly pleased by the sudden rush of interest in the environment—to the point where one cannot open any magazine without finding an article on ecology in it. And in a way I am, of course, grateful. It is very nice to see that one was not entirely wrong a long time back. But I am also rather perturbed. I see an enormous amount of busyness and an enormous amount of headlines and an enormous amount of rhetoric, but the only thing I don't see are results. Maybe I demand too much. But I do not see much progress. I see a

lot of money being spent. But I have long ago learned that one does not equate the size of a budget with accomplishment. Money is no substitute for thinking; indeed to substitute money for thinking always does damage. I see a lot of bills being passed, a lot of conditions being deplored; yet I don't see us making much progress in learning how to manage the environment to make this country and this planet liveable for human beings.

And so I have been asking myself just these last few years not only what should be done but also what should *not* be done. Why are we making so little progress despite all the tremendous emotion and stir? For at best things are no longer rapidly getting worse. What is it then that deprives us of results in something that is overdue, in something that needs to be done, and in something that has so much public support?

The first thing to say is that most of the present advocates of the environment suffer from three major misunderstandings which inhibit results. The first misunderstanding, and the one that bothers me the most is that we think that one can live in a riskless universe, that one can somehow deprive human action of risk. To believe that one can be safe is a sheer delusion. The real challenge in the environmental situation is to think through what risks to afford and what risks are not permissible and where to draw the line, and what price to pay for what degree of insurance. That is taboo and anathema to the mood of today. Yet the whole history of the human race proves that one always pays a price and that the decision is how much to pay. One takes risks, and the crucial decision is what risks are intelligent and prudent risks. The moment you want to be riskless, you are endangered and you are vulnerable to the wrong catastrophies.

We are, for instance, not thinking through the risk we are taking in not building enough electric power. Yet the entire environmental technology is a power technology. Everything we need to do to clean up the environment raises the energy needs by several orders of magnitude. To be sure, building electric power stations has its problems. But by not building them we are just laying ourselves open to catastrophic dangers not very far out.

The second misunderstanding is that somehow profits can pay the costs of managing the environment. Yet we have known for a long time that there is no such thing as profit anyhow; that's an accounting delusion. There are only the costs of the past and the costs of the future. What we call profit is the capital needed to create additional or better jobs—and never was that need greater than it is today. All of us here today are conscious of the financial needs of higher education. But the greatest need of higher education is for capital to create the jobs for all those young hopefuls that graduate. In the next ten years we will need each year 400,000 more jobs for college graduates than we needed in the sixties. Yet in the next ten years the largest single job opportunity of the last decade will not be around: jobs for women as teachers. There are not going to be many—not because of Governor Reagan, (unless you hold him responsible for the entire birth rate of California and not even his closest friends have claimed that much for him), but because of the very sharp drop in the birth rate from '60 to '67, the sharpest drop in the history of population. At the same time teachers in 1955 or 1960 were one of the oldest age groups in the American working population with an average age of 57—older than corporation vice presidents. Today they are one of the youngest. For the last time we hired teachers before was in the 1920s when the high schools exploded. As a result, of the teachers who taught in our elementary and secondary schools fifteen years ago, only a handful are still teaching today. The great majority have retired or died. Anyone who had children in the schools in the '50s can check this. All he has to do is to find out how many of the teachers who taught his children in the fourth grade are still teaching. They are practically all gone. But in 1955, parents who still lived in the neighborhood in which they themselves had grown up, often still had their own old teachers teaching their children. As a result of this generation shift, the teacher population today is very young and is not going to retire or die fast. There are not going to be many teaching jobs the next ten years. The women college graduates will therefore compete in the same labor market as the men, which was not true during the last fifteen years.

There is, therefore, going to be a tremendous need to create jobs for at least twice as many highly schooled (I won't say educated—that remains to be seen) youngsters. Each job will require about twenty to thirty to fifty thousand dollars of capital: that is the ante today. Existing profits are already inadequate for that need so that we start out with a deficit if we want to find jobs, particularly for the highly educated. The profits are not there to begin with. Although profits are at best four and a half to five percent of total gross national product; and the minimal environmental bill is likely to be twenty-five percent or more. So it is a gross misunderstanding that profits can take care of the environmental bill. The consumer will have to pay it, as in the end he pays for everything, whether through taxes or in the supermarket. As long as we believe that profits can take care of the environment bill, we will not be going any place.

Finally there is the misunderstanding that it is "greed" that explains the environmental crisis. No, it is largely the desire not to see two out of three children die before they reach age five; to have enough to eat for the poor and to have access to job and opportunity. *The environment is a problem of success.*

These are the hardest problems. They do not yield to attack by morality; they have nothing to do with it.

We have succeeded in doing things that I don't think anybody would consider the wrong things. And that now presents a massive problem of a different kind. Incidentally, nobody foresaw it: perhaps we ought to be able to foresee technology—but so far no one has been able to do it. When DDT was developed there was not a single one amongst the scientists and the physicians who even faintly foresaw that it could be used for anything but to keep troops free from malaria and typhus. Some laymen wondered whether it could not also be used for civilians but were told that it would be much too expensive. No one, whether scientist or layman, foresaw that it would be used for crops—and no scientist had anything to do with it. Farmers discovered that you can spray DDT and keep the boll weevil under control.

No scientist or technologist at the time foresaw that the American and Japanese armies would export the screen window to the four corners of the earth, which is the real secret of the "population explosion." Between sixty and eighty percent of the increased birth rate in the tropical countries is the result of the screen window; and that's hardly sensational technology, by the way. The screen window explains in large part why babies no longer die of fly-borne diarrhea before they reach the age of two.

One cannot prophesy. One can only say that success always creates problems; one just doesn't run out of problems. But they are still problems of success—of very great and hard-won success.

Another major reason why we are not making much progress in our fight to save the environment is that we go about the job by trying to punish instead of by trying to create incentives. If there is one thing we know it is that punishments do not work but incentives do.

We are trying to pretend that the environment can be handled by becoming again children of nature. (You know children of nature today play electronic guitars. Everytime I hear an anti-technology ballad sung on an electronic guitar with the latest amplifiers. I kind of wonder.) My generation (including myself) did that too, in the '20s. Yet we did not end up anti-technologically, we ended up with the atom bomb. Perhaps if we had learned more about technology instead of singing romantic "blood and soil" ballads we would have done better.

The environment is probably the toughest technological challenge we have faced. Nobody need apply who is not absolutely first rate in science and technology and systems work analysis. Folk singers are not going to solve the environmental crisis. They could not even build a sewage treatment plant. (This is the time, by the way, when one tells a youngster not to fall for the nonsense that we do not need engineers. This is the time to go in for engineering. Eight years from now we will need them badly and are going to be very short of trained technologists.)

But perhaps the greatest single problem we face is that nobody is willing to set priorities in the attack on the crisis of the environment. Nobody is willing to say: there are fifty million jobs to be done yet nobody can do more than one at a time and that is usually hard enough. What are the things we do first, the things to commit ourselves to, the things to work on until they are licked? Instead, we run off in all directions.

In preparation for this lecture I took the telephone and called up a friend at the Library of Congress and asked: how many environmental bills have Congress and the states passed by now. I expected him to say sixty. But his answer was: 344. I said, "Are they all funded?" "Yes," he said, "they are all in some budget." I asked, "Are they all staffed?" and he said, "Don't ask silly questions."

We are running off in all directions. Everybody with a little hatchet and a spray gun is attacking huge problems. As a result we get lots of headlines. And that's all we get. And lots of ulcers, and that's all we get. But we get no results.

I am not saying that I know what the priorities are, though of course I know what *my* priorities would be. *My* list is not terribly important; but *a* list is important. My list, by the way, would be clean air first and clean water next and then the problem of thermal pollution in generating electric power for which we have no technology so far. Finally, I would put the food problem; for we are caught in a dilemma between having millions of children die as a result of a sharp drop in crops yields if we stop using herbicides and pesticides, and doing inevitable ecological and biological damage because the pesticides and herbicides are too potent. In the long run this may be the most tragic problem we face. But so far few people are even working on the problem.

This would be *my* list. But what matters is that we settle on a list and then organize very scarce resources for work. It is not money that is scarce—it never is. But good people who can really come to grips with enormous tasks like the environment one are very scarce. Instead of concentrating on a few big tasks, everybody rushes off every morning in a new direction. The right thing to do is to say instead: Here are our priorities. They are either—like air and water—the problems we understand, at least to the point where we know where to start, or, like electric energy and food production, they are problems where we do not know the answers

but know that we need answers urgently so that we can do the environmental jobs. Let's forget in the meantime about all the other things or let's relegate them to the Sunday supplement where they are forgotten by Tuesday afternoon.

The lack of priorities is perhaps the most serious matter today. As a result everybody is excited about the environment. But nobody is willing to develop any commitment, any policy or any real attempt to do something effective except to be self-righteous. We have to think through what the priorities are for this country.

Then we have to think through how to carry them out in such a way that the necessary and badly needed and highly conservative concern for the environment does not degenerate into the real sin of conservatism, namely into a war of the rich against the poor, either at home or abroad. The poor always suffer the most when things become more expensive. Then the one who has the least gets less. There is no way out of this if costs go up. That the black community considers the environmental excitement an attack on it is no accident; the black poor are right. When they think that the white kids on campus who are now all in favor of "earth" are in effect deserting civil rights, they are right. When air is no longer free so that you have to pay for it, it makes everything more expensive. When water is no longer free because you have to pay for keeping it clean, it makes everything more expensive.

There is, therefore, a real problem: how to do the environmental job without depriving the poor. Within our country the poor, despite the headlines and despite the terrific social problems, are not the major economic problem—frankly there are not enough of them. But two-thirds of the outside world is poor. Suddenly to demand of developing countries that they preserve the environment means in effect that the South American countries and the Southeast Asian countries cannot develop and will not be allowed to develop by the already rich nations. We have to find a resolution of this conflict, and it is a genuine conflict.

We also have to reconcile the needs of the environment and the need for jobs. Twenty years ago, up in northern New England, where the old paper mill is the main stay of the small town, everybody in the town was willing—indeed eager—to suffer the smell for the sake of the jobs. Today perhaps the decision is not so clear-cut. Tomorrow it is going to be clear-cut again—and again the vote will be for the jobs. There is going to be no labor shortage the next ten years because the babies born during the baby boom are now reaching the labor market. From now on for the next ten years there will be fifty percent more job-seekers on the labor market each year than we have had the last fifteen years. So there is going to be no shortage of people. Then people will again think of jobs. We are on a collision course between environment and jobs, and I do not think we can afford it. We will have to think through what risks we are willing to take to maintain jobs for people who otherwise would not have any. For those people in Ticonderoga, north of Albany, New York, there are no other jobs, nor are there in Maine or in West Virginia.

We will also have to think through how we can have an environmental policy that does not become international economic warfare. There are already plenty of signs that pollution is becoming a trade weapon. The people in Milan, Italy, have about the worst pollution of any place in the world, rivaled only by Moscow and Tokyo. Yet the people there are not yet willing to do anything about pollution simply because they are still job-focused and production- and export-focused. The French on the Upper Rhine—which is a depressed area—are not willing to do anything to prevent the potash from the tailings of the almost worked out mines to be dumped into the river. It flows anyhow within a few miles out of France into Germany—so let the Germans worry. In many parts of the world the environmental job cannot be done nationally altogether. The Scandinavians cannot control their air; it blows in from England. And the English see little reason why they should do anything about air pollution. Maybe we will have to start with a unilateral American law that forbids importation into this country goods produced below American pollution standards. This would be in violation of every single trade treaty we have, but we may have to risk it. (Such an approach would be equivalent to the old Child Labor amendment to the Constitution almost forty years ago.) The worst thing that would happen to us would be for pollution to become a weapon in what is a very competitive world trade.

No one knows how much money we are spending today on the environment. But the amount is high—up in the billions and going up rapidly. If there are no results in a few years, we are going to get a terrific backlash and a terrific disillusionment. Many people who are now wildly excited about ecology will then say, "It's only a political racket after all." Then I think the ecology would be in for a very rocky time, and we have enough difficulties without inventing unnecessary ones.

So I think we need to ask questions. We need to accept the fact that managing the environment is not an easy job and that it is a new one; we never had to think through such risks and trade-offs before. We never had to balance condemning millions of babies to die against the environmental hazard of pesticides; we have to think it through now whether we like it or not. We have to accept the fact that these are now our decisions. We have to accept the fact that the bill for the environment cannot be defrayed out of the surplus of the economy but has to come out of the economic substance. We have to think through how can we do the job in such a way that there is minimum danger, minimum damage to the poor, minimum damage to jobs—particularly for unskilled and semi-skilled people, and minimum damage for the developing economies, which are now hit with a demand which today's developed countries did not have to meet. And we have to think through our priorities.

In the last few years we have had a very good time in the environment. Everybody has been making speeches. Everybody has been feeling wonderful about bemoaning the sad state of the world. It is not only in the Victorian novel that a good cry is the most satisfying human experience; it is even truer in politics. Everybody has been telling the other fellow: unless you reform there will be doomsday. And nobody has asked: and what do I have to do? Nobody has asked: what is the job? Nobody has said, there are tasks to be done. What are they? How can we really define them and come to grips with them? We have been having a wonderful bull session. Now the party is over. The work day is ahead of us. All right, we'll have a hangover, but after that let's go to work.

DO'S AND DON'TS FOR ACTIVISTS

Ever since I agreed to speak here today some eight months ago, I have been a little worried about one word in my title: the word "activist." An activist, the dictionary tells me, is somebody who is in favor of action. And so we all are, and it is badly needed. But I do not think that acting is what we are primarily interested in: we are primarily interested in results. You cannot have results without action and, in fact, without a tremendous amount of hard and sustained work. But it does not follow that you get results because you are active. All you might get is busyness, and I am not in the least interested in busyness. I see too much of it in all institutions and everyplace. So I have been trying to find a better word than "activist," and I haven't found one, because there is none in the dictionary for someone who wants results as I do.

But what I would like to talk about today is not how one gets busy but what one has to do to get results and what one better not do if one wants results. If you want headlines and a good feeling and love-ins, you don't need me. Results are something different, and I want to talk today about how one organizes and what one does and what one does not do if one wants results in the environment.

You will look at me and will say: What warrant do you have to set yourself up as an "expert"? What results have you got? Well my results are not very impressive. What I can claim is a long record of busyness, because I began to be concerned with the environment a long time ago, when very few other people were, twenty-five years ago or so. I have the dubious distinction of having offered the first course in the environment ever offered in an American college, way back in '47. And I said "offered" because I did not teach it; not one student had the slightest interest in it. Now I am no longer all by myself in a corner trying to get other people interested in the environment—as a matter of fact, I find myself rather crowded in that corner. Now I am beginning to hope for results. But what is needed to get results?

So far the record is not very impressive. We have passed an enormous number of laws. We are spending very large sums of money. We are getting very excited. But the results are not there. Nor are we moving towards them at anything resembling even a deliberate crawl.

And so what are the *do's* and *don't* for people who are concerned enough with the environment to want some results? What do we need to know and what do we need to do so that all this energy has a chance to produce results? Nobody, let me say, can ever guarantee results. Results are not that easy and not that predictable. But if you do the wrong things, nonresults can be guaranteed.

II

One of the first things to say is that the belief abroad today that action on the environment requires a turning away from technology is not very intelligent. A good many young men have come to me and said: I am very much concerned with the environment, what shall I do? My answer is: Get yourself first a good engineering degree or a chemistry degree or a systems-analysis degree or learn how one puts technical and scientific skills together for performance, which is a management function. For every single environmental task ahead of us requires technology and above all systematic and purposeful direction of technology almost beyond anything we have ever seen. Not one of these tasks will yield to purity of heart. They will only yield to high technology. Every one of them requires both new technology and the organization of a lot of existing technology for new uses which is often harder than to develop new technology. The first *do* for activists is to learn how to use technology as their tool. (This, by the way, was the reason why I became interested in technology twenty-five years ago. Even then it was clear that environmental tasks, though not themselves primarily the result of technology but more often caused by crowding large numbers of people in small space, require more, better and more intelligent technology.) A turning away from technology can only worsen the environmental crisis. It is a poor carpenter who blames his tools; it is a poor environmentalist who blames technology.

But we have to learn how to use it. This will not be easy. You have in this college community some of the most distinguished students of the history of technology in the

whole world. Indeed, The Claremont Colleges have become one of the largest centers in this field. If you go to these very knowledgeable people and ask them how one uses technology, they will tell you that we have never done the job. But we do know enough about the dynamics of technology to know that it can be done.

It cannot be done, however, by predicting the impacts of technology. This is an idle hope. Nobody has been able to do it, partly because prediction is altogether not given to human beings and partly because technology doesn't work that way.

Thirty years ago American troops fighting in tropical areas took a frightful malaria and typhus toll. So the scientists were called in to find something to keep the mosquitos away or to kill them. There was not a single one among those top-flight scientific, medical and technological brains who then could have foreseen that DDT would ever be used for anything but to keep soldiers free from flies and lice. That it could be used to protect babies against malaria nobody saw. And certainly no one could have foreseen that it would be used for farm crops. Farmers developed that use by themselves without benefit of scientists.

Nobody in 1943 or even 1950 could have foreseen that something so harmless and so innocuous and so old-fashioned as the American window screen (invented by some obscure and unknown inventor someplace on the old Yellow Fever coast, maybe in South Carolina, around 1870) would result in a "population explosion" around the world. The window screen is responsible for the largest part of the population growth in the poor countries by cutting sharply the mortality of babies in the first two years of their life. Who could have possibly predicted this or foreseen it? And if you had foreseen it, would you have done anything about it? Or would you have said this is the greatest boon, this is what we have been working and praying for, to keep a few more children alive, where only one out of every six survived the first years in most parts of the tropical world?

You cannot anticipate the impact of technology. You have to be ready to deal with it when you begin to understand its impact and not till then. And that requires far more intelligence about technology than we have ever had. And so the first do for anybody concerned with the environment is to learn enough technology to be able to say: This is our tool. How do we use it? What do we demand of it? What do we have to know before we can purposefully and intelligently apply it?

III

The second thing is to know what enemies not to make. Activists should be concerned more with the enemies they make than with the friends they make. The enemies are their real problem. It is the death of any cause to make the wrong enemies, that is to alienate the people whose support the cause needs. If one makes the wrong friends—all right, they pay their dues, they vote and that's all right. But no cause can afford to lose the people whose support is crucial. Yet this is precisely what the environmental cause is in the process of doing.

The environmental crusade today is in danger of becoming a crusade of the rich against the poor and of the people who have good jobs against the ones who have marginal jobs. That is going to destroy it. In very lush, inflationary, boom times, such as we have had in this country, one may be able to forget this—except that in three-fourths of the world a great majority of the people are terribly poor even in boom times. Even in our country, one-third of the minority groups are terribly poor even in boom times. But the way we now go about the fight for the environment will make things expensive and will at the same time make it increasingly difficult for people with marginal skills to have jobs.

The standard answer today is that we will pay the environmental bill out of profits. Yet in this very rich country profits are less than five percent of the total national product, and the lowest estimate of the cost even of minor environmental abatement is something like fifteen or twenty percent.

But also if I were 21 today and looked ahead a couple of years, I would worry about the adequacy of profits in this economy. I may not be terribly smart but I can look at population statistics. They would tell me that in the next few years the number of well-educated people entering the labor market will roughly double. It is only now that the two combined effects of the very sharp baby boom of the late '40s and early '50s and of the very sharp increase of going to college are beginning to have an impact on the work force. The next few years we are going to have twice, roughly, the number of highly schooled people than we had in the '60s leaving college. The number of people who can retire on their parents' income is, thank God, very small. Most of the graduates will have to earn a living. Most of them will want a living with very high luxuries, such as health care, education for their children, decent housing and a decent environment—all of these unheard of luxuries in the history of the world. Tomorrow's graduates will expect a fabulous standard of living even if they think that they are "beyond materialism." And that means that they will have to have good jobs. And the minimum you need today to create a job, and not a good one, for an educated person is a capital investment of about thirty thousand dollars per job. In the school system it is higher. In the hospital it is much higher.

Any freshman-course economics student has learned that there are only two sources for this capital investment: savings and profits. And so the demand on profit is going to be very high. In fact, profits may be inadequate to the economic burden of creating the jobs for these very large numbers of very highly educated and potentially very productive people.

The answer "profit" to the environmental crisis is a silly answer. The costs will have to be passed on in the form of higher prices or higher taxes or both.

This means that the poor stand to suffer. There is no way in which the burden of increasing costs can be spread equally. And even if you spread it equally, the poor have much less capacity to bear it. Inflation—the politically easiest way—hurts the poor far more than the rich. That is why, if I may say so, I have never shared the belief of my colleagues in economics, that a little inflation is good for the society. The poor and the old immediately suffer. Rising costs are not good for the poor; and two-thirds of the world is poor, and not rich.

The same holds true for jobs. We will have to face the difficult decision whether we insist on stopping the pollution of a stream if it means closing down a marginal mill in Northern Michigan that only keeps open because it is the only source of employment in a town of 28,000 people. The nearest other city is forty or fifty miles away. And the 1,800 or 2,000 jobs in the paper mill are the only local jobs. Are we going to keep the mill open? Or are we going to close it down and throw people out of work? That decision is already upon us.

On an international scale this decision will be even more serious. Insistence on high environmental standards may make it impossible for the underdeveloped countries to develop. It not only raises their costs too high, it raises the skill demands too.

And so the second *do* is to learn to make management of the environment at least neutral to the poor and to the marginally employed rather than a threat to them. There are not many black students in this hall today, for good reasons. They, to a man, consider the environmental campaign directed against them. They are right today. It not only concerns itself with things that in their priorities come far down the line. They see in it primarily a campaign of the whites, who have made it, against the blacks. Outside of this country—in South America or Africa or Southeast Asia—this is so obvious to everybody that it is not even being discussed. For the poor people of the world "ecology" is a white man's slogan for keeping down the colored races. And they are right today. The way we are going, this is exactly what it is.

If we are not going to learn that it is our job as activists to make these people and these groups our friends, our supporters, our co-workers—if we cannot make ecology at least neutral to them, let alone attractive to them—we are not going to get anywhere.

We speak about "the year 2000" and we are worried about it. But to talk to someone who doesn't know where the next meal is going to come from about "the year 2000" means to be perfectly willing to let him starve today and tomorrow. He is not going to be enchanted. You may be quite right in saying, "But you are short-sighted." He will come back and say, "On my standard of living that is all I can afford to be. To be long-sighted requires a full stomach and I don't have it."

So the thing that worries me, and very much, is the total disregard in our present campaign of the fundamental economics of the whole enterprise and of the need to make it attractive, to make it conducive to the improvement of the poor, the developing nations, the minority groups, and the marginally employed. If we don't think this through—and it is not going to be easy—we are going to run into a rejection of our very badly needed concern with the environment beyond anything we can yet imagine. The signs are already there and they are very powerful and I am scared stiff, frankly.

IV

The third thing that one can say is that managing the environment is work and tough work and difficult work. Nobody has ever obtained results in work by trying to do fifty-nine things at the same time. One gets results by concentration, not by splinteration. One get results by doing one thing and doing it till it is finished. And whether it is a term paper you have to write or whether it is cleaning up the environment makes no difference except that it takes longer to clean up the environment and it's harder work. Yet today we are splintering ourselves very badly.

The first rule if you want to get results is to sit down and say, "what do I do first?" And then, if anybody comes to you and says, "Here is something else that needs being done," you say, "Go away, I am busy, don't bother me. Tomorrow morning when I have this finished, yes. But in the meantime I am going to do what I have started to do." Sure, if there is a fire next door, one puts down what one does and goes to stand in the bucket brigade. But short of imminent disaster, one sticks with the one priority job. It even pays to be inflexible; it is incredible how much monomaniacs who are inflexible achieve compared to the rest of us who are reasonable and rational.

No one achieves anything by doing a little bit of everything. Yet this has been the aim of our public policies these last twenty years. It has been the real problem of the poverty program. We have scores of programs and as a result not one of them is getting anywhere. The reason is not that we do not spend enough money. The reason is that there are only so many good people who can do the job. And if you splinter them among fifty-

nine projects, there is not one project that is staffed with people who know how one gets results. And so nobody gets any and everybody is frustrated. The more money we spend, the less we get because the more splintering we get. But we have been guilty of this in our public policy, and not in the poverty program only.

To fritter away one's energies is the classic mistake of the rich. It is the reason why the rich have never been able to hold power very long. They always think that anyone can buy results and that they have so much money that they can buy a great many accomplishments. As a result they never achieve very much.

The first thing to do in a serious matter is to say, "What are the proper priorities?" One sets priorities by a very simple scheme. One says, "Where are big problems that we know how to solve? And where are really big ones that we can't solve yet but know we will have to tackle? Nothing else will we even look at."

The most important thing in any major effort is to be able to show results that matter. Otherwise the whole effort loses belief and support and credibility. People have to see results after a time. They are right, incidentally. If you tell them to wait twenty years, they are going to say, "Well I won't be here in twenty years. We have to see results. We have to see that effort and hard work and money and people accomplish things." Otherwise this becomes simply another game. And people are very tired of games. There are far too many around. And this isn't the best game in town anyhow. There are many others where there is far less effort and one gets action.

So, what the priorities? We can clean up the air—not today, but within ten years. We can clean up water—not today, but in ten years. Internationally it may take longer; and the worst air and water pollution is not this country. This country is after all amazingly clean. You wouldn't think so looking at the Los Angeles smog. But look at Milano in Italy or Tokyo or Moscow or Dusseldorf, and air pollution is much worse. And our water supply, bad though it is, compared to that of Western Europe, is in pristine state practically—or compared to Japan or compared to the Soviet Union, incidentally. In the Baltic, for instance, you can't swim within 50 miles of Stockholm, not because of the Stockholm sewage but because of the Leningrad sewage that comes across the Baltic. You can still swim within 20 or 30 miles of Los Angeles. So internationally it may take longer.

But we know in respect to water and air how to do eighty percent of what needs to be done. It will take an enormous amount of work, but it can be done.

Then one asks, What do we need to learn? We need to know, and soon, how to produce electric energy without thermal pollution. Every single ecological task requires an enormous increase in electric power. To clean up air and water we will have to increase the energy production in this country probably five fold by 1985, which is about twice as fast as ever in the past. In the world we may need an eight- to ten-fold increase. We do not know how to do this without creating a lot of heat. And we do not really know how to convert that heat into productive energy.

Clearly the only way we can solve the problem is to make the heat cool itself off by doing work such as, e.g. punch "heat holes" through the inversion layer of cold air above Los Angeles for the smog to escape. Electric energy, in other words, would be a research priority. But in the meantime we will have to build power stations, taking the risk of thermal pollution, because otherwise we can't do anything.

The greatest obstacle to any effective attack on the environment today may therefore well be the opposition to electric power stations, which will simply make environmental work totally impossible. I am all in favor of putting them pretty far out. But I am all in favor of having them fast because we need them. Cleaning up a smoke stack means primarily putting an enormous amount of electric energy into it. Cleaning sewage is primarily a job of putting fabulous amounts of electric energy into the waste products, and so on. Without new supplies of electric energy people will soon say: First we need heat and we need light before we clean up other people's garbage. Without new sources of energy we will, within ten years, close down practically all our anti-pollution plants for lack of power, both on the East Coast and the West Coast. Yet by 1980, we ought to be able to build a power station with either none or with a minimum of thermal pollution.

I have another research priority. It requires entirely different people. So I can afford to add it to my list. We need to learn to make it possible to raise the crops for a rapidly growing world population, mostly of young people under 15, without, at the same time, doing ecological damage with the pesticides and herbicides we have now. This is also probably a ten-year research priority. In the meantime, I think we better grow the food; I do not think we can risk having million of babies die. Oh, maybe we can risk it, but frankly, I would rather kill off condors than babies. I may be old fashioned in my preferences, but still I think that is what most people would stick up for. And it is the choice before us just now.

v

So these are my *do's* and my *don'ts*. Perhaps what I am trying to say is that we have so far looked upon the environment as something to get excited about. I got excited about 25 years ago and ran around and shouted. I have, therefore, had time to realize that this doesn't produce results. We are starting very late. But if you start very late and you know that the job is very tough, there is only one conclusion: stop being excited and instead go to work twice as hard and twice as purposefully. So far we are passing laws, appropriating money and generating headlines. But we are not doing much work.

My conclusion would be that the time has come for those who are really concerned with the environment—and not just concerned with the excitement about the environment—to say, "What do we do?" rather than, "What do we say?"

If you ask me, are we facing the imminent doom about which you can read in every Sunday supplement these days, the answer is probably "not yet." But it is pretty late. There are real dangers. The environmental crisis is a result of success in grappling with the old enemies of mankind, above all in grappling with the oldest enemy, the angel of death for small children. But problems of success are always big jobs.

We better go to work, rather than being satisfied with proclamations.

We better demand results rather than good intentions.

We better demand a plan and a thought-through program, rather than good vibrations which are not particularly useful in this enterprise.

We better insist on concentration and work rather than permit rushing around.

For an old ecologist, it is wonderful not to feel totally alone any more as I have felt for a long time, and to see all those friends and all the people who share my concern. It is wonderful to see all the people who are in effect truly conservative—for there is no more conservative cause in the most profound sense of the word than the maintenance of the balance between man and his environment and between man and man and between man and his values.

But as an old ecologist I am also getting impatient. It's been a long time. If we don't convert all this heat into light and all this excitement into work, we will, I am afraid, be badly frustrated and soon give up on the environment. Excitement cannot be sustained unless there are results.

And so what I am concerned with is not activity but results. What I am concerned with is not what is wrong with the world but what do we have to do to put it right.

PANAMA CANAL: TIME TO END DIPLOMATIC FUTILITY AND TO FOCUS ON MAJOR MODERNIZATION

(Mr. FLOOD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FLOOD. Mr. Speaker, as all Members of the Congress who have followed my addresses on interoceanic canal problems know, I have devoted much effort and time to the study of the subject. The more that I have reflected upon it the more I have been impressed by the profound significance of General MacArthur's statement in his immortal address to the Congress on April 19, 1951, when he warned that the Communist threat is a global one, that its successful advance in one sector threatens the destruction of every other, and that to consider the problems of one oblivious to those of another is but to count disaster for the whole.

Since that time Communist power has been greatly extended. The Caribbean has become a vast area for penetration and conquest with wresting control of the Panama Canal from the United States as a prime Soviet objective. Unfortunately, in consequence of State Department pressures, the leadership in our Government has played into the hands of the common enemy under circumstances that arouse grave concern.

The duly elected constitutitonal government of Panama, inaugurated on October 1, 1968, won its election on a platform that did not call for surrender of U.S. sovereignty over the Canal Zone or was otherwise hostile to the United States. Its leaders well understood that the security of the Western Hemisphere depends upon the continued and unweakened U.S. presence on the isthmus.

After only 10 days in office that government was overthrown by a military coup d'etat, the National Assembly of Panama liquidated, a leftist oriented military revolutionary regime installed, and it has been continued in power by force of arms and a national censorship of the press.

Recognizing by the U.S. Government soon after the coup d'etat, the revolutionary government of Panama secured a resumption in June 1971 of negotiations for new canal treaties and has subsequently conducted a campaign of hostile propaganda against the United States that has never been equaled.

In the midst of this vituperative deluge, the House Subcommittee on the

Panama Canal under the able leadership of its chairman, my distinguished colleague from New York (Mr. MURPHY), on November 29 started the most comprehensive inquiry into Isthmian Canal policy questions since 1906. This inquiry included an official visit by the subcommittee in the Canal Zone from February 18 to 24, 1972, and this in spite of determined opposition from the State Department and threats of violence on the part of Panamanian strongman and dictator, Gen. Omar Torrijos.

Refusing to be intimidated by either State Department functionaries or Panamanian pro-Red leaders, the subcommittee arrived on the isthmus following a tidal wave of anti-American propaganda and performed its duties without incident. In fact, it found the Panamanian people at large pleasant and cordial.

Although Chairman MURPHY held well-attended press conferences, there was a complete blackout of publicity in the controlled press of Panama with the result that the ordinary man in the street did not even know that the subcommittee was on the isthmus. So far as has been ascertained there was a similar blackout in the press of the United States. Such ignoring by the mass news media of these important hearings cannot be explained solely because of the Nixon-Mao conversations in China at the same time, which did receive massive coverage in both mainland China and the United States.

Another, and more disturbing, aspect of the congressional visitation was the reluctance of our citizens in the Canal Zone, apparently intimidated, to testify concerning matters of which they had special knowledge gained from experience and observations over long periods of time. Whether this reluctance was induced by fear of official reprisals from our own Government or by threats of physical injury from Panamanian extremists I do not know. In either case, the situation is probably rooted in the same cause—the international forces bent upon driving the United States from the isthmus and our timid State Department.

Another angle in the canal situation recently encountered on the isthmus was the deep contempt openly expressed by revolutionary Panamanians for the United States. A typical current comment to North Americans relative to present treaty negotiations was:

> If the United States does not meet our aspirations for complete sovereignty over the Canal Zone, our Revolutionary Government will stage demonstrations and then your government will accommodate so as not to hurt its world image.

There you have the key demonstration to bring about accommodation.

In a press conference on March 9, 1972, after return from the Isthmus, Chairman MURPHY reported some of the results of his recent visit to the Canal Zone, certain highlights of which I now summarize:

First, that the situation on the Isthmus is a "time-bomb" that unless defused will explode and overshadow in Latin America the President's recent conversations in China.

Second, that the treaty talks seem to have reached an impasse with Foreign Minister Juan Antonio Tack, Jorge Illueca, and Gallileo Solis urging General Torrijos to hold out for more concessions even at the risk of violence.

Third, that U.S. negotiators seem to be wavering from their December 1971 position that control and defense of the canal are nonnegotiable.

Fourth, that most difficulties on the Isthmus could be handled without any new treaty.

Fifth, that our Government has failed to reply to false charges against the United States.

Sixth, that U.S. citizens in the Canal Zone oppose surrender of the Canal Zone and its civil government to Panama as reportedly provided in the proposed treaties.

Mr. Speaker, here I would say again what I have often stated on previous occasions. The Panama Canal enterprise is not a mere shopping center that can be placed on the auction block of pusillanimous appeasement diplomacy but a geographical crossroads for interoceanic commerce and hemispheric security. It is not a spot on the periphery of our defense system like Okinawa but a military center of supreme value—indeed an indispensable one for Western defense. In a legal sense, the Canal Zone and Panama Canal are territory and property of the United States that form a part of our coast line. As such it should remain until the time comes for the return of the vast Southwest, and California to Mexico, the Pacific Northwest to Great Britain, and Alaska to the U.S.S.R. The defense of the canal is just as much the responsibility of the Armed Forces of the United States as is the protection of San Francisco or Chesapeake Bays, and responsible officials in the executive department should be made to understand these elemental facts.

At this point, Mr. Speaker, it is pertinent to explain that State Department involvement in Panama Canal policy determination did not become institutionalized until 1952 when an Assistant Secretary of State was made a member of the Board of Directors of the Panama Canal Co. Since that time submission to political blackmail at Panama has become a habit. It is indeed fortunate that the State Department had only a slight part in Isthmian canal policy determination during the construction era—1904–14—for if it had had then the authority that it has assumed today I do not see how the canal could have been built.

Another point that I wish to stress is that despite the specific provisions of article IV, section 3, clause 2 of the U.S. Constitution vesting the power to dispose of territory and other property of the United States in the Congress—House and Senate—our negotiators have been attempting to usurp authority by negotiating the nonnegotiable constitutionally acquired domain and property of the United States. The Congress has blocked such efforts before and it can do so again.

My correspondence on canal matters has been extensive and includes reports from persons who are well informed. The following facts gleaned from various sources are most significant:

First, about November 1, 1971, there was a meeting at Antilla, Cuba, attended by Soviet Premier Kosygin, Fidel Castro, and General Torrijos, in which the last sought financial and military aid to enable him to start action in the Canal Zone against the United States.

Second, Foreign Minister Gonzalo Facio, of Costa Rica, and General Torrijos, of Panama, are now collaborating in order to strengthen the ties of these two countries with the U.S.S.R.

Third, one of the top KGB agents of the U.S.S.R., Vicktor Nilolayevich Menikof, is now in Panama in close contact with its revolutionary government.

Fourth, the first major move planned in this collaboration will be a U.S.S.R. embassy in Costa Rica, which would facilitate the sending into Panama of KGB agents and other Soviet technicians.

Fifth, such agents will penetrate Colombia from Panama with the idea of producing the spark for creating a Chile-Panama-Cuba axis, highly dangerous to hemispheric security.

Sixth, U.S.S.R. operatives are now in the University of Panama and other government agencies.

Seventh, Panamanian Communist Party leaders have visited Moscow and Castro has visited Chile.

Eighth, dispatches from Taiwan on February 28, 1972, indicate that the Nixon-Mao talks in Peking have stimulated increased U.S.S.R. activities in Central and other parts of Latin America and that new efforts are being made to woo Japan into an economic alliance with Moscow for Isthmian Canal purposes.

Ninth, in the March 1972 issue of an important professional magazine of the Armed Forces is an article calling for an accommodation with Red Cuba.

Tenth, the latest reports now surfacing are that the executive branch of our Government, after the elections, is planning for a meeting with Fidel Castro, with the early surrender of our Guantanamo Naval Base clearly implied.

Two of our Presidents have supported policies for the cession of U.S. sovereignty over the Canal Zone to Panama. Now it seems that preparations are underway to give up our naval base in Cuba.

These moves are not isolated events but related parts in a worldwide program of surrender, which cannot fail to undermine our efforts for the defense of Europe against inundation by the hordes of Asia with ultimate danger to our own security.

As regards the Panama Canal it cannot be too often emphasized that it is the keystone of hemispheric security and no amount of diplomatic sophistry or legislative evasion can alter this fact. This condition of affairs has been largely induced by the weak and vascillating policies of our own Government. Of one matter, I am certain and that is they do not have the approval of the people of our country, who are far ahead of their Government in appraising the realities involved.

While the canal subject is an immensely complicated one it has been

clarified and is now far better understood. There are only two issues: first, the transcendent question of continuing the indispensable U.S. sovereignty over the Canal Zone and the canal in perpetuity; and second, the major modernization of the existing Panama Canal. All other issues, however important, are irrelevant and only serve to confuse the true ones, which have been before the Congress for many years.

On September 22 and 23, 1971, the House Subcommittee on Inter-American Affairs conducted public hearings for Members of the Congress. All of the witnesses, except one Member of the Senate, strongly opposed any surrender at Panama and urged adoption of the pending Panama Canal sovereignty resolutions.

Mr. Speaker, though these hearings were published and given wide circulation, this subcommittee has not yet made any report. Until that is done the House will not have an opportunity to vote on this vital measure.

The Soviet presence and activities on the isthmus and in the Caribbean area are the strongest reasons for prompt action on the pending measures and for the continued undiluted possession of the Canal Zone territory by the United States.

We cannot operate and defend the canal in effective manner with any less territory than that now in the Canal Zone. In fact, the zone territory should be extended to include the entire watershed of the Chagres River.

Meanwhile, under presidential orders, U.S. canal treaty negotiators continue their futile efforts to cede U.S. sovereign control over the indispensable protective strip of the Canal Zone to Panama. Certainly, Mr. Speaker, the time has come to stop the current exercise in diplomatic sterility. As previously stated, the Congress, which includes the House, has the power to do so; and it bears the ultimate responsibility in the premises. When the current diplomatic confusions are cleared away, the responsible engineering planners for the Panama Canal will be free from uncertainty and thus able to focus on the major engineering project of modernizing the existing Panama Canal to provide the best conditions for the transit of vessels at the least cost and without treaty involvement. Moreover, such project would preserve and aid the economy of Panama.

As I have stated on other occasions the Caribbean is our fourth front in the defense of the United States and the Panama Canal is the prime Soviet objective for the conquest of that strategic area. The issue is not U.S. sovereignty over the Canal Zone versus Panamanian but continued undiluted U.S. sovereignty over it versus U.S.S.R. domination; and this is the challenge that the Congress must meet.

Because of their special interest I quote some of the documentation upon which my remarks are based:

KOSYGIN—CASTRO—TORRIJOS

(By Julio Argain, Reporter for "El Colombiano")

The information we received plainly states: "During Soviet Communist leader Kosygin's stay in Cuba, Omar Torrijos, the Panamanian dictator, traveled to Cuba for a meeting in Antilla, Province of Oriente, with Kosygin and Fidel Castro, in which he asked for Soviet financial and military help so that he could start action against the United States in the Canal Zone."

We could still add a few interesting details to this news but we prefer to wait for a more appropriate opportunity. For example, an article published by the "Washington Post" one of the most famous U.S. papers, by no means sensationalist and following a line of absolute objectivity, which refers to the situation in the Canal Zone. In this article the problem is discussed in all its complexities.

There is one obvious fact in this matter: there are no negotiations pertaining to the Canal but attempts to establish bases for negotiating a new treaty and all the issues presented by the Panamanian representatives in the first phase of proceedings for a future understanding will not lead to any results as long as the U.S. does not deal with a constitutional and "freely elected" government. On this matter complete agreements exist between the White House, the State Department, the Pentagon and Congress because they know that a treaty signed in any other form would not be of any value once an authentically Republican and representative government is reestablished in the Isthmus. As a result, the petitions of the present de facto government have been rejected without any major consideration.

This, without any doubt, led to the meeting in Antilla which could not have had a better god-father than Fidel Castro who has always repeated his willingness to help all Latin American agitations including an armed showdown in an effort to eliminate U.S. influence in the Hemisphere an action that would receive a less alarming denomination, namely, "nationalism."

As of now, we do not know what answer Soviet leader Kosygin may have given in connection with the pleas made to him although it may well have been in line with the Kremlin's well-known policy in similar cases: enthusiastic promises that the matter would be studied by agents sent by Moscow who, first of all, would stir up popular agitation something for which they had been trained.

[Source: La Patria, Feb. 1, 1971]

TOP SECRET

We have received numerous letters from our readers and even calls from cable agency correspondents looking into the confidential reports we are publishing in Top Secret. Some insist on knowing the veracity of the same. Others doubt that we of a small newspaper possess such reports. To one and the other we say that so far they all have been confirmed and that our sources come from unquestionable credit [sic]. Here are some others;

The secret meetings that Castro held in Chile with Cubans and Chileans who were indoctrinated in "special camps" for several years in Cuba are now paying off. Many of "those Chileans" today belong to Allende's Armed Forces. And 30 days after Castro's return, a Chilean military delegation visited Cuba, was exhibited to the public one or two days, and then right away proceeded to "strategy meetings in the naval as well as the aviation sector of the Island. Topic: Preparation of the "maritime offensive" plan agreed upon by Castro and Allende. This report would be lacking in importance—for several years everything has been directed toward subversive activities—if other details were not known.

While the Soviet Union is holding talks—negotiations—with the U.S.A., its subversion technicians are taking advance steps. In an official bulletin of the Secretary of Commerce in Mexico, Latin American Section, this notice appeared: the "USSR has signed an agreement with Chile for the *construction and readaptation of one or more fishing ports in Chile.*" Also "the training of technicians for the maintenance of these ports." This assistance, in men and money, will provide the Russians with other bases in America for provisioning its war units and for the entry and departure of ships with men and weapons in order to deploy them over the Continent as well as Cuba's ports, among these that of Havana, Cienfuegos, and others. The personnel in Cuba is directed by Commander Emilio Aragonés although their main leader is Captain Angel Alvárez Lombardia, expert in the preparation and sending of subversive units to Africa and various zones of Latin America.

The soldiers who came to Cuba from Chile were received by Commandante Raul Castro, but the main character was the Russian Ambassador to Cuba. In the Castroite circles three principal objectives were learned of to carry out the plan by means of the fishing ports in Cuba and Chile. Iquique, a port to the north of Chile, will be the base of embarkation and disembarkation. And the main "touch" points will be Peru (?) [sic—question mark in original], Panama, and the borders between Uruguay and Brazil. Peru's is mentioned only because until now it was considered a "friendly" country, but Castro pointed out in meetings with the Cuban communist Politburo that he distrusted Peru and that without the Peruvian mountains his program couldn't be completed. The negotiations with Panama have progressed a great deal. Guido Garcia Inclán, Castro's official spokesman, indicated during a radio commentary a few hours ago that "in less than three months Torrijo would renew diplomatic relations with Cuba." In the beginning Castro accused Torrijo of being a "puppet" of the State Department, [the following five lines are crosed out—Trans.]. The front sight with Panama is the Canal and because of this they will penetrate through Colombia and Costa Rica in order to produce the spark that will give the Canal to the communists, thereby creating the Chile-Panama-Cuba axis, highly dangerous to the United States' defenses.

And the plans for the borders between Uruguay and Brazil constitute one of Castro's old dreams, [which was] lost when Gaulart was overthrown, of taking over the small country and the Brazilian jungles. These reports, gathered from sound sources within official Castro circles are already working and in a short time the United States and the peace and tranquility of the rest of the continent will be suffering from their results.

[From the Washington News-Intelligence Syndicate]

THE SCOTT REPORT

(By Paul Scott)

TAIPEI, TAIWAN, February 28.—Sometimes one must travel half way around the world to uncover the big news in his own backyard.

American military officers here are studying a sensational intelligence report from Washington revealing that Soviet leaders were busy trying to increase their influence and power in the Caribbean and Central America while President Nixon was in Peking wooing Red Chinese leaders.

The bold Kremlin maneuver, which hit the American military community in the Far East like a bombshell, involves a secret Soviet-Japanese joint proposal to build a new sea-level canal across Panama.

The Soviet-Japanese proposal is now under study by the left-leaning government of Omar Torrijos, who once was a member of the People's party a front for the Communist party in Panama. The move also has

thrown another road-block into the long stalled U.S.-Panama negotiations for a new canal treaty.

Although Panama is nearly 7,000 miles from this strategic island-nation located 100 miles off the Coast of China, the Soviet-Japanese ploy has tremendous military significance for this area of the world as it has for the U.S.

The proposal demonstrates the determination of the Russians to control or influence the control of all the connecting waterways, canals, and straits in the world as part of the Kremlin's grand design to rule the seven seas.

The Soviet maneuver also pinpoints the new effort of Russian leaders to woo Japan into an economic alliance designed to help Moscow gain a foothold in Central and Latin America—now being eyed as new markets by Japanese businessmen.

In strategic importance, the Soviet-Japanese proposal was described by one high-ranking American military officer in the Far East as "more significant than the Russian's Aswan dam project in Egypt."

That $800,000,000 project, which the U.S. refused to finance, was followed by massive Soviet arms shipments to Egypt and the granting of air and naval facilities along the Mediterranean and Red Sea to Russia.

STRATEGIC ISLAND CONCEPT

The Soviet role in the Panama Canal proposal is viewed here as another striking example of the Kremlin's "strategic island" policy at work.

It also indicates how the Soviets hope to take advantage of President Nixon's trip to Peking to attract Japan into a new relationship. By going all out in his wooing of Peking, the President has touched off a chain reaction that is pushing Japan closer to Russia as the leadership in Tokyo tries to find ways to counter the new U.S.-Peking ties.

In joining with Russia to propose the building of a new Panama Canal, the Japanese see a way to put to work some of the $18 billion in American dollars now held by that government. The canal would be financed by low-interest rate loans from the Japanese and the World Bank.

The proposed new super-size Canal also would permit the giant oil tankers, which the Japanese are now building, to cut off thousands of miles in carrying oil to Japan from Latin America and the North Coast of Africa.

Since Japan imports more than 85 percent of its oil from the Middle East, the shorter haul could mean savings of billions of dollars in transportation costs over a decade.

In addition, to increasing Soviet influence in Central and Latin America, military officers here warn that the new canal could lead to the establishment of Soviet bases near the soft underbelly of the U.S..

Presently, in the Pacific, Russia has over 50 major combatant ships and more than 100 submarines, many of them missile-equipped. The new king-size Panama Canal would permit the Soviets to move this fleet or parts of it from the Pacific to the Atlantic ocean at any time.

LAYING THE GROUND WORK

The ground work for the Soviet-Japanese proposal was laid when Soviet Foreign Minister Gromyko visited Japan earlier in the month.

The Gromyko trip was sparked by President Nixon's visit to Peking . . . First contact with Panama was made by Soviet Premier Kosygin when he met secretly with Panama officials in Havana during his visit with Fidel Castro.

Japanese officials, who are involved in negotiations for the building of a huge new international port here, say privately they expect Russia to join with Japanese businessmen in numerous joint ventures throughout the world.

Since the Nixon Administration is encouraging American businessmen to become involved in joint ventures with Soviet bloc nations, these Japanese see nothing wrong in their working with the Soviets—even if the projects have military and strategic implications. There are no Soviet help involved in the Taiwan project.

Soviet officials are known to be interested in obtaining naval fueling and repair facilities in this area of the world. Through third parties they have expressed an interest in using facilities in the new international port scheduled to be ready within five years.

What flows during the next few months from the new balance of power game being played by the U.S. and Russia in Peking and Panama will have a lot to do with the response that Taiwan will give to the Russians.

That is the changing world that President Nixon has created by going to Peking and toasting those that would destroy the American way of life which has helped bring and keep freedom and prosperity here.

LOS ANGELES, CALIF., *March 8, 1972.*

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

MY DEAR CONGRESSMAN FLOOD: I am enclosing a copy of a letter that I sent to Mr. Paul Scott concerning his expose on Torrijos and his conspiracy with the USSR and Japan to construct a new sea-level canal in Panama that would endanger all of this Western hemisphere.

The irony of all of this is that the USSR not only do they plan to construct the new canal with American dollars that the Japanese hold but they plan to use Route 10 that was determined by the 21 million dollar report that was submitted to President Nixon on December 1st, 1970.

As the USSR have kept Torrijos in power ever since his treasonous overthrow of President Arnulfo Arias on October 11th, 1968, what will happen to the $5 billion dollar investment that the U.S. have in the present canal in the event the USSR and Japan go ahead with their proposed sea-level canal?

There have been several attempts by the people of Panama to overthrow Torrijos. The whole country is praying that the next attempt will be successful as they know that with the return of President Arias, that the would not ask for the surrender of the U.S. sovereignty of the Zone as he has always been aware that the U.S. maintains the sovereignty to insure the security of the canal and this Western hemisphere.

With my warmest regards and admiration.

Cordially,

PHILLIP HARMAN.

LOS ANGELES, CALIFORNIA,
March 8, 1972.

Mr. PAUL SCOTT,
Washington, D.C.

DEAR MR. SCOTT: Just a short note to say how so very much I appreciated your column of the 5th concerning the Soviet-Japanese project to build a new sea-level canal in Panama. It was very well written and is the first time that a syndicated columnist has publicized this alliance between the USSR, Japan, and Torrijos.

For the past two years I have been informing Congress, the Executive Branch, the State Department, and others about the leftist military regime in Panama. You will be interested in reading the enclosed January 18th speech of Congressman Flood in which he inserted 8 of my letters into the Record about the leftist military (only 8 officers including Torrijos and Dario Souza, the secretary-general of the People's Party are running the country) and their close ties with the USSR and Cuba.

Concerning the trip to Cuba where Torrijos met with Kosygin and Castro, this was on November 1st of last year in the city of Antilla, Province of Oriente. With Torrijos were Tack and Romulo Betancourt. Juan Antonio Tack, the Foreign Minister, is a member of the People's Party, very anti-American, and along with Betancourt, the former Secretary General of the People's Party and now the head of the University, they are in a conspiracy with the USSR to gain control over the U.S. sovereignty of the Canal Zone. Concerning the role that Costa Rica is now playing in this conspiracy with the help of Gonzalo Facio, the Foreign Minister of Costa Rica, I am enclosing a copy of a letter that I sent to Congressman Flood.

I am also enclosing a copy of a letter that I sent to Ambassador Robert B. Anderson, Chief negotiator. In it I described the expose by the La Hora newspaper in Panama of Torrijos.

As I explained to Ambassador Anderson, this exposé is actually preparing the Panameños for the return of President Arnulfo Arias and his constitutional government. In a recent secret poll taken in Colon, David, and Panama City, close to 100% of the people were in favor of restoring their constitutional government of President Arias so that all civil liberties and normal functions of government would be restored. Since Torrijos took over the government by gunpoint on October 11th, 1968 there have been several attempts to overthrow this leftist regime but as Torrijos and his top officers control all the arms of the country, this has been difficult to do. However, at this very minute in Panama there is a very strong movement underfoot to restore President Arias and his cabinet before Torrijos makes some sort of a formal pact with Japan and the USSR over a new sea-level canal.

Concerning President Arias, the most popular Panameño in Panama's history, you will be interested in reading the letter that I sent to Mr. Harold Lord Varney. President of the Pan American Policy of New York, that Congressman Flood inserted into the Record. In my letter to Mr. Varney I explained how President Arias has fought and exposed the Reds in the Isthmus and because of that he has been the target of the Reds since the early forties. No other Latin American President has ever fought or exposed the Communists as much as President Arias. Back in the early forties his was the only "lone voice" that told the world that the USSR were first after his country and then would start their "cold war" battle for control over the U.S. sovereignty of the Canal Zone. That was 30 years ago and today we have the leftist Torrijos working in conjunction with the People's Party of Panama, ruling Panama by gunpoint and demanding and threatening the U.S. for control over the Zone. In 1963, President Arias told Dr. Octavio Fabrega, the 1955 Panamanian treaty negotiator and former Foreign Minister, that the canal issue is "fallacious" and that "anti-Yankee campaigns opens the door to subversive agents of Castro Communism and Soviet imperialism." That statement was 8 years ago and today agents of Castro and Soviet technicians are in Panama working closely with Torrijos in their conspiracy to gain control over the sovereignty of the Zone.

I am also enclosing a copy of a letter that I sent to Ambassador David Ward of the negotiations. This letter explained President Arias' viewpoints concerning the sovereignty of the Zone and the military bases. President Arias has always been aware that the U.S. maintains the sovereignty of the Zone to insure the security of the Canal and this Western hemisphere.

With my warmest regards and thanks.

Cordially,

PHILLIP HARMAN.

LOS ANGELES, CALIF., *March 9, 1972.*
Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

MY DEAR CONGRESSMAN FLOOD: From time to time you have mentioned in your speeches before the House that only a handful of daily newspapers have given coverage to what is actually happening in Panama and the Miami Herald is one of them.

I thought you would be interested in a letter than I sent to Mr. Don Bohning, the Latin America Editor of the Miami Herald. Mr. Bohning, as you know, for a number of years has covered the happenings in Panama and has endeavored to report the situation as he sees it. I for one have appreciated reading his articles about the leftist military dictatorship in Panama and the many hundreds of Panamenos who are in exile in Miami share my view.

Concerning the news media, it seems that Torrijos is now being "shielded" from the foreign press by a well known Communist whose name is Jorge Carrasco who was placed in that position by Tack. Speaking about Torrijos, he has not been seen for the past 2 weeks. In fact, when Somoza visited Panama recently, he wasn't around.

With my warmest regards and admiration.

Cordially,

PHILLIP HARMAN.

LOS ANGELES, CALIF., *March 9, 1972.*
Mr. DON BOHNING,
Miami Herald Latin America Editor,
The Miami Herald,
Miami, Fla.

DEAR MR. BOHNING: President Arnulfo Arias so very kindly sent me from Miami your 2 columns of February 27th and 28th that were filed from Panama. They were extremely interesting and very well written.

For the past two years I have been devoting my time and efforts by informing Congress, both the Senate and the House, the Executive Branch, the State Department and others about the leftist military regime in Panama. You will be interested in reading the enclosed January 18th speech of Congressman Flood in which he inserted into the Record 8 of my letters about the leftist military and their close ties with the USSR and Cuba.

May we discuss your column of February 27th concerning the treaty situation. In my letter that I sent to Mr. Harold Lord Varney, President of the Pan American Policy of New York, that Congressman Flood inserted into the Record, I told Mr. Varney that President Nixon would not submit a treaty or treaties to the Senate for Advice and Consent for 3 reasons; namely, the House of Representatives are again against any new treaty, the present government in Panama is leftist, and the present government in Panama is non-constitutional. Furthermore, there are no procedures for ratification as the constitution of Panama clearly states that a treaty has to be signed by a constitutional president and ratified by the National Assembly.

Last October I notified Congress that on September 21st at the Presidential Palace in Panama, a secret meeting was held by Torrijos, Lakas, Sucre, Manfredo, Guevara, and others. It was revealed at that time that an agreement was made between the U.S. and Panama that Panama would ratify the treaty first and this had to be done before December 31st, 1971. As you know no ratification took place in Panama for two reasons:

1. There are no constitutional procedures for ratification being a non-constitutional government.

2. Torrijos had already made a verbal agreement with the USSR and Japan to construct a new sea-level canal in Panama.

Concerning the verbal agreement, last August Torrijos had met with representatives from the Mitsui interests of Tokyo concerning the financing of a new sea-level canal and also to obtain a concession for the development of copper deposits in Panama. If you recall, Torrijos did release a statement that the Japanese and "others" were interested in financing a new sea-level canal.

On November 1st of last year, only 5 weeks after the secret meeting at the Presidential Palace in Panama, Torrijos met with Kosygin and Castro at Antilla in Cuba which is in the Province of Oriente. With Torrijos were Tack and Betancourt. Do not forget that Betancourt was formerly the Secretary-General of the People's Party. At this secret meeting at Antilla, an agreement was formulated with Torrijos pertaining to a new canal whereby the USSR would furnish the technical knowledge for the construction and the Japanese would do the financing with American dollars they hold. Also, at this meeting it was agreed upon that Torrijos and Tack would keep on their hard line strategy against the U.S. by demanding and threatening for the surrender of the U.S. sovereignty of the Canal Zone and the closing of the 11 military bases and all training establishments.

Pertaining to this secret agreement that Torrijos has with the USSR and Japan, the Department of State has been aware of it and that explains the request by David M. Abshire of the State Department when he asked Congressman John Murphy not to go to Panama to further hold his hearings. That also explains the reason why the press in Panama did not inform the public about Murphy's presence in Panama. Can you imagine the Panameños' anger if they knew that Torrijos had made an agreement with the USSR and Japan for a new canal? They have tolerated the presence in Panama of the many Soviet advisers and technicians that are now seen in Panama because they are helpless to protest, but the Panameño in the street know if the USSR builds a canal in their country what would happen to their income and livelihood that comes from the $160 million yearly that they receive in fringe benefits from the Canal Zone.

As to the reason why the Department of State hasn't released this conspiracy between Torrijos and the USSR for a new canal in Panama, is because the adverse publicity it would create in the U.S. as to what would happen to the $5 billion investment that the U.S. have in the present canal. On November 8th, I informed all the members of the Senate Foreign Relations Committee as well as the House Subcomittee on Inter-American Affairs and the Subcommittee on Panama Canal as well as others in the Executive Branch and in the State Department about Torrijos flight to Cuba where he met with Castro and Kosygin.

The irony of this conspiracy between the USSR, Japan, and Torrijos is that the canal would be financed by American dollars that the Japanese hold and they plan to use Route 10 that was determined by the $21 million dollar interoceanic report that was submitted to President Nixon on December 1st, 1970.

If you did not see Paul Scott's exposé of this new sea-level canal on March 5th, I am enclosing a copy of it along with my comment. Copies of his column were sent to the Senate and the House, the Executive Branch, The White House, and others. This is the first time that this has been exposed in a nationwide syndicated column.

Your column of February 27th also mentioned about Ambassador Ward's statement that the bases were nonnegotiable. I am enclosing a copy of a letter that I sent to Mr. Ward on February 28th concerning President Arias and his viewpoints pertaining to the bases. As I told Mr. Ward, President Arias has always been aware that the U.S. maintains the U.S. sovereignty of the Zone to insure the security of the canal and this Western hemisphere.

To further look into the conspiracy between the USSR and Torrijos to gain control over the U.S. sovereignty of the Zone which would mean the closing of military bases and training establishments as part of the agreement that was made between Kosygin and Torrijos, we have to look also to Costa Rica and the part they are playing in this conspiracy. I am enclosing a copy of a letter that I sent to Congressman Flood about it. On October 20th, 1968, just 9 days after the overthrow of President Arias, the USSR approached Costa Rica concerning reactivating the Embassy they had back in the late forties and early fifties. It seemed strange that immediately after the overthrow of President Arias, the most popular Panameño in Panama's history, that the USSR wanted to open an Embassy in San Jose. However, they had to wait until Gonzalo Facio came to power (not Figueres) and Figueres made him the Foreign Minister. Facio and Tack are the closest of friends and as soon as Facio came to power as the Foreign Minister, he joined Tack in their anti-American attack and campaign for the surrender of the sovereignty of the Canal Zone.

If you recall last year Figueres accused the U.S. and the CIA of interfering in his government because of his intention to open diplomatic relations with the Soviets. His excuse for opening relations was the weakest in the world when he said that the USSR was willing to buy their excess coffee but Facio's trip to Moscow last August was of a different story. The primary reason and only reason for the USSR Embassy in Costa Rica was the easy access to Panama for the KGB agents to come and go as they please. The same procedure happened with Nasser and the Suez . . . the easy access of KGB agents to move freely and easily. As I told Congressman Flood, Panama City has in its midst at this moment, one of the top KGB agents by the name of Vic Menikof. Few people know who he is or what he does. Mexico had expelled him in 1969.

I am only bringing up the case of Costa Rica to show you to what extent the USSR is going to in their endeavor to gain control over the Zone through the help of Torrijos, Tack, Betancourt, and others in their objective of controlling all the waterways of the world.

May I also discuss your column of February 28th that pertains to the new constitution? First we have to look to the 1,400,000 Panameños who deplore this dictatorship and what they did to their country. The only people that would recognize a de facto constitution that is now being drawn up are the 9 individuals that are running and controlling the country that I described in my letter to Secretary Abshire on December 11th, 1971.

Your mention of the puppet President Lakas and how and why he was appointed is not widely known in the United States. Lakas is the owner of 2 houses of prostitution called Hotel Ideal and Hotel Llave de Oro. The military participates with Lakas in the operation of this business. Beside being in business with the military, the military thought it would be to their advantage to appoint Lakas because of his Greek background and this would give them closer ties with the military of Greece. Only last summer Torrijos sent Lakas to Greece to meet with the Junta to discuss and be advised of how to further strengthen their power and consolidate their position over the Panameños.

Concerning the disappearance of Father Gallego which was widely publicized in the United States, the murder of Sammy Boyd has never been mentioned in the U.S. news media. His death on May 9th, 1970, which was called "accidental" will not be forgotten when the constitutional government is re-

stored. As you know Sammy Boyd was Panama's most prominent industrialist and was the son of former President Augusto Boyd.

Your mention about the military courting the students is an interesting one. I am enclosing a statement they made on October 14th, 1968 condemning the military. This statement was inserted into President Arias' report to the OEA on October 29th, 1968. The Communist that was hired by Torrijos to court the students is a most dangerous person. His name is Carlos Calzadilla and has been with the Communist Party since the early forties. In 1947 he led a movement against the Filos-Hines agreement on military bases. But actually the Panamanian student is too intelligent to fall for the tricks of the military. They will go along pretending and tolerating the dictatorship government as to oppose it would mean being jailed and other reprisals. But the release they made on October 14th, 1968 still stands today in their thinking. They will never forgive the military for committing treason against their country and depriving the people of all civil liberties. They know who Romulo Betancourt (now the head of the University) and Carlos Calzadilla are and who they represent. They also know if the U.S. ceded the sovereignty of the Zone then the U.S. would not have the legality to repel a threat to the Canal unless the sovereignty is maintained by the United States. They know if the sovereignty is ceded what would happen to the $160 million dollars yearly in fringe benefits they receive from the United States.

An interesting comment in your column of February 28th was the fiscal picture in Panama. Marco Robles had left the treasury depleted and with the public debt of the government close to $325 million, President Arias will be assuming his presidency again with a bankrupt country. Fortunately, for President Arias, he has all of Congress behind him and they will come to his aid economically and otherwise. You will be interested to know that the present financial crisis in Panama is caused by 4 factors:

1. Uncollateral loans of government funds to officers, relatives, and close business friends of the military.

2. Privately borrowed short term loans from international banks at high interest rates.

3. Lack of qualified personnel.

4. Responsible and knowledgeable Panamanians' refusal to accept fiscal positions with the military.

Concerning this financial crisis, I recently told Mr. Henry Kearns, Chairman and President of the Export-Import Bank of the United States, "However, we must remember that Fidel Castro defaulted on all of his international fiscal obligations. Only last September Chile had suggested to suspend their payments of foreign debts for a period of ten years. It is with this thought in mind that Panama, who is being steered by Communist Agents, may very well default on their fiscal obligations when the time becomes appropriate."

There is a paradox in the 1972 budget of $240.9 million of which $174 million represents direct government investment in public projects, an increase of 44% over the previous year. The paradox concerns the military decree starting in January that all employers pay an extra month's salary of which ½ goes to each worker. Because of this new decree, the construction industry is reeling and construction costs have jumped about 25% since last year.

Concerning the *lack of safeguards* such as any constitutional government has, I have for the past two years been informing the U.S. lending agencies; such as, the World Bank, the Inter-American Development Bank, and the U.S. Export-Import Bank about the lack of safeguards and public accounting with the military of Panama. An interesting legal question will no doubt come up when President Arias returns as to the legality of making financial loans to a non-constitutional government *whose funds cannot be accounted for* when the constitutional government is restored.

As President Arias is the only Panameño that has ever won 4 elections (the Reds in conjunction with the military did not let him assume the presidency in 1964 although the foreign newsmen that covered the elections all agreed that President Arias had received the majority of the votes) you will be interested in the role that President Arias played in exposing the USSR and their objectives in gaining control from within of his country. In my letter to Mr. Varney, I explained how President Arias fought and exposed the USSR ever since the early forties and because of that the USSR has defamed and slandered his name both in the U.S. and abroad. Today we have the leftist Torrijos working in conjunction with the People's Party, ruling Panama by gunpoint and demanding and threatening for the surrender of the U.S. sovereignty of the Zone and at the same time making a secret pact to build a new sea-level canal with the USSR and Japan.

In 1963 President Arias told Dr. Octavio Fabrega, the 1955 Panamanian treaty negotiator and former Foreign Minister, that the canal issue is "fallacious" and that "anti-Yankee campaigns opens the door to subversive agents of Castro Communism and Soviet imperialism."

That statement was made over 8 years ago and today agents of Castro and Soviet advisers are now in Panama working closely with Torrijos, Tack, Betancourt, and others in their conspiracy to gain control over the U.S. sovereignty of the Zone.

No doubt you read about the La Hora attack on Torrijos on January 29th. I am enclosing a copy of a letter that I sent to Ambassador Robert B. Anderson of the treaty negotiations about this exposé which is actually preparing the Panameños for the return of President Arias and his cabinet. Since this exposé on Torrijos, I have heard that de la Ossa and Manfredo were leaving Washington and that Lakas wants out of the presidency. Also, it has been rumored that Aquilino Boyd, now the Ambassador to the United Nations, will replace de la Ossa as Ambassador to the United States. Boyd, if you recall, was formerly the Foreign Minister under President de la Guardia and in 1960 demanded 50% of the tolls of the Canal.

Concerning this exposé on Torrijos on January 29th, I am enclosing a copy of Congressman Flood's speech on February 23rd about the La Hora article. In this speech, he says "In such event imagine the ridiculous position in which our Government would find itself, for the last constitutional president of Panama never used the canal issue for election purposes and never demanded surrender of U.S. sovereignty over the Canal Zone." As I have told Congress many times, President Arias has never used the canal issue for election purposes nor has he ever asked for the return of the sovereignty of the Zone or the closing of any of the 11 military bases and training establishments such as Torrijos is now demanding.

Since this drastic attack on Torrijos, there is a very strong movement underfoot to restore President Arias and his cabinet before Torrijos makes a formal pact with the USSR and Japan to construct a new sea-level canal. As you were recently in Panama, you know very well that on the surface, business is conducted as usual and everything seems to be normal but underneath the surface are 1,400,000 Panameños who deplore the treasonous act the military committed against their country and they are doing everything in their power at this very minute, to restore President Arias and his constitutional government.

With my warmest regards.

Cordially,

PHILLIP HARMAN.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MATHIAS of California (at the request of Mr. GERALD R. FORD), from April 10 through 15, on account of official business.

Mr. MAILLIARD (at the request of Mr. GERALD R. FORD), for the week of April 10, on account of official business.

Mr. CHAPPELL (at the request of Mr. O'NEILL) for today, on account of official business.

Mr. PRYOR of Arkansas (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. PATMAN (at the request of Mr. O'NEILL) for today, on account of official business.

Mr. RANGEL (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. MICHEL (at the request of Mr. GERALD R. FORD), for the week of April 10, on account of official business.

Mr. SAYLOR (at the request of Mr. GERALD R. FORD), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. ZABLOCKI, for 10 minutes, today, and to revise and extend his remarks and include extraneous matter.

Mr. BYRNE of Pennsylvania, for 10 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. HILLIS) and to revise and extend their remarks and include extraneous matter:)

Mr. DERWINSKI, for 30 minutes, today.
Mr. SHOUP, for 15 minutes, today.
Mr. HALPERN, for 5 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. ASHBROOK, for 60 minutes, today.
Mr. WILLIAMS, for 15 minutes, today.
Mr. CONTE, for 60 minutes, on April 18.
Mr. MCDADE, for 5 minutes, today.
Mr. BUCHANAN, for 5 minutes, today.
Mr. ESCH, for 10 minutes, today.
Mr. HOGAN, for 5 minutes, today.
Mr. HANSEN of Idaho, for 10 minutes, today.

(The following Members (at the request of Mr. MCKAY), to revise and extend their remarks and include extraneous matter:)

Mr. ALEXANDER, for 30 minutes, today.
Mr. GONZALEZ, for 10 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. FULTON, for 10 minutes, today.
Mr. ASPIN, for 10 minutes, today.
Mr. MURPHY of New York, for 5 minutes, today.
Mr. DRINAN, for 15 minutes, today.
Mr. MAZZOLI, for 5 minutes, today.
Mr. BOGGS, for 15 minutes, today.

Mr. DANIELSON, for 10 minutes, today.
Mr. ROSENTHAL, for 5 minutes, today.
Mr. PATTEN, for 60 minutes, today.
Mr. KEE, for 15 minutes, today.
Mr. HELSTOSKI, for 10 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DINGELL and to include extraneous matter in Committee of the Whole on H.R. 11896.

Mr. ZABLOCKI in two instances and to include extraneous matter.

Mr. EVINS of Tennessee, to revise and extend his remarks before the vote on the Mahon amendment.

Mr. GUBSER, to revise and extend his remarks after disposition of the William D. Ford amendment.

Mr. CRANE to extend his remarks during consideration of H.R. 11896, today.

Mr. MIKVA to extend his remarks in the permanent RECORD during debate on H.R. 12410, on March 13, 1972.

(The following Members (at the request of Mr. HILLIS) and to include extraneous matter:)

Mr. LANDGREBE in five instances.
Mr. MCKINNEY.
Mr. LUJAN.
Mr. WYMAN in two instances.
Mr. HUNT in two instances.
Mr. PELLY.
Mr. COUGHLIN.
Mr. DERWINSKI in 10 instances.
Mr. FORSYTHE.
Mr. SHRIVER.
Mr. BRAY in two instances.
Mr. SHOUP.
Mr. TEAGUE of California in two instances.
Mr. WHALEN in two instance.
Mr. HALPERN in three instances.
Mr. SCHMITZ in two instances.
Mr. GUDE in seven instances.
Mr. KEMP in three instances.
Mr. QUIE in two instances.
Mr. WINN.
Mr. HOSMER in four instances.
Mr. ASHBROOK in two instances.
Mr. KYL.
Mr. MYERS in two instances.
Mr. KING in three instances.
Mr. CLANCY.
Mr. BELL in two instances.
Mr. ROUSSELOT.
Mr. MCCOLLISTER in three instances.
Mr. DUNCAN in two instances.
Mr. SCHWENGEL in four instances.
Mr. FRELINGHUYSEN.
Mr. MCCLOSKEY.
Mr. MCDONALD of Michigan.
Mr. PRICE of Texas.

(The following Members (at the request of Mr. MCKAY) and to include extraneous matter:)

Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. ROGERS in five instances.
Mr. KLUCZYNSKI in two instances.
Mr. STEED in two instances.
Mr. PRYOR of Arkansas in two instances.
Mr. RODINO in three instances.
Mr. TEAGUE of Texas in six instances.
Mr. HUNGATE in two instances.
Mr. DRINAN in two instances.
Mr. NICHOLS.
Mr. RYAN in three instances.
Mr. BOLLING.
Mr. SYMINGTON.
Mr. BINGHAM in six instances.
Mr. DINGELL in two instances.
Mr. JAMES V. STANTON.
Mr. HARRINGTON in four instances.
Mr. WILLIAM D. FORD in two instances.
Mr. HANNA in two instances.
Mr. WALDIE in six instances.
Mr. ANDERSON of California in five instances.
Mr. ROYBAL in three instances.
Mr. O'NEILL.
Mr. ECKHARDT.
Mr. FUQUA.
Mrs. GRIFFITHS in two instances.
Mr. FLOOD.
Mr. RANGEL.
Mr. EVINS of Tennessee in two instances.
Mr. GALLAGHER in three instances.
Mr. BRASCO in two instances.
Mr. MCMILLAN.
Mr. DULSKI.
Mr. WRIGHT.
Mr. GALIFIANAKIS.
Mr. HELSTOSKI.
Mr. BENNETT in two instances.
Mr. FULTON.
Mr. CULVER in three instances.
Mr. MONAGAN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

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. 8787. An act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

ADJOURNMENT

Mr. MCKAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. STRATTON). In accordance with House Concurrent Resolution 573 of the 92d Congress, the Chair declares the House adjourned until 12 o'clock noon, on Monday, April 10, 1972.

Thereupon (at 4 o'clock and 48 minutes p.m.), pursuant to House Concurrent Resolution 573, the House adjourned until Monday, April 10, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1798. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1972 (H. Doc. No. 92–271); to the Committee on Appropriations and ordered to be printed.

1799. A communication from the President of the United States, transmitting amendments to the requests for appropriations for fiscal years 1972 and 1973 (H. Doc. No. 92–272); to the Committee on Appropriations and ordered to be printed.

1801. A letter from the General Counsel of the Department of Defense, transmitting proposed amendments to H.R. 12604, increasing the authorization for certain appropriations to the Department of Defense, pursuant to section 412(b) of Public Law 86–149, as amended; to the Committee on Armed Services.

1802. A letter from the Assistant Secretary of Defense (Manpower and Reserve Affairs), transmitting a report on the adequacy of pay and allowances of the uniformed services, pursuant to 37 U.S.C. 1008(a); to the Committee on Armed Services.

1803. A letter from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend the act of September 26, 1966, Public Law 89–606, to extend for 4 years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes; to the Committee on Armed Services.

1804. A letter from the Chief, Plans Group, Office of Legislative Liaison, Department of the Air Force, transmitting a report on recent decisions made to upgrade the capability of Air National Guard and Air Force Reserve units; to the Commitee on Armed Services.

1805. A letter from the Acting Attorney General, transmitting a draft of proposed legislation to remove the limitation on payments for consultant services in the Community Relations Service; to the Committee on the Judiciary.

1806. A letter from the Secretary of the Treasury, transmitting a report of Treasury Department activities under the act to facilitate the transportation of cargo by barges specifically designed for carriage aboard a vessel, pursuant to section 27 of the act (46 U.S.C. 883); to the Committee on Merchant Marine and Fisheries.

RECEIVED FROM THE COMPTROLLER GENERAL

1800. A letter from the Deputy Comptroller General of the United States, transmitting a report of a followup review of civilian health and war-related casualty program of the Agency for International Development in Laos; to the Committee on Government Operations.

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. HALEY: Committee on Interior and Insular Affairs. H.R. 5199. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Miami Tribe of Oklahoma and the Miami Indians of Indiana in Indian Claims Commission dockets Nos.

255, 256, 124–C, D, E, and F, and of funds appropriated to pay a judgment in favor of the Miami Tribe of Indians in the Commissioner's docket No. 251–A, and for other purposes; with amendments (Rept. No. 92–962). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7093. A bill to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma; with amendments (Rept. No. 92–963). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 12404. A bill to amend section 5 of the act of September 21, 1968 (82 Stat. 860), relating to preparation of a roll of persons of California Indian descent and the distribution of certain funds (Rept. No. 92–964). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 9520. A bill to amend section 101(1)(2) of the Tax Reform Act of 1969; with amendments (Rept. 92–965). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of Conference. Conference report on S. 3054. (Rept. No. 92–966). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABOUREZK:

H.R. 14174. A bill to amend the Internal Revenue Code of 1954 so as to limit the amount of deductions attributable to the business of farming which may be used to offset nonfarm income; to the Committee on Ways and Means.

By Mrs. ABZUG (for herself, Mr. CONYERS, Mr. DELLUMS, and Mr. RYAN):

H.R. 14175. A bill to exonerate and to provide for a general and unconditional amnesty for certain persons who have violated or are alleged to have violated laws in the course of protest against the involvement of the United States in Indochina, and for other purposes; to the Committee on the Judiciary.

By Mr. BADILLO (for himself and Mr. BURTON):

H.R. 14176. A bill to establish comprehensive and developmental child care services in the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

By Mr. BINGHAM:

H.R. 14177. A bill to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes; to the Committee on Banking and Currency.

H.R. 14178. A bill to amend the Social Security Act to provide nursing care and day care services under part B of title XVIII, to provide home health care and private-duty nursing services under title XIX, to extend fire and safety standards to intermediate-care facilities, to establish an experimental program to provide in-home care for the elderly, to expand public disclosure requirements, and for other purposes; to the Committee on Ways and Means.

By Mr. BOLAND:

H.R. 14179. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting; to the Committee on the Judiciary.

By Mr. BROWN of Ohio:

H.R. 14180. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials and elected town and township officials; to the Committee on Government Operations.

By Mr. CONTE:

H.R. 14181. A bill to establish a National Corrections Academy for the purpose of providing Federal, State, and local corrections personnel with vocational training and continuing education and guidance on methods of treatment and rehabilitation of criminal offenders; to the Committee on the Judiciary.

By Mr. DRINAN (for himself, Mr. CAREY of New York, Mrs. CHISHOLM, Mr. ECKHARDT, Mr. FRASER, Mr. GREEN of Pennsylvania, Mr. LINK, Mr. METCALFE, and Mrs. MINK):

H.R. 14182. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. EDMONDSON:

H.R. 14183. A bill to provide for conditional confirmation and authorization for withdrawal of confirmation of judges; to the Committee on the Judiciary.

By Mr. FREY (for himself, Mr. KEITH, Mr. BLACKBURN, Mr. DEVINE, Mr. HOSMER, Mr. DUNCAN, Mr. CHARLES H. WILSON, Mr. PODELL, Mr. KING, Mr. EILBERG, Mr. ARCHER, Mr. GRIFFIN, Mr. YATRON, Mr. WARE, Mr. KEATING, Mr. LLOYD, Mr. YOUNG of Florida, Mr. DERWINSKI, Mr. WINN, Mr. SCHMITZ, Mr. FORSYTHE, Mr. HORTON, Mr. RHODES, Mr. COLLINS of Texas, and Mr. MCCLORY):

H.R. 14184. A bill to provide increased penalties for distribution of heroin by certain persons, and to provide for pretrial detention of such persons; to the Committee on Interstate and Foreign Commerce.

By Mr. FREY (for himself, Mr. BELL, Mr. VEYSEY, Mr. SHOUP, and Mr. CLEVELAND):

H.R. 14185. A bill to provide increased penalties for distribution of heroin by certain persons, and to provide for pretrial detention of such persons; to the Committee on Interstate and Foreign Commerce.

By Mr. FULTON:

H.R. 14186. A bill to create a special tariff provision for imported glycine and related products; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 14187. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. HALPERN:

H.R. 14188. A bill to make a supplemental appropriation for the fiscal year ending June 30, 1973, for the Bureau of Customs, to enable it to acquire narcotic drug detecting equipment and to employ personnel to operate such equipment; to the Committee on Appropriations.

H.R. 14189. A bill to permit the use of members of the Ready Reserve of the Army by the Bureau of Customs of the Department of the Treasury in programs to prevent the illegal entry of narcotic drugs into the United States; to the Committee on Armed Services.

H.R. 14190. A bill to ban further sale of the drug imipramine, also known as Tofranil, pending the completion of studies on its use in pregnant women; to the Committee on Interstate and Foreign Commerce.

H.R. 14191. A bill to amend the Narcotic Addict Rehabilitation Act of 1966 to broaden the scope of its programs for prisoners in such a way as to include various categories of prisoners not now eligible for such treatment; to the Committee on the Judiciary.

By Mr. KOCH:

H.R. 14192. A bill to amend the Internal Revenue Code of 1954 to provide that married individuals who file separate returns shall be taxed at the same income tax rates as unmarried individuals; to the Committee on Ways and Means.

H.R. 14193. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. MCCORMACK:

H.R. 14194. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 14195. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the labels on all foods to disclose each of their ingredients; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLER of California:

H.R. 14196. A bill to amend the National Science Foundation Act of 1950 so as to provide for a program relating to earthquakes; to the Committee on Science and Astronautics.

By Mr. MIZELL (for himself, Mr. ANDREWS, Mr. BEVILL, Mr. BROYHILL of North Carolina, Mr. CARTER, Mr. CLEVELAND, Mr. FLOWERS, Mr. GRAY, Mr. KEMP, Mr. KING, Mr. KYROS, Mr. MONTGOMERY, and Mr. THONE):

H.R. 14197. A bill to amend the Public Works and Economic Development Act of 1965 to extend its coverage with respect to the economic development of rural America; to the Committee on Public Works.

By Mr. PEYSER:

H.R. 14198. A bill to amend the Elementary and Secondary Education Act to insure greater safety for students in getting to and from school; to the Committee on Education and Labor.

By Mr. ROGERS (for himself, Mr. STAGGERS, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER of North Carolina, Mr. SYMINGTON, Mr. ROY, Mr. CARTER, Mr. HASTINGS, Mr. JARMAN, Mr. MOSS, Mr. VAN DEERLIN, Mr. PICKLE, Mr. ROONEY of Pennsylvania, Mr. MURPHY of New York, Mr. ADAMS, Mr. BLANTON, Mr. TIERNAN, Mr. PODELL, Mr. CARNEY, Mr. BYRON, Mr. KUYKENDALL, Mr. SKUBITZ, Mr. THOMPSON of Georgia, and Mr. FREY):

H.R. 14199. A bill to establish a Department of Health; to the Committee on Government Operations.

By Mr. ROGERS (for himself, Mr. BROOKS, Mr. FOUNTAIN, Mr. FASCELL, Mr. REUSS, Mr. MONAGAN, Mr. MOORHEAD, Mr. GALLAGHER, Mr. RANDALL, Mr. WRIGHT, Mr. FUQUA, Mr. ALEXANDER, and Mrs. ABZUG):

H.R. 14200. A bill to establish a Department of Health; to the Committee on Government Operations.

By Mr. ROGERS (for himself, Mr. BENNETT, Mr. BLATNIK, Mr. BOLAND, Mr. DOWNING, Mr. EDMONDSON, Mr. FULTON, Mr. GALIFIANAKIS, Mr. GIAIMO, Mrs. GRIFFITHS, Mr. HAYS, Mr. MADDEN, Mr. NICHOLS, Mr. O'NEILL, Mr. PERKINS, Mr. PRICE of Illinois, Mr. PRYOR of Arkansas, Mr. SHIPLEY, Mr. SIKES, Mr. SMITH of Iowa, Mr. JAMES V. STANTON, Mr. VANIK, and Mr. CHARLES H. WILSON):

H.R. 14201. A bill to establish a Department of Health; to the Committee on Government Operations.

By Mr. ROSENTHAL (for himself, Mr. CAREY of New York, Mr. CORMAN, Mr. GREEN of Pennsylvania, Mr. ANDERSON of California, Mr. BINGHAM, Mr. BOLAND, Mrs. CHISHOLM, Mr. CLAY, Mr. COTTER, Mr. DIGGS, Mr. DOW, Mr.

ECKHARDT, Mr. GALLAGHER, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. MIKVA, Mr. MINISH, Mr. MINSHALL, Mr. MITCHELL, Mr. MOORHEAD, Mr. MORSE, Mr. MOSS, Mr. O'HARA, and Mr. REES):

H.R. 14202. A bill to repeal the meat quota provisions of Public Law 88-482; to the Committee on Ways and Means.

By Mr. ROUSH (for himself and Mr. RHODES):

H.R. 14203. A bill to abolish the library of the House of Representatives, and for other purposes; to the Committee on House Administration.

By Mr. ROY:

H.R. 14204. 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 secondary education of dependents; to the Committee on Ways and Means.

Mr. SCOTT (for himself, Mr. WHITEHURST, Mr. WAMPLER, and Mr. ABBITT):

H.R. 14205. A bill to provide for the establishment of the Great Dismal Swamp National Monument in the States of Virginia and North Carolina; to the Committee on Interior and Insular Affairs.

By Mr. SHIPLEY:

H.R. 14206. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. SHOUP:

H.R. 14207. A bill to provide for a study of the most desirable and feasible means of transporting visitors within certain portions of Glacier National Park, Mont., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SHOUP (for himself, Mr. ALEXANDER, Mr. ANDREWS, Mr. BEVILL, Mr. BLACKBURN, Mr. CLEVELAND, Mr. COLLINS of Texas, Mr. DANIEL of Virginia, Mr. DEVINE, Mr. DUNCAN, Mr. FISHER, Mr. FLYNT, Mr. GRIFFIN, Mr. HANSEN of Idaho, Mr. HILLIS, Mr. HARSHA, Mr. HOSMER, Mr. KEMP, Mr. KUYKENDALL, Mr. LLOYD, Mr. MCCLURE, Mr. MCDONALD of Michigan, Mr. MCEWEN, Mr. O'KONSKI, and Mr. SCOTT):

H.R. 14208. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain record-keeping provisions with respect to ammunition; to the Committee on the Judiciary.

By Mr. SHOUP (for himself, Mr. SEBELIUS, Mr. TAYLOR, and Mr. YOUNG of Florida):

H.R. 14209. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalities in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain record-keeping provisions with respect to ammunition; to the Committee on the Judiciary.

By Mr. SHOUP:

H.R. 14210. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. SISK:

H.R. 14211. A bill to provide compensation for the injury, illness, disability, or death of employees in agriculture, and for other purposes; to the Committee on Education and Labor.

H.R. 14212. A bill to amend the Internal Revenue Code of 1954 to provide an additional personal exemption of $750 for the disability of the taxpayer or his spouse; to the Committee on Ways and Means.

By Mr. TALCOTT:

H.R. 14213. A bill to repeal the lowest unit rate provision of section 315(b) of the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMPSON of Georgia:

H.R. 14214. A bill to amend the Tennessee Valley Authority Act of 1933, to require payment of certain county taxes, and for other purposes; to the Committee on Public Works.

By Mr. THOMSON of Wisconsin:

H.R. 14215. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. VEYSEY (for himself, Mr. ALEXANDER, Mr. BAKER, Mr. BROYHILL of North Carolina, Mr. GERALD R. FORD, Mr. KING, Mr. KOCH, Mr. SEIBERLING, and Mr. CHARLES H. WILSON):

H.R. 14216. 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. VEYSEY:

H.R. 14217. A bill to amend the Internal Revenue Code of 1954 and title II of the Social Security Act to provide a full exemption (through credit or refund) from the employees' tax under the Federal Insurance Contributions Act, and an equivalent reduction in the self-employment tax, in the case of individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. WILLIAMS (for himself, Mr. COUGHLIN, Mr. ESHLEMAN, Mr. JOHNSON of Pennsylvania, Mr. SAYLOR, Mr. SCHNEEBELI, Mr. WARE, Mr. WHALLEY, Mr. BARRETT, Mr. BYRNE of Pennsylvania, Mr. CLARK, Mr. DENT, Mr. EILBERG, Mr. MOORHEAD, Mr. NIX, Mr. VIGORITO, and Mr. YATRON):

H.R. 14218. A bill to amend section 167 of the Internal Revenue Code of 1954 to provide a special allowance for depreciation with respect to certain byproduct and waste energy conversion facilities; to the Committee on Ways and Means.

By Mr. BOB WILSON:

H.R. 14219. A bill to amend title II of the Social Security Act to increase to $3,000 the annual amount individuals are permitted to earn without suffering deduction from the monthly insurance benefits payable to them under such title; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 14220. A bill to amend the Interstate Commerce Act, as amended, with respect to school bus safety; to the Committee on Interstate and Foreign Commerce.

H.R. 14221. A bill to transfer to the Secretary of State all functions, powers, and duties of the Attorney General under chapter 7 of title II of the Immigration and Nationality Act, relating to the registration of aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. ZWACH (for himself and Mr. LINK):

H.R. 14222. 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 Mr. ASPINALL (for himself, Mr. MCKAY, Mr. RUNNELS, Mr. STEIGER of Arizona, Mr. RHODES, Mr. LLOYD, and Mr. UDALL):

H.R. 14223. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to provide for a Four Corners Area program; to the Committee on Agriculture.

By Mr. BINGHAM:

H.R. 14224. A bill to authorize the Secretary of Health, Education, and Welfare to encourage and assist in the development on a demonstration basis of several carefully planned projects to meet the special health care and related needs of elderly persons in a campus-type setting; to the Committee on Banking and Currency.

H.R. 14225. A bill to provide homemaker services to elderly individuals in need thereof; to the Committee on Education and Labor.

H.R. 14226. A bill to amend the Public Health Service Act to provide for grants for establishment and operation of departments of geriatrics, programs for training physicians' assistants and medical assistants, and to establish a National Institute of Gerontology; to the Committee on Interstate and Foreign Commerce.

By Mr. CELLER:

H.R. 14227. A bill to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes; to the Committee on the Judiciary.

By Mr. DENT:

H.R. 14228. A bill to provide that foreign made products be labeled to show the country of origin, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GREEN of Pennsylvania:

H.R. 14229. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. HALPERN:

H.R. 14230. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety, reliability, and effectiveness of medical devices; to the Committee on Interstate and Foreign Commerce.

By Mr. HANLEY:

H.R. 14231. A bill to provide price support for milk not less than 85 percent of the parity price therefor; to the Committee on Agriculture.

By Mr. HASTINGS:

H.R. 14232. 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 Mrs. HICKS of Massachusetts:

H.R. 14233. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

H.R. 14234. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting; to the Committee on the Judiciary.

By Mr. MAYNE:

H.R. 14235. A bill to amend the Consolidated Farmers Home Administration Act of 1961; to the Committee on Agriculture.

By Mr. MOORHEAD:

H.R. 14236. A bill to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

By Mr. MURPHY of New York (for himself, Mr. BYRNE of Pennsylvania, Mr. BRAY, Mr. JAMES V. STANTON, Mr. METCALFE, Mr. GROVER, Mr. ROGERS, Mr. GARMATZ, Mr. JONES of North

Carolina, Mrs. SULLIVAN, and Mr. STUBBLEFIELD):

H.R. 14237. A bill to amend 5 U.S.C. 8335 to reduce the mandatory retirement age for non-U.S. citizen employees of the Panama Canal Company or the Canal Zone Government employed on the Isthmus of Panama to 62 years of age; to the Committee on Post Office and Civil Service.

By Mr. PRICE of Texas:

H.R. 14238. 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. RANGEL:

H.R. 14239. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968, relating to law enforcement assistance, to provide certain requirements and procedures to assure nondiscrimination in State law enforcement assistance planning agencies and other agencies receiving enforcement assistance funds, and for other purposes; to the Committee on the Judiciary.

By Mr. REUSS:

H.R. 14240. A bill to amend the Small Business Investment Act of 1958, and for other purposes; to the Committee on Banking and Currency.

By Mr. ROE:

H.R. 14241. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. STRATTON:

H.R. 14242. A bill to provide for compliance with constitutional requirements in the trials of persons who are charged with having committed certain offenses while subject to trial by court-martial, who have not been tried for such offenses, and who are no longer subject to trial by court-martial; to the Committee on the Judiciary.

By Mr. SYMINGTON (for himself, Mr. ANDERSON of Illinois, Mr. ANDERSON of Tennessee, Mr. ASHLEY, Mr. BADILLO, Mr. BEGICH, Mr. BINGHAM, Mr. BOLLING, Mrs. CHISHOLM, Mr. CLAY, Mr. COUGHLIN, Mr. DINGELL, Mr. DULSKI, Mr. EDMONDSON, Mr. EDWARDS of California, Mr. EDWARDS of Louisiana, Mr. EILBERG, Mr. WILLIAM D. FORD, Mr. HALPERN, Mr. HANSEN of Idaho, Mr. HARRINGTON, Mr. HECHLER of West Virginia, Mr. HILLIS, Mr. MCCLOSKEY, and Mr. MCCORMACK):

H.R. 14243. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. SYMINGTON (for himself, Mr. MADDEN, Mr. MANN, Mr. MATSUNAGA, Mr. MIKVA, Mr. MOORHEAD, Mr. MORSE, Mr. OBEY, Mr. PIKE, Mr. PRICE of Illinois, Mr. REES, Mr. REUSS, Mr. RODINO, Mr. ROY, Mr. RYAN, Mr. ST GERMAIN, Mr. SARBANES, Mr. SCHEUER, Mr. SCHWENGEL, Mr. SEIBERLING, Mr. SHRIVER, Mr. STOKES, Mr. THONE, Mr. TIERNAN, and Mr. CHARLES H. WILSON):

H.R. 14244. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. TEAGUE of Texas (by request) (for himself and Mr. KYROS):

H.R. 14245. A bill to amend title 38 of the United States Code to provide an annual clothing allowance to certain veterans who, because of a service-connected disability, wear a prosthetic appliance or appliances which tends to wear out or tear their clothing; to the Committee on Veterans' Affairs.

H.R. 14246. A bill to amend chapter 15, title 38, United States Code, to provide for the continuation of aid and attendance allowance to certain veterans and to increase the pension payable to a veteran at age 72; to the Committee on Veterans' Affairs.

By Mr. VANIK (for himself, Mr. REID, Mr. RYAN, Mr. ST GERMAIN, Mr. SCHEUER, Mr. SEIBERLING, Mr. JAMES V. STANTON, Mr. TIERNAN, Mr. THOMPSON of New Jersey, and Mr. WOLFF):

H.R. 14247. A bill to repeal the meat quota provisions of Public Law 88-482; to the Committee on Ways and Means.

By Mr. ANDERSON of California:

H.J. Res. 1136. Joint resolution to improve the foreign relations of the United States and enhance the prospects of peace; to the Committee on Foreign Affairs.

By Mr. BOLAND:

H.J. Res. 1137. Joint resolution to authorize the President to proclaim the 22d day of April of each year as "Queen Isabella Day"; to the Committee on the Judiciary.

By Mr. CORMAN (for himself, Mr. Moss, Mr. BURTON, Mr. DANIELSON, Mr. DELLUMS, Mr. EDWARDS of California, Mr. HAWKINS, Mr. LEGGETT, Mr. REES, Mr. ROYBAL, and Mr. WALDIE):

H.J. Res. 1138. Joint resolution to improve the foreign relations of the United States and enhance the prospects of peace; to the Committee on Foreign Affairs.

By Mr. DIGGS (for himself, Mr. BADILLO, Mr. BINGHAM, Mr. BURTON, Mrs. CHISHOLM, Mr. CLAY, Mr. COLLINS of Illinois, Mr. CONYERS, Mr. DELLUMS, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. FRASER, Mr. HAWKINS, Mr. HALPERN, Mr. KOCH, Mr. METCALFE, Mr. MIKVA, Mr. MITCHELL, Mr. NIX, Mr. RANGEL, Mr. ROSENTHAL, Mr. RYAN, Mr. SCHEUER, and Mr. STOKES):

H.J. Res. 1139. Joint resolution to protect U.S. domestic and foreign policy interests by making fair employment practices in the South African enterprises of U.S. firms a criteria for eligibility for Government contracts; to the Committee on the Judiciary.

By Mr. EDMONDSON:

H.J. Res. 1140. Joint resolution proposing an amendment to the Constitution of the United States providing authorization for the reconfirmation of Federal judges during every 10th year of service; to the Committee on the Judiciary.

By Mr. HANLEY:

H.J. Res. 1141. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. HANNA:

H.J. Res. 1142. Joint resolution to improve the foreign relations of the United States and enhance the prospects of peace; to the Committee on Foreign Affairs.

By Mr. MAILLIARD (for himself, Mr. MORSE, Mr. BINGHAM, Mr. PEPPER, Mr. BADILLO, Mr. CAREY of New York, Mr. DELLUMS, Mr. DERWINSKI, Mr. DIGGS, Mr. DRINAN, Mr. EILBERG, Mr. FORSYTHE, Mr. FRENZEL, Mr. GARMATZ, Mr. GIBBONS, Mr. GUDE, Mr. HALPERN, Mr. HANSEN of Idaho, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. HICKS of Washington, Mr. HORTON, Mr. KEITH, Mr. LEGGETT, and Mr. LLOYD):

H.J. Res. 1143. Joint resolution establishing a commission on U.S. participation in the United Nations; to the Committee on Foreign Affairs.

By Mr. MAILLIARD (for himself, Mr. MORSE, Mr. BINGHAM, Mr. PEPPER, Mr. MAZZOLI, Mr. MEEDS, Mr. MILLER of California, Mrs. MINK, Mr. MOORHEAD, Mr. MOSHER, Mr. MOSS, Mr. PODELL, Mr. RANGEL, Mr. RODINO, Mr. ROY, Mr. RYAN, Mr. SCHEUER, Mr. SEIBERLING, Mr. SYMINGTON, Mr. VANDER JAGT, and Mr. WARE):

H.J. Res. 1144. Joint resolution establishing a commission on U.S. participation in the United Nations; to the Committee on Foreign Affairs.

By Mr. PRYOR of Arkansas (for himself, Mrs. ABZUG, Mr. ASPIN, Mr. BEGICH, Mr. BELL, Mr. BLACKBURN, Mr. BRASCO, Mr. BUCHANAN, Mr. BURTON, Mrs. CHISHOLM, Mr. COLLINS of Illinois, Mr. COTTER, Mr. DANIELSON, Mr. DUNCAN, Mr. EILBERG, Mr. FINDLEY, Mr. GERALD R. FORD, Mr. WILLIAM D. FORD, Mr. FORSYTHE, Mr. GARMATZ, Mrs. GRASSO, Mr. GUDE, Mr. HAMILTON, Mr. HAMMERSCHMIDT, and Mr. HARRINGTON):

H.J. Res. 1145. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. PRYOR of Arkansas (for himself, Mr. HATHAWAY, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mr. KEMP, Mr. KUYKENDALL, Mr. KYROS, Mr. LENT, Mr. LINK, Mr. LONG of Maryland, Mr. MCCLURE, Mr. MATSUNAGA, Mr. MELCHER, Mr. MORSE, Mr. PODELL, Mr. ROSENTHAL, Mr. RUPPE, Mr. RYAN, Mr. SARBANES, Mr. STOKES, Mr. SYMINGTON, Mr. VEYSEY, Mr. WHALEN, Mr. WINN, and Mr. YOUNG of Florida):

H.J. Res. 1146. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. SIKES (for himself, Mr. FASCELL, Mr. BENNETT, and Mrs. GRASSO):

H.J. Res. 1147. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

By Mr. HALPERN:

H. Con. Res. 574. Concurrent resolution expressing the sense of Congress that the President should instruct certain information agencies to provide information about the problems of heroin addiction in the United States to countries producing, processing, or trafficking in, opium; to the Committee on Foreign Affairs.

By Mr. KING:

H. Con. Res. 575. Concurrent resolution expressing the sense of Congress with respect to those individuals who refused to register for the draft, refused induction, or, being a member of the Armed Forces, fled to a foreign country to avoid further military service; to the Committee on Armed Services

By Mr. SIKES (for himself and Mr. BENNETT):

H. Con. Res. 576. Concurrent resolution relating to the 25th Congress of the Interallied Confederation of Reserve Officers to be held in Washington, D.C., the week of August 7, 1972; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CASEY of Texas:

H.R. 14248. A bill for the relief of Rajinder N. Dewan; to the Committee on Post Office and Civil Service.

By Mr. GREEN of Pennsylvania:

H.R. 14249. A bill for the relief of Pfc. James Watson, Jr., U.S. Marine Corps Reserve; to the Committee on the Judiciary.

By Mr. NIX:

H.R. 14250. A bill for the relief of Donald Hercules Hurdle; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.R. 14251. A bill for the relief of Dr. Kai Ming Chen and his wife, Dr. Lilliam Chen; to the Committee on the Judiciary.

H.R. 14252. A bill for the relief of Dr. Dolores A. Y. Loew; to the Committee on the Judiciary.

By Mr. O'NEILL:

H.R. 14253. A bill for the relief of Alvaro and Berta Rios and their minor children; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

205. The SPEAKER presented a petition of employees in the offices of Representative JOHN E. Moss and other Members of the House of Representatives, relative to a boycott of eating facilities in the House Office Buildings, which was referred to the Committee on House Administration.

SENATE—*Wednesday, March 29, 1972*

The Senate met at 11 a.m. and was called to order by Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois.

PRAYER

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

Lord, make us instruments of Thy peace; where there is hatred, let us sow love; where there is injury, pardon; where there is discord, union; where there is doubt, faith; where there is despair, hope; where there is darkness, light; where there is sadness, joy. For Thy mercy and for Thy truth's sake, Amen.—ST. FRANCIS OF ASSISI, 12th century.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 29, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. STEVENSON thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 571), providing for an adjournment of the House from March 29, 1972, until April 10, 1972, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 9526) to authorize certain naval vessel loans, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. STEVENSON).

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 28, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The Senator from Connecticut is recognized.

(The remarks of Mr. RIBICOFF on the introduction of S. 3432 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ADJOURNMENT OF THE TWO HOUSES FOR EASTER

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 571.

The Presiding Officer laid before the Senate House Concurrent Resolution 571, which was read 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 ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

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

Mr. MANSFIELD. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 1, line 4, strike out "1972." and insert "1972, and that when the Senate adjourns on Thursday, March 30, 1972, it stand adjourned until 12 o'clock meridian, Tuesday, April 4, 1972."

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The concurrent resolution (H. Con. Res. 571), as amended, was agreed to, 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, and that when the Senate adjourns on Thursday, March 30, 1972, it stand adjourned until 12 o'clock meridian, Tuesday, April 4, 1972.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TAKE THE DEPARTMENT OF JUSTICE OUT OF PARTISAN POLITICS

Mr. ROTH. Mr. President, the very cornerstone of the American form of government is respect for the law by the citizens of this country. Anything that erodes public confidence in the law or the administration of justice under the law weakens the basis of our democracy.

Just as we must always be on guard against possible corruption of the judicial system, so, too, must we be constantly alert to the danger that political pressures may influence either judicial deci-