ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand adjourned to 11 a.m. tomorrow.

The motion was agreed to; and at 5:35 p.m. the Senate adjourned to tomorrow, Tuesday, July 24, 1973, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Monday, July 23, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Only fear the Lord and serve Him faithfully with all your heart; for consider what great things He has done for you.—I Samuel 12: 24.

O Thou who art the Creator and the Sustainer of Life, who hast given us the gift of days and hours, help us to use our time in faithful devotion to Thee and to our country.

Save us from disillusionment of mind and discouragement of heart amid the trials and turmoils of this present time. Make us strong in faith, steadfast in courage, and stouthearted in spirit as we face the tasks of this week.

We commit our Nation unto Thee, praying that we, the people, may prove ourselves worthy of the sacrifices built into the foundations of our Republic. May vital religion, intelligent good will, private and public integrity become the mood of our age—and may it begin with me.

In the spirit of 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 and concurrent resolutions of the House of the following titles:

H.R. 9172. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina;

H. Con. Res. 185. Concurrent resolution to provide for the printing of inaugural addresses from President George Washington to President Richard M. Nixon;

H. Con. Res. 219. Concurrent resolution providing for additional copies of "The Federal Civilian Employee Loyalty Program," House Report 92–1637, 92d Congress, 2d session;

H. Con. Res. 233. Concurrent resolution providing for the printing of committee hearings establishing a National Institute of Education;

H. Con. Res. 256. Concurrent resolution to provide for the printing as a House document, a revised edition of the House document "Our American Government. What Is It? How Does It Work?";

H. Con. Res. 257. Concurrent resolution providing the printing of additional copies of the House report entitled "Street Crime: Reduction Through Positive Criminal Justice Responses"; and

H. Con. Res. 258. Concurrent resolution providing for the printing of additional copies of the House report entitled "Drugs in Our Schools."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and joint resolutions of the House of the following titles:

H.R. 6691. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1974, and for other purposes;

H.R. 8658. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes;

H.J. Res. 512. Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes; and

H.J. Res. 542. Joint resolution concerning the war powers of Congress and the President.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6691) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1974, and for other purposes, reported with an amendment," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. MCCLELLAN, Mr. BAYH, Mr. EAGLETON, Mr. COTTON, Mr. SCHWEIKER, Mr. YOUNG, and Mr. CASE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8658) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAYH, Mr. MCCLELLAN, Mr. INOUYE, Mr. CHILES, Mr. EAGLETON, Mr. MATHIAS, and Mr. BELLMON to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the Joint Resolution (H.J. Res. 512) entitled "Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SPARKMAN, Mr. PROXMIRE, Mr. WILLIAMS, Mr. STEVENSON, Mr. TOWER, Mr. BENNETT, and Mr. BROOKE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7935) entitled "An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. EAGLETON, Mr. HUGHES, Mr. HATHAWAY, Mr. JAVITS, Mr. SCHWEIKER, Mr. TAFT, and Mr. STAFFORD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 440. An act to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress;

S. 782. An act to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the expediting act as it pertains to appellate review;

S. 1816. An act to amend the Wool Products Labeling Act of 1939 with respect to recycled wool; and

S.J. Res. 134. Joint resolution to prohibit any reduction in the number of employees of the Forest Service during the current fiscal year.

CONFERENCE REPORT ON S. 1636, AMENDING THE INTERNATIONAL ECONOMIC POLICY ACT OF 1972

Mr. PATMAN submitted the following conference report and statement on the bill (S. 1636) to amend the International Economic Policy Act of 1972:

CONFERENCE REPORT (H. REPT. NO. 93–389)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1636) to amend the International Economic Policy Act of 1972, 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 to the text of the bill 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 section 205 of the International Economic Policy Act of 1972 is amended—

(1) by striking out "(1) The President,";

(2) by redesignating clauses (2) through (7) as clauses (1) through (6);

(3) by inserting after clause (6), as redesignated, the following:

"(7) The Secretary of Transportation."; and

(4) by striking out the last sentence and inserting in lieu thereof the following: "The President shall designate the Chairman of the Council from among the members of the Council."

SEC. 2. Section 209 of the International Economic Policy Act of 1972 is amended by striking out "1973" and inserting in lieu thereof "1977".

SEC. 3. Section 210 of the International Economic Policy Act of 1972 is amended by striking out "1973" and inserting in lieu thereof "1974".

SEC. 4. Section 207(a) of the International Economic Policy Act of 1972 is amended by redesignating paragraph (4) as paragraph (6), by striking out "and" at the end of paragraph (3), and by inserting immediately after paragraph (3) the following new paragraphs:

"(4) a comparative description and analysis of the following subject matter, with respect to the United States, the European Community and principal countries within the European Community, Japan, and whenever applicable, the Union of Soviet Socialist Republics—

"(A) research and development expenditures, and productivity and technological trends in major industrial and agricultural sectors;

"(B) investment patterns in new plant and equipment;

"(C) industrial manpower and training practices;

"(D) tax incentives and other governmental financial assistance;

"(E) export promotion practices;

"(F) share of the export market, by area and industrial and agricultural sectors;

"(G) environmental practices;

"(H) antitrust practices; and

"(I) long-range governmental economic planning programs, targets, and objectives;

"(5) a review of the relationship between the United States Government and American private business with respect to the categories of subject matter listed in subparagraphs (A) through (I) of paragraph (4) and any other appropriate areas of information, together with recommendations for appropriate policies and programs in order to insure that American business is competitive in international commerce; and".

SEC. 5. Notwithstanding the provisions of section 208(a) of the International Economic Policy Act of 1972, any future Executive Director of the Council on International Economic Policy appointed after the date of the enactment of this bill shall be appointed by the President, by and with the advice and consent of the Senate.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same.

WRIGHT PATMAN,
THOMAS L. ASHLEY,
THOMAS M. REES,
PARREN J. MITCHELL,
FERNAND J. ST GERMAIN,
RICHARD T. HANNA,
EDWARD I. KOCH,
ANDREW YOUNG,
JOHN JOSEPH MOAKLEY,
WILLIAM B. WIDNALL,
BEN BLACKBURN,
GARRY BROWN,
ALBERT W. JOHNSON,
STEWART B. MCKINNEY,
BILL FRENZEL,
Managers on the Part of the House.

JOHN SPARKMAN,
WILLIAM PROXMIRE,
HARRISON A. WILLIAMS,
ADLAI STEVENSON,
JOHN TOWER,
WALLACE F. BENNETT,
BOB PACKWOOD,
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 amendments of the House to the bill (S. 1636) to amend the International Economic Policy Act of 1972, 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 House struck out all of the Senate bill after the enacting clause and inserted a substitute amendment.

The committee of conference has agreed to a substitute for both the Senate bill and the House amendment. Except for clarifying, clerical, and conforming changes, the differences are noted below:

The Senate bill allowed the President to appoint the Chairman of the Council on International Economic Policy from among the statutory members of the Council or any other person the President named as a member of the Council. The House amendment allowed the President to appoint a Chairman of the Council from among the statutory members. The conferees accepted the Senate provision.

The Senate bill provided, with certain exceptions, that employees of the Council may be appointed without regard to civil service provisions governing appointment in competitive service. There was no comparable provision in the House amendment. The Senate receded to the House.

The Senate bill repealed the provision of the International Economic Policy Act of 1972 providing for an expiration date. The House amendment changed the present expiration date from June 30, 1973, to June 30, 1975. The conferees accepted the compromise date of June 30, 1977.

The Senate bill made appointment of the Executive Director of the Council subject to Senate confirmation, including the incumbent. The House amendment made appointment of any Executive Director other than the incumbent subject to Senate confirmation. The conferees accepted the House provision.

The Senate bill authorized $3,000,000 to be appropriated for fiscal year 1974 and the same amount for fiscal year 1975. The House authorized $1,400,000 to be appropriated for fiscal year 1974. The conferees accepted the House provision.

The House amendment added the Secretary of Transportation to the Council. No comparable provision was included in the Senate bill. The conferees accepted the House provision.

The House amendment required the annual report transmitted by the President to Congress under section 207 of the International Economic Policy Act of 1972 to include comparative description and analysis of certain specific activities, policies, and programs of the United States, the European Community and its principal members, Japan, and whenever applicable, the U.S.S.R. The amendment also required that the report include analysis concerning the relationship between the United States Government and American business and recommendations for programs and policies to insure that American business is competitive in international commerce. No comparable provision was included in the Senate bill. The conferees accepted the House position.

WRIGHT PATMAN,
THOMAS L. ASHLEY,
THOMAS M. REES,
PARREN J. MITCHELL,
FERNAND J. ST GERMAIN,
RICHARD T. HANNA,
EDWARD I. KOCH,
ANDREW YOUNG,
JOHN JOSEPH MOAKLEY,
WILLIAM B. WIDNALL,
BEN BLACKBURN,
GARRY BROWN,
ALBERT W. JOHNSON,
STEWART B. MCKINNEY,
BILL FRENZEL,
Managers on the Part of the House.

JOHN SPARKMAN,
WILLIAM PROXMIRE,
HARRISON WILLIAMS,
ADLAI STEVENSON,
JOHN TOWER,
WALLACE F. BENNETT,
BOB PACKWOOD,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 8658, DISTRICT OF COLUMBIA APPROPRIATIONS, 1974

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8658) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. NATCHER, STOKES, TIERNAN, CHAPPELL, BURLISON of Missouri, MCKAY, ROUSH, MCEWEN, MYERS, VEYSEY, COUGHLIN, and CEDERBERG.

MAJORITY LEADER THOMAS P. O'NEILL, JR., SAYS FIRST HALF OF 1973 WAS AN ECONOMIC DISASTER

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

Mr. O'NEILL. Mr. Speaker, new Labor Department figures reveal the magnitude of the economic disaster which the Republican administration has inflicted upon this Nation.

Since President Nixon lifted phase II controls last January, food prices have gone up at an unbelievable annual rate of 25 percent. Altogether, the cost of living went up at an annual rate of 8 percent in the first half of the year, compared with 3.4 percent during all of 1972.

Yesterday we had the spectacle of the Secretary of Agriculture saying on nationwide television that the grain sale to the Soviet Union had very little to do with the rise in food prices this year. He said that the Nation could stand such a drain on our food reserves, although, at the same time, he admitted that he did not know how big the sale was going to be.

He now estimates that the sale was $1 billion—"only" 20 percent of the $5 billion increase in food exports in 1972. That sounds like good business for the export trade. I wish the Secretary had shown as much concern about feeding the folks right here at home.

Today we face so-called spot shortages of beef, and the prices of pork and poultry are going so high that they will effectively "ration" those commodities, the Secretary said.

This is the result of the policy of scarcity pursued by this administration and I think the administration has a lot to answer for to the American people.

VOLUNTEER SERVICE OF DR. J. H. THOMAS

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

Mr. MAYNE. Mr. Speaker, among the most significant advances under the Nixon administration has been the very commendable encouragement of volun-

tarism. The strong backing provided by the President, his family, and the administration under his leadership has given a needed boost to activities of volunteers throughout America. Through Federal partnership with volunteer associations, individual volunteers have been given new opportunities to solve problems rather than turn to Washington, D.C. for possible Federal assistance.

One of the most successful of the newer volunteer programs formed under the concept of "new federalism" has been Project U.S.A. Three years ago, the administration formed the National Health Service Corps, a volunteer arm of the Public Health Service which assigns doctors, nurses, and other health care personnel to communities in need of their services. Last year, the NHSC and the American Medical Association formed a partnership in effect, creating "Project U.S.A.," a contract service under which the AMA locates.

Mr. Speaker, I will insert further statements on this subject later in the RECORD today.

RESTAURANT SHUTDOWNS DUE TO CUTOFF OF BEEF SUPPLIES

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

Mr. VANIK. Mr. Speaker, news has just reached me this morning from restaurants in my community that meat shortages may force widespread closings and shutdowns next week.

At the same time, I have received word that during the past several weeks, cold storage facilities have been filled with food and meat supplies by speculators standing by to make a windfall profit once the price lid is off beef.

I am today requesting the Cost of Living Council, the Internal Revenue Service, and the Department of Justice to investigate the reported stockpiling and withholding meat supplies which are causing shortages and higher prices to the American consumer.

PROVIDING FOR CONSIDERATION OF H.R. 5356, TOXIC SUBSTANCES CONTROL ACT OF 1973

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 493 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 493

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5356) to regulate interstate commerce to protect health and the environment from hazardous chemical substances. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 493 provides for consideration of H.R. 5356, which, as reported by our Committee on Interstate and Foreign Commerce, would provide for a planned program to protect in depth our health and our environment from hazardous chemical substances. The resolution provides an open rule with one hour of general debate, the time being equally divided and controlled by the chairman and the ranking minority member of the committee.

The proposed rule provides that after general debate, the bill shall be read for amendment under the 5-minute rule, at which time it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, now printed in H.R. 5356 as an original bill. At the conclusion of such consideration, the rule further provides that the committee shall rise and report the bill to the House with such amendments as may have been adopted, and that any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall then be considered as ordered on the bill and amendments thereto to final passage, without any intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, the need for this legislation arises from the staggering proliferation of chemical compounds in recent times. There are 1.8 million registered chemical compounds in this country. About 250,000 chemicals are added to the list each year, and between 300 to 500 new chemical compounds are introduced annually into commercial use.

Of course, many of these substances pose no danger to health or to the environment. However, it is almost axiomatic that as we increase the number of chemical substances in commercial use, we also increase the risk of serious harm to man and his environment by these chemicals.

To be effective, legislation in this area must be aimed at preventing harm. Clearly, by its very nature, chemical damage, once caused, may be irreversible. Accordingly, H.R. 5356 provides, among other things, for the testing and screening of chemicals to determine their adverse effects prior to marketing.

Even prior testing and screening may not be adequate safeguards against some chemical substances, the toxicity of which may not cause immediate danger to humans and the environment, but the cumulative effect of which over a period of time may cause serious injury to exposed persons or damage to the environment. H.R. 5356 therefore also provides for an information system to develop a technology of predicting the hazardous quality of each chemical substance.

H.R. 5356 also gives the Administrator of the Environmental Protection Agency, the implementing authority, the power to go to court to protect the public from an imminently hazardous chemical substance, and also to make administrative inspections and seizures of chemical substances. A Chemical Substances Board would be established in the EPA to advise the Administrator in his exercise of authority under this bill.

Mr. Speaker, from the standpoint of projected cost, this bill authorizes appropriations not to exceed $9.2 million, $11.1 million, and $10.1 million for fiscal years 1974, 1975, and 1976, respectively, Considering the greater costs in corrective measures after the damage is done, these annual expenditures will no doubt prove to be worthy investments in safety.

Mr. Speaker, I urge the adoption of House Resolution 493 in order that H.R. 5356 may be considered.

Mr. DEL CLAWSON. Mr. Speaker, House Resolution 493 provides for the consideration of H.R. 5356, the Toxic Substances Control Act of 1973. This bill will be considered under an open rule with 1 hour of general debate. The rule also makes the committee substitute in order as an original bill for the purpose of amendment.

The primary purpose of H.R. 5356 is to give the Environmental Protection Agency the means for comprehensive control of toxic substances.

Among the numerous provisions in the bill, the following are some of the most notable:

First. EPA Administrator could require manufacturers or importers to test chemical substances under prescribed test protocols;

Second. EPA Administrator is to prepare a list of chemical substances which pose a substantial danger to health or environment;

Third. Bill establishes a premarket screening of test data before manufacture or distribution of a chemical substance on the danger list;

Fourth. EPA Administrator is authorized to adopt rules prohibiting or limiting the manufacture of a chemical substance or requiring the labeling of such a substance if necessary to protect against unreasonable risk.

Fifth. EPA Administrator may apply to a U.S. district court to protect the public from an immediately hazardous chemical substance;

Sixth. Bill permits administrative seizure of chemical substances or products containing them manufactured in violation of this legislation or of agency rules; and

Seventh. Enforcement of the bill may

be obtained through civil injunction or through imposition of civil and criminal penalties.

The cost of this bill is estimated to be $9,200,000 for fiscal year 1974, $11,100,000 for fiscal 1975, $10,100,000 for fiscal 1976, $9,800,000 for fiscal 1977, and $9,800,000 for fiscal 1978.

Mr. Speaker, I urge the adoption of House Resolution 493 in order that the House may debate H.R. 5356.

Mr. MATSUNAGA. Mr. Speaker, I have no requests for time.

Mr. DEL CLAWSON. Mr. Speaker, I have no requests for time.

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

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SCHERLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 351, nays 4, not voting, 78, as follows:

[Roll No. 367]

YEAS—351

Abdnor	Clancy	Fountain
Abzug	Clark	Frelinghuysen
Adams	Clausen, Don H.	Frenzel
Alexander	Clawson, Del	Frey
Anderson, Calif.	Cochran	Froehlich
Anderson, Ill.	Cohen	Fulton
Andrews, N.C.	Collins, Ill.	Gettys
Andrews, N. Dak.	Conable	Giaimo
Annunzio	Conlan	Gibbons
Archer	Conte	Gilman
Arends	Conyers	Ginn
Armstrong	Corman	Goldwater
Ashbrook	Cotter	Gonzalez
Bafalis	Coughlin	Grasso
Baker	Crane	Green, Oreg.
Barrett	Cronin	Green, Pa.
Bennett	Daniel, Dan	Griffiths
Bergland	Daniel, Robert W., Jr.	Gross
Bevill	Daniels, Dominick V.	Grover
Biester	Danielson	Gude
Bingham	Davis, S.C.	Guyer
Blackburn	Davis, Wis.	Haley
Boggs	Delaney	Hamilton
Boland	Dellenback	Hammer-schmidt
Bowen	Dellums	Hanley
Brademas	Denholm	Hanrahan
Brasco	Dennis	Hansen, Idaho
Bray	Dent	Hansen, Wash.
Breaux	Derwinski	Harsha
Breckinridge	Devine	Harvey
Brinkley	Dickinson	Hawkins
Brooks	Dingell	Hays
Broomfield	Dorn	Hechler, W. Va.
Brotzman	Downing	Heckler, Mass.
Brown, Calif.	Drinan	Heistoski
Brown, Mich.	Duncan	Henderson
Brown, Ohio	du Pont	Hicks
Broyhill, N.C.	Eckhardt	Hillis
Broyhill, Va.	Edwards, Ala.	Hinshaw
Buchanan	Edwards, Calif.	Hogan
Burgener	Eilberg	Holt
Burke, Fla.	Erlenborn	Horton
Burke, Mass.	Esch	Hosmer
Burleson, Tex.	Eshleman	Howard
Burlison, Mo.	Evans, Colo.	Huber
Burton	Fascell	Hudnut
Butler	Findley	Hungate
Byron	Fish	Ichord
Carey, N.Y.	Flood	Jarman
Carney, Ohio	Flowers	Johnson, Calif.
Carter	Flynt	Johnson, Colo.
Casey, Tex.	Ford,	Johnson, Pa.
Cederberg	William D.	Jones, Ala.
Chamberlain	Forsythe	Jones, N.C.
Chappell	Fraser	Jones, Okla.
Jones, Tenn.	Nix	Smith, N.Y.
Jordan	Obey	Snyder
Karth	O'Brien	Spence
Kastenmeier	O'Neill	Staggers
Kazen	Owens	Stanton, J. William
Keating	Parris	Stark
Ketchum	Passman	Steed
King	Patten	Steelman
Koch	Pepper	Steiger, Ariz.
Kuykendall	Perkins	Steiger, Wis.
Kyros	Pettis	Stokes
Latta	Peyser	Stratton
Leggett	Pickle	Stubblefield
Lehman	Pike	Studds
Lent	Poage	Sullivan
Litton	Powell, Ohio	Symington
Long, La.	Preyer	Taylor, Mo.
Long, Md.	Price, Ill.	Taylor, N.C.
Lott	Pritchard	Teague, Calif.
Lujan	Quie	Thomson, Wis.
McClory	Railsback	Thone
McCloskey	Randall	Thornton
McCollister	Rangel	Tiernan
McCormack	Rees	Towell, Nev.
McDade	Regula	Treen
McEwen	Reuss	Udall
McFall	Rhodes	Ullman
McKay	Riegle	Van Deerlin
McSpadden	Rinaldo	Vanik
Macdonald	Robinson, Va.	Veysey
Madden	Robison, N.Y.	Vigorito
Madigan	Rodino	Waggonner
Mahon	Rogers	Waldie
Mailliard	Roncalio, Wyo.	Walsh
Mallary	Roncallo, N.Y.	Wampler
Mann	Rooney, Pa.	Ware
Martin, Nebr.	Rose	Whalen
Martin, N.C.	Rosenthal	White
Mathias, Calif.	Roush	Whitehurst
Mathis, Ga.	Rousselot	Whitten
Matsunaga	Roy	Wiggins
Mayne	Roybal	Williams
Mazzoli	Runnels	Wilson, Bob
Meeds	Ruppe	Wilson, Charles H., Calif.
Melcher	Ruth	Wilson, Charles, Tex.
Metcalfe	Sandman	Wright
Mezvinsky	Sarasin	Wyatt
Miller	Sarbanes	Wydler
Mink	Satterfield	Wylie
Mitchell, N.Y.	Saylor	Yates
Moakley	Scherle	Yatron
Mollohan	Schneebeli	Young, Alaska
Montgomery	Schroeder	Young, Fla.
Moorhead, Calif.	Sebelius	Young, Ga.
Moorhead, Pa.	Seiberling	Young, Ill.
Morgan	Shipley	Young, S.C.
Mosher	Shoup	Young, Tex.
Moss	Shriver	Zablocki
Myers	Shuster	Zion
Natcher	Sikes	Zwach
Nedzi	Sisk	
Nelsen	Skubitz	
Nichols	Slack	
	Smith, Iowa	

NAYS—4

Collins, Tex.	Rarick	Symms
Goodling		

NOT VOTING—78

Addabbo	Gaydos	O'Hara
Ashley	Gray	Patman
Aspin	Gubser	Podell
Badillo	Gunter	Price, Tex.
Beard	Hanna	Quillen
Bell	Harrington	Reid
Biaggi	Hastings	Roberts
Blatnik	Hébert	Roe
Bolling	Heinz	Rooney, N.Y.
Burke, Calif.	Holifield	Rostenkowski
Camp	Holtzman	Ryan
Chisholm	Hutchinson	St Germain
Clay	Kemp	Stanton, James V.
Cleveland	Kluczynski	Steele
Collier	Landgrebe	Stephens
Culver	Landrum	Stuckey
Davis, Ga.	McKinney	Talcott
de la Garza	Maraziti	Teague, Tex.
Diggs	Michel	Thompson, N.J.
Donohue	Milford	Vander Jagt
Dulski	Mills, Ark.	Widnall
Evins, Tenn.	Minish	Winn
Fisher	Minshall, Ohio	Wolff
Foley	Mitchell, Md.	Wyman
Ford, Gerald R.	Mizell	
Fraser	Murphy, Ill.	
Fuqua	Murphy, N.Y.	

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Widnall.
Mr. Hébert with Mr. Cleveland.
Mr. Rooney of New York with Mr. Bell.
Mr. Addabbo with Mr. Beard.
Mr. Blatnik with Mr. Hastings.
Mrs. Chisholm with Mr. Fraser.
Mr. Fisher with Mr. Gubser.
Mr. Murphy of New York with Mr. Heinz.
Mr. Roe with Mr. Camp.
Mr. Holifield with Mr. Kemp.
Mr. Murphy of Illinois with Mr. Collier.
Mr. Kluczynski with Mr. Michel.
Mr. Reid with Mr. Hutchinson.
Mr. Minish with Mr. Mizell.
Mr. Gray with Mr. Clay.
Miss Holtzman with Mr. Diggs.
Mr. Donohue with Mr. Quillen.
Mr. Dulski with Mr. Maraziti.
Mr. Fuqua with Mr. Landgrebe.
Mr. Gaydos with Mr. Talcott.
Mr. Gunter with Mr. Price of Texas.
Mr. O'Hara with Mr. Vander Jagt.
Mrs. Burke of California with Mr. Winn.
Mr. Culver with Mr. Patman.
Mr. Wolff with Mr. Wyman.
Mr. Teague of Texas with Mr. Rostenkowski.
Mr. Stephens with Mr. Roberts.
Mr. St Germain with Mr. Steele.
Mr. James V. Stanton with Mr. Aspin.
Mr. Ryan with Mr. Davis of Georgia.
Mr. Mitchell of Maryland with Mr. Podell.
Mr. Hanna with Mr. Stuckey.
Mr. Harrington with Mr. de la Garza.
Mr. Badillo with Mr. Evins of Tennessee.
Mr. Biaggi with Mr. Foley.
Mr. Ashley with Mr. Gerald R. Ford.
Mr. Landrum with Mr. Milford.
Mr. Mills of Arkansas with Mr. Minshall of Ohio.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT DURING HOUSE SESSION TODAY

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be allowed to meet this afternoon while the House is in session during consideration of bills under the 5-minute rule.

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

There was no objection.

TOXIC SUBSTANCES CONTROL ACT OF 1973

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5356) to regulate interstate commerce to protect health and the environment from hazardous chemical substances.

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

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 consideration of the bill H.R. 5356, with Mr. FLYNT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 min-

utes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5356, a bill designed to supplement existing Federal laws to protect health and the environment from hazardous chemical substances.

This bill arises out of legislative proposals submitted by the administraton and is based upon a study conducted by the Council on Environmental Quality. It is designed to give EPA comprehensive authority to protect health and the environment from hazardous chemical substances.

Despite the numerous Federal laws already enacted, there are conspicuous gaps in the regulatory machinery which permit dangerous chemicals to be distributed in the marketplace. This legislation will fill those gaps by giving EPA authority to control chemical hazards which may not be satisfactorily controlled under other Federal laws.

In the last Congress, a bill of similar purpose passed the House by a record vote of 240 to 61. Time did not permit a conference with the Senate to work out differences and the legislative effort was lost. The bill H.R. 5356, which is before us today is substantially identical to the bill which passed the House in the 92d Congress.

Appropriations of $9.2 million for fiscal year 1974; $11.1 million for fiscal year 1975; and $10.1 million for fiscal year 1976 are authorized.

Mr. Chairman, both the number and quantity of chemical substances in commercial use are increasing each year. For this reason the risk of producing substances which can cause grave and irreversible environmental damage or health problems is also increasing. There is a great need for increased knowledge concerning th effects of these chemical substances and for regulation to deal with those which are found to be hazardous. For these reasons, I urge passage of this bill.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 5 minutes.

Today the House is considering H.R. 5356, the Toxic Substances Control Act of 1973. In the past few years, Congress has affirmed and reaffirmed its commitment to a better national environment. During these years, we have enacted substantive legislation which has aided in the national crusade to clean up our streams and rivers, cut hazardous air pollution, and established a cleaner, more healthful environment in which Americans can work and play. I think that Congress and the Nation can be pleased with the progress that has been made under these laws.

H.R. 5356 is a necessary part of the battle to provide a clean and safe national environment. It is designed to supplement existing Federal laws by giving to the Environmental Protection Agency comprehensive authority to develop a systematic approach to the task of protecting health and the environment from hazardous chemical substances. This legislation is proposed as an effort to fill gaps in existing laws. Rather than dealing with specific elements of the environment such as air or water pollution, this bill would give to the Environmental Protection Agency the means to focus on the entire range of activity by which chemical substances enter our environment—from manufacturer to consumer use and disposal.

By 1971, the Chemical Abstracts Service Registry Numbers System had registered 1.8 million chemicals. Several thousand new chemicals are added to the list each year and between 300 and 500 new chemical compounds are introduced annually into commercial use.

Despite the numerous laws which have been enacted over the last 10 years to protect health and the environment, many chemical substances find their way into the marketplace and into the environment which pose great potential for harm. It is generally accepted that as the numbers of chemical compounds in commercial use increase, the risk of producing substances which will cause grave and irreversible environmental damage or health problems also increases.

Existing legal authorities to cope with these problems are inadequate. Present Federal Government controls over the introduction of toxic substances into the environment are of two types. The first is control over the initial production and distribution of a substance. Basically, this control is limited to pesticides, drugs, and food additives. Although this technique can be very effective, current authorities cover only a very small portion of the total number of toxic substances and do not deal with all uses of a substance which may produce toxic effects.

The second kind of control is media-oriented and thus directed at air and water pollution from various sources. In theory, this type of authority can be used to control toxic substances but there are several limitations to the effective applications of such controls. The minute quantities of many toxic substances pose grave difficulties for the media based authorities that deal primarily with large quantity effluents. Toxic substances enter the environment through many uncontrollable points such as the normal disposal of consumer products. Finally, toxic substances are not exclusively air or water pollutants. The multiplicity of ways in which one can be exposed to these substances makes it exceedingly difficult for media-oriented authorities to consider the total exposure of an individual to a given substance. This consideration is necessary for the establishment of adequate environmental standards.

A few examples of toxic substances can illustrate the ways in which toxic substances have become a part of our environment and have affected human life. Compounds of nickel and beryllium can accumulate in the lungs and cause fatal diseases. Lead poisoning is still a recurring problem from many sources. Some preliminary studies indicate that exposure to low levels of cadmium from sources present in the everyday environment may lead to hypertension and heart disease. Recent incidents of mercury poisoning, from a variety of environmental contacts, has underscored its problems when its distribution is uncontrolled.

Synthetic organic chemicals hold an even greater potential than the metals and metallic compounds for danger as hazardous substances. In recent years, a vast number of synthetic organic chemicals have been introduced into the environment. Our understanding of many of these is quite limited. Oftentimes, even their chemical composition has not yet been identified. Their capability for environmental and health damage is far less understood. PCB's, polychlorinated biphenyls, for example, has caused a great deal of environmental concern. It, like DDT, is fat soluble and can be absorbed by human tissues.

Legislation very similar to this was passed by Congress late last session. The Senate also passed toxic substance legislation. However, conflicts between the two bills precluded final action before the adjournment.

Basically, H.R. 5356 would do the following:

PURPOSE OF THE LEGISLATION

This legislation is designed to supplement existing Federal laws by giving to the Environmental Protection Agency comprehensive authority to develop a systematic approach to the task of protecting health and the environment from hazardous chemical substances. Rather than dealing with specific elements of our environment such as air or water pollution, this bill would give to the Environmental Protection Agency the means to focus on the entire range of activity by which chemical substances enter our environment—from manufacturer to consumer use and to disposal.

BASIS FOR THE LEGISLATION

By 1971 the Chemical Abstracts Service Registration Numbers System had registered 1.8 million chemical compounds. Approximately 250,000 chemicals are added to this list each year and between 300 and 500 new chemical compounds are introduced annually into commercial use.

Despite the numerous laws which have been enacted over the last 10 years to protect health and the environment, many chemical substances find their way into the marketplace and into the environment which pose great potential for harm. And, it is generally accepted that, as we greatly increase the numbers of chemical compounds in commercial use, we increase the risk of producing substances which will cause grave and irreversible environmental damage or health problems.

This legislation is designed to provide a means of testing and, in certain cases, screening chemical substances to determine their adverse effect prior to marketing so that harmful chemicals can be withheld from commercial use. This bill would also permit the Federal Government for the first time to assemble data on the total load of processed chemicals which are being introduced into the environment.

BRIEF SUMMARY

In its barest terms this bill would—

First, authorize the Administrator of the Environmental Protection Agency to adopt rules restricting the distribution or

use of a chemical substance or require labeling of such substance;

Second, permit the Administrator to require testing of chemical substances by manufacturers, processors and importers;

Third, direct the Administrator to establish a list of substantially dangerous chemical substances;

Fourth, require persons intending to manufacture or distribute a chemical substance which has been identified as substantially dangerous and is contained on the published list to submit test data to the Administrator prior to the manufacture or distribution of such substance. The Administrator would have an opportunity to determine whether the intended manufacture and distribution would pose an unreasonable risk to health or the environment;

Fifth, permit the Administrator to apply to U.S. district court to protect the public from imminently hazardous chemical substances;

Sixth, establish a system for the accumulation of data on the numbers, quantity, uses and byproducts of chemical substances which are manufactured in or imported into the United States;

Seventh, establish a chemical substances board to advise the Environmental Protection Agency in the exercise of authority under this bill; and

Eighth, permit administrative inspections and seizure of chemical substances manufactured or distributed in violation of requirements of the bill or agency rules.

Enforcement of the bill may be obtained through court injunctive process and through imposition of criminal and civil penalties. Private persons are also permitted to bring court actions to compel compliance with the requirements of the bill. Interested persons are required to be given opportunity to orally present their views, data, or arguments in any rulemaking proceeding by the Administrator. Moreover, the Administrator, upon judicial review, is required to support his administrative findings with substantial evidence. In certain cases an opportunity for cross-examination is also permitted.

COSTS

The bill reported by subcommittee does not contain specific authorization levels for fiscal years 1974 through 1976. These amounts have been left blank awaiting the submission of cost data from the Environmental Protection Agency.

LEGISLATIVE BACKGROUND

This legislation finds its beginnings in a report published in April 1971 by the Council for Environmental Quality. The Council's report indicated a high priority need for a program for testing and control of hazardous chemical substances.

In the 92d Congress, drawing upon the recommendations of the Council on Environmental Quality, the Environmental Protection Agency submitted legislative proposals designed to carry out the Council's recommendations. Initial legislative hearings were held before the Senate Commerce Committee which substantially changed the administration bill by adding provisions for premarket screening, citizen suits, testing of existing chemicals, and controls on the transportation of hazardous substances in U.S. navigable waters. This bill was passed unanimously by the Senate in May 1972 by a vote of 77 to 0.

In May 1972 the Subcommittee on Commerce and Finance held hearings on the administration bill and the Senate-passed measure. Following several days in executive session, the subcommittee reported a clean bill which represented an accommodation between the legislative recommendations of the Environmental Protection Agency and those of the Senate-passed bill. The full committee met over a 3-week period in executive sessions in consideration of this bill. In the end, it was reported with only minor amendment by the committee and passed the House on October 13, 1972.

Instead of requesting a conference, the Senate made several amendments to the House bill and sent it back. The principal change was to authorize EPA to require premarket screening of all chemical substances manufactured in commercial quantity after the effective date. In the House, objection was heard to a unanimous consent request to take up the bill again and before the matter could be resolved the 92d Congress adjourned.

H.R. 5356 which has been reported by the subcommittee, largely tracks the provisions of the bill which passed the House in the last Congress. Hearings were held on May 15 and 16 on this bill together with an administration proposal, H.R. 5087. After 3 days in executive session, the subcommittee reported H.R. 5356 with certain amendments by voice vote.

Of particular interest to my colleagues is the section dealing with the rulemaking authority of the EPA with respect to this toxic substances legislation. The rulemaking authorities granted in section 6 of this legislation carefully insure flexibility for rapid response to toxic substances yet protects the right for individual expression of opinion. The administration shall give interested parties an opportunity for oral argument as well as written statements. Opportunity for cross-examination is permitted under certain circumstances. Finally upon judicial review, administrative findings are required to be supported by substantial evidence. Section 6 also requires the Administrator in any rule promulgation to consider all relevant factors including: First, the effects of the substance on health and the magnitude of human exposure; second, the effects of the substance on environment and the magnitude of environmental exposure; and third, the benefits of the substance for various uses and the availability of less hazardous substances.

H.R. 5356 is a necessary supplement to existing law. It fills the gaps that now exist in Federal health and environmental laws. It will promote a more selective and comprehensive program to control the introduction of health and environmental damaging substances into the environment. I would urge the House to pass H.R. 5356 as reported out of committee.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. I yield myself 1 additional minute.

Mr. WYLIE. Will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield myself 1 additional minute.

Mr. WYLIE. I would like to ask the gentleman from North Carolina how this bill applies to the pesticides control section placed in the Department of Agriculture bill which we passed last week. I ask that because the gentleman from North Carolina (Mr. MIZELL) offered an amendment which would provide that the Department of Agriculture would administer the law with respect to the distribution and use of pesticides by farmers. An amendment was adopted on the House floor which would say that pesticide control as relates to farm programs would remain under the Department of Labor where it is now. I suggested while the debate was going on should not all pesticide control be administered by EPA. I am wondering for these reasons what effect this bill would have on the pesticide control section of the Agricultural Act?

Mr. BROYHILL of North Carolina. I would ask the gentleman, if he will look at section 9 of the bill. This is a section not only on exemptions but a section which relates this act to any other environmental Act that may be on the books.

There are certain areas in which this act would not apply, and there are other areas in which, of course, the act does apply, but only under certain circumstances.

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

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 1 additional minute.

If the gentleman from Ohio will look at section 9 of the bill, it says that it shall not apply to pesticides as defined in the Federal Insecticide, Fungicide, and Rodenticide Act.

Mr. WYLIE. I read that, but that act is not a part of the Agricultural Act.

I will take another look at section 9, but I do not think it covers my question.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska (Mr. MCCOLLISTER).

Mr. MCCOLLISTER. Mr. Chairman, I wish to add my support to the toxic substances bill which was reported by the full committee of Interstate and Foreign Commerce. I would point out that it has several distinct advantages over the bill passed by the other body.

I refer first to section 5—limited premarket screening of substantially dangerous chemical substances in our bill, as compared with premarket screening of new chemical substances in the Senate bill. I think the key words here are "limited" and "substantially dangerous." I see no reason to unduly penalize an industry which provides such a wealth of useful substances by presuming that each one will pose a threat to health or environment. That assumption could cost chemical manufacturers a tremendous amount, only to discover the substance is absolutely harmless.

I think we tend to write legislation, particularly in Interstate and Foreign Commerce, which places a heavy financial burden on smaller companies, when it is generally the larger elements of the industry we are attempting to control. If we can single out those chemicals which are substantially dangerous, we should be able to eliminate some of the unnecessary expense of testing.

In this provision, as well as in section 4, under the Administrator's rulemaking authority, I approve of the more formal hearing procedures as opposed to the informal setup in the other body's version. It is vitally important that chemical manufacturers be given ample opportunity for oral and written presentation of views and that a transcript be kept of any oral presentation. In section 6—regulations applicable to hazardous chemical substances—in addition to the provision for oral presentation, the Administrator must include an opportunity for cross-examination to the extent he considers it appropriate. Thus, in each of these three sections, judicial review would be based on substantial evidence on the record as a whole.

The House bill also includes an important exemption from reporting for small business concerns. The Code of Federal Regulations cited in this bill defines a small business concern as one which: Together with its affiliates, is independently owned and operated, is not dominant in its field of operation, does not have assets exceeding $7½ million, does not have net worth in excess of $2½ million, and does not have an average net income, after Federal income taxes, for the preceding 2 years in excess of $250,000—average net income to be computed without benefit of any carryover loss.

H.R. 5356 prohibits the Administrator from requiring any chemical manufacturer, processor or importer classified as a small business to submit reports except with respect to a chemical substance for which a test protocol has been prescribed, which is on the published list of substantially dangerous chemical substances under section 5, or those applicable under the hazardous chemical substances regulations in section 6(a).

It does provide however, that if the small business is substantially engaged in the development of one or more new chemical substances, the Administrator may order reports on the new chemicals.

I urge my colleagues to give favorable consideration to this legislation with particular attention to these sections.

Mr. PRICE of Illinois. Mr. Chairman, the safety and physical well-being of each American is threatened by the introduction of toxic substances into our ecological systems. Daily, seemingly harmless substances are being fed into our environment and are allowed to accumulate, posing a threat to our environment and the Nation's health. In order to protect the Nation from these environmental dangers, an effort must be made to prevent the poisoning of the environment and the incumbent dangers to the health and safety of the American people.

H.R. 5356, the Toxic Substances Control Act of 1973, is an important step toward the ultimate cleansing of the environment and the prevention of an environmental menace to the National health. The Toxic Substances Control Act will act as a sort of preventative medicine on the many diseases which threaten us from within the environment.

The Toxic Substances Control Act is not designed to impede technological advancement nor is it an attempt to hamper research and development efforts. In fact, the act will stimulate greater efforts to develop new materials that are environmentally sound and new and safer means of utilizing these and other substances. H.R. 5356 does not slow down or hinder the advancement of the Nation. On the other hand, it will stimulate technological innovation, will enhance employment in the search for sound ecological alternatives and will be a blessing to the health and security of the Nation.

H.R. 5356 also provides for the detection and prevention of the use of materials which would be harmful to the Nation's health. It provides the Environmental Protection Agency with greater authority for the protection of the environment. Currently, much of the thrust of the EPA is to cure problems caused by the inadequate and unsafe treatment of the environment. This act gives the EPA the power and the authority as well as the ability to prevent the toxification of the Nation through a program which will include the testing of new substances and an analysis of the effects of the substances.

Through this program, the EPA will be able to collect and accumulate data concerning the effects of chemical compounds known or being developed. In this manner, the EPA will be able to preserve the integrity of our ecological systems.

A major factor of the Toxic Substances Control Act is that it provides the EPA with a predictive capacity. The EPA will be required to study and analyze the effects of chemical substances on the ecology before they are used or added to the ecological systems. The EPA, through H.R. 5356, will be required to determine the health effects of products before they are available for use. Currently, many products are being used without apparent or obvious harmful effects. The great accumulation of substances may create harmful circumstances, beyond recognition at early stages. This act will remedy this situation by providing for a program which will prevent imbalance, predict health hazards and preserve a clean and healthy environment.

Mr. Chairman, the health of the Nation depends upon the maintenance of a stable and safe environment. We can best assure the American people of a safe environment and a healthy life if we scour the ecological system of dangerous compounds. This requires more than an attack upon the symptoms of the disease of filth and pollution. We need to attack the cause of the problems and to prevent them. H.R. 5356, the Toxic Substances Control Act of 1973, is a much needed proposal, will help to improve the national health and deserves to be approved by this Congress.

Mr. SYMMS. Mr. Chairman, this bill, H.R. 5356, Toxic Substance Control Act of 1973, is another attack on the free marketplace and a threat to small businesses. The bill purports to protect the environment and human health by establishing the regulation of toxic chemicals, compounds, and substances. The bill gives the EPA unprecedented police power, especially in the areas of intrastate commerce.

Nowhere in the verbose language of this bill does it define the term "toxic." This makes the bill open-ended; therefore, it can be used for purposes of harassment or enforced arbitrarily and capriciously. Table salt can be toxic, and so can Coors Beer, or the ink on libertarian-conservative campaign literature.

How did we ever live this long without this legislation? It is amazing that du Pont has not killed us all by now.

Mr. Chairman, I urge the defeat of this bill.

Mr. BROYHILL of North Carolina. Mr. Chairman, I have no further requests for time.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 5356

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; CONTENTS

SECTION 1. This Act may be cited as the "Toxic Substances Control Act of 1973".

TABLE OF CONTENTS

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) man and the environment are being exposed to a large number of chemical substances each year;

(2) among the many chemical substances constantly being developed and produced are some whose manufacture, distribution,

use, or disposal may pose an unreasonable risk to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances necessitates the regulation of such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) hazardous and potentially hazardous chemical substances should be adequately tested with respect to their effect on health and the environment and that such testing should be the responsibility of those who manufacture, import, or process such chemicals;

(2) adequate authority should exist to regulate the distribution and use of chemical substances found to pose an unreasonable risk to health or the environment, and to take action with respect to chemical substances which are imminent hazards; and

(3) authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances do not pose an unreasonable risk to health or the environment.

(c) It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that he shall consider the economic and social impact of any action he proposes to take under this Act.

DEFINITIONS

SEC. 3. (a) As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "chemical substance" means (A) any organic or inorganic substance of a particular molecular identity; (B) any uncombined radical or element; or (C) any mixture.

(3) The term "mixture" means any mixture which (A) occurs naturally, or (B) is produced by an industrial chemical process and which is marketed or used without separation into its constituents.

(4) The term "environment" includes water, air, land, all living things therein, and interrelationships which exist among these.

(5) The term "importer" means any person who (A) imports a chemical substance for distribution in commerce for commercial purpose, or (B) reimports a chemical substance, which was manufactured or processed in whole or in part in the United States for distribution in commerce for commercial purpose.

(6) The term "manufacturer" means any person who manufactures a chemical substance.

(7) The term "manufacture" means to produce or manufacture.

(8) The term "processor" means any person engaged in the preparation of a chemical substance for distribution or use either in the form in which it is received or as part of another product.

(9) The term "test protocol" means—

(A) a test designed to determine the effect of a chemical substance on health or the environment, including a test designed to determine the effect of the manufacture, processing, distribution, use, or disposal of such substance on health or the environment,

(B) the procedures or standards to be used in making such test, and

(C) the results to be achieved from such test which the Administrator determines are necessary to evaluate whether such chemical substance poses or is likely to pose an unreasonable risk to health or the environment.

(10) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territories of the Pacific Islands.

(11) The term "to distribute in commerce" and "distribution in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation between a place in a State and any place outside thereof.

(13) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) Any action which may be taken by the Administrator under any provision of this Act with respect to a chemical substance may be taken by the Administrator in accordance with that provision with respect to a class of chemical substances. Whenever the Administrator takes action under a provision of this Act with respect to a class of chemical substances, any reference in this Act to a chemical substance (insofar as the reference relates to such action) shall be deemed to be a reference to each chemical substance in such class.

TEST PROTOCOLS

SEC. 4. (a) If the Administrator finds that testing of a chemical substance in accordance with a test protocol for such substance is necessary to protect against unreasonable risk to health or the environment, he may, by rule, (1) prescribe a test protocol for such substance, and (2) require, in accordance with subsection (d), that one or more persons perform the test called for in such protocol.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors, including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) the extent to which the test protocol is reasonably predictive of the potential effects of the chemical substances on health or the environment;

(4) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol; and

(5) the extent to which a risk to health or the environment can be reasonably or more efficiently evaluated by testing the component chemical substances which comprise a mixture or series of mixtures in lieu of testing any or all mixtures of the same chemical substance components in different component ratios.

(c) A test protocol under this section may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative and synergistic properties of the substance and epidemiological studies of the effect of such substance.

(d) A rule under subsection (a) may require each person who is a manufacturer, processor, or importer of the chemical substance to which a test protocol applies to perform the test called for in the test protocol. In the case of a test protocol for a chemical substance for which there is more than one manufacturer, processor, or importer, the Administrator may, in appropriate cases, permit the manufacturers, importers, or processors who are required to perform the tests called for in a test protocol to designate one or more of their number, or, to designate a qualified independent third party, to perform the required tests and permit the sharing of costs of such tests. If manufacturers, importers, or processors required to perform the tests are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, (1) the Administrator may order one or more of such manufacturers, processors or importers, or designate a qualified independent third party, to perform the required test, and (2) he may order those manufacturers, processors or importers who do not conduct the tests to provide fair and equitable contribution for the costs of such tests in an amount determined under rules of the Administrator.

(e) After allowing a reasonable time for completion of the required tests, the Administrator may order any manufacturer, processor, or importer who is required to perform the tests called for in a test protocol under this section to transmit to the Administrator the test data developed pursuant to such test protocol.

(f) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (e) the Administrator shall promptly publish in the Federal Register a notice which identifies the chemical substance for which test data have been received, lists the uses or intended uses of such substance, and describes the nature of the tests performed and the data which were developed; such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(g) Any rule under this section and any amendment or revocation of such a rule shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

LIMITED PREMARKET SCREENING OF SUBSTANTIALLY DANGEROUS CHEMICAL SUBSTANCES

SEC. 5. (a) Within eighteen months after the date of enactment of this Act, and from time to time thereafter, the Administrator shall, by rule, identify and publish in the Federal Register a list of chemical substances (or chemical substances with respect to a particular use or uses) which the Administrator finds are likely to pose substantial danger to health or environment. For the purposes of this section, "substantial danger to health or environment" means an unreasonable risk of death, of widespread or severe personal injury or illness, or of widespread or severe harm to the environment.

(b) (1) In making the finding required under subsection (a), the Administrator shall consider all relevant factors including—

(A) the effects of the substance on health and the magnitude of human exposure;

(B) the effects of the substance on the environment and the magnitude of environmental exposure; and

(C) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance.

(2) In determining whether (A) one or more mixtures, or (B) chemical substances which are components of such mixtures, should be listed under subsection (a), the Administrator shall consider whether the risk to health or the environment is associated with such mixtures or components or both and whether such risk can be more reasonably evaluated by testing the mixtures or by testing one or more components of such mixtures.

(c) A chemical substance listed under subsection (a) which was manufactured and distributed in commerce for commercial purpose prior to its listing may not be manufactured or distributed in commerce for a new use unless at least ninety days prior to such

manufacture or distribution, the person intending to manufacture or distribute the chemical substance for such new use submits to the Administrator test data developed in accordance with a test protocol promulgated under section 4 which is applicable to such intended use, or (in the absence of such a test protocol) test data which such person believes shows that the intended new use of the chemical substance would not pose an unreasonable risk to health or the environment.

(d) A chemical substance listed under subsection (a) which was not manufactured or distributed in commerce for commercial purpose prior to its listing may not be manufactured or distributed in commerce unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute such substance submits to the Administrator test data developed in accordance with a test protocol promulgated under section 4 which is applicable to the manufacture, distribution, use or disposal of such substance, and (to the extent that such a test protocol does not apply to the manufacture, distribution, use, or disposal of such substance) test data which such person believes shows that the manufacture, distribution, use, and disposal of the chemical substance would not pose an unreasonable risk to health or the environment.

(e) A person intending to manufacture or distribute in commerce a chemical substance for which no applicable test protocol has been prescribed under section 4 may petition the Administrator to develop and issue a test protocol for such substance or for the intended use of such substance. The Administrator shall either grant or deny any such petition within sixty days of its receipt. If the petition is granted, the Administrator shall diligently proceed to develop a test protocol for such substance. If the petition is denied, the Administrator shall publish in the Federal Register the reasons for such denial.

(f) (1) The Administrator may exempt any person from the obligation to submit data under subsections (c) and (d) of this section if he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with those subsections, but no such exemption may take effect before the date of termination of the premarket screening for which the data on which the exemption is based were submitted.

(2) If the Administrator, under paragraph (1), exempts any person from submitting data under this section because of the existence of previously submitted data and if such exemption takes effect during the reimbursement period for such data (as defined in paragraph (3)), then (unless the parties can agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(A) to the person who previously submitted data on which the exemption was based, for a portion of the costs incurred by him in complying with the requirement under this section to submit such data, and

(B) to any other person who has been required under this paragraph to contribute with respect to such data.

An order under this paragraph shall be considered final agency action, for purposes of judicial review.

(3) For purposes of this subsection:

(A) The reimbursement period for any previously submitted data is a period—

(i) beginning on the date of termination of the premarket screening for which the data were submitted, and

(ii) ending five years after such date of termination (or, if later, at the expiration of a period after such date equal in length to the period which the Administrator determines was necessary to develop the previously submitted data).

(B) The termination of the premarket screening for which data were submitted is the earliest date (after submission of such data) on which the person who submitted such data is no longer prohibited (by this section or by reason of a proposed rule made immediately effective under subsection (i) or section 6(d) from proceeding with the manufacture and distribution with respect to which the data were submitted.

(g) The Administrator may for good cause shown extend the ninety-day period under subsection (c) or (d) of this section for an additional period not to exceed ninety days. Subject to section 15 of this Act, notice of such extension and the reasons therefor shall shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

(h) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (c) or (d) the Administrator shall promptly publish in the Federal Register notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance; and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(i) If on the basis of available data or the absence of acceptable data under subsections (c) and (d), the Administrator proposes a rule to regulate such chemical substance under section 6 of this Act within the ninety-day period specified in subsections (c) and (d) or within the period as extended in accordance with subsection (g), such proposed rule may take effect immediately, pending completion of the administrative proceeding required under section 6 of this Act. After such rule is proposed and takes effect, the Administrator may refer the rule to a committee formed under section 10(c) of this Act. The Administrator shall refer such rule to such committee if requested by any interested person.

(j) Rules under this section which identify chemical substances as likely to pose substantial danger to health or the environment or any amendment or revocation of such rules shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(k) The Administrator may, upon application, exempt any person from the foregoing requirements of this section, for the purpose of permitting such person to manufacture and distribute in commerce a listed chemical substance for test marketing purposes (1) upon a showing by such person that the manufacture and distribution of such substance for those purposes would not pose an unreasonable risk to health or the environment, and (2) under such restrictions as the Administrator considers appropriate.

REGULATIONS APPLICABLE TO A HAZARDOUS CHEMICAL SUBSTANCE

SEC. 6. (a) If the Administrator finds that a rule under this section respecting a chemical substance is necessary to protect against unreasonable risk to health or the environment, he may prescribe a rule consisting of one or more of any of the following types of requirements:

(1) Requirements prohibiting the manufacture or distribution in commerce of such chemical substance or limiting the amount of such chemical substance which may be manufactured or distributed in commerce.

(2) Requirements prohibiting the manufacture or distribution in commerce of such chemical substance which may be manufactured or distributed in commerce for such use or uses.

(3) Requirements that such chemical substance or article containing such substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use or disposal, in such form and bearing such content as the Administrator determines to be appropriate.

(b) (1) (A) Rules under this section may be limited in application to specified geographic areas.

(B) The authority of the Administrator to prescribe a rule under subsection (a) (2) prohibiting the manufacture and distribution in commerce of a chemical substance for a particular use shall include authority to prescribe a rule prohibiting the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(2) (A) No rule may be prescribed under subsection (a) (1) of this section which limits the amount of a chemical substance which may be manufactured, imported, or distributed in commerce unless the Administrator finds that the risk to health or environment associated with such chemical substance cannot be prevented or reduced to a sufficient extent by means of a rule prescribed under subsection (a) (2) prohibiting the manufacture or distribution in commerce of such substance for particular use or uses or by means of a rule prescribed under subsection (a) (3).

(B) No rule may be prescribed under subsection (a) (2) which limits the quantity of a chemical substance which may be manufactured, imported, or distributed for a particular use or uses unless the Administrator finds that the risk to health or environment associated with such substance cannot be prevented or reduced to a sufficient extent by means of a rule prescribed under subsection (a) (3), or by means of a rule under subsection (a) (2) prohibiting the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(3) (A) Rules described in subsection (a) (1) of this section which limit the amount of a chemical substance which may be manufactured, imported, or distributed in commerce, and rules described in subsection (a) (2) which limit the quantity which may be manufactured, imported, or distributed for a particular use or uses, shall include provision for assigning production, importation, or distribution quotas to persons who wish to manufacture, import, or distribute the chemical substance. The permissible quota for each such person shall be determined in accordance with criteria prescribed under subparagraph (B).

(B) The Administrator shall by rule prescribe cirteria which shall take into account all relevant factors, including—

(i) effects on competition,

(ii) the market shares, productive capacity, and product and raw material inventories of persons applying for quotas,

(iii) emergency conditions, such as fires or strikes, and

(iv) effects on technological innovation.

The last sentence of section 23(c) shall not apply to rules under this subparagraph (B).

(c) In issuing such rules under subsection (a) the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environmental exposure; and

(3) the benefits of the substance for var-

ious uses and the availability of less hazardous substances.

(d) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which shall be as soon as feasible. Where the Administrator determines that the manufacture, processing, distribution, use, or disposal of a chemical substance is likely to result in harm to health or the environment prior to the completion of a rulemaking proceeding under subsection (a) respecting such substance and where the Administrator determines that such action is necessary in the public interest, he may declare a proposed rule under subsection (a) immediately effective pending completion of the rulemaking proceeding.

(e) If the Administrator has good cause to believe that a particular manufacturer or processor is manufacturing or processing a chemical substance in a manner which permits or causes the adulteration of a chemical substance and if the Administrator determines that, as a result of such adulteration, the chemical substance poses an unreasonable threat to health or the environment—

(1) the Administrator may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance; and

(2) if he thereafter determines that such quality control procedures are inadequate to prevent the adulteration of the chemical substance, the Administrator may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer to revise such quality control procedures to the extent necessary to remedy such inadequacy.

For the purposes of this subsection, a chemical substance shall be deemed to be adulterated if it bears or contains any added substance or contaminant which itself, or in combination with the chemical substance, presents an unreasonable risk to health or the environment.

(f)(1) Rules under subsection (a) shall be promulgated pursuant to section 553 of title 5 of the United States Code; except that in promulgating any such rule, (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (B) a transcript shall be kept of any oral presentation; and (C) during any such oral presentation the Administrator shall include an opportunity for cross-examination as provided in paragraph (2).

(2)(A) Except as provided in paragraph (B), during any such oral presentation, the Administrator shall include an opportunity for cross-examination to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issue or issues involved and the number of the participants and the nature of their interests.

(B) If only a single interested person seeks to avail himself of an opportunity for cross examination in a proceeding to promulgate a rule under subsection (a), or if the Administrator determines that all persons who seek to avail themselves of such an opportunity are members of a single class sharing an identity of interest, the Administrator shall afford such single interested person or representative of such class (as designated by the participants of such class) an opportunity to conduct cross-examination to the same extent that cross-examination is permitted under section 556 of title 5, United States Code.

IMMINENT HAZARDS

SEC. 7. (a) The Administrator may file an action in United States district court—

(1) against an imminently hazardous chemical substance and any article containing such substance for seizure of such substance or article under subsection (b)(2) of this section, or

(2) against any person who is a manufacturer, processor, distributor, or retailer of such chemical substance or article.

Such an action may be filed notwithstanding the existence of a rule under sections 4, 5, or 6 of this Act, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act. As used in this section, the term "imminently hazardous chemical substance" means a chemical substance which presents imminent and unreasonable risk to health or the environment. The risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution, use, or disposal of a chemical substance is likely to result in harm to health or the environment prior to the completion of an administrative proceeding under this Act.

(b)(1) The district court in which such action is filed shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance or article containing such substance. Such relief may include (in the case of an action under subsection (a)(2)) a mandatory order requiring (A) notification of such risk to those purchasers of such chemical substance or an article containing such chemical substance which are known to the defendant; (B) public notice; (C) recall; and (D) the replacement or repurchase of such chemical substance or article containing such substance.

(2) In the case of an action under subsection (a)(1), the chemical substance or article containing such substance may be proceeded against by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of an action under this section or as soon thereafter as may be practicable, the Administrator shall initiate a rulemaking proceeding under section 6 of this Act.

(d)(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant, or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical chemical substances or articles containing such substances are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(e) Notwithstanding any other provision of law, in any action under this section, the Administrator may direct attorneys employed by him to appear and represent him.

REPORTS

SEC. 8. (a)(1) Except as provided in subsections (b) and (c), the Administrator may, by rule, require any manufacturer, importer, or processor of any chemical substance to submit reports to him annually, and at such more frequent time as he may reasonably require, containing any or all of the following:

(A) The names of any or all chemical substances manufactured, imported, or processed by the manufacturer, importer, or processor thereof.

(B) The chemical identity and molecular structure of such substances insofar as is known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(C) The categories of use of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(D) Reasonable estimates of the amounts of each substance manufactured, imported, or processed for each such category of use.

(E) A description of the byproducts, if any, resulting from the manufacture, processing, or disposal of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(2) For purposes of this subsection, the term "byproduct" means a chemical substance produced as a result of the manufacture, processing, use, or disposal of some other chemical substance.

(3) The Administrator may, by rule, exempt manufacturers, importers, or processors from all or part of the requirements of this section if he finds that such reports are not necessary to carry out the purposes of this Act, or if he finds that such reports would provide information which duplicates information otherwise available to him.

(b)(1) Subject to paragraph (2) of this subsection, the Administrator shall have no authority under subsection (a) of this section to require any manufacturer, processor or importer of any chemical substance to submit reports to him in the manner therein provided except with respect to a chemical substance or an article containing such substance—

(A) for which a test protocol has been prescribed under section 4(a) of this Act;

(B) which is contained in the list of chemical substances which the Administrator has by rule identified and published in the Federal Register under section 5(a) of this Act; or

(C) which are covered by a rule under section 6(a) of this Act.

(2)(A) The limitations on reporting contained in paragraph (1) of this subsection shall apply only to a manufacturer, processor, or importer which is a small business concern; except that if the Administrator determines that such a concern is substantially engaged in the development of one or more new chemical substances, he may order such concern to make reports with respect to any new chemical substance developed by it.

(B) For purposes of this subsection, the term "small business concern" means a manufacturer, processor, or importer which is (i) a small business concern within the meaning of the section 121.3–11(a) of title 13 of the Code of Federal Regulations (as in effect on the date of enactment of this Act) or (ii) any other concern which is independently owned and operated and not dominant in its field of operations, and which the Administrator of the Small Business Administration by rule defines a small business concern for purposes of this subsection, taking into account relevant factors such as concentration of output in the industry of which it is a part, total number of concerns in such industry, and the size of such concern relative to the size of industry leaders.

(c) The Administrator may not require any manufacturer, importer, or processor to submit reports under this section with respect to any chemical substance which he manufactures, imports, or prepares for distribution for use as a standard or reagent and for research or laboratory purposes.

(d) Whenever the Administrator determines that such action would be necessary to allow him to carry out his responsibilities

and authorities under this Act, he may by publishing a notice in the Federal Register invite and afford all interested persons an opportunity to provide in writing information respecting the health or environmental effects of a chemical substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 9. (a) This Act shall not apply to—

(1) tobacco and tobacco products;

(2) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured or distributed in commerce for use as a pesticide; or

(3) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act) and food. The term "food" as used in this paragraph means all food, as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in section 4 (e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(b) The Administrator shall have no authority under sections 5, 6, and 7 of this Act to take action to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law; including the Atomic Energy Act of 1954, the Clean Air Act, the Federal Water Pollution Control Act, the Federal Hazardous Substances Act, the Occupational Safety and Health Act of 1970, the Consumer Product Safety Act, subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation), and the Acts administered by the Secretary of Transportation relating to the transportation of hazardous substances.

(c) If it appears to the Administrator that any chemical substance may pose an unreasonable risk to health or the environment which could be prevented or reduced to a sufficient extent by actions taken under other Federal laws, he shall transmit any data received from manufacturers, importers, or processors, or data otherwise in his possession which is relevant to such risk to the Federal executive department or agency, independent regulatory agency or other authority of the Federal Government with authority to take legal action.

(d) In administering the provisions of this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, independent regulatory agency or other authority of the Federal Government. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b) of this section.

CHEMICAL SUBSTANCES BOARD

SEC. 10. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to in this section as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members of the Board from a list of at least twenty-two individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member of the Board from whatever source he desires. Not more than one-third of the members of such Board shall be in the employ of or have any significant economic interest in any manufacturer, importer, or processor of chemical substances. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The National Academy of Sciences, in consultation with the Board, shall maintain a directory of qualified scientists, to assist in carrying out the provisions of this section. Such scientists may also be utilized as consultants to the Chemical Substances Board

(c) Except when acting under section 5(1) or the last sentence of 6(d) of this Act, before proposing any rules under section 4, 5, or 6 of this Act, the Administrator shall refer his proposed action and the available evidence to a committee selected by the Administrator from members of the Board and the directory of consultants to the Board maintained under subsection (b), except that the Secretary of Health, Education, and Welfare may appoint one member of such committee from whatever source he desires. Concurrently with such referral, the Administrator shall publish in the Federal Register a notice of the referral identifying the proposed action. Such committee shall include scientifically qualified persons not more than one-third of which are in the employ of or have a significant economic interest in any manfacturer, importer, or processor of, or any person who distributes in commerce, any chemical substance which may, directly or indirectly, be affected by the proposed action. The committee shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days, as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines the extension necessary and such committee has made a good faith effort to report its views and reasons therefor within the initial forty-five-day period. All such views shall be given due consideration by the Administrator. If the committee fails to report within the specified time, the Administrator may proceed to take action under this Act. Subject to section 15 of this Act, all proceedings and deliberations of such committees and their reports and reasons therefor shall be available for public examination. The report of the committee and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(d) The Administrator may also request the Board to convene a committee to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(e) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(f) Members of the Board or committees who are not regular full-time employees of the United States shall, while serving on business of the Board or committee, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS-18 of the classified civil service, 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 section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(g) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Board.

RESEARCH

SEC. 11. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. To the extent practicable, such research and monitoring shall not duplicate the efforts of other Federal agencies. In order to carry out the provisions of this section, the Administrator is authorized to make contracts and grants for such research and monitoring.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 12. (a) (1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act or for the purpose of otherwise facilitating the carrying out of his functions under this Act, the Administrator is authorized in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances are manufactured, processed, stored, held, or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereafter in this section referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipments data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of rules issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any situation where a warrant is not constitutionally required.

(c) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this title, and seizures of property appropriate to such inspections. For the purposes of this subsection the term "probable cause" means a valid public interest in the effective enforcement of this Act or rules thereunder sufficient to justify administrative inspections of the area, premises, building, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate, and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (a) (2) of this section to execute it. The warrant shall

state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, or building, identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date, unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS

SEC. 13. (a) This Act shall not apply to any chemical substance or article containing such substance if (1) it can be shown that such substance or article is manufactured, processed, sold, or held for sale for export from the United States (or that such chemical substance was imported for export), unless such chemical substance or article is, in fact, manufactured, processed, or distributed in commerce for use in the United States, and (2) such chemical substance or article containing such substance when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such chemical substance or article is intended for export; except that (A) any manufacturer, processor, or exporter of such chemical substance shall be subject to the reporting requirements of section 8 of this Act; and (B) this subsection shall not apply to any chemical substance or article containing such substance if the Administrator finds that the chemical substance or article will, directly or indirectly, pose an unreasonable risk to health within the United States or to the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 4 or 5 of this Act, or rules applicable to such substance or article containing such substance have been prescribed or proposed under section 5 or 6 of this Act, the Administrator, subject to section 15 of this Act, may furnish to the governments of the foreign nations to which such chemical substance is exported, or is intended to be exported, notice of the availability of the data submitted to the Administrator under section 4 or 5 concerning such chemical substance, and notice of any rule applicable to such substance or article containing such substance which has been prescribed or proposed by the Administrator under section 5 or 6 of this Act.

IMPORTS

SEC. 14. (a) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) of any chemical substance or article containing such substance offered for entry if it fails to conform with rules promulgated under this Act, or if it is otherwise prohibited under this Act from being distributed in commerce. If a chemical substance or article is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or article refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or article pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or article, together with the duty thereon, and on refusal to return such substance or article for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purposes, such consignee shall forfeit the full amount of such bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(b) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (a) of this section.

CONFIDENTIALITY

SEC. 15. All information reported to or otherwise obtained by the Administrator or his representative under this Act, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act (including the Chemical Substances Board and committees formed under section 10), or when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall preserve the confidentiality to the extent possible without impairing the proceeding. All information reported to or otherwise obtained by the Administrator or his representative including information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be made available upon request of the duly authorized committees of the Congress.

PROHIBITED ACTS

SEC. 16. It shall be unlawful for any person to—

(1) fail or refuse to comply with section 4, 5, or 6 of this Act or any rule or order prescribed under those sections, or with any restriction under section 5(k) of this Act;

(2) fail or refuse to comply with section 8 or any rule or order thereunder;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to permit entry or inspection or take any other action as required under section 12 of this Act; or

(4) fail or refuse to comply with instructions with respect to the use or disposal of a chemical substance where such instructions are required by rule prescribed under section 6(a)(3) of this Act and where such failure or refusal to comply results in or is likely to result in death, severe personal injury or illness, or severe harm to the environment.

PENALTIES

SEC. 17. (a) Any person who knowingly violates section 16 of this Act shall be subject to a civil penalty not to exceed $25,000 for each day of violation. For the purposes of this subsection, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(b) Any person who willfully violates any provision of section 16 (other than section 16(2)) of this Act, after having received notice of noncompliance from the Administrator, shall, in addition to or in lieu of a civil penalty imposed under subsection (a), on conviction, be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 18. (a) Upon application by the Attorney General, the district courts of the United States shall have jurisdiction to restrain any violation of section 16 or to compel the taking of any action required by this Act or rule issued thereunder. Such actions may be brought by the Attorney General, on the request of the Administrator, in any United States district court of proper venue. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found, and subpenas for witnesses may run into any other district.

(b) Any chemical substance or article containing such substance which was manufactured or distributed in commerce in violation of an applicable rule prescribed under section 6, or in violation of section 5 of this Act, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty. Actions under this subsection may be brought by the Attorney General on the request of the Administrator.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 19. The Administrator shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 20. Upon request by the Administrator, each Federal agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist him in the performance of his function; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

STUDY OF CHEMICAL SUBSTANCES CLASSIFICATION SYSTEM

SEC. 21. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related

substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such materials.

STATE REGULATIONS

SEC. 22. (a) Nothing in this Act shall affect the authority of any State or local government to regulate any chemical substance, or to establish and enforce standards for test protocols for chemical substances to protect health or the environment, except that—

(1) if the Administrator prescribes a rule under section 6 of this Act applicable to a chemical substance, a State or local government may not, after the effective date of such rule, establish or continue to enforce any restriction of its own applicable to such substance for purposes similar to such rule, other than a total ban on use or distribution; and

(2) if the Administrator prescribes a rule under section 4 of this Act applicable to a chemical substance, a State or local government may not after the effective date of such rule establish or continue to enforce any standards for test protocols applicable to such substance or class for purposes similar to those of a rule under section 4.

(b) The Administrator may by rule, upon the petition of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section with respect to a chemical substance if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

JUDICIAL REVIEW

SEC. 23. (a) Not later than sixty days following promulgation of a rule under sections 4, 5, and 6 of this Act, any person adversely affected by such rule, or any interested person, may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based his rule as provided in section 2112 of title 28, United States Code, and shall include the transcript of any oral presentation of data, views, or arguments required under sections 4, 5, and 6.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Administrator may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section, the court shall have jurisdiction to review the rule to which the petition relates in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. Rules promulgated by the Administrator under section 4, 5, or 6 of this Act and reviewed under this section shall not be affirmed unless the findings required to be made under those sections are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any rule promulgated by the Administrator which is reviewed in accordance with the terms of this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certified, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

NATIONAL SECURITY WAIVER

SEC. 24. The Administrator may waive compliance with any provision of this Act upon request of the Secretary of Defense and upon a determination by the Administrator that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 25. (a) There is hereby authorized to be appropriated not to exceed $9,240,000, $11,100,000, and $10,100,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purposes and administration of this Act. No part of the funds so authorized to be appropriated shall be used to construct any research laboratories.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may, by rule, require the payment of a reasonable fee from any person required to submit test data under sections 4 and 5 of this Act. Such rules shall not provide for any fee in excess of $2,500. In setting the amount of such a fee, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for the sharing of the expense of such a fee in any case in which the expenses of testing are shared under section 4(d).

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute 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 West Virginia?

There was no objection.

AMENDMENT OFFERED BY MR. MOSS

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

The Clerk read as follows:

Amendment offered by Mr. Moss: On page 94 after line 9 add a new Section 24 as follows and renumber all succeeding sections.

CITIZEN CIVIL ACTION

SEC. 29. (a) Except as provided in Subsection (b) of this section, any interested person may commence a civil action for injunctive relief on his own behalf—

(1) against any person (including (A) the United States, and (B) 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 any rule, order, or restriction prescribed under section 4, 5, or 6 of this Act, 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. Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection shall be brought in the district court of the District of Columbia, or in the district court for the district in which the plaintiff is domiciled.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil 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 violation (i) to the Administrator, and (ii) to any alleged violator of the rule, or (B) if the Administrator (or Attorney General on his behalf) has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the rule, but if such action is commenced after the giving of notice any such person giving such notice may intervene as a matter of right in such action; or

(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 ten days after such notification in the case of an action under this section for the failure of the Administrator to act under section 6.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) In any 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 subsection (a) of this section, may award reasonable fees to for attorneys and expert witnesses to the prevailing party, whenever the court determines such an award is appropriate.

(d) 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 rule or order to seek any other relief.

(f) For purposes of this section, the term "person" means an individual, corporation, partnership, or association, and (subject to subsection (a)(1)(B)) any State, municipality, or political subdivision of a State.

(g) When any actions brought under subsection (a)(1) of this section involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and and

tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(h) This Section shall apply only with respect to civil actions filed more than two years after the date of re-enactment of this Act.

Mr. MOSS (during the reading). Mr. Chairman, I ask unanimous consent that the amendemnt be considered as read and printed in the RECORD.

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

Mr. BROYHILL of North Carolina. Mr. Chairman, reserving the right to object, I should like to ask the gentleman from California, Is this exactly the same language that was in the bill when the bill was considered by the committee? Have there been any changes made?

Mr. MOSS. This is identical language, with the exception that it does not become operative until 2 years after the enactment of the legislation.

Mr. BROYHILL of North Carolina. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

Mr. MOSS. Mr. Chairman, I will not take the 5 minutes. I believe that this now reflects a clear consensus of the members of the committee that the reinsertion of the citizens' civil action provision will best serve the needs of the public and of the administrator in enforcing this act but we do permit a 2-year period of time for an orderly phasing-in and acquaintance with this by the industry.

I know of no oppostion and urge adoption of the amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise in opposition to the amendment. I am concerned about putting this provision into this act at this time. This is new legislation, as stated by those of us who spoke on both sides during general debate. The purpose of this legislation is to fill the gaps in the legislation which is already on the books, but in filling those gaps it does give the Administrator new grants of authority. Most importantly, it gives and adds to the Administrator certain responsibilities for which the Administrator is going to have to assign considerable staff and is going to have to assign considerable financial resources. In other words he is going to have to take staff and financial resources and establish certain priorities.

If we have this citizen suit section in the bill at the outset of this new program I am concerned that any citizen, no matter how well meaning he may be, can completely tear apart any set of priorities the Administrator might have. The Administrator might have set a set of priorities which he feels is most important. He says, "let us get this accomplished first," and then some other priority would be second on the list, and something else would be third on the list. But some group could come in and through suits or harassment or otherwise in the courts completely tear apart any plan the Administrator might have for logically administering this law.

I would hope the Committee would turn down this amendment. Then let us consider this in 3 years and determine at that time whether or not the citizen suit section would be necessary. I am most concerned about it in the beginning of the program, that the Administrator have some flexibility in setting his priorities and not have them imposed upon him by some court decisions.

For these reasons, Mr. Chairman, I oppose the amendment.

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

Mr. BROYHILL of North Carolina. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I stated that I knew of no opposition. It was my understanding following the discussions with the members of the committee that the amendment as modified and delayed for 2 years removed the opposition.

Mr. BROYHILL or North Carolina. Mr. Chairman, if the gentleman would permit me, I think perhaps other Members are in agreement but I am concerned about this, and that is the reason I still feel as I do.

Mr. MOSS. I had felt the gentleman's concern had been taken care of by the 2-year delay in the implementation of the provisions of the civil penalties section, and I pointed out that it was part of the original package requested by the administration and by the Administrator.

I wanted to point that out and I thank the gentleman from North Carolina for yielding to me to make that clarification.

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

Mr. Chairman, in support of this amendment I wish to add my concurrence in the statement of Mr. Moss, the gentleman from California. In addition to reiterating my continued agreement with the statement of dissenting views in the Report of the Interstate and Foreign Commerce Committee on H.R. 5356, I wish to add the following remarks.

The Consumer Interests Foundation case study of the judicial impact of State environmental legislation—entitled: Do Citizen Suits Overburden Our Courts?—revealed that without exception citizen suits had not imposed a burden upon State judicial administration. Our own Federal experience under the Clean Air Act has indicated that citizen suits have not overburdened the Federal judiciary.

Opponents of this amendment may ask—why therefore include a citizen's suit provision if the provision will not be utilized? Opponents will conclude—if the provision is utilized to provide the utmost benefit it is only logical to assume that an overburdening of the judiciary is not overburdened because relatively few suits are brought under the provision, it is not likely to be a significant enforcement device and its omission is therefore of little consequence.

I dispute the first conclusion because experience has proven that citizen suits do not overburden the judiciary. I dispute the alternative conclusion because the enforcement utility of this provision does not require initiation of thousands of citizens' suits. The strength of the provisions lies in its in terrorem effect. Both industry and administrative agencies must take cognizance of the likelihood of such lawsuits and their attendant publicly in adopting a course of action. Often a single lawsuit can and does affect industry or agency behavior in a wide range of related matters.

The citizen suit provision which this amendment would restore hopes to effect compliance with the act through its mere existence, not necessarily through its repeated utilization. The limited scope of the provision, as demonstrated by, for examples, its restriction to injunctive relief and its notice requirements, clearly indicates the prophylactic purpose of the Amendment.

If I may be permitted an analogy, under this citizen suit provision consumer and environmental groups can and will remain effective watchdogs over industrial and administrative agency action, but they need not bite to protect the public interest—the "beware of dog" warning set forth in this amendment should suffice.

Mr. Chairman, I urge adoption of this amendment.

Mr. YOUNG of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. Mr. Chairman, I would like to state I have conversed with the gentleman from Michigan (Mr. DINGELL) and other Representatives on the other side of the aisle with respect to this proposed amendment.

I, of course, was one of those persons who proposed deletion of the citizens' civil action suits in the committee. As far as I am concerned it is true that the change which has been made in the citizens' civil action suits, by delaying the effective date of that section for 2 years after the enactment of this bill, is satisfactory because my main and principal objection was the problem the EPA would have in trying to develop the test protocol rules and to develop the administrative machinery to properly administer this act.

I felt that they should have at least a 2-year respite before they would have to be defending citizens' suits. For that reason, I am satisfied with the proposed amendment. I believe my colleague from Nebraska (Mr. MCCOLLISTER) shares that feeling. I do intend to support the amendment.

Mr. DINGELL. Mr. Chairman, I thank the gentleman. I know that this amendment is offered on behalf of several Members, including my colleague from Texas (Mr. ECKHARDT).

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

Mr. Chairman, we have a letter dated July 11, 1973, from Mr. David D. Dominick, assistant administrator of the Environmental Protection Agency, which I think very conclusively refutes the contention that the citizens' suits would de-

lay action here. However, in discussion with members of the minority on the subcommittee, we felt it unnecessary to put this citizens' suit matter into effect before 2 years, which seems to me is very reasonable restraint on the part of all members of the subcommittee who discussed this question together.

However, I do think it is worthwhile to point out that Mr. Dominick, with the vast experience that he has under the Clean Air Act containing the same citizens' suit language, or very similar language, has said:

The citizens' civil action provisions of these statutes have not created a situation where suits have been either ill-founded or in such numbers as to be unmanageable.

Mr. Chairman, I assume this is the reason why the administration recommended the language in the beginning, but out of an abundance of caution and with the discussion we have had with both Mr. McCOLLISTER and Mr. YOUNG, we on the majority side of the subcommittee thought it would serve no good purpose to put this into effect immediately. Therefore, the amendment which Mr. Moss has offered, which we think is generally in accord with our discussions and we understand is acceptable to Mr. YOUNG, we have made this language quite reserved, and we hope that it can be supported by the body.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

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

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 74 line 9 insert the following subsection: (e) The Administrator shall include with every action proposed to be taken under this Act a detailed statement on (1) the economic impact of such proposed actions, including, but not limited to, consideration of the effects on particular business enterprises and labor forces, the effect upon industries using or manufacturing the subject substances, and the effect upon the national economy; (2) any adverse economic effects which cannot be avoided should the proposed action be implemented; (3) alternatives to the proposed action; and (4) the relationship between local economic impacts and national or sub-national economic objectives.

Mr. GOLDWATER. Mr. Chairman, my purpose today is to offer an amendment to the Toxic Substances Control Act of 1973 which would make absolutely clear the intent of Congress that the Environmental Protection Agency, in promulgating regulations under this act, must not merely "consider" the economic implications of its proposals, but must prepare an economic impact statement.

It is not the purpose of this amendment to impede the Administrator in the exercise of his discretion but rather to effect the exercise of that discretion by requiring an economic focus of the same definition and probity as his historic environmental focus.

The concept of this amendment is not sui generis there is language in the very bill which suggests congressional interest in the consideration of economic impacts. In fact, some of that language is present because the committee saw fit to adopt one of my amendments. In each instance, however, the language is not directive.

In section 2(b)(3) it states:

It is the policy of the United States that authority . . . should be exercised in such a manner as not to unduly impede technological innovation.

It goes on to say:

While . . . assur(ing) that such innovation and commerce . . . do not pose an unreasonable risk to health and environment.

That does not require much of the Administrator.

Section 2(c) expresses the "intent of Congress that the Administrator shall consider the economic impact of any action he proposes to take under this act." That language gets closer, but it is not directive, and it does not require a record of the Administrator's consideration of economic impact.

Section 5(b)(1)(C) says "the Administrator shall consider" among other things in requiring premarket screening, "any benefit of the chemical substance." Again, this language does not require a record of that consideration.

And finally, section 6(c)(3) states that "In issuing rules" regulating hazardous substances, "the Administrator shall consider the benefits of the substance." Once again, no record is required.

I think this language measures the "sense" of the Congress, but fails to give sufficient definition to the "intent" of the Congress. It is the purpose of my amendment to correct that semantic deficiency.

The importance of sharpening the expression of congressional intent is clarified by several historic facts. The former Administrator of the Environmental Protection Agency, Mr. Ruckelshaus, ruled out consideration of economic impacts. He stated that EPA "has no obligation to promote commerce, only the critical obligation to protect and enhance the environment." One should hardly expect EPA to "promote commerce" but that is quite different from disregarding economic impacts.

The National Environmental Policy Act requires environmental impact statements for major Federal actions and Congress has time and again emphasized that these statements must include consideration of economic impacts. To little avail, I might add.

This was clearly stated, however, in the Conference Report on Agricultural-Environmental and Consumer Affairs Appropriations for fiscal year 1972. It was restated in debate on the Federal Water Pollution Control Act Amendments of 1972.

And it was stated again in the House report on EPA appropriations for fiscal year 1974 where notice was made of EPA's inadequate review of the effects of its regulations.

This is not merely a tale of an agency disregarding the law, and we are all familiar with that, but it is not certain that EPA must comply with the requirements of NEPA. The precise question has not yet been adjudicated, but there are conflicting decisions involving this issue.

Against the background of congressional intent and the history of agency disregard for that intent, I believe that Congress must clearly and unequivocably provide that EPA must prepare environmental-economic impact statements in connection with its administration of H.R. 5356.

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

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

Mr. ECKHARDT. Mr. Chairman, is the gentleman asking that we have a statement made by the Administrator before he has an opportunity to hear the objections to the rule?

As I read the amendment, it says that the Administrator shall include with every action proposed to be taken the statement of how the rule would affect individual businesses.

Now, does the gentleman realize that in this act this subcommittee went farther than in any other previous act in this regard?

The CHAIRMAN. The time of the gentleman from California (Mr. GOLDWATER) has expired.

(On request of Mr. ECKHARDT and by unanimous consent, Mr. GOLDWATER was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, does the gentleman realize that in this bill we have even given those who are affected by the act the right of cross-examination under certain restrictions?

Now, how would the Administrator know how it affects each individual business at the time he promulgates the rule? It seems to me he would have to await the testimony of the businesses themselves before he would know how to answer this question.

It says here:

The Administrator shall include with every action proposed to be taken.

That would be his promulgation, his original notice of an intent to promulgate a rule. It would make this a prerequisite to his requirement of reports; it would require him to give all of this information with respect to each of the specific things the Administrator does before the Administrator has an opportunity to hear what objections may be made by industry.

Mr. Chairman, does the gentleman have an answer to that proposition?

Mr. GOLDWATER. Mr. Chairman, I believe the amendment is fairly self-explanatory, and, of course, that would basically be the answer.

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

Mr. Chairman, I rise to oppose the amendment reluctantly, because I know the gentleman from California (Mr. GOLDWATER) is a very valuable and concerned Member of the Committee, and is doing what he believes is right. But I might say that the concern raised by the gentleman from California is already met by language which appears on page 49 put in the bill, and it arises out of an amendment of his which was offered and accepted in the full committee:

The amendment reads as follows:

It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that he

shall consider the economic and social impact of any action he proposes to take under this Act.

As the gentleman from Texas has said, the language of the amendment offered by the gentleman from California (Mr. GOLDWATER) says the administrator shall include with every action proposed to be taken under this act a detailed statement. It goes into four different things. We have over 800 manufacturers of synthetic organic materials in America and over 605 manufacturers of inorganic materials, which would make over 1,405 impact statements that he would have to get out and study each one of them and send men out into the field to study. We would have to take an army or more than an army to go into the field and find out the impact on each firm so that he can make the report called for by the gentleman's amendment.

When the gentleman put his amendment into the bill during the committee's deliberation he did a good job. I think it is full and wise, but enough to say, as the bill presently does that:

(c) It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that he shall consider the economic and social impact of any action he proposes to take under this Act.

For that reason I oppose the amendment. I reluctantly oppose the amendment because I think it would impose a terrific hardship on the administrator and the American people, for that matter.

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

(By unanimous consent, Mr. WHITTEN was allowed to proceed for 5 additional minutes.)

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words. As you know, I have been chairman of the subcommittee of the Committee on Appropriations that has been hearing the appropriations requests for the Environmental Protection Agency for 3 or 4 years or since its organization. I recognize the need to protect and improve the environment, but we need to be practical to get maximum results.

Each year we have brought out a bill providing funds and personnel for EPA, beyond the amounts and the number, permitted for agency use, by the Office of Management. I believe we have provided a good bill, and an excellent report which really is a plea for commonsense, for balance.

I hope I may have the attention of my friend from West Virginia.

Congress has not passed a bill on the total environment. We have passed bills which became law, the major ones being; the Clean Air Act, Federal Water Pollution Control Act, Solid Waste Disposal Act, Federal Environmental Pesticide Control Act of 1972, Noise Control Act of 1972, and the Marine Protection, Research, Sanctuaries Act of 1972, and the list goes on almost ad infinitum.

Director Ruckelshaus of EPA told our committee that the cost under present law would be $287 billion over the next decade to clean up the environment if we could do it at all.

Now, many of the environment acts Congress has enacted, are dependent upon future discoveries and inventions. There are persons within the sound of my voice who are very proud of having gotten rid of DDT. It has been prohibited by order of the EPA Administrator with the exception of very minor uses. Yet over a period of 35 years it has never been known to do injury to a human being when properly used. It has saved millions of human lives, millions of illnesses and billions of board feet of timber, and tons and tons of wood products. Still Mr. Ruckelshaus stopped the use of DDT, leaving the public dependent upon dangerous and expensive, "approved" substitutes. He issued numerous pages of warnings in the Federal Register on the dangers of these substitute materials which they have allowed us to use, to the point where you cannot go into the field in most cases where such substitutes have been used for days after their application.

Not only that, but the EPA Administrator is running a school to teach employees and users the dangers of those substitutes he is requiring us to use because he has ruled out DDT. May I say that when Mr. Ruckelshaus did rule out DDT, he took such action in the face of the findings of the hearing examiner and in my opinion, contrary to the evidence before him.

Let me ask you this: Some of you are lawyers and others are not. Do you mean to tell me that this bill, as you have written it, tells the Administrator of EPA that he can go in and do anything and we will find out how much damage has been done after the fact?

Mr. ECKHARDT. Will the gentleman yield on that question?

Mr. WHITTEN. May I finish first?

May I say that the amendment here says, the EPA Administrator, before he acts, shall find out what the consequences of his action may be. It is a very common everyday rule in court that you cannot go on a fishing expedition and charge somebody and then have them bring in all of their books and see whether you had any occasion to charge them or not.

Mr. ECKHARDT. Will the gentleman yield?

Mr. WHITTEN. I will yield to the gentleman. He is a very excellent lawyer. Let me finish first.

But to turn loose the EPA Administrator—and so help me goodness, I feel sorry for him—and may I say there is little or no coordination between the regional agencies and the EPA Administrator in Washington.

Here is what we are doing, through the CEQ they are setting up rules and regulations, and through the EPA they are issuing orders. They are closing and running out, the Virginia town of Saltville, and did not know what was going to happen until it had happened. Here we are asking in this amendment, Mr. Administrator, before you can authorize people to do everything under the sun that you tell them to do, or before you go into court, have a case. Let us let you look into this matter before you upset the applecart. I do not know that you could do anything better than to read to the Members all the original acts on this subject. It would take a week. We have lots of fine people here, but this environmental activity today has kind of gotten like God, motherhood, and home, if there is a proper title to it, and this makes it mighty hard to vote against it. But if we study how this works we will find out that the public works projects in this country are being delayed from 9 months to a year, with increased damage to the environment while they try to get together.

The head of the Council on Environmental Quality hired Arthur D. Little, Inc., to make a study, and promised them a great deal of money to make a study as to what he should do. And I told the Director who I read is going to be the EPA Administrator, I said, "What do they know about it?" He said, "They will get some people." He said, "They are the biggest engineering firm of its kind in the country."

I said, "I practiced law before coming here. Arthur D. Little, Inc. is big because it renders service and the service is to bring in what is desired. The company will bring in a report like you want. That is the reason they are big."

He said, "Well, I am going to let them be objective."

Mr. Chairman, the report was unsatisfactory to the Administrator. He had it reviewed. When it came back, it did suit him for it had been changed.

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

Mr. WHITTEN. Mr. Chairman, I ask unanimous consent that I may proceed for an additional 2 minutes.

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

Mr. DINGELL. Mr. Chairman, reserving the right to object, and I certainly will not object, I hope that my friend, the gentleman from Mississippi will yield to me if he secures this additional time.

Mr. WHITTEN. I certainly will if I can get the time.

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

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

There was no objection.

Mr. WHITTEN. Let me finish my statement answered before in brief and then I will yield.

When Arthur D. Little brought in the original report it had two sections that did not and does not suit the Administrator. They were then sent out for review, and lo and behold, the final report shows those sections eliminated from the final report.

Subsequently, I said to the Administrator, "Surely you are for those two sections." And he said, "No, I am against them."

All I am saying, my friends, is that the Environmental Protection Act as it states, was set up to "stimulate the health and welfare of man." And I say to the Members that we should have no dictator, but if we do, we should require that he know the likely results of what he does. I say that the Director of the Environment Protection Agency should be

required to know that there is ground for filing any action before he files or directs it, as well as the effect of his actions.

Now, I will yield. I believe that I promised to yield to the gentleman from Texas (Mr. ECKHARDT) first.

Mr. ECKHARDT. Mr. Chairman, I would like to state to my distinguished colleague, the gentleman from Mississippi (Mr. WHITTEN) that the only way this body acts is after a rule has been made, as is provided in section 6 of the act.

Mr. WHITTEN. But who makes the rule, I would ask my colleague, the gentleman from Texas?

Mr. ECKHARDT. The EPA makes the rule.

Mr. WHITTEN. That is right, and if they can make that rule——

Mr. ECKHARDT. Mr. Chairman, will the gentleman from Mississippi permit me to complete my explanation? The gentleman, I believe, asked a question of me, I thought.

Mr. WHITTEN. That is right.

Mr. ECKHARDT. There is no way that this agency can act until some manner of rule is made after the most complete hearing that is provided in any administrative act before the Congress, as my colleagues on the other side of the aisle, I am sure, will agree with me, or, in the case of imminent hazards, where the Administrator can go forward and show the reason in court. That is not some action that is taken previous to full consideration of economic impact.

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

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

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

Mr. DINGELL. Mr. Chairman, I wonder if the gentleman from Mississippi would comment on this: I am one of the authors, as the gentleman well knows, of the National Environmental Policy Act, and I think this amendment would substantially amount to carrying forward the requirements of that, and I wonder if the gentleman from Mississippi is aware, first of all, that the National Environmental Policy Act requires a study of the things that we are discussing here where there is a major Federal action which has significant impact on the environment. Parenthetically that it would apply to actions in air pollution or would apply to actions of the EPA to the requirements of this bill.

As the gentleman well knows, it also would apply to many EPA actions with regard to those permitted under the Water Pollution Act. So the gentleman is effectively seeking to, but not succeeding in, implementing many actions that would be required by that particular section of the National Environmental Policy Act.

Mr. WHITTEN. I have long advocated protection and development of our environment. I believe I have worked toward that end effectively. What disturbs me and my thoughts which are supported in our hearings is the fact that we have granted so much authority, so much responsibility to the Environmental Protection Agency that no director and no agency can effectively operate an industry including agriculture can no longer afford the investment to meet consumer needs. We can no longer be sure of meeting consumer needs much less meet our foreign market demands so essential to restoring the value of our money. This bill would simply throw another wrench in the machinery.

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

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

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

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

Mr. DINGELL. As the gentleman from Mississippi recalls, I directed a question to him to which I should like to have a response. I pointed out that NEPA does require consideration of the economic impact of the acts of the Administrator.

Mr. WHITTEN. Yes, in regard to that, but he has refused to perform. Under the NEPA statement he has not.

Mr. DINGELL. Regarding any instances that the gentleman from Mississippi has where EPA has failed to comply with NEPA and considered the economic impacts under the law, I would say to the gentleman, bring it to my attention and I will see to it that NEPA does consider the economic impact.

Mr. WHITTEN. I will be glad to do so.

Mr. DINGELL. I would ask the gentleman for specifics, because I feel very strongly this should be done.

Mr. WHITTEN. I think if we would check the number of actions he has taken and match it against the number of times he might have filed an environmental impact statement, and if it totaled as much as 1 percent, I would be surprised.

The gentleman from Michigan, I think, and I want to get the maximum results, but in order to get them, we have to be very, very careful that we do not set up a dictatorship in our own country, who, in carrying out well meaning laws of Congress, destroys our economy, injures our health, limits our production, thereby cutting our necessary exports and leaving all of us hungry.

Mr. COLLINS of Texas. Mr. Chairman, I support the Goldwater amendment and I am also completely in agreement with the commonsense statements made by Mr. WHITTEN, the distinguished gentleman from Mississippi. Previously we had heard the statement made that there will be extensive hearings available. What this amendment tries to do is to simplify the hearing procedures. In fact, in our committee discussions it was pointed out that it is completely possible to spend $400,000 in getting one single chemical substance approved. What we are trying to do here is to clearly define procedures and to set up definitive action versus this wide discretion, so that EPA can simplify the procedures.

The Chemical Service Registry number system has registered nearly 2 million chemical compounds. Just imagine that, and we are adding 250,000 chemicals each year to the list.

I am also interested in the present Federal laws on this subject that we already have on the books. The Members will be interested in how many of them there are. We have laws now that are able to regulate chemical substances in every way. For instance, we have the very comprehensive Federal Food and Cosmetic Act, the Poultry Inspection Act, the Federal Meat Inspection Act, the Egg Products Inspection Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Atomic Energy Act, the Clean Air Act, the Federal Water Pollution Act, the Federal Hazardous Substance Act, the Occupational Safety and Health Act, and the Consumer Product Safety Act. We have adequate laws on the books right now.

I am quite frank to state I do not completely understand this bill. Of the 435 Members of Congress, I feel sure that there are very few in our body who are complete authorities on this proposed bill.

We saw in the 1971 report of the Council of Environmental Quality that everything—everything—in our environment is composed of chemical substances. For that reason the definition of chemicals has been cast in very broad terms, so we are providing very wide powers on a broad subject where the utmost complications are apt to develop.

When I was back in Texas recently I was talking to a small group out in Irving, Tex. One of the leading citizens who is noted for his commonsense said:

> I think Congress is going to perform the greatest service to this country when they take a recess for the month of August.

There is much logic in this. I am not sure but what the moratorium is the greatest thing we are going to do all year.

He added that Congressmen today judge their ability on how many new laws they can put on the books. But as he was a small businessman, he would be better off if we would stop passing laws and give him a rest.

I believe people in this country are beginning to tire of the mountains of legislation and paperwork requirements we are turning out in Washington.

Right now we have so many functions assigned to the Environmental Protection Agency that if they were operating on a 60-hour-a-day basis they could not keep up with all their responsibilities. Our desire in Congress is to protect the health and the environment, and we in turn are delegating authority to a single officer of the Government granting him power to prohibit manufacture and to prohibit distribution and to limit amounts. This one man has unlimited powers in what we are providing in this act.

One of the greatest statements in our Nation's history was made by David Crockett, our great Texas hero, when he said:

> Be sure you are right and then go ahead.

I think we would do well this hot July day to review the matter as to what is right. This bill needs further study, it needs more research and more testing. For the good of America we will be doing a very real favor to the folks at home that make up our average citizen. I am talking about the friendly, solid towns like Richardson and Irving and Farmers Branch and Carrollton. You have great

communities like these towns back in your district. Folks at home are saying they would rather spend more time on their own business and not so much time on all this redtape we keep manufacturing in Congress.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, it is unfortunate that all the Members do not have before them this amendment, because if they want to strangle people and if they want to have costly Government and if they want to impose impossible obligations, then they should adopt the amendment, because before a rule can be proposed, promulgated for consideration, promulgated as the basis for hearings, the Administrator would be faced with including with the announcement of the intention to promulgate, the economic impact of such proposed actions including but not limited to consideration of the economic impact of such proposed actions, effects on particular business enterprises and labor forces, the effect upon industries using or manufacturing the subject substances, and the effect upon the national economy, any adverse economic effects which cannot be avoided should the proposed action be implemented, alternatives to the proposed action, and the relationship between local economic impacts and national or subnational economic objectives—whatever that language means, and I think it defies interpretation.

Mr. Chairman, this is before a rule can be proposed. It is also before a study can be proposed. It is also before a test protocol can be proposed. In other words, before the Administrator can take any action to inform himself, he must go through this entire panoply of burdensome requirements which he could not possibly undertake and in good faith meet the objective of the amendment.

This is a strangulation by amendment. I have no doubt that I would have the administration's position here had I the slightest idea in advance that such a broad, far-reaching amendment was to be proposed. I was not accorded, as the subcommittee chairman, the courtesy of a copy of the amendment until just before it was introduced here on this floor.

I thought that we had taken care of the objections of my distinguished colleague from California. I thought that the language I agreed to and accepted in the subcommittee and included on page 49 of this bill met the desire that there not be a headlong rush into any action.

As the distinguished gentleman from Texas (Mr. ECKHARDT) has pointed out, rarely if ever have we seen an administrative process which guarantees such full and complete due process as is proposed in this legislation. This is not something that was lightly, carelessly and thoughtlessly drafted. It is one upon which the committee worked in good faith for a long time.

I might state for the record, because I think it should reflect the fact that this is a committee and a subcommittee that does work closely together in an effort to resolve those problems which all of us are concerned with, certainly we are concerned with the arbitrariness of agencies, and certainly we are concerned with the imposition of burdens upon our industries and upon our fellow citizens.

However, the burden contained in this amendment—and I cannot too strongly underscore it—is of the most onerous type that we could possibly conceive. It imposes impossible, unfeasible, uneconomic and unreasonable requirements upon the agency.

Mr. Chairman, I strongly urge that the amendment be defeated.

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I realize the concern that the gentleman from California has with the force and effect of this bill, but I want to assure him that the committee has gone to great lengths in drawing up the rulemaking authority that is contained in this bill to carefully give rights to all interested parties to be heard on the record, and of course the economic interests are going to be heard at that time.

The rulemaking authority that is granted in this bill is specifically tailormade in order to take care of many of the concerns that have been expressed by the gentleman from California. The rulemaking authority here goes far beyond the normal rulemaking authority that we find in the Administrative Procedures Act. It gives protection to those that are in the business of manufacturing and distributing these chemical substances that may be harmful or pose a risk to the environment or to the health, to put their concerns on the record and to have an adequate review.

Those of us who are familiar with the Administrative Procedures Act are familiar with the fact that in many cases, unless we write into the legislation otherwise, that the rule will be upheld unless it is found that the action is arbitrary and capricious. If the members will turn to section 23 of this bill, they will see that we went much further than that. We say that the rule will be upheld if it is found that the evidence is substantial on the record. That is a far greater burden on the Administrator to put that sort of language in the basic law.

Then, I think the members should turn to section 9, which is concerned with the relationship to other laws. This legislation is designed to fill the gap. The Administrator is not going to be able to use this act before he does any other act that is on the books. He first has to use the other acts that have been written in this Congress before he can use this act.

We should look at what the real effect of this amendment will be. What if there is an imminent hazard which poses a substantial risk to health or the environment. What if someone is dumping dangerous chemical substances into a stream, or is about to put a product on the market which very clearly poses a substantial risk to health or the environment? Are we going to say that the Administrator has to come forward with an economic impact statement in cases like that? Certainly we know there is going to be an economic impact, but this amendment will be putting such a burden on the Administrator that he will not be able to act at all.

I believe it has been correctly pointed out here what the effect of the amendment will be, if it is put into the bill, as offered by the gentleman from California.

Section 2 of the bill, as agreed to in the full committee, is meaningful. It is not only meaningful for what the words say, but also in respect to some recent court decisions on policy statements included in acts like this. These policy statements do have great effect. Members will find a recent court decision concerning the Clean Air Act where the policy statement was given some great meaning in the decision.

I believe that the amendment which was adopted by the committee in section 2 of the bill does have great meaning, that the Administrator is not going to be acting arbitrarily or capriciously. He is going to be considering all sides and at the same time taking action he needs to take to get at the problems which do exist.

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

Mr. BROYHILL of North Carolina. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. I should like to associate myself with the comments of the gentleman, and further I should like to point out that this is the second time the Toxic Substances Control Act has come before the Congress, that is, once this year and once last year.

As the gentleman clearly points out, in the bill before us, as considered in the full committee, this amendment was not discussed. I believe the gentleman has made a persuasive case for rejection of the amendment.

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

Mr. BROYHILL of North Carolina. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I have the highest regard for the gentleman, but I would point out that if he will check the number of acts we have passed through the Congress to give authority to the EPA, the Administrator could stop any of these substances from ever being put together, to go into commerce. I cannot conceive of any place where he does not have the authority now.

Mr. BROYHILL of North Carolina. If the gentleman will look at section 9 of this bill he will see that this is a fill-the-gap type of legislation and does not take precedence over other acts, particularly those administered by the Department of Agriculture.

Mr. WHITTEN. The point is that I do not believe any place has been overlooked. I believe we have duplicated most restrictions five or six times.

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

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

Mr. Chairman, this amendment to require an economic impact statement as a part of environmental decisions specifically under the Toxic Substances Control Act is an important addition to the law. Although it cannot be said that the subject of economics has been entirely written out of environmental statutes, the language of sections 101 and 102(b)

of the National Environmental Policy Act is not categorically directive on the one hand and it is not categorically applicable to the Environmental Protection Agency on the other hand.

It is obvious that affirmative action on this amendment is necessary to cure those defects and give effect to the apparent intent of the Congress as expressed in the original statute.

EPA has rejected the applicability of NEPA except where it has been to its advantage. This bureaucratic legerdemain has effected the disappearance of intelligent, rational inclusion of economic impacts in the weighing of environmental decisions.

I think it is high time we set straight the record and the Agency on the matter of congressional intent.

A vote for this amendment is a vote for restoring the power and dignity of the Congress. It is our job to insist upon proper consideration of all relevant factors by agencies with which we share our regulatory powers.

We live in a measurably and necessarily economic world; to ignore the consequences of our actions and the actions of our bureaucratic surrogates on the economy would not reflect the commitment which we as representatives of the people must have for their welfare.

This proposal will not depreciate the effort to improve our natural environment, but it will require that effort to be harmonized with our economic environment.

I urge your support of this amendment.

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

Mr. Chairman, the amendment, I have no doubt, is well intended, and I am sure the gentleman who offers this amendment is entirely sincere in his offering of the amendment.

The point of the matter is, however, that the amendment was not considered by the committee. There have been no hearings held upon the amendment. The views of the appropriate committees and the views of the appropriate governmental agencies have not been solicited. There is no record for the interpretation of the amendment, and no one, I would venture to say, including the distinguished gentleman from California who offers this amendment, knows precisely what it does.

For the House to adopt an amendment of that kind at this time, I believe, would be extremely unwise. This body should know what it is doing when it is operating in this delicate area of the environment and economics.

I am sure the gentleman from California has sought to have the balance set forth both with respect to the environment and with respect to economics. But I am not satisfied that the gentleman has accomplished that goal, and I am not satisfied that any Member here in this chamber, including the author of that amendment, knows precisely how this amendment or its language would affect, for example, the National Environmental Policy Act, as well as the statutes under which EPA acts for protection of the environment. And I am not satisfied that any Member here understands the complex interaction of all of the circumstances and all of these different statutes. So, Mr. Chairman, I believe that this amendment should be deferred to a later time, and I am sure the gentleman from California (Mr. Moss), who is chairman of the subcommittee, would be more than pleased to consider this amendment at the appropriate time if it were to be offered as a separate piece of legislation and were referred to his subcommittee. I am equally satisfied that the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. Staggers), would consider this amendment as a separate piece of legislation, if separately offered after the appropriate departmental reports had been secured.

Certainly, speaking as the chairman of the subcommittee which has jurisdiction over the National Environmental Policy Act, I would consider an amendment of this kind if it were to be offered as an appropriate separate piece of legislation.

Mr. Chairman, I will point out to my colleague, the gentleman from California, and to my other colleagues present that this piece of legislation has been considered at other times on the floor and has been rejected. It has been offered and it has not been adopted. I will point out that no Member of this Congress should have any doubt that the National Environmental Policy Act requires a clear consideration of the economic impacts and the social impacts of matters related to actions to be taken. I speak unequivocally as the author of that legislation in this House, pointing out the requirement of the National Environmental Policy Act as to matters of that kind be considered.

Mr. Chairman, I will point out as chairman of the subcommittee that considers these matters that if any Member has any questions as to whether or not the requirements of the National Environmental Policy Act relating to social and economic questions are being sufficiently considered, that Member should feel free to bring them to me, and I shall see to it that those matters are gone into by my subcommittee and by EPA.

But I will point out to my colleagues that I know of no instance in which any Member of this body or any other person has brought that question to my subcommittee.

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

Mr. DINGELL. I yield to the gentleman from California. I thank the gentleman for yielding.

Mr. ROUSSELOT. The gentleman indicates there are very few other instances where this kind of economic impact ruling is required either of a governmental agency or others.

Mr. DINGELL. No. That is not what I have said. I said the National Environmental Policy Act now requires there be consideration of economic and social impacts of major actions affecting the environment.

Mr. ROUSSELOT. But not to the depths required in this amendment.

Mr. DINGELL. On the contrary, in great depth and at least the depths required here.

Mr. ROUSSELOT. We make this kind of economic impact requirement now by both Federal and State law. Economic impact studies are required in the field of real estate, and in the use of Federal funds for hospital placements. There are many ways in which administrators of present laws are required to seriously consider the economic impact on given actions of Federal agencies.

Mr. DINGELL. That is right.

Mr. ROUSSELOT. And I do not think it is an unwise practice from now on to require this, especially in the field of environment, when we are talking about the long range impact on labor forces and business enterprises.

Mr. DINGELL. I would like to ask the gentleman if he can make an unequivocal statement that he understands all of the ramifications of this particular amendment.

Mr. ROUSSELOT. I think I do.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Dingell was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. If the gentleman will yield further, I have read this very carefully, and I believe the language is clear, concise, and to the point.

Mr. DINGELL. The gentleman believes, but can he make that categorical statement?

Mr. ROUSSELOT. I believe it is carefully enough drawn so that the Administrator, who has the responsibility already under the NEPA that you have already described, would already be familiar with the very language the gentleman describes. I do not think it is so sophisticated or unclear that it cannot be clearly arrived at with regard to a decision prior to the time the decisions are made.

Mr. DINGELL. I have yielded to my friend from California. I want to know does he know all of the statutes that the amendment would amend either directly or by implicaton?

Mr. ROUSSELOT. I am sure I could not recount all of them, but I consider the principles and concepts of the amendment to be sound.

Mr. DINGELL. You see, I work daily with this legislation and I must confess to the gentleman I am not able to tell him all of the ramifications of the amendment, either. It may be a very good amendment. It may not. We have a law on the books which does require consideration of the economic and social impacts in the decisions. I am not able to tell him how it will interact.

Mr. KAZEN. Will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. KAZEN. That is the thing that disturbs me. You say, we have it in the act now.

Mr. DINGELL. That is right.

Mr. KAZEN. And all over this country they are holding hearings now in all the metropolitan areas where they are being shown what the economic impact on those cities is, and they in EPA have completely ignored that testimony.

Mr. DINGELL. Let me tell my friend from Texas that if he has any complaints with regard to that matter and will bring them to my attention as chairman of the

subcommittee having jurisdiction over the NEPA, I will be more than pleased to go into it, and if the gentleman will offer legislation of that kind drafted in that way that comes to my committee, I will be glad to give him a hearing on it.

What I am saying is this legislation is very complex. The amendment is most complex. No hearings have been held on it. If this body wants to legislate wisely, prudently, and well, let us reject the amendment and let us hold hearings on something of this kind and then let us go forward and bring legislation to the floor on it.

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

Mr. Chairman, I would, had I received a different recommendation from the parliamentarian at this time, have offered an amendment in the way of a substitute for that amendment offered by the gentleman from California (Mr. GOLDWATER) but I am advised that the substitute would not be in order because it would pertain to a different section.

If this amendment is defeated—and I shall vote against it—then I shall offer an amendment which will pertain to section 6 dealing with the rulemaking powers of the EPA and limiting the effects of the amendment to section 6.

As others have said, this is a very complicated, intricate, and sophisticated piece of legislation. I am inclined to agree with the gentleman from California, the subcommittee chairman, and the ranking minority member, the gentleman from North Carolina, that because of the complications of the bill the amendment proposed by the gentleman from California would be far-reaching. I think the effects of it would be unpredictable.

If the amendment is defeated I would at that time offer an amendment to section 6 which I think will accomplish what the gentleman from California (Mr. GOLDWATER) wishes to accomplish.

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

Mr. McCOLLISTER. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman for yielding. I might state that while I am the author of the amendment I have no pride of authorship in the amendment. I think we all understand the intent and purpose of my amendment, and that legitimate questions may have been raised by the gentleman from Texas (Mr. ECKHARDT) and my colleague, the gentleman from California (Mr. Moss). I intend to support my amendment and may I point out that my amendment is necessary because too often in the past we have only implied the intent of the Congress, and never before have we stood on our feet and spelled out precisely the actions administrators should take in regard to these very far-reaching regulations and the economic impact these actions have on our economy.

We live necessarily in an economic world, and we must relate to it, and we must deal with it realistically and in a definitive manner.

So, Mr. Chairman, I will support the proposed amendment to be offered by the gentleman from Nebraska (Mr. McCOLLISTER) if in fact my amendment is defeated.

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

The amendment was rejected.

AMENDMENT OFFERED BY MR. M'COLLISTER

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

The Clerk read as follows:

Amendment offered by Mr. McCOLLISTER: Page 68, line 3, add a subsection "(g)" to read as follows:

"The Administrator, at the time he promulgates any final rule, shall include a detailed statement on (1) the economic impact of such action, including, but not limited to consideration of the effects on particular business enterprises and labor forces, the effect upon industries using or manufacturing the subject substances, and the effect upon the national economy; (2) any adverse economic effects which cannot be avoided should the proposed action be implemented; (3) alternatives to the proposed action; and (4) the relationship between local economic impacts and national or subnational economic objectives."

Mr. McCOLLISTER. Mr. Chairman, the amendment applies to section 6 only, and is a new paragraph (g). The former amendment, just defeated, pertained to all the other sections including the important section 4 on test protocol, section 5, which pertains to limited premarket screening, section 8 on reporting, and other sections which are equally important.

As I say, this amendment pertains only to the rulemaking section 6.

Rulemaking under section 6 deals with such questions as requirements prohibiting or limiting manufacture or distribution of chemical substances, requirements limiting or prohibiting the manufacture or distribution of chemical substance for a particular use or uses, and other things such as label warning requirements. I think that the amendment is more appropriate in this regard. The gentleman from Mississippi (Mr. WHITTEN) has spoken eloquently already, and others, on the need for consideration on an economic impact statement which the Administrator should include at the time of his detailed statement. I think that the cause of the amendment has already been well spoken for.

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

Mr. McCOLLISTER. I yield to the gentleman from California.

Mr. ROUSSELOT. The gentleman is assured now in the redrafting of this amendment that it overcomes what he considers to be the deficiencies as previously discussed?

Mr. McCOLLISTER. We have discussed the amendment with counsel and believe that it does overcome the deficiencies to which I referred.

Mr. ROUSSELOT. But it still helps in the intent to make sure that the Administrator is required to look into the economic impact on businesses and labor force and other things that may occur as a result of potential rulings and more important the Administrator must make those findings known; is that correct?

Mr. McCOLLISTER. I think what it does is to amplify and to elaborate on the very excellent statement that is made in section 2(c) where the Administrator is mandated to carry out the act in a reasonable and prudent manner and to consider the economic and social impact of any action he proposes to take. I believe the amendment gives more substance to that and makes the intent of the Act clearer.

Mr. ROUSSELOT. So it is merely expanding upon that section already included in the act that the gentleman has fully discussed in committee; is that correct?

Mr. McCOLLISTER. That is my belief.

Mr. ROUSSELOT. I appreciate the gentleman's statement. I will support the amendment of the gentleman from Nebraska, which is similar in content to the substance of what Mr. GOLDWATER was trying to do.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment with the same reluctance that I did on the other one, because I know the intentions of the gentleman from Nebraska are good. I should just like to point out one or two points. Section 6 is the key regulatory section of this bill. The amendment offered by the gentleman from Nebraska would materially restrict the Administrator's ability to use his authority. Let me emphasize that this section already provides for an oportunity for not only written statements but for oral hearings, and that any rulemaking must be made after consultation with the Chemical Substances Board and he must be able to support his findings with substantial evidence.

As has been stated before, I know of no more precautions that have ever been taken on a bill of this kind before the Congress than we have right here. Let me show the Members some of the things that are coming into being today that we have to look ahead to.

If we were only going to stick our heads in the sand and say everything is going along fine, that would be all right, but things are happening in America and all over the world. The Chemical Service Registry number system has registered 1,800,000 chemical compounds. Approximately 250,000 chemicals are added to this list each year—250,000 of them each year—and between 300 to 500 new chemical compounds are introduced annually into commercial use.

Despite the numerous laws which have been enacted over the last 10 years to protect health and environment, many chemical substances on their way to the marketplace and into the environment would pose a great potential for harm. In the last 20 years, the U.S. consumption of metals and new metallic compounds has dramatically increased. For example, in the 20 years from 1948 to 1968 U.S. consumption of beryllium is estimated to have increased by 7,300 tons or 507 percent. Our consumption of cadmium increased by 2,700 tons, or 70 percent. The commercial use of synthetic organic compounds is growing at an even more startling rate. These are things we want to look ahead to and to do something about. If we wanted to stop here and say everything is safe and put it into operation, fine, but I think we ought to

be looking out for our children and future generations. We have taken every precaution to provide procedural protections for manufacturers, but we must remember that we are here to protect the interests of all of the people and not special interests. We are here for the interests of all of the people in every way.

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

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

Mr. KAZEN. I appreciate the distinguished chairman's yielding to me.

Is this provision about holding hearings and then promulgating rules the same language that was used in the Clean Air Act?

Mr. STAGGERS. This is much more burdensome, much more protective, and goes much farther than the Clean Air Act.

Mr. KAZEN. This is what I am afraid of, Mr. Chairman, because in the Clean Air Act those hearings that are being held all over the country today are an exercise in futility, and we are going to hear about them here in the Halls of Congress, the rules were promulgated but were not put into effect until after the public hearings, and then the public hearings did nothing to change their minds.

They already had their minds made up as to what the rules were going to be and the public hearings were just window dressing. I think it is all going to come back to the chairman of the committee within a very short time and this type of law must be changed.

Mr. STAGGERS. Mr. Chairman, just before anybody misinterprets this I would like to say we have made provision for judicial review to guard against administrative abuses or excesses.

The gentleman from Texas suggested to me the other day that certain things were occurring in EPA that perhaps were not just occurring in his area but in some other areas of the country. Our committee intends to hold hearings on some of the things they are doing. They say they want to come up with certain laws that will not require them to do certain things they are doing now. We hope we can get some common sense. Maybe we were too strict and too strong and wanted things done too soon. We realize it and I think they realize it. We will have to take a look at it and if necessary make some new laws.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

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

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

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

Mr. WHITTEN. Mr. Chairman, of all my colleagues I do not know of anyone who wants to do everything good for everybody any more than the gentleman from West Virginia. I want the RECORD to show that.

Mr. STAGGERS. I thank the gentleman.

Mr. WHITTEN. I would like to call the attention of the gentleman to page 53 of the report from our own subcommittee on the hearings which say that among other things the Environmental Protection Act was provided to stimulate the health and welfare of man. The point I wish to make is that after mountains of hearings we find if the Administrator exercised all the authority vested in the Environmental Protection Agency and if he carried that out, all the people in this country would be hungry within a week. I see many things included here but we cannot point to a single thing except the transportation that is not covered in one or other acts now. He can stop manufacture or prohibit use of everything. Everything looks as if it is covered in several other acts. But be that as it may, I am trying to serve no interest except the interest of the American people. Certainly I do not question the intentions of my friend, the gentleman from West Virginia, but good intentions gone astray can do a great deal of trouble.

Mr. STAGGERS. I believe I must pay the same tribute to the gentleman from Mississippi as he paid to me. I think he is one of the finest Members in this Congress. I know his son and his family. I know his interest is for the good of America. But let me say that many of these things do not apply in some of the laws on the books.

These are exemptions. It says:

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 9. (a) This Act shall not apply to—

(1) tobacco and tobacco products;

(2) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured or distributed in commerce for use as a pesticide; or

(3) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act) and food. The term "food" as used in this paragraph means all food, as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in section 4 (e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

Those things are all exempted. But one must not forget for one minute that new products and new chemicals in the number of 250,000 each year are coming into production and somebody has to check on them.

Mr. WHITTEN. He has just repeated what all we have on the books now.

Mr. STAGGERS. That is correct.

Mr. WHITTEN. And in order to determine whether this provision applies in a particular case or not, does the gentleman realize we could be in court for 2 or 3 years? If we keep on with this course of action, we will find that no one can afford to invest to produce, and if he produces he cannot sell. If he cannot sell we do not eat.

Mr. STAGGERS. There are 250,000 products that could kill your son or mine and we say they shall not use them.

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

Let me say I oppose this amendment with real reluctance because the proposer of the amendment is one of the most constructive Members I have worked with.

He has been on my subcommittee since he came here as a freshman Member of the House. He tries in good faith to help us work out the very many difficult problems that we consider in that subcommittee and in the committee. I think this is another case where he really is trying with a great deal of concern to again narrow the areas of disagreement.

However, I find that I have a great problem in imposing on an administrator of a Federal agency requirements to make findings which I myself cannot understand. I do not know what the relationship between local economic impacts and national or subnational economic objectives might be. Nor have I the slightest concept of where that administrator might go to determine where there is established a criteria to guide him in determining national or subnational economic objectives.

Because of the concern of my colleague from California (Mr. GOLDWATER) we did on page 49 of the legislation include language saying that

It is the intent of Congress that the administrator shall carry out this act in a reasonable and prudent manner, and that he shall consider the economic and social impact of any action he proposes to take under that act.

Again, with the caution which I believe we can on both sides of the aisle and on both sides of this particular amendment agree characterizes the work of this subcommittee, we put in this language that in issuing public rules under subsection 6, the subsection proposed to be amended, the Administrator shall consider all relevant factors including the effects of the substance on health and the magnitude of human experience, and it goes on to say, the effects on the environment, the effect of various uses and availability of less hazardous substances.

In other words, we tell him, "Look at the alternatives." We want to have the attention of the Administrator to the public interest, but not in utter disregard for the interests of the affected businesses. I do not know, carefully reading the language which has been added here, exactly what additional we would want him to do. I think it might lead to either a very broad hunting expedition seeking all sorts of facts which might be relevant or irrelevant and totally defeat the intent of the proposers of the amendment, or it might lead to window dressing, because I do not think from a definitive standpoint these kinds of findings can be made.

To write them in advance of the effect of a rule under this legislation, I think again imposes a most onerous requirement. Were I the Administrator, I would urge that under no condition this kind of ambiguity be imposed upon me.

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

Mr. MOSS. Of course, I yield to my friend from California, a member of the committee and a very distinguished member.

Mr. GOLDWATER. Mr. Chairman, let me say that I do want to thank the gen-

tleman from California for his consideration in the committee on this aspect of the bill, that deals with economic considerations.

However, I would perhaps answer the chairman's question what this amendment actually does. I think the gentleman knows full well what it does, and that is to spell out in a definitive manner precisely how to proceed in regard to consideration of the economic impact.

The amendments that I offered in subcommittee and in the whole committee, and the language contained in the bill which the gentleman has read to us, is permissive. It allows discretion. What the amendment offered by my colleague from Nebraska would do is to state definitive action; that the Administrator will definitely consider the economic impact.

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

(By unanimous consent, Mr. Moss was allowed to proceed for 3 additional minutes.)

Mr. MOSS. Mr. Chairman, I do not want to be argumentative, but let me say, in the fullest good faith, I do not understand the relationship between, and I am quoting, "local economic impacts," and "national or subnational economic objectives."

Nor do I, after 21 years of service in this body, know where I would go to establish this information.

Faced with this burden, I would be without a choice but to try to impose upon an unduly burdensome and inquisitive record, which might be far more onerous than anything we can impose by the language itself, as to the need to go to every single manufacturer operating in a subnational area, once I had determined what a subnational area might be.

It could be the Pacific coast. It could be the State of Oregon. It could be the State of Washington. It could be the State of California, or the counties below the Tehachapi Mountains.

I do not know what a subnational area is. I do not believe anyone else does. The areas are not allied to the standard metropolitan statistical areas, where we have certain functions which relate.

I do not know the "adverse economic effects which cannot be avoided should the proposed action be implemented."

I do not know how to establish what those adverse economic effects would be, in dealing with chemicals, which are, of an inherent nature, somewhat unpredictable. I do not know precisely what could be avoided.

Again, out of caution, I would have to have the fullest and most inquisitive type of hearing in order to satisfy myself as the Administrator.

Mr. Chairman, I would urge that this amendment be defeated. If there is a fuller clarification needed, we should try to build on the language on page 49, in the Conference Committee.

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

Mr. MOSS. I yield to the gentleman from California.

Mr. GOLDWATER. Just to help clarify the gentleman's understanding as to "local", "national" and "subnational", I would say that subnational would be anything larger than local and less than national.

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

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

We are told in this body that the Administrator of EPA is wise enough to determine those chemicals which are going to be harmful. We are told that the Administrator of EPA is wise enough to determine those chemical products which should be sold on the market and those which should be removed.

But we are also told that he is not wise enough to determine the economic impact of such decisions. I just do not believe that. Indeed, I say that if the Administrator of EPA does not have that capability, if EPA does not have that capability, that we had better see to it that they get it, because in this Nation we do not find ourselves compartmentalized. We do not find ourselves concerned with the environment only, nor do we find ourselves concerned with the economy of our country only. We operate as a system. We operate as an interrelated society.

Mr. Chairman, I suggest that where environmental impact occurs, it is highly probable that economic impact occurs also. We have been told that if the Environmental Protection Agency has a responsibility for determining economic impact, they may go on a hunting expedition or indeed they may look for window dressing.

There are a few hunting expeditions I would like to outline to this body right now. I could take the Members on a hunting expedition to a small town in Pennsylvania, the town of Lewistown. Indeed I heard some Members say a few moments ago that to argue for the economic impact statement is to argue for the "special interests." Well, I am here to argue for "special interests." In Lewistown, Pa., there are 2,300 "special interests" walking the streets because they lost their jobs as a result of environmental decisions.

Over in Roaring Spring, Pa., there are 500 "special interests" who may find themselves walking the streets because of environmental decisions.

In Johnstown, Pa., where my good friend, the gentleman from Pennsylvania (Mr. SAYLOR) hails we have been advised that 4,500 "special interests" may be walking the streets because of an environmental decision.

In Tyrone, Pa., 600 "special interests" were walking the streets because of an environmental decision.

So I stand here pleading guilty to representing those "special interests." And I say that each of the Members representing districts across America has hundreds, if not thousands, of "special interests." These are "special interests" who would like to work but may find themselves out of a job because of an environmental decision.

Mr. Chairman, we are not asking that the Environmental Protection Agency should stop making these analyses, or that they should indeed stop handing down decisions. We are asking that they be required to consider the economic impact as well as the environmental impact.

Mr. Chairman, I would like to tell the Members about one last "special interest." This is a "special interest" of just a few miles of highway in my congressional district, where several people have been killed in the last few years, because it is a very treacherous highway. Yet when we tried to get a new and safe highway through there, the environmental interests successfully delayed it because, among other reasons, it was going to go through a bird sanctuary.

So I stand here today defending the "special interests" of the people in my district and the districts of other Members, too, and I suggest that the amendment offered by the gentleman from Nebraska (Mr. MCCOLLISTER) goes a step in the direction of this Congress putting a bridle on that horse which is running wild down the street, the Environmental Protection Agency, an agency which is properly concerned about the environment, but which should indeed also be deeply concerned about the economic impact of its environmental decisions.

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

Mr. SHUSTER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding.

I rise in support of Mr. MCCOLLISTER's amendment, which is designed to provide some balance in the administration of this program H.R. 5356. As it stands now the bill is highly toxic to the American chemical industry. It purports to control "toxic" substances and empowers EPA to order fabulously expensive tests to be conducted without even defining the word "toxic" or setting any standard to limit the discretion of EPA officials.

I am not saying that we should not attempt to control toxic substances and protect the environment, but we cannot attempt to solve every problem that exists in the country by taking actions in a vacuum, without considering the effects of our regulatory activities on the economy.

The movement to protect "the consumer" or "the environment" at all costs is based on the current belief in some circles that we live in a "post-industrial" society in which the concern for our ability to maintain a productive economy has given way to a regard only for the consumption and distribution of goods which presumably will rain down upon us from the sky.

This amendment requires the administrator to consider "economic impact" prior to a ruling and not after the fact. This concept has been needed for some time.

The gentleman, I believe, has pointed out very correctly that the Administrator of this act has substantial powers.

Now, in answer to the question that the gentleman from California (Mr. Moss) has raised; under section 5 of this act, the Administrator has been asked to classify in great detail all the chemicals that have impact on the environment. I think at that same time it would be very easy to include the economic impact

concepts that the gentleman from Nebraska has asked that we include in his amendment. As the gentleman from Pennsylvania has already stated, coupled with the findings to categorize various chemicals, it should not be difficult to secure facts concerning the economic impact which might shut down or stop the production of those chemicals.

Mr. SHUSTER. Right.

Mr. ROUSSELOT. Would the gentleman not agree?

Mr. SHUSTER. Absolutely.

Mr. Chairman, I believe, in closing, the most significant point to remember here is that the amendment offered by the gentleman from Nebraska corrects the defects of the original amendment offered. It corrects the defects, and at the same time it provides more balanced consideration of the economic impact as well as the environmental impact.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT OFFERED BY MR. M'COLLISTER

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the amendment offered by Mr. MCCOLLISTER:

Amend the amendment by adding the words "under this section" after the words "any final rule" on line 3 and by striking the word "particular" on line 6 and all after the word "forces" on line 7 and add "and the effect on the national economy."

Mr. DELLUMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred seven Members are present, a quorum.

Mr. ECKHARDT. Mr. Chairman, the result of this amendment would be that the amendment, as amended, would read as follows:

The administrator, at the time he promulgates any final rule under this section, shall include a detailed statement on the economic impact of such action, including, but not limited to, consideration of the effects on business enterprises and labor forces and the effect on the national economy.

Mr. Chairman, I would like to ask unanimous consent to strike the 1 in parentheses.

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

Mr. GROSS. Mr. Chairman, reserving the right to object, what does the gentleman want to strike?

Mr. ECKHARDT. Just the number 1 in parentheses, since there was a list of things and we have eliminated the other items.

Mr. GROSS. Do you want to make it 2 or 3 or what?

Mr. ECKHARDT. No. Just put nothing in there instead of a 1 in parentheses.

Mr. GROSS. Put nothing in there? That would be all right for the entire bill. I would go along with that.

Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

Mr. ECKHARDT. Mr. Chairman, I have no objection whatsoever to Mr. McCOLLISTER's purpose if I understand it. I understand his purpose is to go only to the rule section in the first place. I have no objection whatsoever to requiring that in making the rule there be a finding on the effect on business enterprises and labor forces and the effect on the economy. The only thing I wish to avoid in this amendment is any requirement that the administrator necessarily anticipate every particular effect on every particular business.

Also the extremely detailed provisions in the rest of the amendment would be dealt with.

However, I do believe that the general language I used in this amendment embraces all of the items that the gentleman included in his original amendment and I would appreciate an aye vote on it.

Mr. BROYHILL of North Carolina. Will the gentleman yield for the purpose of asking the gentleman from Nebraska a question?

Mr. ECKHARDT. Surely.

Mr. BROYHILL of North Carolina. Is it the intention of the gentleman from Nebraska that this amendment be limited to the rule-making authority granted to the administrator under this section?

Mr. McCOLLISTER. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman.

Mr. McCOLLISTER. I will say to the gentleman from North Carolina, as I said at the time of the introduction of the amendment, that it is indeed limited to the rule-making section 6.

Mr. BROYHILL of North Carolina. It does not affect the imminent hazard section or the reporting section or any other?

Mr. McCOLLISTER. No other section than section 6.

Mr. BROYHILL of North Carolina. It would seem to me, if the gentleman yields further, that your amendment is far clearer, and although there would still be a burden on the administrator with this amendment for the language as you have suggested it to come up with an economic impact statement concerning the rule, the administrator would not have to anticipate every economic impact.

The administrator probably would not have all the answers. It would seem to me that the amendment the gentleman from Texas has proposed would be far clearer, and I would support the language offered by the gentleman as an amendment to the amendment of the gentleman from Nebraska.

Mr. ECKHARDT. I thank the gentleman from North Carolina.

I may say, Mr. Chairman, that if my amendment passes as a substitute I would then vote for the amendment offered by the gentleman from Nebraska (Mr. McCOLLISTER) as amended.

Mr. McCOLLISTER. Mr. Chairman, would the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. Mr. Chairman, it seems to me that one defect that is inherent in the proposed substitute, which perhaps could be cured by a little legislative history on the subject, is the use of the term national economy, which to me would seem to not focus on perhaps individual areas of the country that might be very adversely affected and yet have a negligible effect on the national economy as a whole.

Could the gentleman tell me what the gentleman means?

Mr. ECKHARDT. I merely lifted that language from the original amendment, but I assume that the original amendment really means economy without that qualification, that is, economy in scope as wide as national, but certainly not limited to national as opposed to specific effects which may be local.

Mr. McCOLLISTER. Is the gentleman saying that if there is some given regional area of the country on which the economic statement has a very adverse effect that that should be taken into consideration by the administrator?

Mr. ECKHARDT. I would think that the magnitude of that effect should be measured against the magnitude of injury if the product were released on the market, yes.

Mr. McCOLLISTER. I thank the gentleman.

Mr. MOSS. Mr. Chairman, would the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, with the amendment as further defined as to intent through the questions raised by the gentleman from Nebraska (Mr. McCOLLISTER), I would certainly urge the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS) to accept and support the amendment.

And I want to be clear that my understanding that the gentleman from Nebraska—if the gentleman from Texas will yield to the gentleman from Nebraska to respond to a question.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. MOSS. The intent of the gentleman from Nebraska was to establish, I think we can say, that, if the economy of the southern district of California region, which I represent, was clearly affected, that this would be taken into consideration, and it is in that context that the gentleman from Nebraska raised the point in the dialog with the gentleman from Texas (Mr. ECKHARDT).

Mr. McCOLLISTER. If the gentleman from Texas will yield, yes; it was in that context.

Mr. MOSS. Then, if the gentleman from Texas will yield further, I would urge the chairman of the full committee to accept on behalf of this side the amendment.

Mr. STAGGERS. Will the gentleman yield?

Mr. ECKHARDT. I yield to the distinguished chairman of the committee.

Mr. STAGGERS. Mr. Chairman, after listening to the colloquy I reluctantly would accept the amendment, because I still think it is defective, but for the sake of harmony in the House and to try

to work out something for the good of the Nation, I would, on this side of the aisle, for those for whom I speak, reluctantly accept the amendment.

Mr. GOLDWATER. Mr. Chairman, would the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. GOLDWATER. If I may ask the gentleman a question, does the gentleman interpret the language which his amendment leaves as not at least limiting the Administrator to consider, after the economic findings, it does not limit him to consider alternatives to his action?

Mr. ECKHARDT. I agree with the gentleman. The Administrator should consider the alternatives, and I believe he is called upon to do so elsewhere in the act.

Mr. GOLDWATER. I thank the gentleman. Certainly with regard to the other section, section 4, that was eliminated and in the consideration of local, national and subnational economic objectives, certainly the Administrator upon his economic findings would by necessity, it would seem to me, take into consideration local problems or regional problems or, in fact, national problems.

Mr. ECKHARDT. Yes. I think that was covered in my discussion with Mr. McCOLLISTER that I agree that the national economy embraces the economy generally and includes any effect on portions of it.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. GOLDWATER. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I rise simply for the purpose of making certain inquiries of my friend, the gentleman from Texas, the gentleman who now is the author of the amendment. I note that it is required that under the amendment the Administrator of EPA must give consideration to economic impact. I am somewhat curious as to how this would interact with the requirements of the National Environmental Policy Act which says he must consider the environmental impact. I would assume that it would not impose the requirement that his judgments with regard to the economic impact or his pronouncements with regard to economic impact should achieve a prior or more important position than his judgments with regard to the environmental impact. Am I correct in that assumption?

Mr. ECKHARDT. I think that is correct. I must say I am not really the parent of this amendment. I only have a peripheral relationship to it, because I think it is substantially the McCollister amendment, but I would agree that all this would do is make clear, as I think should be the case, and as I think the act otherwise indicates, that a decision with respect to releasing toxic substances under this act should take into account the economic impact on businesses, on labor, and on the economy generally. I think it has nothing to do with the duty of the agency to take into account the questions involving the environment except that this factor must be considered and may not be ignored.

Mr. DINGELL. The reason I raise the question is that under section 1022(c) the National Environmental Policy Act requires that in connection with major actions having a significant impact upon the environment, the Administrator of the agency involved must set out a whole series of conclusions on economic, social, and environmental impact, and the alternatives as required by section 102(2)(c) in an environmental impact statement. I am assuming that what we are doing here is simply requiring that he shall consider the economic impact along with the other things required by section 102(2)(c) and not consider them as being in any fashion superior.

Mr. ECKHARDT. I do not envisage this amendment as having any amendatory effect on that language.

Mr. DINGELL. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the amendment offered by the gentleman from Nebraska (Mr. McCOLLISTER).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. McCOLLISTER), as amended.

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

Mr. GOLDWATER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

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

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 75, strike lines 3 through 17 inclusive and insert:

"(b)(1) The Administrator shall have no authority to take action under sections 5, 6, and 7 of this Act to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law (other than a law referred to in paragraph (2) of this subsection), including the Atomic Energy Act of 1954; the Federal Hazardous Substances Act; the Occupational Safety and Health Act of 1970; the Consumer Product Safety Act; subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation); and Acts administered by the Secretary of Transportation relating to the transportation of hazardous substances.

"(2) The Administrator shall coordinate actions taken under this Act with actions taken to enforce the Federal Water Pollution Control Act and the Clean Air Act. He shall use the authorities contained in those Acts to regulate chemical substances, unless he determines that a risk associated with a chemical substance would be more appropriately regulated under this Act."

Mr. ECKHARDT. Mr. Chairman, this is substantially the language of the subcommittee on this section. The difficulty with the language of the act itself is that it may raise jurisdictional questions when the Administrator uses this act as against some other act under which he has authority. It seems to me that it is far better to provide that the Administrator shall in effect be the coordinator of actions as to those actions over which he has authority. He must under the amendment determine that a risk associated with a chemical substance would be more appropriately regulated under this act or he must use the Clean Air Act or the Clean Water Act or some other act under his authority.

With respect to those actions though that are not under his authority and with respect to action of agencies other than his own agency, this action must totally be held in abeyance for the agency which was specifically authorized to act under its specific legislation.

As the gentleman from North Carolina (Mr. BROYHILL) has correctly pointed out, and I think as the chairman of the full committee has pointed out, the real purpose of this act is to fill in gaps, fill in the interstices not covered by other acts. I do not intend to alter that general purpose, but I do feel that it is important that the language calling upon the Administrator to choose the more specific act not be stated in blanket, jurisdictional terms, because, if it is so stated, then after the elaborate rulemaking process and the careful processes required in this act, a jurisdictional question may be raised subsequent to the hearing that would in effect set all of that process aside.

That is the purpose of the amendment and I feel that it does not alter the general purpose of the act in any way but simply makes it more likely that action will be final when it is finally taken under this act.

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

Mr. Chairman, I want to rise also in support of the amendment offered by the gentleman from Texas (Mr. ECKHARDT). I think that the amendment will strengthen the act. I think this will happen because it will still preserve the dichotomy which was put into this act by the committee, in that the Administrator will still have to go to the other agencies or he will have to defer to action under other agencies and under other laws if the danger can be remedied by these acts or by those persons administering those acts.

By the same token, it does permit the Administrator of EPA to choose and determine within the acts he himself administers as to which particular act will be more effective.

Therefore, I support the amendment. I think it will be a salutary amendment.

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

Mr. Chairman, this amendment was considered in committee. What actually happened was, the bill as it stands now is the same bill that came before this body last year. There are plenty of weapons in it, an arsenal of weapons that permits the EPA to choose from the Clean Air Act, the Clean Water Act, or the Toxic Substances Act in order to proceed against any violator.

This amendment as offered by the gentleman from Texas would mean that the EPA could proceed on any of three bases at any one time. This act is not even in operation, the Toxic Substances Act. It was only supposed to fill up the gaps left by the Clean Air Act, the Clean Water Act, and other Federal statutes.

It would seem to me we should permit this act to go into operation and watch the enforcement problems and the EPA reaction. I think it is theoretical because I do not think there will be any problems. If there are problems, we can then proceed to correct them, but giving this enormous power suggested by the gentleman from Texas to the EPA where the Administrator may move with three weapons at any one time, it would seem to me a more rational way to approach this is what the committee finally did; it chose to leave the act just as it stands, just as it was prepared very carefully last year, which provides that EPA use administration authority to choose between the Clean Air Act, the Clean Water Act, and proceed with the Clean Air Act or the Toxic Substances Act.

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the gentleman from Texas stated, this legislation has been characterized as legislation to fill in a gap. It is not intended to replace these other acts that are on the books which the Administrator is using and are designed to deal with certain specific problems.

Extensive hearings were held on each one of these bills. Extensive hearings were held on the authority given to the Administrator on each one of these acts. They were designed to control specific areas or problems. We did not focus on this authority in our hearings. My concern is that if we should adopt this amendment, really what we have done is to legislate in a vacuum, because we do not really know the effect this will have on other authorities that have been given to the Administrator in other bills.

No one would know which law he was under unless EPA told him, so I think the best course of action would be to vote down this amendment and leave it as it is.

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

Mr. BROYHILL of North Carolina. I yield to the gentleman from Michigan (Mr. HARVEY).

Mr. HARVEY. Mr. Chairman, I just wish to associate myself with the remarks of my friend from North Carolina. I believe that this amendment proposed by the gentleman from Texas is really a lawyer's nightmare.

I say that because I do not know how any lawyer could advise his clients when he did not know which act was involved, when he was concerned with three of them and perhaps even more.

Mr. Chairman, I do not see how we can expect any businessman or officer of a corporation possibly to advise his employers in the corporation when he does not even know what act it is under.

I oppose this amendment, and I again associate myself with the remarks of the gentleman from North Carolina (Mr. BROYHILL).

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

Mr. Chairman, the original amendment in committee which struck this language was offered by the gentleman from Maine (Mr. KYROS). I opposed it very vigorously at that time, and I oppose it now, because this is, in my judgment, a particularly objectionable amendment. It would require an enforcement procedure by the same Administrator which might be the least suited to the purposes of the Government, for adequate enforcement of the law, and would require him to proceed under that provision which would be least effective.

Sometimes that can create problems. The Administrator cited this example of polychlorinated biphenyls, the PCB's we have all heard about.

I read from the report:

Polychlorinated biphenyls, (PCBs) have recently been found to be widespread environmental contaminants. One of the uses of PCBs which has been shown to contribute significantly to the environment levels of PCBs is leakage from hydraulic equipment, which is used in a wide variety of industrial processes. Leakage of PCBs from such equipment will often find its way into the effluent from such point sources and hence into the water. Arguably, the section providing for the establishment of effluent standards for toxic pollutants of the Federal Water Pollution Control Act could be used to prohibit such discharges. To date, however, analytical methodology for the detection of low levels of PCBs is not well developed. It would, then be extremely difficult, to enforce an effluent standard against violators. Given that there are substitutes for PCBs for use as hydraulic fluids, it would be far more effective to use the authority of the Toxic Substances Control Act to prohibit their use.

I recite this from the report because we are dealing with a very highly technical area.

I confess I am not a lawyer, but I have been working as a legislator for at least a quarter of a century. I know that we can create other kinds of nightmares than just nightmares for lawyers. We can create them for Administrators. We can create them for average citizens. We can create them for communities.

I believe that implicit in the limiting which would be achieved, if this Committee fails to adopt the amendment, is that we would be creating those additional types of nightmares.

I regard it as nonsensical for a committee, after careful consideration of the merits of legislation, to report it out and say to the Administrator, "You are going to wear x number of hats but you are going to operate in compartments and when you put on hat A you are not to know what goes on over in B or C is improper. The fact that you might be able to do a better and more economical job if you knew what happened in B makes no difference. We are going to dictate to you the precise route that you take.

Even if there is no good logic for it. We do not want effective administration of laws; we do not want the most feasible, the most economical administration. If this law creates conflict and foolishness, we want to indulge ourselves in conflict and foolishness.

Mr. Chairman, this amendment—and I urge my good friend, the gentleman from Maine, to support it—corrects a little bit of foolishness on his part. I strongly urge the adoption of the amendment offered by the gentleman from Texas.

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

Mr. MOSS. Of course I yield to my colleague, the gentleman from Maine (Mr. KYROS).

Mr. KYROS. Mr. Chairman, I will say to my distinguished subcommittee chairman and dear friend and respected mentor that last year the gentleman himself drew this very bill and brought it to the floor with this "bit of foolishness" in it.

Mr. MOSS. Last year we took a bill submitted by the Environmental Protection Agency, by the Administrator, and we carefully worked over the legislation, and we found upon reviewing it this year, when we again introduced the same bill, that we could do that miraculous thing, we could perfect it.

The CHAIRMAN. The time of the gentleman from California (Mr. Moss) has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 2 additional minutes.)

Mr. MOSS. Mr. Chairman, that is all I am urging my friend, the gentleman from Maine, to do, to join me in perfecting and making more rational the legislation which is now before this committee.

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

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

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman from California for yielding.

I am sure that he would join me in saying that there is no Member on this floor with whom either one of us less frequently disagrees than with the gentleman from Maine.

Mr. MOSS. If the gentleman from Maine were not such a delightful person, I would not have taken the liberties which I have taken on this floor.

Mr. ECKHARDT. Mr. Chairman, I will say this: There is one thing I would like to clarify, and perhaps the gentleman from Maine may find some reason to interpret the language the way he did, but it is certainly not so intended.

The language does not intend to permit the Administrator to proceed through but one channel. I believe the language that states that he must determine that a risk associated with a chemical substance would be more appropriately regulated under this act makes it more in accord with that regulation. That is certainly the intent of the author of the amendment.

Mr. MOSS. Mr. Chairman, that is clearly the intent of this Member in giving his support to the amendment.

Mr. ECKHARDT. Further I would like to ask the gentleman if he does not agree with me in this: That assuming that the Administrator must make that election and recognizing, of course, that the law will not reach an offender unless the offense is described in the appropriate

law; everyone who may be affected by this amendment will have notice, both through the law and through the action of the Administrator?

Mr. MOSS. Mr. Chairman, that is my understanding and that, of course, is my feeling.

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

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

It is true that the bill we passed last year said that the Administrator would have no authority under the entire act unless he first operated under the other acts. This time we made, I believe, a meaningful compromise. We do not take away the Administrator's authority here to take action on testing of chemical substances, as the gentleman from Michigan knows. Is that correct?

Mr. HARVEY. The gentleman is correct.

Mr. BROYHILL of North Carolina. Mr. Chairman, we do not say that he has to go to the other acts first if there is need to test chemicals. We preserve all of his authority here to get reports which he will need under section 8, and which will be necessary to establish beyond doubt those chemicals which are dangerous to health and to the environment. Is that not correct?

Mr. HARVEY. That is correct.

Mr. BROYHILL of North Carolina. So all we are saying is under sections 5, 6, and 7 there is some limitation, but this is a 3-year bill, and I think what we ought to do is come back and take a look at it and determine what relationship this act should have to the other acts that have been put on the books and take a look at it at that time.

Mr. HARVEY. Mr. Chairman, I thank the gentleman from North Carolina and urge again that the amendment be defeated.

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

The amendment is really very simple. So that we all have this clearly before us, it simply allows the administrator of EPA to make a prudent choice among the tools of the law which the Congress entrusted to him which would be most appropriate to the problem which is at hand. It says if we have given him water pollution control legislation, he might use that power and if we have given him air pollution control legislation, that he might use powers under the air pollution law, or he might use the toxic substances legislation authorized by H.R. 5356 upon the problem. To do otherwise would require the administrator to make at his peril and at the peril of the public interest a determination as to questions of law. It would literally force the administrator to operate under a situation where, should it turn out that if the administrator chose wrongly and a different law could have been utilized, that then he would be required to start all over. He would then have suffered, perhaps, one or two or three or possibly an even more years delay. The natural consequence of that situation would be that the agency would be reluctant to utilize the statute we are now considering in cases where it could clearly have been applied. It would adversely affect the power to regulate environmental or consumer dangers not effectively addressed by other statutes.

The result of failure to adopt the amendment before us would be inefficiency, economic waste, with the environment, the consumers, and the population at large suffering unnecessary damage and consumers and taxpayers paying the price. It would evolve necessarily that we would have much less efficient and economic administration under circumstances where not only consumers but also businessmen affected would oftentimes be in doubt as to where the most appropriate remedy lay.

For that reason, Mr. Chairman, I urge adoption of the amendment now before us to give the administrator flexibility which will be necessary to him, to consumers, to businessmen, in order to enable him to deal effectively with toxic substance problems at their inception and before these dangers and problems have actually become real and widespread environmental public health dangers.

I urge the adoption of the amendment, because it is reasonable and imposes no excessive burden on anyone.

Mr. McCOLLISTER. Will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. McCOLLISTER. I want to compliment the gentleman on his statement and associate myself with him on it, and I, too, speak in support of the amendment.

Mr. DINGELL. I thank my friend from Nebraska.

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

The question was taken; and on a division (demanded by Mr. BROYHILL of North Carolina) there were—ayes 33, noes 29.

RECORDED VOTE

Mr. BROYHILL of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 193, noes 192, not voting 48, as follows:

[Roll No. 368]

AYES—193

Abzug	Boland	Cohen
Adams	Brademas	Collins, Ill.
Addabbo	Brasco	Conte
Anderson, Calif.	Breckinridge	Conyers
Annunzio	Brown, Calif.	Corman
Armstrong	Buchanan	Cotter
Ashley	Burke, Calif.	Coughlin
Badillo	Burke, Mass.	Cronin
Bafalis	Burlison, Mo.	Culver
Barrett	Burton	Daniels, Dominick V.
Bergland	Carey, N.Y.	Danielson
Biaggi	Carney, Ohio	Delaney
Biester	Casey, Tex.	Dellums
Bingham	Chisholm	Dennis
Blatnik	Clark	Dent
Boggs	Clausen, Don H.	Dingell
Donohue	Long, Md.	Rooney, Pa.
Drinan	McCollister	Rosenthal
du Pont	McCormack	Roush
Eckhardt	McDade	Roy
Edwards, Calif.	McFall	Roybal
Eilberg	McKinney	St Germain
Esch	Macdonald	Sarasin
Evans, Colo.	Madden	Sarbanes
Fascell	Madigan	Saylor
Findley	Maraziti	Schroeder
Fish	Matsunaga	Selberling
Flood	Mazzoli	Shipley
Flynt	Meeds	Sisk
Ford, William D.	Melcher	Smith, Iowa
Frenzel	Metcalfe	Staggers
Frey	Mezvinsky	Stark
Fulton	Minish	Steed
Gaydos	Mink	Steele
Giaimo	Mitchell, Md.	Steelman
Gibbons	Moakley	Steiger, Wis.
Gilman	Mollohan	Stokes
Gonzalez	Moorhead, Pa.	Studds
Grasso	Morgan	Sullivan
Gray	Moss	Symington
Green, Oreg.	Murphy, N.Y.	Teague, Tex.
Green, Pa.	Natcher	Thompson, N.J.
Gude	Nedzi	Thone
Hamilton	Nix	Tiernan
Hanley	Obey	Udall
Hanrahan	Owens	Van Deerlin
Hansen, Wash.	Patman	Vanik
Hawkins	Patten	Vigorito
Hays	Pepper	Waldie
Hechler, W. Va.	Perkins	Whalen
Heckler, Mass.	Pike	White
Helstoski	Poage	Wilson, Charles H., Calif.
Hicks	Podell	Wilson, Charles, Tex.
Holifield	Powell, Ohio	Wright
Holtzman	Price, Ill.	Wyatt
Howard	Pritchard	Wylie
Hungate	Quie	Yates
Johnson, Calif.	Randall	Yatron
Johnson, Colo.	Rangel	Young, Fla.
Jordan	Rees	Young, Ga.
Karth	Regula	Young, Ill.
Kastenmeier	Reuss	Zablocki
Kazen	Riegle	
Koch	Rinaldo	
Lehman	Rodino	
	Roncalio, Wyo.	

NOES—192

Alexander	Downing	Long, La.
Anderson, Ill.	Duncan	Lott
Andrews, N.C.	Edwards, Ala.	Lujan
Andrews, N. Dak.	Erlenborn	McCloory
Archer	Eshleman	McCloskey
Arends	Evins, Tenn.	McEwen
Ashbrook	Flowers	McKay
Baker	Forsythe	McSpadden
Beard	Fountain	Mahon
Bennett	Frelinghuysen	Mallary
Bevill	Froehlich	Mann
Blackburn	Gettys	Martin, Nebr.
Bowen	Ginn	Martin, N.C.
Bray	Goldwater	Mathias, Calif.
Breaux	Goodling	Mathis, Ga.
Brinkley	Griffiths	Mayne
Brooks	Gross	Michel
Broomfield	Grover	Miller
Brotzman	Gubser	Mitchell, N.Y.
Brown, Ohio	Guyer	Moorhead, Calif.
Broyhill, N.C.	Haley	Mosher
Broyhill, Va.	Hammer-schmidt	Myers
Burgener	Hansen, Idaho	Nelsen
Burke, Fla.	Harsha	Nichols
Burleson, Tex.	Harvey	O'Brien
Butler	Heinz	Parris
Byron	Henderson	Passman
Carter	Hillis	Pettis
Cederberg	Hinshaw	Peyser
Chamberlain	Hogan	Pickle
Chappell	Holt	Preyer
Clancy	Horton	Railsback
Clawson, Del	Hosmer	Rarick
Cleveland	Huber	Rhodes
Cochran	Hudnut	Robinson, Va.
Collins, Tex.	Hunt	Robison, N.Y.
Conable	Ichord	Roncallo, N.Y.
Conlan	Jarman	Rose
Crane	Johnson, Pa.	Rousselot
Daniel, Dan	Jones, Ala.	Runnels
Daniel, Robert W., Jr.	Jones, N.C.	Ruppe
	Jones, Okla.	Ruth
Davis, Ga.	Jones, Tenn.	Sandman
Davis, S.C.	Keating	Satterfield
Davis, Wis.	Kemp	Scherle
de la Garza	Ketchum	Schneebeli
Dellenback	King	Sebelius
Denholm	Kuykendall	Shoup
Derwinski	Kyros	Shriver
Devine	Latta	Shuster
Dickinson	Lent	Sikes
Dorn	Litton	Skubitz

Slack	Teague, Calif.	Whitten
Smith, N.Y.	Thomson, Wis.	Widnall
Snyder	Thornton	Wiggins
Spence	Towell, Nev.	Williams
Stanton, J. William	Treen	Wilson, Bob
Steiger, Ariz.	Ullman	Wydler
Stratton	Vander Jagt	Wyman
Stubblefield	Veysey	Young, Alaska
Stuckey	Waggonner	Young, S.C.
Symms	Walsh	Young, Tex.
Taylor, Mo.	Wampler	Zion
Taylor, N.C.	Ware	Zwach
	Whitehurst	

NOT VOTING—48

Abdnor	Harrington	Price, Tex.
Aspin	Hastings	Quillen
Bell	Hébert	Reid
Bolling	Hutchinson	Roberts
Brown, Mich.	Kluczynski	Roe
Camp	Landgrebe	Rogers
Clay	Landrum	Rooney, N.Y.
Collier	Leggett	Rostenkowski
Diggs	Mailliard	Ryan
Dulski	Milford	Stanton, James V.
Fisher	Mills, Ark.	Stephens
Foley	Minshall, Ohio	Talcott
Ford, Gerald R.	Mizell	Winn
Fraser	Montgomery	Wolff
Fuqua	Murphy, Ill.	
Gunter	O'Hara	
Hanna	O'Neill	

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. YOUNG OF ILLINOIS

Mr. YOUNG of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Illinois: Amend Section 3(a)(9)(A) to insert the words "or the use of a chemical substance." After the words "chemical substance" in the first line of said subsection (A).

Mr. YOUNG of Illinois. Mr. Chairman, I also have a second amendment which I would like to have read now, which is a companion amendment to section 4(a).

Mr. Chairman, I ask unanimous consent that both amendments be considered en bloc.

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

PARLIAMENTARY INQUIRY

Mr. CASEY of Texas. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CASEY of Texas. Mr. Chairman, what page does this amendment refer to? I ask that the amendment be reread.

The CHAIRMAN. Without objection, the amendment will be rereported.

There was no objection.

The Clerk reread the amendment.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GROSS. What page of the bill does the amendment go to?

The CHAIRMAN. The Chair will state it is on page 50 of the reported bill.

The Clerk will report the second amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Illinois: Amend Section 4.(a) to insert "or of the use of a chemical substance" after the word "substance" in the first line of Section 4.(a).

The CHAIRMAN. The gentleman from Illinois (Mr. YOUNG) asks unanimous consent that the two amendments be considered en bloc. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. YOUNG of Illinois. Mr. Chairman, the purpose of the amendments is to clarify what I believe was the intention of the drafters of this bill, and that intention was to permit the Administrator to specify a test protocol for the use of a chemical as well as——

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

Mr. YOUNG of Illinois. I yield to the gentleman from California.

Mr. MOSS. We have looked at the amendments submitted by the gentleman from Illinois, and we on this side have no objection to the amendments and would be prepared to accept them.

Mr. YOUNG of Illinois. I should like to explain briefly what the amendments do, so that the Members will know.

I want briefly to state that the purpose of the amendments is to give the Administrator more flexibility so that he can limit the test protocols to a special use of a chemical substance, rather than to have test protocols that go to the entire possible effect of a chemical substance on human health or the environment. I believe these amendments would merely clarify what was the intention of the drafters.

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

Mr. YOUNG of Illinois. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I repeat what the subcommittee chairman, the gentleman from California (Mr. Moss) said. I do not believes this alters the bill in any way substantively, and I would say we should accept the amendments.

Mr. YOUNG of Illinois. I thank the chairman and the gentleman from California (Mr. Moss) very much for accepting my amendments.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. We have had an opportunity to examine the amendment on this side, and we agree with the gentleman from West Virginia that these amendments do not alter the intent of the legislation, and we will accept the amendments.

Mr. YOUNG of Illinois. I thank the gentleman from North Carolina (Mr. BROYHILL) for accepting the amendments.

The CHAIRMAN. The question is on the two amendments offered by the gentleman from Illinois (Mr. YOUNG) which are, by unanimous consent, being considered en bloc.

The amendments were agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ILLINOIS

Mr. YOUNG of Illinois, Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Illinois: Amend section 5.(k) by adding the words "or specially limited purposes" after the word "purposes" in the fourth line thereof.

Mr. YOUNG of Illinois. Mr. Chairman, under this act, which is a very broad act, section 5 deals with premarket screening of chemicals. Actually, the EPA has opposed this section, saying it is unnecessary in view of other powers in this act, under section 6 and section 4.

The purpose of my amendment is to broaden somewhat, but still in a limited way, the exemption which can be granted by an Administrator under section 5(k). That section presently provides that:

The Administrator may, upon application, exempt any person from the requirements of [pre-market screening] for the purpose of permitting such person to manufacture and distribute in commerce a listed chemical substance for test marketing purposes.

Mr. Chairman, in my opinion, "test marketing purposes" is too narrowly defined. I would like to broaden that exemption to permit the Administrator to grant an exemption for other specially limited purposes. I believe that this gives more flexibility to a very broad, all-inclusive act, and I believe it is proper to entrust the Administrator to have such flexibility. I do not think it should be limited to just test marketing.

Now, there are any number of types of specially limited purposes that one might wish to use a chemical for in a very specially limited manner which should be permitted, but if the Administrator does not have the power to do it, to grant such an exemption, he would have to deny such a use.

Bear in mind that that particular denial might not at all be in the interests of the public, because the specially limited use that is desired might be of such a limited nature that there would be no economic value to requiring the expensive testing which can be required and is required under limited premarket screening for a very specially limited use.

So I believe that this amendment will improve the flexibility of the act, that it is not broadening itself and opening up the barn door, but it will be limited, as the Administrator may think appropriate and necessary with the expertise which he should have in administering this act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ILLINOIS

Mr. YOUNG of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Illinois: Amend section 17.(a) by striking the second sentence thereof.

Mr. YOUNG of Illinois. Mr. Chairman, this amendment, I believe, is quite important to all of us, and I particularly appeal to those Members who feel that they owe a special duty to support the rights of the individual citizen of this country.

This particular amendment will eliminate a presumption of "knowing" in this act, which I believe can create a lot of mischief for a lot of innocent people whom we do not intend to subject to the

possibility of a civil penalty of up to $25,000 a day, as section 17(a) provides.

Section 17(a) does specify that any person who knowingly violates section 16 of this act will be subject to such a penalty. Let me point out here that section 16 of the act, if the Members will read it, provides that it will be a violation of section 16 if one fails to file a report which is required under rule 8.

Now, one would be subject to a fine of up to $25,000 per day.

Let me point this out with respect to the subject of civil penalties or civil fines: First of all, there is some constitutional question as to whether any part of section 17, with a civil penalty of $25,000, is necessarily legal and valid. The reason is that when we delegate the power to an administrative agency to make a judicial determination of a punishment, we are giving them the power to make criminal determinations or determinations pertaining to criminal activity, because even though we call this a "civil penalty," the courts could very well construe this to be a penalty which is in the nature of punishment and which is, therefore, an improper delegation of power to the Administrator.

Mr. Chairman, I think, particularly in view of the fact that this section on penalties encompasses a violation of section 16, which, as I mentioned before, includes a failure to file a report. It also would include a person who failed to comply with the disposal requirements of section 5 of the act.

In other words, if you have a limitation or a requirement that you dispose of a particular chemical substance in a particular way and some consumer is not aware of that but he should have been, he could be held liable under section 17, but you are going to put a person who innocently disposes of a chemical substance without knowing he is violating the act in jeopardy of a $25,000 a day fine.

For that reason my amendment simply seeks to eliminate the constructive determination of "knowingly" which is imposed by the second section. In other words, it is not enough that you act knowingly, but the penalty also comes into play where a person is presumed to have knowledge that is deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable on the exercise of due care.

That is a very difficult standard to be applied and is certainly one that should not be used under the circumstances of this law, which is a new law and a complex law and a law that the EPA administrator himself admits he will have difficulty in fashioning proper remedies for and where there is a wide divergence of opinion between experts in this field.

I feel it would be much more protective of the people of this country to eliminate that second section. It still leaves in the act the fact that if you actually know you are violating the law, you are subject to the civil penalties, but this amendment takes out that presumption, which could be very unfair in this area of complicated law.

I urge you to support the amendment.

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

This is an amendment that Mr. YOUNG introduced in the committee and which was defeated, and I think for good reason, although I must say this:

I believe with a more careful division of certain reporting provisions from those provisions that are necessarily enforcible on the basis of the term "knowingly" as here defined, his objectives might be reached in conference.

Let me point out that the language used in section 17(a) is amelioratory language and is more favorable language to the accused than the language which appears in most administrative procedure bills. In most administrative bills there is no qualification of "knowingly" at all. That is, a violation of the act in fact, whether the person knew it or not and knew he was violating it or not, becomes illegal. That is true in the Motor Vehicle Safety Act, the Food, Drug, and Cosmetics Act, and the Hazardous Substances Act.

So what we did in the Consumer Products Safety Act in the last session of Congress is this: We decided we ought to put in "knowingly," but we ought to define it and we ought to define it as not necessarily actually knowing the act which a man takes is illegal. He ought not to be able to make his ignorance an advantage; he ought not be able to act with impunity and assert the defense of ignorance. He should be charged with knowledge if he should have known; a reasonable man under circumstances should have known that that which he did was illegal.

What would happen if you did otherwise? It would simply hold those guilty who may be somewhere down the line of authority and the persons who really made the effective decision would say "Oh, I did not know about it. I was just chairman of the board."

Joe Bloke, who was running the plant, knew about it, and therefore he has to pay the $25,000 penalty.

So you have to put in a definition for "knowingly," or you destroy the effect of the civil penalty.

I suggest to my colleagues here that the language that we use for the definition of "knowingly" is about as careful language as could possibly be drawn. Indeed, it must also be pointed out that the ultimate decider of these facts is the court, which will decide the question of "knowingly" under this definition de novo. The result is not that the agency makes a final determination which cannot be overturned. It seems to me in order to be held civilly liable the "knowingly" standard must be put into effect under the definition here. If we do not keep that in, it seems to me we undermine the enforcement provisions.

Mr. BROYHILL of North Carolina. Mr. Chairman will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, I think the gentleman is correct, and I am going to support the gentleman and oppose this amendment.

But let me cite an example. Is it not true that, say, an officer of a company called down and told the shipping clerk or someone down in the plant to dispose of some dangerous substance, and maybe he did not have actual knowledge as to what that material was that was disposed of, but it was the man in the office who told him to do it; it seems to me that then this language could get at the man who was really responsible.

Mr. ECKHARDT. I certainly agree with the gentleman from North Carolina. I think the language should not be stricken.

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

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, as far as I can see, what the bill does here is, first, condemn a violation which is done knowingly and then in effect it defines "knowingly" in terms of due care, and what a reasonable man ought to have known under the circumstances. So in effect, all we are doing, it seems to me, is saying that, "knowingly" means negligently. And I wonder why it does not say "negligently" in the first place if that is what we are trying to do.

Mr. ECKHARDT. That might have been good language.

Mr. YOUNG of Illinois. Mr. Chairman, would the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. Mr. Chairman, I would submit that the answer the gentleman gave to the gentleman from North Carolina (Mr. BROYHILL) as I read the law, is 100 percent wrong, and that is that the young man who is sent out by the senior officer in the corporation to dump the chemical in the river should have known what he was doing. It could be very well argued that he is the one who is responsible, and he should have had the presumption or knowledge that he is dealing with a very dangerous substance, and under this section he would be convicted. And that is the reason why I offered this amendment to take out that possibility; in other words, the fellow who dumped the chemical in the river does not get the possibility of a fine of $25,000.

Mr. ECKHARDT. It just seems to me that we should place the fine where the real fault lies.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I do not believe I will use the full 5 minutes. The language here before us is language that was developed by the committee last year in the writing of the final version of the law creating the new Commission on Consumer Product Safety. It reflects the work of many of us because this was a very sticky point in conference with the other body. And that is why the definition of "knowingly" here undoubtedly is analogous to negligence, but it does not impose an undue or unreasonable burden upon a man who is managing an enterprise to expect him to have the obligation to be responsible. To be responsible for the actions which are finally

taken. For in the normal discharge of his duties, he is expected to have the facts in his possession. It imposes a reasonable requirement that a prudent person supervising an operation of this type would take great pains to see what was already in his possession.

Mr. McCOLLISTER. Do I understand this legislative history that has just occurred, that we are defining "knowingly" as akin to "negligently?"

Mr. MOSS. I said analogous. I gave the gentleman the history of this exact language because, as the gentleman knows, we took it from the act creating the Commission on Consumer Products Safety. This is the language which was agreed to in committee and in conference.

Mr. McCOLLISTER. If the gentleman will yield further, it seems to me that a fine of $25,000 per day for negligently knowing is a rather severe penalty, and I had not intended to support the gentleman's amendment until hearing this colloquy, but as a result, having heard it, I can do no other but to support the amendment, because it seems to me a $25,000-a-day fine, civil or criminal, as the case may be, is unduly harsh.

Mr. MOSS. Of course, the gentleman is always free to vote as his conscience dictates, but the gentleman can change his mind. I still say this reflected very careful judgment as a result of the many hours we spent in committee, and I think here there is a reasonable standard. I would urge the defeat of the amendment.

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

Mr. MOSS. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding to answer a question that is bothering me.

Section 17(a) of the act sets the standards of a knowing violation; section 17(b) deals with a willful violation. Section 17(b) puts criminal penalties on it; 17(a), civil penalties. What is the difference in the state of mind in a person who knowingly violates section 17 (a) from that of a person who willfully violates section 17(b)?

Mr. MOSS. Of course, the gentleman knows I am not a lawyer, and so I am not going to attempt to give him any technical rule here as to the kind of evidence one might have to present to a court. But I know that we felt here in the matter of "knowing the definition of that there would be certainly constructive knowledge of the action." Willful "would be with clear and complete knowledge and understanding of what was happening, and to go ahead notwithstanding that." "Willful" has a pretty good definition in laws and in case law.

The CHAIRMAN. The time of the gentleman has expired.

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

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

Mr. WIGGINS. I yield to the gentleman from Indiana.

Mr. DENNIS. In further pursuance of what my friend, the gentleman from California (Mr. WIGGINS) was asking the distinguished gentleman from California (Mr. Moss) it seems quite clear to me, as has already been mentioned here, that "knowingly" as here defined is defined in terms of presumed knowledge or of having knowledge deemed to be possessed by a reasonable man under the circumstances, including knowledge obtained upon the exercise of due care. So, as I said a moment ago, and as the gentleman from Nebraska (Mr. McCOLLISTER) said, as I read the section, and the gentleman from Texas and the gentleman from California really agreed with us, "Knowingly" here simply means negligently or carelessly.

The gentleman from Nebraska said we will have a $25,000 a day fine for negligence. The question is do we think we should or should not?

Mr. WIGGINS. The language of 17(a) is strained and tortured. It relates to persons who knowingly violate the act and yet we define "knowingly" by saying he need not have knowledge. It is a contradiction in terms. I defer to the committee as to whether $25,000 a day is a suitable fine for willfull violation, but it seems the section is very poorly drafted.

Mr. ECKHARDT. The language says "a reasonable man who acts in these circumstances." This means I think that a chemist, for instance, a person who should have the specific knowledge of the nature of the chemical would be operating under a higher standard of duty because in his circumstances he should know more for instance than the clerk who may be sending it out from the shipping department.

Mr. WIGGINS. Under the definition section of the bill, is the knowledge of an employee imputed to the ownership of the company?

Mr. ECKHARDT. Depending on whether or not he should have had knowledge of the circumstances in which he is operating.

Mr. WIGGINS. But if a shipping clerk has actual knowledge, is that actual knowledge imputed to an owner for the purpose of levying a fine of $25,000 a day on the owner?

Mr. ECKHARDT. Not necessarily.

Mr. WIGGINS. Possibly?

Mr. ECKHARDT. Possibly, if as a prudent man he should know.

Mr. WIGGINS. It seems to me that $25,000 a day is intended for the company and does not apply to shipping clerks. In other words, the purpose of the bill is to stick a manufacturing firm with the $25,000 fine and not the employee.

Mr. ECKHARDT. I agree.

Mr. WIGGINS. So it may be necessary to impute some knowledge which may be possessed by an employee to an otherwise innocent manager of a corporation.

Mr. ECKHARDT. Only if the manager should have under his circumstances knowledge of what the employee is doing.

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

Mr. Chairman, I would very much appreciate having the attention of both the author of the amendment and my good friend, the gentleman from Texas (Mr. ECKHARDT) who serves as a resident counsel on the committee. I hope the gentleman from Texas (Mr. ECKHARDT) will give me his close attention here. As I understand it criminal statutes may be divided into three types.

The type which says nothing about knowingly or willful, in which case we have the crime being consummated by the simple commission of the act.

We have the second type where we apply the word "knowingly," which simply means the individual intended the consequences of his act and that he did intend that which would be the probable and normal consequences of the act without any particular awareness of the fact that the particular act was criminal in character.

Then the third or the last category would apply to willful or willfully malicious acts, the kinds of acts where the individual first of all knew of the criminal statute, intended to commit the act, and proceeded to do it, in which event the law impugns the necessary willfulness and malice and the requirements for willfully or willfully and maliciously violating the law are met.

Am I correct in my assumption?

Mr. ECKHARDT. I think that is correct if the first category was intended to apply to civil penalties. I am not sure that the person who has no knowledge of doing the act which may violate a law could have criminal penalties imposed upon him.

Mr. DINGELL. I agree with the gentleman. I was referring to the language in the statute. Then we have the fact that for all intents and purposes the courts over the years have interpreted in the first two categories of criminal acts as being one and the same. In other words, the individual intended to do a particular act without any particular awareness or knowledge that there was a criminal penalty or it was a criminal act.

I raise these questions, because essentially, as I read the language here, although the committee has come forward under subparagraph 2 at line 15, referring now to the specific language.

> The presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care,

I do not think that particular language adds anything to the definition of "knowingly." As a matter of fact, as I read that particular language, it does not do anything because it does not expand the nature of the action insofar as adding any new element of willfulness or knowledge. It simply says the individual intended the consequences of his act, or could be presumed to intend the consequences of the act. Am I correct in that?

Mr. ECKHARDT. I think that is right. I think when we say "knowingly," it is a common law concept.

Mr. DINGELL. This is how I read our endeavor here today. I come reluctantly to the conclusion that we are having a rather extensive difference over something which really has no difference. It may be a distinction, but in point of fact I doubt seriously if there is a difference.

Mr. Chairman, I did not rise for the purpose of engaging in dialectic or semantics with my colleagues, but if we were to strike subsection (2), as does the amendment offered by the gentleman from Illinois, or strike all language dealing with the word, "knowingly," or if we were to leave things just about as they are, we would be roughly where the common law has us with regard to the interpretation of the word "knowingly." Am I correct in that?

Mr. ECKHARDT. I think that is right. The difficulty, of course, is that we have no Federal common law, really. We have to rely upon common law that might apply to a great number of different jurisdictions, so all we try to do here by defining "knowingly" is tie up the loose ends.

Mr. DINGELL. It occurred to me, although not wanting to engage in these lawyer-like efforts, but every once in a while it appears necessary—it would appear the adoption of the amendment would not hurt the bill and would not particularly change the common law definition of "knowingly." We would find, whether or not the amendment was adopted, that we would be in the same place where common law would leave us. All required for the penalty provisions to apply would be for an act or omission to be carried foreward with the Commission or omission being intended, without any particular intent to violate law. Indeed no awareness of law would be required.

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

Mr. DINGELL. So, if we adopt the amendment we are about where the common law leaves us, and if we do not, we are about where the common law leaves us with regard to the definition of "knowingly."

Therefore, in the interest of comity, it would strike me that we would do no violence to the bill, and I would urge adoption of the amendment of the gentleman from Illinois.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ILLINOIS

Mr. YOUNG of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Illinois: Amend Section 23(c), second sentence thereof by striking said sentence and inserting in lieu thereof the full sentence: Rules promulgated by the Administrator under Section 4, 5, or 6 of the Act shall be promulgated after hearing with full opportunity for cross examination and the burden of proof shall be on the proponent of the Rule or order, and shall not be affirmed under judicial review unless the findings required to be made under these sections are supported by substantial evidence on the record taken as a whole.

Mr. YOUNG of Illinois. Mr. Chairman, the purpose of this amendment is to see that full due process is given under the terms of this very broad, new, comprehensive act to regulate toxic substances.

A reading of the act shows there are generally three ways that the Administrator will proceed with respect to the regulation of toxic substances which he finds pose an unreasonable risk to health or the environment.

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

Mr. YOUNG of Illinois. I yield to the gentleman from California.

Mr. MOSS. Has the gentleman a copy of the amendment he is proposing?

Mr. YOUNG of Illinois. Yes.

The three ways that the Administrator will act are as follows:

First, he will require test protocols of those chemicals that he determines are of a sufficient toxic substance or have the propensity of a sufficient toxicity to require the testing to determine the effects of those chemicals. That type of test can be extremely expensive to those persons involved. Some businesses will not be able to comply with such a test protocol if it is imposed upon them. So we have to be very careful in connection with giving those individuals a full process of administrative hearings.

By that I mean there ought to be a full hearing given on such requirement. There ought to be the opportunity to cross-examine all the people who will be submitting information, oral testimony and written testimony with respect to the record in that case. And there should be a burden placed upon the Administrator of EPA to prove that the action he proposes to take is proper under the law. The burden should not be on the individual who is seeking to be allowed to continue to manufacture a chemical substance. Rather the burden should be on the Administrator.

The second sanction which the Administrator may use has to do with pre-market screening. Here again this is a device which can be very expensive to the parties involved. The Administrator can, as a result of such pre-market screening, limit the use of a chemical, prohibit the use of a chemical, take other types of administrative actions.

Here again it is important that the parties who are interested be given the opportunity for a full administrative hearing with all the fairness that that type of procedure encompasses. By that I mean the opportunity of cross-examination, with the burden of proof again being placed upon the proponent of the rule, and of course with the right of judicial review, and with the fact that any findings have to be supported by substantial evidence on the record as a whole.

The third method of procedure that the Administrator has is the regulation of toxic substances or dangerous substances. Here again the Administrator has broad powers to fashion remedies which can be quite devastating to those particular businesses or individuals who are involved in certain cases.

Here again that type of situation should provide for full administrative due process.

So the purpose of this amendment under section 23(c) is to afford the people who may be affected under 4, 5, and 6 with those basic rights of protection, to see that any determinations or rules which are issued which affect them are properly adopted with the sanctions and safeguards that this amendment will provide.

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

I am truly alarmed by this provision, and rather surprised that my colleague from Illinois would, in this section of the bill respecting judicial review, in effect reverse all of our careful work, beginning on page 67, with respect to a special kind of rulemaking in these proceedings.

What we have basically done on this subcommittee, and it has been a bipartisan task, has been to try to devise a tailor-made type of procedure for those administrative acts which have direct effect on particular industries without hogtieing the administrative agency itself.

Mr. Chairman, whenever we make rules, we must make them for perhaps a 100 different industries, and if we provide the whole panoply of cross-examination under section 554 and, of course, those sections of the Administrative Procedures Act which necessarily follow if 554 is in effect, we permit everyone, if they be in any way affected by the rule, the right of some cross-examination, and we provide a process by which the entire administrative procedure may be completely thwarted.

Now, what we have attempted to do here on page 67 is to say that since there is possible action which may hurt some individuals, some companies, by not permitting them to produce a chemical, those companies can have limited cross-examination within the reasonable determination of the Administrator.

We have gone even further than that. We have said that where there are several different companies differently affected, they may decide on representation in groups and obtain cross-examination. But if we do not do that, we utterly destroy the Administrator's ability to make a rule. There would be no no end to the rulemaking process.

What this amendment does is that it rather subtly, in the section which has to do with judicial review, goes back and writes an entirely different process with respect to rulemaking.

Now, aside from the fact that we should not do this, it creates a strangely schizophrenic bill which, under its rulemaking section provides a special type of tailor-made rulemaking and then, in the judicial review section, provides the 554-type rulemaking with complete and unlimited cross-examination.

I am just alarmed at that kind of result.

Mr. YOUNG of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. Mr. Chairman, as to section 4, which is the section on test protocols, the way it presently reads, there is no right of an interested party to cross-examine, is there, in connection with the rulemaking procedure under section 4?

Mr. ECKHARDT. Under section 4? I do not believe there is, no.

Mr. YOUNG of Illinois. Further, as I recall, it only permits an opportunity to have oral testimony introduced to the Administrator in connection with any such rulemaking.

In the rulemaking under section 4, which, as I recall, is limited now to section 553, there is no record required to be made except insofar as that is expanded upon somewhat by the provisions of section 4, which provide for an opportunity to make an oral presentation and, if an oral presentation is made, the right to have a transcript made.

I will ask the gentleman from Texas (Mr. ECKHARDT) is it not also true with respect to section 5 that again the same conditions prevail, that there is no right of cross-examination of a party who would be affected by section 5? And by that I mean the premarket screening, the kind a person would submit to, premarket screening with respect to a particular chemical substance or its use.

Mr. ECKHARDT. Well, the thing is that sections 4 and 5 provide for the establishment of certain criteria to determine what chemicals should not go on the market. In section 6, though, it provides regulations applicable to hazardous chemical substances in order to determine them to be hazardous.

PREFERENTIAL MOTION OFFERED BY MR. GROSS

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

The Clerk read as follows:

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

Mr. GROSS. Mr. Chairman, we have had the usual situation to contend with here this afternoon and it is mostly attributable again to the attorneys. To snatch a minute away from them is hard to do. Yes, they have had another field day here this afternoon.

Mr. Chairman, I rise to try to find out something about what is going on—by way of costs. I have looked through the report and, while I am sure it is an unintentional omission, I find nothing to indicate how much money we are spending for all the other programs in connection with environment.

Can anyone tell me how much we are spending; how much we have spent in the past 2 or 3 years, and how much is proposed to be spent next year on environment? I know what is proposed in this bill, but is there anything in the report to tell us how many millions we are spending on all programs?

Mr. SHUSTER. Will the gentleman yield?

Mr. GROSS. I will yield to anybody who can shed some light on this.

Mr. SHUSTER. When the gentleman talks about spending on environment does he mean how many millions of dollars are being spent by the Federal Government?

Mr. GROSS. That is right.

Mr. SHUSTER. Or how many billions of dollars will be spent by the American consumer?

Mr. GROSS. First, how many millions of dollars are now being spent on environment by the Federal Government?

Mr. SHUSTER. I assume the gentleman will agree that what we have spent on this question, while it is quite large, is quite small compared to how much the American consumer will have to spend.

Mr. GROSS. Can the chairman of the Committee on Interstate and Foreign Commerce help me in any way on how much we have spent and why we have to spend additional millions under the provisions of this bill?

Mr. STAGGERS. Will the gentleman yield?

Mr. GROSS. Yes. I am glad to yield to the chairman.

Mr. STAGGERS. I would say to him that this has nothing to do with this bill. This is a gap that we claim has to be slowed down if we are going to protect America.

Mr. GROSS. I heard the gentleman say awhile ago that it was a burdensome bill, and the gentleman from Illinois said that it was a broad bill. I am convinced that both are true. But how much money are we spending now on environment and on this business of instant salvation?

I may say to the gentleman that I do not know, except for things spiritual, that you can get instant salvation in anything.

How much is being spent now?

Mr. STAGGERS. I will tell the gentleman what we propose in this bill, but I cannot tell him what is being spent, because we do not have jurisdiction over everything.

Mr. GROSS. Am I to believe the committee, when it was approving this add-on to the millions already being spent on so-called environment, failed to inquire as to how much is already being spent and whether this bill could possibly be justified under the circumstances?

Mr. STAGGERS. I might say to the gentleman that there are several other bills not before this committee that have to do with environment.

Mr. GROSS. I understand that.

Mr. STAGGERS. And we did not go into that. I did not go into it, I can say to the gentleman. We can find it out for you.

Mr. GROSS. It would not do us very much good here this afternoon, would it?

Mr. STAGGERS. Will the gentleman yield further?

Mr. GROSS. Yes, I will.

Mr. STAGGERS. The thing that is important now is the bill before us and to get it passed and to find out what it costs. I think it is important to America that this bill does pass and now.

Mr. GROSS. This bill calls for a minimum of $30.5 million in addition to all of the other millions of dollars being spent this year for environment and for instant salvation.

You know, you could not turn on the radio or television a few days ago but what you were told of the imminent peril that was outside every door and window by reason of the stagnant air and the haze that hung over Washington. I fully expected to see two or three additional pages of obituaries when the breeze finally started to come through and drove away the haze that had enshrouded Washington.

I fully expected to see hundreds of deaths listed in the papers for every person who had had a little heartburn, or something of that kind was expected to be dead, and gone, or at least among the early departed. Somehow or other it did not happen.

We can go on here and spend these millions that are included in this bill for environment, bleed ourselves to death, and what in the world have we accomplished? I say to the Members that the best thing we could do for the welfare of the citizens of this country would be to turn off the air conditioning go home and thus stop this spending before it bankrupts all of us.

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

The preferential motion was rejected.

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

Mr. Chairman, I have been looking at the amendment offered by the gentleman from Illinois (Mr. YOUNG) and it deals with the section of page 93 of the bill having to do with the matter of review of rules which have been adopted. And the gentleman adds to that section which deals with the review of rules a provision about the promulgation of rules, and he simply says this:

Rules promulgated by the administrator under section 4, 5 or 6 of the act shall be promulgated after hearing with full opportunity for cross examination and the burden of proof shall be on the proponent of the rule or order.

And that is all that this amendment does.

It is perfectly true, as the gentleman from Texas has pointed out, that this is inconsistent to a certain extent with the provisions dealing with the promulgation of rules under section 6 of the bill, because there the right of cross-examination is limited. Only under the consent of the administrator when he thinks cross-examination should be allowed in one instance, or in another instance, if it is a class matter there can only be one member of the class who can cross-examine.

So I would say, so what? The right of cross-examination is limited back there, but should it be? Perhaps the amendmend offered by the gentleman from Illinois (Mr. YOUNG) should go back in section 6 rather than in here. I would not argue about that.

We also have sections 4 and 5 dealing with test protocol and limited pre-market investigations which do not have any provisions at all for cross-examination. So the gentleman has elected to use the review section to provide not a limited cross-examination, but the full right of cross-examination in all of these sections, such as you have in the courts.

What is the great objection to doing that? I am a great believer in the right of cross examination. Why not? We cross-examine in the courts of law. We cross-examine before the National Labor Relations Board. We cross-examine before

countless boards, bureaus and commissions, and it is the greatest engine for truth yet discovered. It is the very essence of due process of law.

As a libertarian I am 100 percent for it, and I know that my friend, the gentleman from Texas (Mr. ECKHARDT) is for it, ordinarily.

I do not see anything wrong with this amendment. The hearing examiner ought to know his business. He ought to be able to hold cross-examination down to a reasonable scope and degree so that not too much time should be consumed and so that time will not be wasted. But, as has been said, this is a sweeping bill to provide rules and regulations to deal with a whole industry, so why not extend the right of cross-examination?

I am not on the committee, and therefore I did not study the bill in committee, I will admit. I just read the amendment, and it just seems to me to be the simple provision of something we ought to do.

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

Mr. Chairman, I have been trying to recall when the Committee on Interstate and Foreign Commerce resorted to following the full formula of administrative procedures for rulemaking, and I cannot, notwithstanding my more than 17 years of service on that committee. At least for the last 7 years on the Commi'tee on Commerce and Finance we have had a well-defined bipartisan effort underway to fashion less cumbersome procedures, still affording adequate due process. This proceeding that we have recommended in this legislation conforms totally to the product which has been brought before this House time and time again by the Committee on Interstate and Foreign Commerce and its various subcommittees. It is the committee that deals with problems which fall peculiarly into the field of administrative law. I must confess I am not a lawyer, but I would say that probably were I one, and seeking an opportunity to insure that there would be a bonanza for all practitioners in the field of administrative law, I could not too strongly urge the adoption of this pending amendment.

But urging upon the Members a procedure which provides for orderly hearing, for due process, and for a fine regard for the public interest and for the removing of onerous burdens on boards and commissions and individual supplicants before them, I urge that the Members vote against this amendment. It is not well considered, and the gentleman from Illinois knows that it was debated more extensively than almost any other proposal he offered in the subcommittee and in the full committee and was rejected. It has been debated time and time again long before his emergence as a Member of the House, and it has been defeated because it was not in the interest of the best procedure for handling. This is analogous to a quasi-legislative function, and here there would be fashioned the fabric more suitable for a quasi-judicial function. In this instance one can have three full hearings: in the premarket screening, in the test protocol, and in the rule implementing it. I think it is not in the public interest, and I urge the Members—and I am not minimizing the complexity—that they reject this. It is not good legislation.

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

I would like to explain to the House the reasoning that has moved the committee toward the language adopted by the committee. I would explain to the House the reason for rejection of the amendment. If my colleagues will look at proceedings before the ICC or proceedings before the FCC or any of the regulatory agencies, they will find such proceedings go on for years and years and years. If one will look to the FCC, he will find the kind of rulemaking that would be sanctified by the amendment before us was used in a case which dates to 1937, the clear channel proceedings. If one wants to see the kind of rulemaking that would be provided in the amendment, look at proceedings before the Federal Power Commission or the Federal Trade Commission where the full proceedings authorized by the Administrative Procedures Act come into play. These last for decades and more.

And as the gentleman from California has observed we see here a lawyers' bonanza. We see cases which begin and where cross-examination and submission of exhibits begin and go on interminably, with any number of parties proceeding in turn with proceedings go on into the dim and unforseen future. One sees this in such cases as the ICC and CAB operating under the full requirements of the Administrative Procedures Act, there we see cases begin and they go on forever. That is the kind of proceedings sanctified by the amendment.

The procedures set out in the committee print before us at page 93 meet the full requirements of due process. Everyone has an opportunity to present testimony, to be heard, to make statements, and to have his views printed upon the record. But in any event the proceeding finally does end, in contrast to that which we would see under the amendment.

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

Mr. DINGELL. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. Is the gentleman saying he does not approve of cross-examination as a device to extend the record and get the record more fully developed?

Mr. DINGELL. No, I am not saying that. It is within the power of the Administrator of the Environmental Protection Agency to allow cross-examination under the procedures which are set forth here.

Mr. McCOLLISTER. Under section 6 that is true, but not under sections 4 and 5.

Mr. DINGELL. Under the provisions that are under amendment, but under the provisions of the bill as presented to the House it is not necessary that he do so, and therein lies the difference.

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

Mr. DINGELL. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I have in my hand here a memorandum from the Administrative Conference of the United States, in the new Executive Office Building, adopted December 14, 1972. One part of it says:

> In future grants of rulemaking authority to administrative agencies, Congress ordinarily should not impose mandatory procedural requirements other than those required by 5 U.S.C. § 553, except that when it has special reason to do so, . . .

I would say I would be against the amendment because the procedures recommended by the gentleman's amendment are inappropriate to the task we assign the EPA. They are too formal and not proper procedures as suggested by the Administrative Conference of the United States.

Mr. Chairman, I am opposed to the amendment.

Mr. BROYHILL of North Carolina. Mr Chairman, I move to strike the last word.

Mr. Chairman, I take the floor to oppose the amendment suggested by my friend, the gentleman from Illinois (Mr. YOUNG).

I feel we have very carefully reviewed the rulemaking authority we are granting the Administrator under this section. Particularly under section 6 we do grant the right of cross-examination. It is a fact as the gentleman from Michigan has pointed out that granting of the full panoply of the cross-examination right in other agencies has not been used always for the purpose of eliciting information or getting at the facts, but has been used at times for the purposes of undue delay. For these reasons I feel we should stay with the rulemaking authority carefully tailored in this bill and we should vote against the amendment.

I would also point out we have gone far beyond, in the rulemaking authority, the normal rulemaking found in section 553 of the Administrative Procedure Act, to give all parties more rights than they normally have under that particular section of APA.

Mr. YOUNG of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. Mr. Chairman, does the gentleman not agree that under section 4 which involves rulemaking from the standpoint of test protocols, there is no rulemaking process as presently drafted, and under section 553 which is involved and under which rulemaking is to be done it is informal and the burden of the agency with respect to the sustaining of its rulemaking authority is much less than it would be under section 556 or 557 of the Administrative Procedure Act?

Mr. BROYHILL of North Carolina. Mr. Chairman, in responding to that, I want to say that is not entirely correct. It is true that under the rulemaking procedure that would be used, it would be used under section 553, but there are some

exceptions. First, oral testimony would be permitted. Second, under any court review of that rule, it would be governed by section 23 of the bill which, as the gentleman knows, says that the substantial evidence proven shall prevail rather than the arbitrary and capricious rule.

Mr. YOUNG of Illinois. At any rate, with respect to the fact that there have been several statements about this bill being good for lawyers, it is my opinion that it would be good for chemists also.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YOUNG).

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

RECORDED VOTE

Mr. YOUNG of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 159, noes 236, not voting 38, as follows:

[Roll No. 369]

AYES—159

Abdnor	Goldwater	Poage
Alexander	Gonzalez	Powell, Ohio
Andrews, N.C.	Goodling	Price, Tex.
Archer	Gross	Quie
Arends	Grover	Railsback
Armstrong	Haley	Randall
Ashbrook	Hanrahan	Rarick
Bafalis	Harvey	Regula
Baker	Henderson	Rhodes
Beard	Hicks	Robinson, Va.
Blackburn	Hogan	Roncallo, N.Y.
Bowen	Holt	Rousselot
Bray	Huber	Runnels
Breaux	Hudnut	Ruppe
Brinkley	Hungate	Ruth
Brown, Mich.	Hunt	Sandman
Broyhill, Va.	Ichord	Satterfield
Burgener	Jarman	Scherle
Burke, Fla.	Johnson, Colo.	Schneebeli
Burleson, Tex.	Johnson, Pa.	Shoup
Butler	Jones, N.C.	Shuster
Byron	Jones, Tenn.	Sikes
Casey, Tex.	Kazen	Sisk
Cederberg	Kemp	Snyder
Chamberlain	Ketchum	Spence
Clancy	Latta	Steelman
Clawson, Del	Leggett	Steiger, Ariz.
Cochran	Lent	Stubblefield
Collins, Tex.	Litton	Stuckey
Conlan	Long, Md.	Symms
Crane	Lott	Taylor, Mo.
Daniel, Dan	McClory	Teague, Calif.
Daniel, Robert W., Jr.	McCollister	Teague, Tex.
	McKinney	Thomson, Wis.
Davis, Ga.	Madigan	Towell, Nev.
Davis, Wis.	Mahon	Treen
de la Garza	Mann	Ullman
Denholm	Maraziti	Vander Jagt
Dennis	Martin, Nebr.	Waggonner
Derwinski	Martin, N.C.	Walsh
Devine	Mathias, Calif.	Ware
Dickinson	Mathis, Ga.	White
Dorn	Mayne	Whitehurst
Downing	Michel	Whitten
Edwards, Ala.	Miller	Williams
Erlenborn	Montgomery	Wilson, Bob
Eshleman	Moorhead, Calif.	Wyatt
Flynt		Wydler
Fountain	Myers	Wyman
Frelinghuysen	Nelsen	Young, Alaska
Frey	Nichols	Young, Ill.
Froehlich	O'Brien	Young, S.C.
Giaimo	Parris	Zion
Ginn	Fassman	

NOES—236

Abzug	Barrett	Breckinridge
Adams	Bennett	Brooks
Addabbo	Bergland	Broomfield
Anderson, Calif.	Bevill	Brotzman
	Biaggi	Brown, Calif.
Anderson, Ill.	Biester	Brown, Ohio
Andrews, N. Dak.	Bingham	Broyhill, N.C.
	Blatnik	Buchanan
Annunzio	Boggs	Burke, Calif.
Ashley	Boland	Burke, Mass.
Aspin	Brademas	Burlison, Mo.
Badillo	Brasco	Burton
Carey, N.Y.	Hechler, W. Va.	Pritchard
Carney, Ohio	Heckler, Mass.	Rangel
Carter	Heinz	Rees
Chappell	Helstoski	Reuss
Chisholm	Hillis	Riegle
Clark	Hinshaw	Rinaldo
Clausen, Don H.	Holifield	Robison, N.Y.
	Holtzman	Rodino
Cleveland	Horton	Rogers
Cohen	Hosmer	Rooney, Pa.
Collins, Ill.	Howard	Rose
Conte	Johnson, Calif.	Rosenthal
Conyers	Jones, Ala.	Roush
Corman	Jones, Okla.	Roy
Cotter	Jordan	Roybal
Coughlin	Karth	St Germain
Cronin	Kastenmeier	Sarasin
Culver	Keating	Sarbanes
Daniels, Dominick V.	Kluczynski	Saylor
	Koch	Schroeder
Danielson	Kyros	Sebelius
Davis, S.C.	Lehman	Seiberling
Delaney	Long, La.	Shipley
Dellenback	Lujan	Shriver
Dellums	McCloskey	Skubitz
Dent	McCormack	Slack
Diggs	McDade	Smith, Iowa
Dingell	McEwen	Smith, N.Y.
Donohue	McFall	Staggers
Drinan	McKay	Stanton, J. William
Duncan	McSpadden	
du Pont	Macdonald	Stark
Eckhardt	Madden	Steed
Edwards, Calif.	Mailliard	Steele
Eilberg	Mallary	Steiger, Wis.
Esch	Matsunaga	Stokes
Evans, Colo.	Mazzoli	Stratton
Evins, Tenn.	Meeds	Studds
Fascell	Melcher	Sullivan
Findley	Metcalfe	Symington
Fish	Mezvinsky	Taylor, N.C.
Flood	Minish	Thompson, N.J.
Flowers	Mink	Thone
Ford, William D.	Mitchell, Md.	Thornton
	Mitchell, N.Y.	Tiernan
Forsythe	Moakley	Udall
Fraser	Mollohan	Van Deerlin
Frenzel	Moorhead, Pa.	Vanik
Fulton	Morgan	Veysey
Gaydos	Mosher	Vigorito
Gettys	Moss	Waldie
Gibbons	Murphy, Ill.	Wampler
Gilman	Murphy, N.Y.	Whalen
Grasso	Natcher	Widnall
Gray	Nedzi	Wiggins
Green, Oreg.	Nix	Wilson, Charles H., Calif.
Green, Pa.	Obey	
Griffiths	O'Hara	
Gude	Owens	Wilson, Charles, Tex.
Guyer	Patman	
Hamilton	Patten	Wolff
Hammer-schmidt	Pepper	Wright
	Perkins	Wylie
Hanley	Pettis	Yates
Hansen, Idaho	Peyser	Yatron
Hansen, Wash.	Pickle	Young, Fla.
Harsha	Pike	Young, Ga.
Hastings	Podell	Young, Tex.
Hawkins	Preyer	Zablocki
Hays	Price, Ill.	Zwach

NOT VOTING—38

Bell	Hanna	Quillen
Bolling	Harrington	Reid
Camp	Hébert	Roberts
Clay	Hutchinson	Roe
Collier	King	Roncallo, Wyo.
Conable	Kuykendall	Rooney, N.Y.
Dulski	Landgrebe	Rostenkowski
Fisher	Landrum	Ryan
Foley	Milford	Stanton, James V.
Ford, Gerald R.	Mills, Ark.	
Fuqua	Minshall, Ohio	Stephens
Gubser	Mizell	Talcott
Gunter	O'Neill	Winn

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. ARMSTRONG

Mr. ARMSTRONG. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

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

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ARMSTRONG:

Page 94, line 11, strike out "may" and insert "shall".

On line 13A, strike out "Administrator" and insert "President".

On page 94, line 24, after "security" change the period to a comma and insert the following: "in which event the Administrator shall submit notice to the House Armed Services Committee and the Senate Armed Services Committee."

Mr. ARMSTRONG. Mr. Chairman, I believe there may be no controversy about these proposed amendments, and therefore, my explanation will be correspondingly brief.

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

Mr. ARMSTRONG. I will be happy to yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would like to say to the House that the time has come, I believe, for a vote on this bill. I think it is an important bill. We are trying to plan ahead for those who are to come after us, and also for today, too. We do have problems. Thank God we have had enough foresight to cure them before they can overtake us, like in other nations who did not have such foresight to provide for the protection of their water, their vegetation, and atmosphere, and destroyed their civilizations.

I think that just as soon as these amendments are considered that we should vote on this bill.

As far as the amendments themselves are concerned, I think they really implement this bill, perhaps, so that we have substituted "President" for "Administrator" on what is national security. I believe that should be.

And in the second amendment I believe the point there is just to implement the first amendment.

On this side we are happy to accept the amendments offered by the gentleman from Colorado (Mr. ARMSTRONG). I believe they are really an improvement to the intent and purpose of the bill.

Mr. ARMSTRONG. Mr. Chairman, I thank the gentleman from West Virginia.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Colorado (Mr. ARMSTRONG).

The amendments were agreed to.

Mr. CASEY of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been around here for several hours, and it seems to me that this bill was in such disagreement among the members of the committee that unless one were a member of the committee one could not get recognition.

I am opposed to this bill, and I will tell the Members why: You know, the committee very thoughtfully put down on page 18 of their report a list of all the services we now have with respect to the environment, all the different agencies that we have created. They also point out that there are 1.8 million chemicals listed in the chemical abstracts service registry numbers system, which is a private endeavor, I presume. Also the fact that there are 2,500 being added every year.

Within 90 days the Administrator has to publish in the Federal Register a list

of the chemicals that he thinks might be dangerous to the health and the welfare of our people and our Nation. Further, that anyone who proceeds to produce any new chemical, and that means that, as indicated, there are 2,500 of them a year, then that requires 2,500 new applications, reports, and evaluations.

They say this is to fill a gap. All I have heard are arguments today about procedure; 48 pages of the bill and 25 sections. I have not heard enough about this gap that we are attempting to fill with those 48 pages of the bill, and 25 sections, and with an expenditure of approximately $9-point-something million, the first year, and up to $11 million and something, and over the life of the bill, the full term of this legislation, of some $30 million.

Mr. Chairman, I am reminded of when I was a small youngster, and I raised tropical fish. And when I bought a certain bowl of fish the gentleman who sold them to me said—

Now, this one is going to have babies, and when it does, you had better get them out of the bowl real quick.

I said, "Why?" He said—

Because that momma is over-protective, and she will get excited when she sees you, and she will eat the fish.

So, this mother EPA is beginning to eat us, in case you did not know it. It is overly protective, and we created it.

Just to give the Members an example, we in our haste and in our anxiousness to protect all of the people of this Nation passed the air quality bill, the Air Control Act. I did not read the fine print; neither did anybody else. Only one Member in this House voted against that bill when it passed. If one starts reading the fine print, what we gave them authority to do was not only control emission on smokestacks on plants, but on automobiles. We argued for days here about emission control on automobiles. We wasted our time. We gave it to them carte blanche.

They have already issued preliminary orders. One cannot put in a shopping center; one cannot put in a parking lot or hospital; one cannot enlarge a plant; one cannot enlarge a medical center unless they say it is all right. The bill specifically gives them the right of traffic control, and then it has a broad statement—

and such other actions as they deem necessary to clear the air.

This is a good lawyer's bill. It is going to take up a lot of the slack for the unemployed lawyers, because anyone who manufactures any chemicals is going to need plenty of lawyers to find out where they are with reference to this bill; and anyone who votes for it thinking it is just kind of a harmless, protective bill is going to be surprised at the authority that is assumed. I say I do not think that the American public needs all the protection we have been giving them, and I do not think that the gap that has been referred to is in existence.

We have our remedies now. We have our other agencies: OSHA, the Air Pollution Control Act, Water Pollution Control Act. We have our action and the right of action in court. HEW can take any harmful substance off of the market by just going into court. We do not need 25 sections and 48 pages of a bill to do it.

Mr. HOSMER. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I had not intended to speak, but the wisdom of what the gentleman from Texas who preceded me in the well had to say was rather outstanding and I want to compliment him on it. Year after year I have been in this Congress and listened to people want to get bills passed saying that people cannot do this, that, or some other thing. And here is another one of them. By the time we get through, we would not be able to do a darned thing in this country. I think it is about time we stopped being negative. This is supposed to be a "can do" country, not a "cannot do" country. Let us stop voting for negative things just because someone says they are good and holy and satisfy the environment. We have to live in this country, too.

I have a clipping out of the Los Angeles Times that somebody gave me, It is one of Bill Buckley's columns. It starts out:

Recently a professor at the University of California charged almost parenthetically that 10,000 deaths from malaria in Ceylon in 1968 can be attributed to the late Rachel Carson. . . .

Simply because we had this great business about DDT, and when we knocked off the DDT, people started catching everything else, because the bugs and mosquitos were getting at us. The result is a lot more people died than would have otherwise.

The same thing is true about cyclamates. Some of the Members will remember the emotionally charged debates we had in this very room about those cyclamates, and how they were going to make everybody last forever, and everybody was going to be a thousand years old before they died. Now they find that the studies discrediting the cyclamates have themselves been discredited by subsequent studies. We probably killed a lot of people by stopping the cyclamates and letting people get fat and dying from heart attacks.

I am going to vote "no" on this bill until somebody can convince me that it means progress for the country and is not something like another left-wing shackle around ourselves. Let us be careful about getting ourselves locked up in the grave of "do-nothingism."

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

Mr. HOSMER. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

I have a copy of the report of the Agriculture Appropriations Subcommittee with respect to an environmental and consumer protection appropriation bill. The testimony before that committee this year indicated that in order to meet the pollution problems and the standards associated with air pollution, water pollution, and solid waste disposal over the next decade will cost $287 billion. I said 287 billions of dollars, not 287 million.

Mr. HOSMER. Yes, and all for social science, not for getting anything done but just for regulating ourselves.

Mr. GROSS. I understand that information was supplied by former EPA Director Ruckelshaus.

Mr. HOSMER. I thank the gentleman.

The CHAIRMAN. 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.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FLYNT, 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. 5356) to regulate interstate commerce to protect health and the environment from hazardous chemical substances, pursuant to House Resolution 493, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

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?

Mr. BROYHILL of North Carolina. Mr. Speaker, I demand a separate vote on the so-called Eckhardt amendment to section 9 of the bill.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 75, strike lines 3 through 17 inclusive and insert:

"(b)(1) The Administrator shall have no authority to take action under sections 5, 6, and 7 of this Act to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law (other than a law referred to in paragraph (2) of this subsection), including the Atomic Energy Act of 1954; the Federal Hazardous Substances Act; the Occupational Safety and Health Act of 1970; the Consumer Product Safety Act; subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation); and Acts administered by the Secretary of Transportation relating to the transportation of hazardous substances.

"(2) The Administrator shall coordinate actions taken under this Act with actions taken to enforce the Federal Water Pollution Control Act and the Clean Air Act. He shall use the authorities contained in those Acts to regulate chemical substances, unless

he determines that a risk associated with a chemical substance would be more appropriately regulated under this Act."

The SPEAKER. The question is on the amendment.

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

RECORDED VOTE

Mr. MOSS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 202, not voting 42, as follows:

[Roll No. 370]

AYES—189

Abzug	Frey	Patten
Adams	Fulton	Pepper
Addabbo	Gaydos	Perkins
Anderson, Calif.	Giaimo	Pike
	Gibbons	Podell
Annunzio	Gilman	Powell, Ohio
Armstrong	Grasso	Price, Ill.
Ashley	Gray	Pritchard
Aspin	Green, Oreg.	Quie
Badillo	Green, Pa.	Randall
Bafalis	Griffiths	Rangel
Bergland	Gude	Rees
Biaggi	Hamilton	Regula
Biester	Hanley	Reuss
Bingham	Hanrahan	Riegle
Blatnik	Hansen, Wash.	Rinaldo
Boggs	Hawkins	Rodino
Boland	Hays	Rogers
Brademas	Hechler, W. Va.	Rooney, Pa.
Brasco	Heckler, Mass.	Rosenthal
Breckinridge	Helstoski	Roush
Brown, Calif.	Hicks	Roy
Buchanan	Holifield	Roybal
Burke, Calif.	Holtzman	St Germain
Burke, Mass.	Howard	Sarasin
Burlison, Mo.	Hungate	Sarbanes
Burton	Johnson, Calif.	Saylor
Carey, N.Y.	Johnson, Colo.	Schroeder
Carney, Ohio	Jordan	Seiberling
Chisholm	Karth	Smith, Iowa
Clark	Kastenmeier	Staggers
Clausen, Don H.	Kluczynski	Stark
	Koch	Steed
Cohen	Leggett	Steele
Collins, Ill.	Lehman	Steelman
Conte	Long, Md.	Steiger, Wis.
Conyers	McCollister	Stokes
Corman	McCormack	Studds
Cotter	McDade	Sullivan
Coughlin	McFall	Symington
Cronin	McKinney	Thompson, N.J.
Culver	Madden	Thone
Danielson	Mailliard	Thornton
Dellums	Maraziti	Tiernan
Denholm	Matsunaga	Udall
Dennis	Mazzoli	Van Deerlin
Diggs	Meeds	Vanik
Dingell	Melcher	Vigorito
Donohue	Metcalfe	Waldie
Drinan	Mezvinsky	Whalen
du Pont	Minish	White
Eckhardt	Mink	Wilson, Charles H., Calif.
Edwards, Calif.	Mitchell, Md.	
Eilberg	Moakley	
Esch	Mollohan	Wilson, Charles, Tex.
Evans, Colo.	Moorhead, Pa.	
Fascell	Morgan	Wolff
Findley	Moss	Wright
Fish	Murphy, Ill.	Wylie
Flood	Murphy, N.Y.	Yates
Flynt	Natcher	Yatron
Ford, William D.	Nedzi	Young, Fla.
	Obey	Young, Ga.
Fraser	O'Hara	Young, Ill.
Frenzel	Owens	Zablocki

NOES—202

Abdnor	Bevill	Burgener
Alexander	Blackburn	Burke, Fla.
Anderson, Ill.	Bowen	Burleson, Tex.
Andrews, N.C.	Bray	Butler
Andrews, N. Dak.	Breaux	Byron
	Brinkley	Carter
Archer	Brooks	Casey, Tex.
Arends	Broomfield	Cederberg
Ashbrook	Brotzman	Chamberlain
Baker	Brown, Mich.	Chappell
Barrett	Brown, Ohio	Clancy
Beard	Broyhill, N.C.	Clawson, Del
Bennett	Broyhill, Va.	Cleveland
Cochran	Jones, Ala.	Roncallo, N.Y.
Collins, Tex.	Jones, N.C.	Rose
Conlan	Jones, Okla.	Rousselot
Crane	Jones, Tenn.	Runnels
Daniel, Dan	Kazen	Ruppe
Daniel, Robert W., Jr.	Keating	Ruth
	Kemp	Sandman
Davis, Ga.	Ketchum	Satterfield
Davis, S.C.	Kuykendall	Scherle
Davis, Wis.	Kyros	Schneebeli
de la Garza	Latta	Sebelius
Dellenback	Lent	Shipley
Derwinski	Litton	Shoup
Devine	Long, La.	Shriver
Dickinson	Lott	Shuster
Dorn	Lujan	Sikes
Downing	McClory	Sisk
Duncan	McCloskey	Skubitz
Edwards, Ala.	McEwen	Slack
Erlenborn	McKay	Smith, N.Y.
Eshleman	McSpadden	Snyder
Evins, Tenn.	Macdonald	Spence
Flowers	Madigan	Stanton, J. William
Forsythe	Mahon	
Fountain	Mallary	Steiger, Ariz.
Frelinghuysen	Mann	Stratton
Froehlich	Martin, Nebr.	Stubblefield
Gettys	Martin, N.C.	Stuckey
Ginn	Mathias, Calif.	Symms
Goldwater	Mathis, Ga.	Taylor, Mo.
Gonzalez	Mayne	Taylor, N.C.
Goodling	Michel	Teague, Calif.
Gross	Miller	Thomson, Wis.
Grover	Mitchell, N.Y.	Towell, Nev.
Guyer	Montgomery	Treen
Haley	Moorhead, Calif.	Ullman
Hammer-schmidt		Vander Jagt
	Mosher	Veysey
Hansen, Idaho	Myers	Waggonner
Harsha	Nelsen	Walsh
Harvey	Nichols	Wampler
Hastings	Nix	Ware
Heinz	O'Brien	Whitehurst
Henderson	Parris	Whitten
Hillis	Passman	Widnall
Hinshaw	Pettis	Wiggins
Hogan	Peyser	Williams
Holt	Pickle	Wilson, Bob
Horton	Poage	Wyatt
Hosmer	Preyer	Wydler
Huber	Price, Tex.	Wyman
Hudnut	Railsback	Young, Alaska
Hunt	Rarick	Young, S.C.
Ichord	Rhodes	Young, Tex.
Jarman	Robinson, Va.	Zion
Johnson, Pa.	Robison, N.Y.	Zwach

NOT VOTING—42

Bell	Gubser	Quillen
Bolling	Gunter	Reid
Camp	Hanna	Roberts
Clay	Harrington	Roe
Collier	Hébert	Roncallo, Wyo.
Conable	Hutchinson	Rooney, N.Y.
Daniels, Dominick V.	King	Rostenkowski
	Landgrebe	Ryan
Delaney	Landrum	Stanton, James V.
Dent	Milford	
Dulski	Mills, Ark.	Stephens
Fisher	Minshall, Ohio	Talcott
Foley	Mizell	Teague, Tex.
Ford, Gerald R.	O'Neill	Winn
Fuqua	Patman	

So that amendment was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Fuqua against.

Mr. Rostenkowski for, with Mr. Fisher against.

Mr. Roe for, with Mr. King against.

Mr. Delaney for, with Mr. Landgrebe against.

Mr. Dominick V. Daniels for, with Mr. Quillen against.

Mr. Clay for, with Mr. Talcott against.

Mr. Harrington for, with Mr. Mizell against.

Mr. Hanna for, with Mr. Hutchinson, against.

Mr. Reid for, with Mr. Gubser against.

Mr. James V. Stanton for, with Mr. Hébert against.

Mr. Dent for, with Mr. Camp against.

Mr. Dent for, with Mr. Camp against.

Mr. Foley for, with Mr. Collier against.

Mr. O'Neill for, with Mr. Conable against.

Mr. Ryan for, with Mr. Teague of Texas against.

Until further notice:

Mr. Stephens with Mr. Gunter.

Mr. Mills of Arkansas with Mr. Bell.

Mr. Roberts with Mr. Gerald R. Ford.

Mr. Milford with Mr. Minshall of Ohio.

Mr. Landrum with Mr. Roncallo of Wyoming.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the amendment adopted by the Committee of the Whole.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 426) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, a similar bill to the House bill just passed.

The Clerk read the title of the bill.

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

Mr. GROSS. Mr. Speaker, reserving the right to object what is proposed before the House? Is it the substitute Senate bill?

The SPEAKER. The Chairman is calling up the Senate bill for the purpose of striking out all after the enacting clause and inserting the provisions of the House-passed bill.

Mr. GROSS. At the proper time, Mr. Speaker, I would like to have a vote by the yeas and nays on that, although they were not obtained on the passage of the House bill.

The SPEAKER. The Chair did not recognize any Member desiring to have a vote. Was the gentleman on his feet?

Mr. COLLINS of Texas. Mr. Speaker, I wanted recognition at the time.

The SPEAKER. The gentleman should have addressed the Chair. The Chair certainly put the question, and the Chair apologizes if any Members were seeking recognition. The Chair did not hear the gentleman address the Chair.

Mr. COLLINS of Texas. Mr. Speaker, did the Speaker see me standing?

The SPEAKER. The Chair saw the gentleman, but did not know he was seeking recognition.

Mr. COLLINS of Texas. I have a recommittal motion at the desk, Mr. Speaker.

I yield to the gentleman from Iowa.

The SPEAKER. The Chair would request that the proceedings be vacated if the gentleman will tell the Chair he was standing seeking recognition. The Chair is not going to pass any Mem-

ber up intentionally who is seeking recognition.

Mr. COLLINS of Texas. Mr. Speaker, all I wanted was a rollcall vote on final passage. I would like to ask unanimous consent——

The SPEAKER. Without objection, the proceedings under which the bill was passed and a motion to reconsider laid on the table will be vacated.

Mr. THOMPSON of New Jersey. Mr. Speaker, I object.

The SPEAKER. Is there objection to the consideration of the Senate bill?

Mr. GROSS. Mr. Speaker, I object to it.

Mr. THOMPSON of New Jersey. Mr. Speaker, I withdraw my objection.

The SPEAKER. Without objection, the proceedings under which the House bill was passed and the proceedings subsequent thereto shall be vacated.

There was no objection.

The SPEAKER. The question is on the passage of the House bill, H.R. 5356.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 324, nays 73, not voting 36, as follows:

[Roll No. 371]

YEAS—324

Abdnor	Collins, Ill.	Green, Oreg.
Abzug	Conte	Green, Pa.
Adams	Conyers	Griffiths
Addabbo	Corman	Grover
Alexander	Cotter	Gude
Anderson, Calif.	Coughlin	Guyer
Anderson, Ill.	Cronin	Haley
Andrews, N.C.	Culver	Hamilton
Andrews, N. Dak.	Daniels, Dominick V.	Hanley
Annunzio	Danielson	Hanrahan
Armstrong	Davis, Ga.	Hansen, Idaho
Ashley	Davis, S.C.	Hansen, Wash.
Aspin	Delaney	Harsha
Badillo	Dellenback	Harvey
Bafalis	Dellums	Hastings
Barrett	Denholm	Hawkins
Bennett	Dent	Hays
Bergland	Derwinski	Hébert
Bevill	Diggs	Hechler, W. Va.
Biaggi	Dingell	Heckler, Mass.
Biester	Donohue	Heinz
Bingham	Downing	Helstoski
Blatnik	Drinan	Henderson
Boggs	Duncan	Hicks
Boland	du Pont	Hillis
Brademas	Eckhardt	Hinshaw
Brasco	Edwards, Ala.	Hogan
Bray	Edwards, Calif.	Holifield
Breaux	Eilberg	Holtzman
Breckinridge	Erlenborn	Horton
Brinkley	Esch	Howard
Broomfield	Eshleman	Huber
Brotzman	Evans, Colo.	Hudnut
Brown, Calif.	Evins, Tenn.	Hungate
Brown, Mich.	Fascell	Hunt
Brown, Ohio	Findley	Jarman
Broyhill, N.C.	Fish	Johnson, Calif.
Broyhill, Va.	Flood	Johnson, Colo.
Buchanan	Flowers	Johnson, Pa.
Burgener	Flynt	Jordan
Burke, Calif.	Ford, William D.	Karth
Burke, Fla.	Forsythe	Kastenmeier
Burke, Mass.	Fountain	Keating
Burlison, Mo.	Fraser	Kemp
Burton	Frelinghuysen	Koch
Butler	Frenzel	Kuykendall
Carey, N.Y.	Frey	Kyros
Carney, Ohio	Froehlich	Latta
Carter	Fulton	Leggett
Cederberg	Fuqua	Lehman
Chamberlain	Gaydos	Lent
Chappell	Gettys	Long, La.
Chisholm	Giaimo	Long, Md.
Clark	Gibbons	Lujan
Clausen, Don H.	Gilman	McCloory
Cleveland	Ginn	McCloskey
Cohen	Grasso	McCollister
	Gray	McCormack
		McDade
McEwen	Preyer	Stuckey
McFall	Price, Ill.	Studds
McKay	Pritchard	Sullivan
McKinney	Quie	Symington
Macdonald	Railsback	Taylor, Mo.
Madden	Randall	Taylor, N.C.
Madigan	Rangel	Teague, Calif.
Maillliard	Rees	Thompson, N.J.
Mallary	Regula	Thomson, Wis.
Maraziti	Reuss	Thone
Martin, N.C.	Riegle	Thornton
Mathias, Calif.	Rinaldo	Tiernan
Matsunaga	Robison, N.Y.	Towell, Nev.
Mazzoli	Rodino	Udall
Meeds	Rogers	Van Deerlin
Melcher	Roncallo, Wyo.	Vander Jagt
Metcalfe	Roncallo, N.Y.	Vanik
Mezvinsky	Rooney, Pa.	Veysey
Miller	Rose	Vigorito
Minish	Rosenthal	Waldie
Mink	Roush	Walsh
Mitchell, Md.	Roy	Wampler
Mitchell, N.Y.	Roybal	Ware
Moakley	Ruppe	Whalen
Mollohan	Sandman	White
Moorhead, Calif.	Sarasin	Whitehurst
Moorhead, Pa.	Sarbanes	Widnall
Morgan	Saylor	Wiggins
Mosher	Scherle	Williams
Moss	Schneebeli	Wilson, Bob
Murphy, Ill.	Schroeder	Wilson, Charles H., Calif.
Murphy, N.Y.	Seiberling	
Myers	Shipley	Wilson, Charles, Tex.
Natcher	Shoup	
Nedzi	Shriver	Wolff
Nelsen	Sikes	Wright
Nichols	Sisk	Wyatt
Nix	Skubitz	Wydler
Obey	Slack	Wylie
O'Brien	Smith, Iowa	Wyman
O'Hara	Smith, N.Y.	Yates
Owens	Snyder	Yatron
Parris	Staggers	Young, Alaska
Patten	Stanton, J. William	Young, Fla.
Pepper	Stark	Young, Ga.
Perkins	Steele	Young, Ill.
Pettis	Steelman	Zablocki
Peyser	Steiger, Wis.	Zion
Pickle	Stokes	Zwach
Pike	Stratton	
Podell	Stubblefield	

NAYS—73

Archer	Dorn	Passman
Arends	Goldwater	Patman
Ashbrook	Gonzalez	Poage
Baker	Goodling	Powell, Ohio
Beard	Gross	Price, Tex.
Blackburn	Hammer-schmidt	Rarick
Bowen	Holt	Rhodes
Brooks	Hosmer	Robinson, Va.
Burleson, Tex.	Jones, Ala.	Rousselot
Byron	Jones, N.C.	Runnels
Casey, Tex.	Jones, Okla.	Ruth
Clancy	Jones, Tenn.	Satterfield
Clawson, Del	Kazen	Sebelius
Cochran	Ketchum	Shuster
Collins, Tex.	Litton	Spence
Conlan	Lott	Steed
Crane	McSpadden	Steiger, Ariz.
Daniel, Dan	Mahon	Symms
Daniel, Robert W., Jr.	Mann	Teague, Tex.
Davis, Wis.	Martin, Nebr.	Treen
de la Garza	Mathis, Ga.	Ullman
Dennis	Mayne	Waggonner
Devine	Michel	Whitten
Dickinson	Montgomery	Young, S.C.
		Young, Tex.

NOT VOTING—36

Bell	Harrington	Roberts
Bolling	Hutchinson	Roe
Camp	Ichord	Rooney, N.Y.
Clay	King	Rostenkowski
Collier	Landgrebe	Ryan
Conable	Landrum	St Germain
Dulski	Milford	Stanton, James V.
Fisher	Mills, Ark.	
Foley	Minshall, Ohio	Stephens
Ford, Gerald R.	Mizell	Talcott
Gubser	O'Neill	Winn
Gunter	Quillen	
Hanna	Reid	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Roberts.
Mr. Dent for, with Mr. Camp against.
Mr. Gunter with Mr. Bell.
Mr. St Germain with Mr. Talcott.
Mr. Reid with Mr. Landgrebe.
Mr. Roe with Mr. Camp.
Mr. Fisher with Mr. King.
Mr. Clay with Mr. James V. Stanton.
Mr. Stephens with Mr. Gubser.
Mr. Ryan with Mr. Conable.
Mr. O'Neill with Mr. Gerald R. Ford.
Mr. Hanna with Mr. Hutchinson.
Mr. Harrington with Mr. Collier.
Mr. Landrum with Mr. Minshall of Ohio.
Mr. Dulski with Mr. Mizell.
Mr. Foley with Mr. Winn.
Mr. Ichord with Mr. Quillen.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 426) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, a bill similar to H.R. 5356 just passed by the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read as follows:

S. 426

An act to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Toxic Substances Control Act of 1973".

(b) Table of contents.

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) Human beings and the environment are being exposed to a large number of chemical substances each year.

(2) Among the many chemical substances constantly being developed and produced there are some which may pose an unreasonable threat to human health or the environment.

(3) The effective regulation of interstate commerce in such chemical substances necessitates the regulation of transactions in such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) New chemical substances and hazardous or potentially hazardous existing chemical substances should be adequately tested with respect to their safety to human beings and the environment. It should be the responsibility of those who produce such chemicals, to conduct such tests.

(2) Adequate authority should exist to restrict the distribution and use of chemical substances found to pose an unreasonable threat to human health or the environment.

(3) Authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances does not pose an unreasonable threat to human health or the environment.

(4) As set forth herein, citizens should be encouraged to participate and to assist in carrying out the purposes of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "By product" means a chemical substance produced as a result of the production, manufacture, processing, use, or disposal of some other chemical substance.

(3) "Chemical substance" means any organic or inorganic substance of a particular molecular identity, or any uncombined chemical radical or element.

(4) "District of the United States", which court shall serve jurisdiction over actions arising under this Act, includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii.

(5) "Environment" includes water, air, land, all living things therein, and the interrelationships which exist among these.

(6) "Existing chemical substance" means any chemical substance which has been produced or imported into the United States in commercial quantities prior to one hundred eighty days after the date of enactment of this Act.

(7) "Indemnity" means any payment made to a person as reimbursement for loss or damage other than a payment made in accordance with a judgment of any court in an action brought at common law or under section 1346 of title 28, United States Code.

(8) "Intermediate chemical substance" means any chemical substance to the extent that such substance is converted chemically or used as a catalyst in the manufacture of other chemical substances subject to this Act.

(9) "Laboratory reagent" means any chemical substance produced, distributed, or used for scientific experimentation or chemical research or analysis.

(10) "Manufacturer" means any person engaged in the production or manufacture of chemical substances for purposes of sale or distribution in commercial quantities, or an importer of such substances.

(11) "New chemical substance" means any chemical substance which has not been produced or imported into the United States in commercial quantities prior to one hundred eighty days after the date of enactment of this Act: *Provided*, That after such substance is first produced or imported in commercial quantities it shall be regarded thereafter for purposes of this Act as an "existing chemical substance".

(12) "Person" includes an individual or a corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, receiver or trustee of any of the foregoing, State, municipality, or political subdivision of a State.

(13) "Processor" means any person engaged in the preparation of a chemical substance or a product containing such substance for distribution or use either in the form in which it is received or as part of another product, as defined by regulations of the Administrator.

(14) "Protect health and the environment" means protect against any unreasonable threat to human health or the environment resulting from the use or distribution of a chemical substance or any product containing such substance, taking into account the benefits of such use or distribution as compared to the risks of such use or distribution to human health or the environment.

(15) "Restrict the use or distribution" means to prescribe the amount of a chemical substance or a product containing such substance which may be sold to given types of processors, or to limit the type of processor to whom such substance or product may be sold, or to prescribe the amount of such substance or product which may be utilized by a given type of processor, or to limit the sale of such substance or product or the manner in which such substance or product may be used, handled, labeled, or disposed of by any person, including self-monitoring requirements for manufacturers and processors to insure that the substance or product being manufactured or processed is of reasonably consistent composition. Such restriction on use or distribution may be applied on a geographic basis and may include a total ban.

(16) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(17) "Test protocol" means a standardized procedure for performing tests as required by this Act pursuant to regulations promulgated by the Administrator, the results of which will provide a basis for judging the effects of a chemical substance on human health or the environment.

TEST STANDARDS

SEC. 4. (a) Within one year after the date of enactment of this Act and from time to time thereafter, the Administrator shall issue proposed regulations to establish such standards for test protocols for various chemical substances or classes of chemical substances or uses thereof and for the results to be achieved therefrom as are necessary to protect health and environment. Such regulations shall apply to those chemical substances or classes or uses of chemical substances which are produced in commercial quantities and which the Administrator has reason to believe may pose an unreasonable threat to human health or the environment. To the extent feasible, such regulations shall indicate the use or distribution of a chemical substance which will be permitted upon and only upon the attainment of specified test results.

(b) In issuing the proposed regulations required under subsection (a) and in issuing any subsequent final regulations, the Administrator shall consider all relevant factors including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) any benefit of the chemical substance and the availability of less hazardous substitutes for any use or distribution of such substance;

(4) the extent to which the test protocol is reasonably predictive of the potential adverse effects of the chemical substance on health or the environment; and

(5) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol.

(c) Test protocols established under this section may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative properties of the substance, the synergistic properties of the substance and other types of hazards, and epidemiological studies of the effects of the chemical substance.

(d) The Administrator shall specify in any proposed or final regulations developed under this section the date on which such regulations shall take effect, except that such regulations shall take effect as soon as feasible allowing sufficient time for the execution and reporting of required tests as may be required by sections 5 and 6 of this Act.

PREMARKET SCREENING OF NEW CHEMICAL SUBSTANCES

SEC. 5. (a) One hundred and eighty days after the date of enactment of this Act, and thereafter, any manufacturer of a new chemical substance shall notify the Administrator, at least ninety days in advance of the commercial production of such substance, and when tendering such notice such manufacturer shall submit to the Administrator the information referred to in section 10(a) of this Act insofar as it pertains to such substance. If in the judgment of the Administrator a substance is of no unreasonable environmental or public health threat, he may reduce the number of days after submission of such information during which commercial production may not occur. The Administrator shall give priority attention to information covering a substance where serious economic or other hardship will result from unnecessary postponement of commercial production.

(b) After the effective date of regulations promulgated pursuant to section 4 of this Act, any manufacturer of a new chemical substance (i) to which such regulations are applicable and (ii) who first produces or imports such substance into the United States in commercial quantities after the effective date of such regulations, shall submit to the Administrator in lieu of the information required in subsection (a) of this section, at least ninety days in advance of the commercial production or importation of such substance, the test data developed in accordance with such regulation for the intended use or distribution of such substance.

(c) Subject to section 16 of this Act, the Administrator shall promptly publish in the Federal Register the identity of such chemical substance, the use or distribution intended, and a statement of the availability of any test data submitted.

(d) If warranted by data or the absence of data available to him, the Administrator may propose by regulation to restrict the use or distribution of any new chemical substance

in accordance with section 7 of this Act. If such regulation is proposed prior to the expiration of the ninety-day period referred to in subsection (a) or (b) of this section such proposed restrictions on use or distribution shall apply, pending the outcome of administrative proceedings on such proposal, to any subsequent commercial production of such new chemical substance as if such proposed regulation were final. After such regulation is proposed, the Administrator may refer it to the Board referred to in section 12(c) of this Act. The Administrator shall refer such proposal to such Board if requested by any interested party.

(e) The Administrator may extend the date after which a new chemical substance may be commercially produced under this Act for any particular use or distribution beyond ninety days from the submission of information required under this section for an additional period, not to exceed ninety days, for good cause shown. Subject to section 16 of this Act, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final action subject to judicial review in accordance with section 24(d) of this Act.

(f) If the Administrator fails to propose a restriction on use or distribution with respect to a chemical substance within ninety days of submission of information or data under subsection (a) or (b) of this section (or in the case of information submitted under subsection (a) such shorter period of time as the Administrator may consider appropriate) or to extend the time, pursuant to subsection (e), for consideration of information submitted, commercial production of such chemical substance may begin. Nothing in this section shall be construed to prohibit the Administrator from restricting the use or distribution of any chemical substance pursuant to section 7 of this Act after commercial production of such substance has begun or from taking action against any substance which is found to be an imminent hazard pursuant to section 8 of this Act.

(g)(1) The Administrator may exempt any person from the obligation to submit test data under this section if he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with this section, except that such person shall not commercially produce such new chemical substance prior to the commercial production of the new chemical substance for which test data were submitted under this section. Any chemical substance or member of a class of chemical substances or any manufacturer or processor thereof referred to under the pending sentence shall be subject to all the other provisions of this Act.

(2) If the Administrator, under paragraph (1), exempts any person from submitting data under this section because of the existence of previously submitted test data and if such exemption takes effect during the reimbursement period for such data (defined in paragraph (3)), then (unless the parties can agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount and subject to conditions determined under rules of the Administrator)—

(A) to any person who previously submitted test data on which the exemption was based, for a portion of the costs incurred by him in complying with the requirement under this section to submit such data, and

(B) to any other person who has been required under this paragraph to contribute with respect to such data.

An order under this paragraph shall be considered final agency action, for purposes of judicial review.

(3) For purposes of paragraph (2), the reimbursement period for any previously submitted test data is a period—

(A) beginning on the earliest date (after submission of such data) on which a person who previously submitted test data on which the exemption was based was no longer prohibited from proceeding with the manufacture and distribution in commerce of a chemical substance to which such data applied, and

(B) ending two years after such date (or, if later, at the expiration of a period after such date equal in length to the period which the Administrator determines was necessary to develop the previously submitted test data).

EXISTING CHEMICAL SUBSTANCES

SEC. 6. (a) The Administrator shall issue, within one year after the date of enactment of this Act and from time to time thereafter, proposed regulations specifying those existing chemical substances or classes or uses of chemical substances which are produced or imported into the United States in commercial quantities and which the Administrator has reason to believe may pose an unreasonable threat to human health or the environment. Concurrently with each proposal to specify such existing chemical substance, the Administrator shall propose regulations under section 4 of this Act, if he has not previously done so, which are applicable to each existing chemical substance so specified. On or before the effective date of any applicable regulation under section 4 of this Act, any manufacturer of an existing chemical substance shall furnish the test data developed in accordance with such regulations to the Administrator. Subject to section 16 of the Act, the Administrator shall, upon receipt of such test data from a manufacturer, promptly publish in the Federal Register the identity of such existing chemical substance, the uses to which the substance is put, and a statement of the availability of test data.

(b) The Administrator may, in appropriate cases, permit manufacturers of an existing chemical substance for which testing is required under subsection (a) of this section to designate one or more of their number or to designate a qualified independent third party to perform the tests required under subsection (a) of this section and permit the sharing of the costs of such tests. If such manufacturers are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, the Administrator may order one or more of such manufacturers or may designate a qualified independent third party, to perform the required tests, and may order such manufacturers to contribute to the costs of such tests.

(c) Manufacturers of existing chemical substances for which testing is required under subsection (a) of this section shall not be required to submit test data which would duplicate applicable test data submitted previously by other manufacturers. Such chemical substances and the manufacturers and processors thereof shall be subject to all other provisions of this Act. In the event a manufacturer is exempted from submitting data under this subsection, the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement in accordance with procedures set out in section 5(g) of this Act.

(d) Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a use or distribution for which a regulation under section 4 of this Act is applicable and with respect to which the Administrator has not received test data for such use or distribution pursuant to subsection (a), the manufacturer shall be required to follow the procedures of this section notwithstanding the fact that no objection has been raised to other uses. Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a significant new use, as defined in regulations to be issued by the Administrator, one hundred and eighty days following the date of enactment of this Act, and thereafter the manufacturer shall be required to follow the procedures of section 5 of this Act before such substance may be commercially produced for such use or distribution.

RESTRICTIONS OF USE OR DISTRIBUTION

SEC. 7. (a) If warranted by data available to him, or in the absence of acceptable test data required under section 5 or 6 of this Act, the Administrator may issue proposed regulations (1) to restrict the use or distribution of any chemical substance or products containing such substance to the extent necessary to protect health and the environment; (2) to require that any or all persons engaged in the distribution of the chemical substance or product so regulated give notification to purchasers or other recipients of the substance or product of such restrictions in such form and manner as the Administrator determines is necessary to protect health and the environment including labeling requirements on such chemical substances or products containing such substances with appropriate warning provisions and directions for use and disposal; and (3) to require such other action as may be necessary to carry out such restrictions including recalling and remedying, replacing, or refunding the purchase price of such products or substances.

(b) In issuing proposed regulations under subsection (a) and in issuing any subsequent final regulations, the Administrator shall consider all relevant factors including—

(1) the effects of the substance on human health;

(2) the effects of the substance on the environment;

(3) the benefits of the substance for various uses;

(4) the normal circumstances of use;

(5) the degree to which the substance is released to the environment;

(6) the magnitude of exposure of human beings and the environment to the substance; and

(7) the availability of less hazardous substitutes.

The Administrator shall specify in the regulation the date on which it shall take effect, which shall be as soon as feasible. All data relevant to the Administrator's findings shall be available to the public subject to section 16 of this Act.

(c) Whenever the Administrator has good cause to believe that a particular manufacture or processor is producing or processing a chemical substance or product not in compliance with a particular restriction on use or distribution requiring reasonably consistent composition of such chemical substance or product—

(1) he may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance or product; and

(2) if he thereafter determines that such noncompliance is attributable to the inadequacy of the manufacturer's or processor's control procedures, he may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer or processor to revise such quality control procedures to the extent necessary to remedy such inadequacy.

(d) Notwithstanding the provisions of section 11(a)(1) of this Act, no indemnity payment shall be made to any manufacturer, wholesale distributor, retailer, or other vendor of a chemical substance or to any other person as a result of any action taken under

this section under any other provision of this Act, or under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135).

(e) Notwithstanding any provision of section 11 of this Act, the Administrator shall by contract or other arrangement commission a study of all Federal laws administered by the Environmental Protection Agency for the purpose of determining whether and under what conditions, if any, indemnification should be accorded any person as a result of any action taken by the Administrator under any law administered by such agency. This study shall—

(1) be conducted outside of the Environmental Protection Agency under the direction a university or recognized research center by an interdisciplinary group, none of the members of which may have a financial interest or conflict of interest (other than any fee paid by the Administrator for serving as a member of such group) with respect to the findings and conclusions of such study;

(2) include an estimate of the probable cost of any indemnification programs which may be recommended;

(3) include an examination of all viable means of financing the cost of any recommended indemnification;

(4) be completed no less than two years from the date of enactment of this Act; and

(5) be submitted, upon completion, simultaneously to the Administrator and to the appropriate committees of the Congress without prior clearance or review by the executive branch.

(f) Notwithstanding the requirements of section 11 of this Act, section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135) is hereby repealed.

IMMINENT HAZARD

SEC. 8. (a) An imminent hazard shall be considered to exist when the evidence is sufficient to show that the manufacture, processing, distribution, use, or disposal of a chemical substance or product containing such substance will result in any unreasonable threat to human health or the environment prior to the completion of an administrative hearing or other formal proceeding held pursuant to this Act.

(b) If the Administrator has reason to believe that an imminent hazard exists he may petition an appropriate district court of the United States, or he may request the Attorney General to do so, to restrict the use or distribution of the chemical substance or product responsible for the hazard, or to take such other action as is authorized under section 7 of this Act. The Administrator shall simultaneously, if he has not done so, propose any regulation which may be warranted under section 7 of this Act.

SEIZURE

SEC. 9. (a) Any chemical substance or product containing such substance which the Administrator finds (1) is manufactured, processed, distributed, used, or disposed of in violation of section 5, 6, or 7 of this Act, where there is reason to believe such substance or product poses an unreasonable threat to human health or the environment, or (2) constitute an imminent hazard under section 8 of this Act shall be liable to be proceeded against by the Administrator or the Attorney General on libel of information and condemned in any district court of the United States within the jurisdiction of which such substance or product is found. Such substance or product shall be liable to seizure by process pursuant to the libel. In cases under this section, the procedure shall conform, as nearly as may be, to a proceeding in rem in admiralty.

(b) Any substance or product condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States; but such substance or product shall not be sold under such decree contrary to the provisions of this title or the laws of the jurisdiction in which sold; *Provided*, That after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such substance or product shall not be sold or disposed of contrary to the provisions of this Act or the laws of any State in which sold, the court may by order direct that such substance or product be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Act under the supervision of an officer or employee duly designated by the Administrator. The expenses of such supervision shall be paid by the persons obtaining release of the substance or product under bond.

(c) When a decree of condemnation is entered against the substance or product court costs and fees, and storage and other property expenses, shall be awarded against the person, if any, intervening as claimant of the substance or product.

REPORTS

SEC. 10. (a) The Administrator shall require all manufacturers of chemical substances or, where appropriate, processors to submit reports to him annually and at such more frequent times as he may reasonably require containing any or all of the following—

(1) the names of any or all chemical substances produced, imported, or processed in commercial quantities by the manufacturer or processor thereof;

(2) the chemical identity and molecular structure of such substances insofar as is known to him or is reasonably ascertainable by him;

(3) the categories of use of each such substance, insofar as they are known to him or are reasonably ascertainable by him;

(4) reasonable estimates of the amounts of each substance produced or processed for each such category of use; and

(5) a description of the byproducts, if any, resulting from the production of each such substance, and, insofar as they are known to him or are reasonably ascertainable by him, from the processing, use, or disposal thereof.

(b) The Administrator may, by regulation, exempt manufacturers from all or part of the requirements of subsection (a) of this section if he finds that such reports are not necessary to carry out the purposes of this Act.

(c) Whenever the Administrator determines that such action would be necessary to assist him to carry out his responsibilities and authorities under this Act, he may publish a notice in the Federal Register to invite and afford all interested persons an opportunity to provide to him in writing information with respect to the human health or environmental effects of a chemical substance or products containing such substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 11. (a) This Act shall not apply to—

(1) pesticides and chemical substances used in such pesticides, except that if a chemical substance which constitutes such a pesticide or such an ingredient is or may be used for any non-pesticidal purpose which is not regulated by the Federal Insecticide, Fungicide, and Rodenticide Act, this Act shall apply to such other uses;

(2) foods, drugs, devices and cosmetics subject to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), as amended, foods subject to the Federal Meat Inspection Act (56 Stat. 351), the Egg Products Inspection Act (21 U.S.C. 1031), and the Poultry Products Inspection Act (21 U.S.C. 451), and chemical substances used therein, except that if such an item or substance is or may be used for any purpose which is not regulated by such Acts this Act shall apply to such other uses;

(3) any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act of 1954 (42 U.S.C. 2011), as amended, and regulations issued pursuant thereto by the Atomic Energy Commission;

(4) the transportation of hazardous materials insofar as it is regulated by the Secretary of Transportation;

(5) except for section 10 of this Act, intermediate chemical substances, unless the Administrator finds that such chemical substances cannot be sufficiently regulated by the Clean Air Act (42 U.S.C. 1857), as amended, or the Federal Water Pollution Control Act (33 U.S.C. 466), as amended;

(6) restrictions on use or distribution under section 5(d) or section 7 of this Act (other than restrictions initiated for the purpose of obtaining test data) with respect to any chemical substances on the basis of its presence in industrial effluents or emissions, unless the Administrator finds that its presence in such industrial effluents or emissions cannot be as effectively controlled by the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended;

(7) laboratory reagents, except those where there is reason to believe the manufacture, processing, distribution, use, or disposal of the reagent may produce an unreasonable threat to human health or the environment;

(8) tobacco and tobacco products; and

(9) any extraction of any mineral deposit covered by the mining or mineral leasing laws of the United States, unless the Administrator finds, by regulation, that such extraction of such mineral deposit poses an unreasonable threat to human health or the environment which cannot be effectively regulated under any other provision of law.

(b) To the extent that such chemical substances are subject to regulation by other Federal laws, including the Occupational Safety and Health Act of 1970 (29 U.S.C. 651) and the Consumer Product Safety Act (86 Stat. 1207), the Administrator shall not regulate the use or distribution of a new or existing chemical substance on the basis of any possible hazard to employees in their place of employment, or the hazard directly to consumers resulting from the personal use, enjoyment, or consumption of marketed products which contain or might contain the substance: *Provided*, That the Administrator shall take such hazards into account in determining what standards for test protocols, results to be achieved therefrom, and restrictions on use or distribution are appropriate.

(c) If it appears to the Administrator that any such substance may pose a hazard when transported, or when used on or in food or as a drug or cosmetic, he shall transmit any data received from manufacturers or processors or data otherwise in his possession which is relevant to such hazards to the Federal department or agency with authority to take legal action if a hazard is found to exist.

(d) The Administrator shall coordinate actions taken under this Act with actions taken to implement the Federal Water Pollution Control Act and the Clean Air Act, and shall, where appropriate, use the authorities contained in such Acts to regulate chemical substances.

(e) The Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of other appropriate Federal agencies in administering the provisions of this Act. The Administrator shall report annually to the Congress

on actions taken to coordinate with other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in this section.

(f) This Act shall not be construed as superseding or impairing the provisions of any other law or treaty of the United States.

CHEMICAL SUBSTANCES BOARD

SEC. 12. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members to the Board from a list of individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member to the Board from whatever source he desires. No more than one-third of the members of such Board shall represent the chemical industry. None of the members of such Board, other than chemical industry representatives, may have any significant economic interest in the chemical industry. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Thereafter, one-half of the members of the Board shall be appointed every two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The Administrator is authorized—

(1) at the request of the Board to enter into appropriate arrangements with the National Academy of Sciences to provide assistance to the Board in the conduct of independent scientific reviews required by this section; and

(2) at his own discretion, to request such additional scientific advisory services from the National Academy of Sciences as may be required in carrying out other provisions of this Act.

In making such arrangements with the National Academy of Sciences, the Administrator shall assure that conflicts of interest do not exist in the membership of any study committees subsequently convened which will prevent an objective scientific review of the questions referred to the National Academy of Sciences by the Board.

(c)(1) Except as provided in section 5(b) of this Act, before proposing any regulations under section 4, 6, or 7 of this Act, the Administrator shall refer his proposed action and the available evidence to the Board and shall, concurrently with such referral, publish in the Federal Register a notice of the referral identifying the proposed action. The Board shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days, as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines that the extension is necessary and that the Board has made a good-faith effort to report within the initial forty-five day period. All such views shall be given due consideration by the Administrator. If the Board fails to report within the specified time, the Administrator may proceed to take action under this Act. The report of the Board and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(2) The Administrator may, at his discretion, also request the Board to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(d) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(e) Members of the Board who are not regular full-time employees of the United States shall, while serving on business of the Board, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS-18 of the classified civil service, including traveltime. While serving away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH

SEC. 13. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. Such research and monitoring may be undertaken to (i) determine proper standards for test protocols and results to be obtained therefrom under section 4 of this Act, (ii) determine what existing chemical substances might present unreasonable hazards under section 6 of this Act, (iii) monitor chemical substances in man and in the environment as is necessary to carry out the purposes of this Act, and (iv) confirm the results of tests required by this Act. To the extent possible, such research and monitoring shall not duplicate the efforts of other Federal agencies or the research required of manufacturers under this Act. In order to carry out the provisions of this section, the Administrator is authorized to make contracts and grants for such research and monitoring. The Administrator may construct research laboratories for the purposes of this Act (i) after fully utilizing the personnel, facilities, and other technical support available in other Federal agencies, (ii) when authorized by the Congress to plan, design, and construct such laboratories, and (iii) subject to the appropriation of funds for this purpose by the Congress.

ADMINISTRATIVE INSPECTIONS AND WARRANT:

SEC. 14. (a)(1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act and to otherwise facilitate the carrying out of his functions under this Act, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances or products containing such substances are manufactured, processed, stored, held or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and to conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipment data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance or a product containing such substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of regulations issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any other situation where a warrant is not constitutionally required.

(c) Administrative inspection warrants shall be issued and executed as follows—

(1) Any judge or magistrate of the United States or a judge of a State court of record may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this Act, and seizures of property appropriate to such inspections. For purposes of this subsection, "probable cause" means a valid public interest in the effective enforcement of this Act or regulations issued thereunder sufficient to justify administrative inspections of an area, premises, building, or the contents thereof, under the circumstances specified in the application for the warrant.

(2) A warrant shall be issued only upon the affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the facts alleged and the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building to be inspected, the purpose of such inspection, and where appropriate, the type of property to be inspected, if any. The warrant shall—

(A) identify the items or types of property to be seized, if any;

(B) be directed to a person authorized under subsection (a)(2) of this section to execute it;

(C) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

(D) command the person to whom it is directed to inspect the area, premises, or building identified for the purpose specified, and, where appropriate, to seize the identified property;

(E) direct that it be served during normal business hours; and

(F) designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date of issuance unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time. If property is seized pursuant to such warrant, the person executing the warrant shall give a copy of the warrant and a receipt for the property taken to the person from whom or from whose premises the property was taken, or shall leave such copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory. Such inventory shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall cause a copy of such inventory to be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach

to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS AND IMPORTS

SEC. 15. (a) Notwithstanding any other provision of this Act, no chemical substance or product containing such substance shall be deemed in violation of this Act when intended solely for export to any foreign nation except that—

(1) test data which would be required to be submitted under section 5 or 6 of this Act if such substance were produced for domestic use, shall be submitted to the Administrator in accordance with such sections;

(2) such chemical substance shall be subject to the reporting requirements of section 10 of this Act, and

(3) no such substance or product containing such substance may be exported if the Administrator by regulation finds that such substance or product as exported and used will, directly or indirectly, pose an unreasonable threat to the human health of persons within the United States or to the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 5 or 6 of this Act, or restrictions on use or distribution have been proposed or requested for a chemical substance or product containing such substance under section 7 or 8 of this Act, the Administrator, subject to section 16 of this Act shall furnish to the governments of the foreign nations to which such substance or product containing such substance may be exported (1) a notice of the availability of the data submitted to him under section 5 or 6 of this Act concerning any such substance or product, (2) any restrictions on use or distribution of such substance or product that have been imposed or proposed or requested by him or the Attorney General with respect to such substance or product.

(c) The Secretary of the Treasury shall refuse entry into the United States of any chemical substance or product containing such substance offered for entry if it fails to conform with regulations promulgated under this Act. If a chemical substance or product is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or product refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or product pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or product, together with the duty thereon, and on refusal to return such substance or product for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(b) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (c) of this section.

CONFIDENTIALITY

SEC. 16. (a) Copies of any communications, documents, reports, or other information received or sent by the Administrator or the Chemical Substances Board under this Act shall be made available to the public upon identifiable request, and at reasonable cost unless such information may not be publicly released under the terms of subsection (b) of this section.

(b)(1) The Administrator or any officer or employee of the Environmental Protection Agency or the Chemical Substances Board shall not disclose any information referred to in section 1905 of title 18, United States Code, which has commercial value and which, if disclosed, would result in significant competitive damage to its owner, except that such information may be disclosed by the Administrator—

(A) to other Federal Government departments, agencies, and officials for official use, upon request, and with reasonable need for such information;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding;

(D) if relevant in any proceeding under this Act, except that such disclosure shall preserve the confidentiality to the extent possible without impairing the proceeding; and

(E) to the public in order to protect their health, after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the manufacturer of any product to which the information appertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health).

In no event shall the names or other means of identification of injured persons be made public without their express written consent.

(2) Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(c) Any communication from a person to the Administrator or any other employee of the Environmental Protection Agency concerning a matter then under consideration in a rulemaking or adjudicative proceeding in the Environmental Protection Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (b) of this section.

PROHIBITED ACTS

SEC. 17. The following acts and the causing thereof are prohibited—

(1) the failure to comply with any final regulation or order issued by the Administrator or the Secretary of the Treasury pursuant to this Act;

(2) the failure to provide information as required by section 5, 6, or 10 of this Act;

(3) the failure to permit entry and administrative inspection pursuant to section 14 of this Act;

(4) the manufacture, processing, sale, distribution, or importation into the United States of a chemical substance or product containing such substance whenever such manufacture, processing, sale, distribution, or importation is known to be or should have been known to be for use in violation of regulations promulgated under section 4 or 7 of this Act, and the use, including disposal, of any such substance or product when such use or disposal is known or should have been known to be in violation of such regulations; and

(5) the failure of any person who purchases or receives a chemical substance or product containing such substance and who is required to be given notice of restrictions on use or distribution of such substance or product pursuant to section 7(a)(2) of this Act, to comply with such restrictions on use or distribution.

PENALTIES AND REMEDIES

SEC. 18. (a) Any person who willfully violates section 17 of this Act shall on conviction be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

(b)(1) Any person who violates section 17 of this Act other than willfully shall be liable to the United States for a civil penalty of a sum which is not more than $25,000 for each day of violation. The amount of such civil penalty shall be assessed by the Administrator after notice and an opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

(2) Upon the failure of the offending party to pay such civil penalty, the Administrator may commence an action in the appropriate district court of the United States for such relief as may be appropriate or he may request the Attorney General to commence such an action.

(c) The Attorney General or the Administrator may bring an action in the appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of section 17 of this Act. The district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

CITIZEN CIVIL ACTIONS

SEC. 19. (a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including the United States or any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) alleged to be in violation of any regulation or order promulgated under section 4 or 7 of this Act, 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. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil 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 violation to the Administrator and to any alleged violator of the regulation or order, or

(B) if the Administrator or Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the regulation or order: *Provided*, That any person may intervene as a matter of right in any such actions;

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, 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 subsection

(a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any other statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

(f) When any actions brought under this subsection involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its dircretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 20. The Environmental Protection Agency shall, in cooperation with the Council on Environmental Quality and other Federal agenices, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 21. Upon request by the Administrator, each Federal agency is authorized—

(a) to make its services, personnel, and facilities available with or without reimbursement to the greatest practicable extent within its capability to the Administrator to assist him in the performance of his functions; and

(b) to furnish to the Administrator such information, data, estimates and statistics, and to allow the Administrator access to all information in its possession, as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

HEALTH AND ENVIRONMENTAL DATA

SEC. 22. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access information respecting such materials.

STATE REGULATIONS

SEC. 23. (a) Nothing in this Act shall affect the authority of any State or local government to impose more stringent restrictions on the use or distribution of chemical substances or products containing such substance, or to establish and enforce more stringent standards for test protocols for various classes and use of such substances and products and for the results that must be achieved therefrom, to protect health and the environment, except that—

(1) if the Administrator issues a final regulation under section 7 of this Act restricting the use or distribution of a chemical substance a State or local government may not enforce any such restriction of its own for purposes similar to this Act after the effective date of such regulation, other than a total ban on use or distribution; and

(2) if the Administrator issues a final regulation under section 4 of this Act a State or local government may not enforce any standards for test protocols and the result to be achieved therefrom after the effective date of such regulation.

(b) The Administrator may by regulation, upon the petition of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section, or from the prohibitions contained in any other Federal law administered by the Environmental Protection Agency against the regulation by State or local governments of the manufacture, use, or distribution of chemical substances or products containing such substances with respect to a substance or product if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

REGULATIONS, PROCEDURES, AND JUDICIAL REVIEW

SEC. 24. (a) At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this Act and to amend or rescind such regulations at any time.

(b) The Administrator shall publish any regulations proposed under this Act in the Federal Register at least sixty days prior to the time when such regulations shall become final. The Administrator shall also publish in the Federal Register a notice of all petitions received under subsection (a) and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

(c) Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and shall state the relationship of such findings to the regulations issued.

(d) Any judicial review of final regulations promulgated under this Act and final actions under section 5(e) of this Act shall be in accordance with sections 701–706 of title 5, United States Code, except that—

(1) with respect to regulations promulgated under section 4, 6, or 7 of this Act, the findings of the Administrator as to the facts shall be sustained if based upon substantial evidence on the record considered as a whole; and

(2) with respect to relief pending review, no stay of any agency action may be granted unless the reviewing court determines that the party seeking such stay (i) is likely to prevail on the merits in the review proceeding and (ii) will suffer irreparable harm pending such proceeding.

(e) Except as expressly modified by this section, the provisions of chapter 5 of title 5 of the United States Code shall apply to proceedings conducted by the Administrator under this Act.

(f) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either (1) that the information is material and was not available at the time of the proceeding before the Administrator or (2) that failure to include such evidence in the proceeding was an arbitrary or capricious act of the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, 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 with the court such modified or new findings and his recommendations, if any, for the modification or setting aside of his original order.

NATIONAL SECURITY WAIVER

SEC. 25. The Administrator may waive compliance with the provisions of this Act, in whole or in part, upon receiving information from the Secretary of Defense that such waiver is in the interest of national security. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for good cause shown by the Secretary of Defense in the interest of national security, unless the Administrator has been requested by the Secretary of Defense to omit such publication because such publication would be contrary to the interests of national security.

RECORDKEEPING OF RECIPIENTS OF FEDERAL ASSISTANCE

SEC. 26. (a) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by 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 of undertaking in connection with which such assistance is given or used, 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.

(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Administrator or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, loans or other arrangements referred to in subsection (a).

AUTHORIZATION FOR APPROPRIATIONS

SEC. 27. (a) There is hereby authorized to be appropriated such sums as may be necessary, but not to exceed $9,940,000, $11,550,000, and $10,300,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purpose and administration of this Act. No part of the funds so authorized to be appropriated shall be used to plan, design, or construct any research laboratories unless specifically authorized by the Congress by law.

(b) To help defray the expenses of im-

plementing the provisions of this Act, the Administrator may by regulation require the payment of a reasonable fee from the manufacturer of each chemical substance for which test data is required to be submitted under this Act.

(c) On or before August 1 of each year, the Administrator shall prepare and submit concurrently to the President and to the Congress budget estimates to carry out the provisions of this Act and all other authority of the Administrator for the following year. Whenever the Administrator submits any budget requests, supplemental budget estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to the President or to the Office of Management and Budget, he shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to request or require the Administrator to submit his budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 426 and to insert in lieu thereof the provisions of the bill H.R. 5356, as passed, as follows:

SHORT TITLE; CONTENTS

SECTION 1. This Act may be cited as the "Toxic Substances Control Act of 1973".

TABLE OF CONTESTS

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) man and the environment are being exposed to a large number of chemical substances each year;

(2) among the many chemical substances constantly being developed and produced are some whose manufacture, distribution, use, or disposal may pose an unreasonable risk to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances necessitates the regulation of such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) hazardous and potentially hazardous chemical substances should be adequately tested with respect to their effect on health and the environment and that such testing should be the responsibility of those who manufacture, import, or process such chemicals;

(2) adequate authority should exist to regulate the distribution and use of chemical substances found to pose an unreasonable risk to health or the environment, and to take action with respect to chemical substances which are imminent hazards; and

(3) authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances do not pose an unreasonable risk to health or the environment.

(c) It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that he shall consider the economic and social impact of any action he proposes to take under this Act.

DEFINITIONS

SEC. 3. (a) As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "chemical substance" means (A) any organic or inorganic substance of a particular molecular identity; (B) any uncombined radical or element; or (C) any mixture.

(3) The term "mixture" means any mixture which (A) occurs naturally, or (B) is produced by an industrial chemical process and which is marketed or used without separation into its constituents.

(4) The term "environment" includes water, air, land, all living things therein, and interrelationships which exist among these.

(5) The term "importer" means any person who (A) imports a chemical substance for distribution in commerce for commercial purpose, or (B) reimports a chemical substance, which was manufactured or processed in whole or in part of the United States for distribution in commerce for commercial purpose.

(6) The term "manufacturer" means any person who manufacturers a chemical substance.

(7) The term "manufacture" means to produce or manufacture.

(8) The term "processor' means any person engaged in the preparation of a chemical substance for distribution or use either in the form in which it is received or as part of another product.

(9) The term "test protocol" means—

(A) a test designed to determine the effect of a chemical substance or the use of a chemical substance on health or the environment, including a test designed to determine the effect of the manufacture, processing, distribution, use, or disposal of such substance on health or the environment,

(B) the procedures or standards to be used in making such test, and

(C) the results to be achieved from such test which the Administrator determines are necessary to evaluate whether such chemical substance poses or is likely to pose an unreasonable risk to health or the environment.

(10) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territories of the Pacific Islands.

(11) The term "to distribute in commerce" and "distribution in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation between a place in a State and any place outside thereof.

(13) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) Any action which may be taken by the Administrator under any provision of this Act with respect to a chemical substance may be taken by the Administrator in accordance with that provision with respect to a class of chemical substances. Whenever the Administrator takes action under a provision of this Act with respect to a class of chemical substances, any reference in this Act to a chemical substance (insofar as the reference relates to such action) shall be deemed to be a deference to each chemical substance in such class.

TEST PROTOCOLS

SEC. 4. (a) If the Administrator finds that testing of a chemical substance or of the use of a chemical substance in accordance with a test protocol for such substance is necessary to protect against unreasonable risk to health or the environment, he may, by rule, (1) prescribe a test protocol for such substance, and (2) require, in accordance with subsection (d), that one or more persons perform the test called for in such protocol.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors, including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) the extent to which the test protocol is reasonably predictive of the potential adverse effects of the chemical substances on health or the environment;

(4) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol; and

(5) the extent to which a risk to health or the environment can be reasonably or more efficiently evaluated by testing the component chemical substances which comprise a mixture or series of mixtures in lieu of testing any or all mixtures of the same chemical substance components in different component ratios.

(c) A test protocol under this section may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative and synergistic properties of the substance and epidemiological studies of the effect of such substance.

(d) A rule under subsection (a) may require each person who is a manufacturer, processor, or importer of the chemical substance to which a test protocol applies to perform the test called for in the test protocol. In the case of a test protocol for a chemical substance for which there is more than one manufacturer, processor, or importer, the Administrator may, in appropriate cases, permit the manufacturers, importers, or processors who are required to perform the tests called for in a test protocol to designate one or more of their number, or, to designate a qualified independent third party, to perform the required tests and permit the sharing of costs of such tests. If manufacturers, importers, or processors required to perform the tests are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, (1) the Administrator may order one or more of such manufacturers, proces-

sors or importers, or designate a qualified independent third party, to perform the required test, and (2) he may order those manufacturers, processors or importers who do not conduct the tests to provide fair and equitable contribution for the costs of such tests in an amount determined under rules of the Administrator.

(e) After allowing a reasonable time for completion of the required tests, the Administrator may order any manufacturer, processor, or importer which is required to perform the tests called for in a test protocol under this section to transmit to the Administrator the test data developed pursuant to such test protocol.

(f) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (e) the Administrator shall promptly publish in the Federal Register a notice which identifies the chemical substance for which test data have been received, lists the uses or intended uses of such substances, and describes the nature of the tests performed and the data which were developed; such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(g) Any rule under this section and any amendment or revocation of such a rule shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

LIMITED PREMARKET SCREENING OF SUBSTANTIALLY DANGEROUS CHEMICAL SUBSTANCES

SEC. 5. (a) Within eighteen months after the date of enactment of this Act, and from time to time thereafter, the Administrator shall, by rule, identify and publish in the Federal Register a list of chemical substances (or chemical substances with respect to a particular use or uses) which the Administrator finds are likely to pose substantial danger to health or environment. For the purposes of this section, "substantial danger to health or environment" means an unreasonable risk of death, of widespread or severe personal injury or illness, or of widespread or severe harm to the environment.

(b)(1) In making the finding required under subsection (a), the Administrator shall consider all relevant factors including—

(A) the effects of the substance on health and the magnitude of human exposure;

(B) the effects of the substance on the environment and the magnitude of environmental exposure; and

(C) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance.

(2) In determining whether (A) one or more mixtures, or (B) chemical substances which are components of such mixtures, should be listed under subsection (a), the Administrator shall consider whether the risk to health or the environment is associated with such mixtures or components or both and whether such risk can be more reasonably evaluated by testing the mixtures or by testing one or more components of such mixtures.

(c) A chemical substance listed under subsection (a) which was manufactured and distributed in commerce for commercial purpose prior to its listing may not be manufactured or distributed in commerce for a new use unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute the chemical substance for such new use submits to the Administrator test data developed in accordance with a test protocol promulgated under section 4 which is applicable to such intended use, or (in the absence of such a test protocol) test data which such person believes shows that the intended new use of the chemical substance would not pose an unreasonable risk to health or the environment.

(d) A chemical substance listed under subsection (a) which was not manufactured or distributed in commerce for commercial purpose prior to its listing may not be manufactured or distributed in commerce unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute such substance submits to the Administrator test data developed in accordance with a test protocol promulgated under section 4 which is applicable to the manufacture, distribution, use or disposal of such substance, and (to the extent that such a test protocol does not apply to the manufacture, distribution, use, or disposal of such substance) test data which such person believes shows that the manufacture, distribution, use, and disposal of the chemical substance would not pose an unreasonable risk to health or the environment.

(e) A person intending to manufacture or distribute in commerce a chemical substance for which no applicable test protocol has been prescribed under section 4 may petition the Administrator to develop and issue a test protocol for such substance or for the intended use of such substance. The Administrator shall either grant or deny any such petition within sixty days of its receipt. If the petition is granted, the Administrator shall diligently proceed to develop a test protocol for such substance. If the petition is denied, the Administrator shall publish in the Federal Register the reasons for such denial.

(f)(1) The Administrator may exempt any person from the obligation to submit data under subsections (c) and (d) of this section if he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with those subsections, but no such exemption may take effect before the date of termination of the premarket screening for which the data on which the exemption is based were submitted.

(2) If the Administrator, under paragraph (1), exempts any person from submitting data under this section because of the existence of previously submitted data and if such exemption takes effect during the reimbursement period for such data (as defined in paragraph (3)), then (unless the parties can agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(A) to the person who previously submitted data on which the exemption was based, for a portion of the costs incurred by him in complying with the requirement under this section to submit such data, and

(B) to any other person who has been required under this paragraph to contribute with respect to such data.

An order under this paragraph shall be considered final agency action for purposes of judicial review.

(3) For purposes of this subsection:

(A) The reimbursement period for any previously submitted data is a period—

(i) beginning on the date of termination of the premarket screening for which the data were submitted, and

(ii) ending five years after such date of termination (or, if later, at the expiration of a period after such date equal in length to the period which the Administrator determines was necessary to develop the previously submitted data).

(B) The termination of the premarket screening for which data were submitted is the earliest date (after submission of such data) on which the person who submitted such data is no longer prohibited (by this section or by reason of a proposed rule made immediately effective under subsection (i) or section 6(d)) from proceeding with the manufacture and distribution with respect to which the data were submitted.

(g) The Administrator may for good cause shown extend the ninety-day period under subsection (c) or (d) of this section for an additional period not to exceed ninety days. Subject to section 15 of this Act, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

(h) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (c) or (d) the Administrator shall promptly publish in the Federal Register notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance; and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(i) If on the basis of available data or the absence of acceptable data under subsections (c) and (d), the Administrator proposes a rule to regulate such chemical substance under section 6 of this Act within the ninety-day period specified in subsections (c) and (d) or within the period as extended in accordance with subsection (g), such proposed rule may take effect immediately, pending completion of the administrative proceeding required under section 6 of this Act. After such rule is proposed and takes effect, the Administrator shall refer the rule to a committee formed under section 10(c) of this Act. The Administrator shall refer such rule to such committee if requested by any interested person.

(j) Rules under this section which identify chemical substances as likely to pose substantial danger to health or the environment or any amendment or revocation of such rules shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(k) The Administrator may, upon application, exempt any person from the foregoing requirements of this section, for the purpose of permitting such person to manufacture and distribute in commerce a listed chemical substance for test marketing purposes or specially limited purposes (1) upon a showing by such person that the manufacture and distribution of such substance for those purposes would not pose an unreasonable risk to health or the environment, and (2) under such restrictions as the Administrator considers appropriate.

REGULATIONS APPLICABLE TO A HAZARDOUS CHEMICAL SUBSTANCE

SEC. 6. (a) If the Administrator finds that a rule under this section respecting a chemical substance is necessary to protect against unreasonable risk to health or the environ-

ment, he may prescribe a rule consisting of one or more of any of the following types of requirements:

(1) Requirements prohibiting the manufacture or distribution in commerce of such chemical substance or limiting the amount of such chemical substance which may be manufactured or distributed in commerce.

(2) Requirements prohibiting the manufacture or distribution in commerce of such chemical substance for a particular use or uses or limiting the amount of such chemical substance which may be manufactured or distributed in commerce for such use or uses.

(3) Requirements that such chemical substance or article containing such substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use or disposal, in such form and bearing such content as the Administrator determines to be appropriate.

(b)(1)(A) Rules under this section may be limited in application to specified geographic areas.

(B) The authority of the Administrator to prescribe a rule under subsection (a)(2) prohibiting the manufacture and distribution in commerce of a chemical substance for a particular use shall include authority to prescribe a rule prohibiting the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(2)(A) No rule may be prescribed under subsection (a)(1) of this section which limits the amount of a chemical substance which may be manufactured, imported, or distributed in commerce unless the Administrator finds that the risk to health or environment associated with such chemical substance cannot be prevented or reduced to a sufficient extent by means of a rule prescribed under subsection (a)(2) prohibiting the manufacture or distribution in commerce of such substance for particular use or uses or by means of a rule prescribed under subsection (a)(3).

(B) No rule may be prescribed under subsection (a)(2) which limits the quantity of a chemical substance which may be manufactured, imported, or distributed for a particular use or uses unless the Administrator finds that the risk to health or environment associated with such substance cannot be prevented or reduced to a sufficient extent by means of a rule prescribed under subsection (a)(3), or by means of a rule under subsection (a)(2) prohibiting the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(3)(A) Rules described in subsection (a)(1) of this section which limit the amount of a chemical substance which may be manufactured, imported, or distributed in commerce, and rules described in subsection (a)(2) which limit the quantity which may be manufactured, imported, or distributed for a particular use or uses, shall include provision for assigning production, importation, or distribution quotas to persons who wish to manufacture, import, or distribute the chemical substance. The permissible quota for each such person shall be determined in accordance with criteria prescribed under subparagraph (B).

(B) The Administrator shall by rule prescribe criteria which shall take into account all relevant factors, including—

(i) effects on competition,

(ii) the market shares, productive capacity, and product and raw material inventories of persons applying for quotas,

(iii) emergency conditions, such as fires or strikes, and

(iv) effects on technological innovation.

The last sentence of section 23(c) shall not apply to rules under this subparagraph (B).

(c) In issuing such rules under subsection (a) the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environmental exposure; and

(3) the benefits of the substance for various uses and the availability of less hazardous substances.

(d) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which shall be as soon as feasible. Where the Administrator determines that the manufacture, processing, distribution, use, or disposal of a chemical substance is likely to result in harm to health or the environment prior to the completion of a rulemaking proceeding under subsection (a) respecting such substance and where the Administrator determines that such action is necessary in the public interest, he may declare a proposed rule under subsection (a) immediately effective pending completion of the rulemaking proceeding.

(e) If the Administrator has good cause to believe that a particular manufacturer or processor is manufacturing or processing a chemical substance in a manner which permits or causes the adulteration of a chemical substance and if the Administrator determines that, as a result of such adulteration, the chemical substance poses an unreasonable threat to health or the environment—

(1) the Administrator may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substances; and

(2) if he thereafter determines that such quality control procedures are inadequate to prevent the adulteration of the chemical substance, the Administrator may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer to revise and remedy such inadequacy.

For the purposes of this subsection, a chemical substance shall be deemed to be adulterated if it bears or contains any added substance or contaminant which itself, or in combination with the chemical substance, presents an unreasonable risk to health or the environment.

(f)(1) Rules under subsection (a) shall be promulgated pursuant to section 553 of title 5 of the United States Code; except that in promulgating any sulch rule, (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (B) a transcript shall be kept of any oral presentation; and (C) during any such oral presentation the Administrator shall include an opportunity for cross-examination as provided in paragraph (2).

(2)(A) Except as provided in paragraph (B), during any such oral presentation, the Administrator shall include an opportunity for cross-examination to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issue or issues involved and the number of the participants and the nature of their interests.

(B) If only a single interested person seeks to avail himself of an opportunity for cross examination in a proceeding to promulgate a rule under subsection (a), or if the Administrator determines that all persons who seek to avail themselves of such an opportunity are members of a single class sharing an identity of interest, the Administrator shall afford such single interested person or representative of such class (as designated by the participants of such class) an opportunity to conduct cross-examination to the same extent that cross-examination is permitted under section 556 of title 5, United States Code.

(g) The Administrator, at the time he promulgates any final rule under this section, shall include a detailed statement on the economic impact of such action, including, but not limited to, consideration of the effects on business enterprises and labor forces and the effect on the national economy.

IMMINENT HAZARDS

SEC. 7. (a) The Administrator may file an action in United States district court—

(1) against an imminently hazardous chemical substance and any article containing such substance for seizure of such substance or article under subsection (b)(2) of this section, or

(2) against any person who is a manufacturer, processor, distributor, or retailer of such chemical substance or article.

Such an action may be filed notwithstanding the existence of a rule under sections 4, 5, or 6 of this Act, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act. As used in this section, the term "imminently hazardous chemical substance" means a chemical substance which presents imminent and unreasonable risk to health or the environment. The risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution, use, or disposal of a chemical substance is likely to result in harm to health or the environment prior to the completion of an administrative proceeding under this Act.

(b)(1) The district court in which such action is filed shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance or article containing such substance. Such relief may include (in the case of an action under subsection (a)(2)) a mandatory order requiring (A) notification of such risk to those purchasers of such chemical substance or an article containing such chemical substance which are known to the defendant; (B) public notice; (C) recall; and (D) the replacement or repurchase of such chemical substance or article containing such substance.

(2) In the case of an action under subsection (a)(1), the chemical substance or article containing such substance may be proceeded against by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of an action under this section or as soon thereafter as may be practicable, the Administrator shall initiate a rulemaking proceeding under section 6 of this Act.

(d)(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant, or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical chemical substances or articles containing such substances are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(e) Notwithstanding any other provision of law, in any action under this section, the Administrator may direct attorneys employed by him to appear and represent him.

REPORTS

SEC. 8. (a) (1) Except as provided in subsections (b) and (c), the Administrator may, by rule, require any manufacturer, importer, or processor of any chemical substance to submit reports to him annually, and at such more frequent time as he may reasonably require, containing any or all of the following:

(A) The names of any or all chemical substances manufactured, imported, or processed by the manufacturer, importer, or processor thereof.

(B) The chemical identity and molecular structure of such substances insofar as is known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(C) The categories of use of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(D) Reasonable estimates of the amounts of each substance manufactured, imported, or processed for each such category of use.

(E) A description of the byproducts, if any, resulting from the manufacture, processing, or disposal of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

(2) For purposes of this subsection, the term "byproduct" means a chemical substance produced as a result of the manufacture, processing, use, or disposal of some other chemical substance.

(3) The Administrator may, by rule, exempt manufacturers, importers, or processors from all or part of the requirements of this section if he finds out that such reports are not necessary to carry out the purposes of this Act, or if he finds that such reports would provide information which duplicates information otherwise available to him.

(b) (1) Subject to paragraph (2) of this subsection, the Administrator shall have no authority under subsection (a) of this section to require any manufacturer, processor, or importer of any chemical substance to submit reports to him in the manner therein provided except with respect to a chemical substance or an article containing such substance—

(A) for which a test protocol has been prescribed under section 4(a) of this Act;

(B) which is contained in the list of chemical substances which the Administrator has by rule identified and published in the Federal Register under section 5(a) of this Act; or

(C) which are covered by a rule under section 6(a) of this Act.

(2) (A) The limitations on reporting contained in paragraph (1) of this subsection shall apply only to a manufacturer, processor, or importer which is a small business concern; except that if the Administrator determines that such a concern is substantially engaged in the development of one or more new chemical substances, he may order such concern to make reports with respect to any new chemical substance developed by it.

(B) For purposes of this subsection, the term "small business concern" means a manufacturer, processor, or importer which is (i) a small business concern within the meaning of the section 121.3–11(a) of title 13 of the Code of Federal Regulations (as in effect on the date of enactment of this Act) or (ii) any other concern which is independently owned and operated and not dominant in its field of operations, and which the Administrator of the Small Business Administration by rule defines as a small business concern for purposes of this subsection, taking into account relevant factors such as concentration of output in the industry of which it is a part, total number of concerns in such industry, and the size of such concern relative to the size of industry leaders.

(c) The Administrator may not require any manufacturer, importer, or processor to submit reports under this section with respect to any chemical substance which he manufactures, imports, or prepares for distribution for use as a standard or reagent and for research or laboratory purposes.

(d) Whenever the Administrator determines that such action would be necessary to allow him to carry out his responsibilities and authorities under this Act, he may by publishing a notice in the Federal Register invite and afford all interested persons an opportunity to provide in writing information respecting the health or environmental effects of a chemical substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 9. (a) This Act shall not apply to—

(1) tobacco and tobacco products;

(2) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured or distributed in commerce for use as a pesticide; or

(3) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act) and food. The term "food" as used in this paragraph means all food, as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in section 4 (e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(b) The Administrator shall have no authority under sections 5, 6, and 7 of this Act to take action to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law; including the Atomic Energy Act of 1954, the Clean Air Act, the Federal Water Pollution Control Act, the Federal Hazardous Substances Act, the Occupational Safety and Health Act of 1970, the Consumer Product Safety Act, subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation), and the Acts administered by the Secretary of Transportation relating to the transportation of hazardous substances.

(c) If it appears to the Administrator that any chemical substance may pose an unreasonable risk to health or the environment which could be prevented or reduced to a sufficient extent by actions taken under other Federal laws, he shall transmit any data received from manufacturers, importers, or processors, or data otherwise in his possession which is relevant to such risk to the Federal executive department or agency, independent regulatory agency or other authority of the Federal Government with authority to take legal action.

(d) In administering the provisions of this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, independent regulatory agency or other authority of the Federal Government. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b) of this section.

CHEMICAL SUBSTANCES BOARD

SEC. 10. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to in this section as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members of the Board from a list of at least twenty-two individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member of the Board from whatever source he desires. Not more than one-third of the members of such Board shall be in the employ of or have any significant economic interest in any manufacturer, importer, or processor of chemical substances. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The National Academy of Sciences, in consultation with the Board, shall maintain a directory of qualified scientists, to assist in carrying out the provisions of this section. Such scientists may also be utilized as consultants to the Chemical Substances Board.

(c) Except when acting under section 5(i) or the last sentence of 6(d) of this Act, before proposing any rules under section 4, 5, or 6 of this Act, the Administrator shall refer his proposed action and the available evidence to a committee selected by the Administrator from members of the Board and the directory of consultants to the Board maintained under subsection (b), except that the Secretary of Health, Education, and Welfare may appoint one member of such committee from whatever source he desires. Concurrently with such referral, the Administrator shall publish in the Federal Register a notice of the referral identifying the proposed action. Such committee shall include scientifically qualified persons not more than one-third of which are in the employ of or have a significant economic interest in any manufacturer, importer, or processor of, or any person who distributes in commerce, any chemical substance which may, directly or indirectly, be affected by the proposed action. The committee shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days, as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines the extension necessary and such committee has made a good faith effort to report its views and reasons therefor within the initial forty-five-day period. All such views shall be given due consideration by the Administrator. If the committee fails to report within the specified time, the Administrator may proceed to take action under this Act. Subject to section 15 of this Act, all proceedings and deliberations of such committees and their reports and reasons therefor shall be available for public examination. The report of the committee and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(d) The Administrator may also request the Board to convene a committee to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(e) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(f) Members of the Board or committees who are not regular full-time employees of the United States shall, while serving on business of the Board or committee, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS-18 of the classified civil service, 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 section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(g) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Board.

RESEARCH

SEC. 11. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. To the extent practicable, such research and monitoring shall not duplicate the efforts of other Federal agencies. In order to carry out the provisions of this section, the Administrator is authorized to make contracts and grants for such research and monitoring.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 12. (a)(1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act or for the purpose of otherwise facilitating the carrying out of his functions under this Act, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances are manufactured, processed, stored, held, or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereafter in this section referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipments data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of rules issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any situation where a warrant is not constitutionally required.

(c) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this title, and seizures of property appropriate to such inspections. For the purposes of this subsection the term "probable cause" means a valid public interest in the effective enforcement of this Act or rules thereunder sufficient to justify administrative inspections of the area, premises, building, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate, and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (a)(2) of this section to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, or building, identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date, unless upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS

SEC. 13. (a) This Act shall not apply to any chemical substance or article containing such substance if (1) it can be shown that such substance or article is manufactured, processed, sold, or held for sale for export from the United States (or that such chemical substance was imported for export), unless such chemical substance or article is, in fact, manufactured, processed, or distributed in commerce for use in the United States, and (2) such chemical substance or article containing such substance when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such chemical substance or article is intended for export; except that (A) any manufacturer, processor, or exporter of such chemical substance shall be subject to the reporting requirements of section 8 of this Act; and (B) this subsection shall not apply to any chemical substance or article containing such substance if the Administrator finds that the chemical substance or article will, directly or indirectly, pose an unreasonable risk to health within the United States or to the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 4 or 5 of this Act, or rules applicable to such substance or article containing such substance have been prescribed or proposed under section 5 or 6 of this Act, the Administrator, subject to section 15 of this Act, may furnish to the governments of the foreign nations to which such chemical substance is exported, or is intended to be exported, notice of the availability of the data submitted to the Administrator under section 4 or 5 concerning such chemical substance, and notice of any rule applicable to such substance or article containing such substance which has been prescribed or proposed by the Administrator under section 5 or 6 of this Act.

IMPORTS

SEC. 14. (a) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) of any chemical substance or article containing such substance offered for entry if it fails to conform with rules promulgated under this Act, or if it is otherwise prohibited under this Act from being distributed in commerce. If a chemical substance or article is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or article refused delivery which has not been exported by the consignee within three months from the date of reciept of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or article pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or article, together with the duty thereon, and on refusal to return such substance or article for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, such consignee shall forfeit the full amount of such bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee

(b) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (a) of this section.

CONFIDENTIALITY

SEC. 15. All information reported to or otherwise obtained by the Administrator or his representative under this Act, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act (including the Chemical Substances Board and committees formed under section 10), or when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall preserve the confidentiality to

the extent possible without impairing the proceeding. All information reported to or otherwise obtained by the Administrator or his representative including information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be made available upon request of the duly authorized committees of the Congress.

PROHIBITED ACTS

SEC. 16. It shall be unlawful for any person to—

(1) fail or refuse to comply with section 4, 5, or 6 of this Act or any rule or order prescribed under those sections, or with any restriction under section 5(k) of this Act;

(2) fail or refuse to comply with section 8 or any rule or order thereunder;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to permit entry or inspection or take any other action as required under section 12 of this Act; or

(4) fail or refuse to comply with instuctions with respect to the use or disposal of a chemical substance where such instructions are required by rule prescribed under section 6(a)(3) of this Act and where such failure or refusal to comply results in or is likely to result in death, severe personal injury or illness, or severe harm to the environment.

PENALTIES

SEC. 17. (a) Any person who knowingly violates section 16 of this Act shall be subject to a civil penalty not to exceed $25,000 for each day of violation.

(b) Any person who willfully violates any provision of section 16 (other than section 16(2)) of this Act, after having received notice of noncompliance from the Administrator, shall, in addition to or in lieu of a civil penalty imposed under subsection (a), on conviction, be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 18. (a) Upon application by the Attorney General, the district courts of the United States shall have jurisdiction to restrain any violation of section 16 or to compel the taking of any action required by this Act or rule issued thereunder. Such actions may be brought by the Attorney General, on the request of the Administrator, in any United States district court of proper venue. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found, and subpenas for witnesses may run into any other district.

(b) Any chemical substance or article containing such substance which was manufactured or distributed in commerce in violation of an applicable rule prescribed under section 6, or in violation of section 5 of this Act, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty. Actions under this subsection may be brought by the Attorney General on the request of the Administrator.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 19. The Administrator shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 20. Upon request by the Administrator, each Federal agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist him in the performance of his function; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

STUDY OF CHEMICAL SUBSTANCES CLASSIFICATION SYSTEM

SEC. 21. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such materials.

STATE REGULATIONS

SEC. 22. (a) Nothing in this Act shall affect the authority of any State or local government to regulate any chemical substance, or to establish and enforce standards for test protocols for chemical substances to protect health or the environment, except that—

(1) if the Administrator prescribes a rule under section 6 of this Act applicable to a chemical substance, a State or local government may not, after the effective date of such rule, establish or continue to enforce any restriction of its own applicable to such substance for purposes similiar to such rule, other than a total ban on use or distribution; and

(2) if the Administrator prescribes a rule under section 4 of this Act applicable to a chemical substance, a State or local government may not after the effective date of such rule establish or continue to enforce any standards for test protocols applicable to such substance or class for purposes similar to those of a rule under section 4.

(b) The Administrator may by rule, upon the petition of any State or local government or at his own initiative, except State and local governments from the prohibitions of subsection (a) of this section with respect to a chemical substance if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

JUDICIAL REVIEW

SEC. 23. (a) Not later than sixty days following promulgation of a rule under sections 4, 5, and 6 of this Act, any person adversely affected by such rule, or any interested person, may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based his rule as provided in section 2112 of title 28, United States Code, and shall include the transcript of any oral presentation of data, views, or arguments required under sections 4, 5, and 6.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Administrator may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section, the court shall have jurisdiction to review the rule to which the petition relates in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. Rules promulgated by the Administrator under section 4, 5, or 6 of this Act and reviewed under this section shall not be affirmed unless the findings required to be made under those sections are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any rule promulgated by the Administrator which is reviewed in accordance with the terms of this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certified, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

CITIZEN CIVIL ACTION

SEC. 24. (a) Except as provided in Subsection (b) of this section, any interested person may commence a civil action for injunctive relief on his own behalf—

(1) against any person (including (A) the United States, and (B) 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 any rule, order, or restriction prescribed under section 4, 5, or 6 of this Act, 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. Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection shall be brought in the district court of the District of Columbia, or in the district court for the district in which the plaintiff is domiciled.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil 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 violation (i) to the Administrator, and (ii) to any alleged violator of the rule, or

(B) if the Administrator (or Attorney General on his behalf) has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the rule, but if such action is commenced after the giving of notice any such person giving such notice may intervene as a matter of right in such action; or

(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 ten days after such notification in the case of an action under this section for the failure of the Administrator to act under section 6.

Notice under this subsection shall be given

in such manner as the Administrator shall prescribe by rule.

(c) In any 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 subsection (a) of this section, may award reasonable fees for attorneys and expert witnesses to the prevailing party, whenever the court determines such an award is appropriate.

(d) 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 rule or order or to seek any other relief.

(f) For purposes of this section, the term "person" means an individual, corporation, partnership, or association, and (subject to subsection (a)(1)(B)) any State, municipality, or political subdivision of a State.

(g) When any actions brought under subsection (a)(1) of this section involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(h) This Section shall apply only with respect to civil actions filed more than two years after the date of enactment of this Act.

NATIONAL SECURITY WAIVER

SEC. 25. The Administrator shall waive compliance with any provision of this Act upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the House Armed Services Committee and the Senate Armed Services Committee.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 26. (a) There is hereby authorized to be appropriated not to exceed $9,340,000, $11,100,000, and $10,100,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purposes and administration of this Act. No part of the funds so authorized to be appropriated shall be used to construct any research laboratories.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may, by rule, require the payment of a reasonable fee from any person required to submit test data under sections 4 and 5 of this Act. Such rules shall not provide for any fee in excess of $2,500. In setting the amount of such a fee, for the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for the sharing of the expense of such a fee in any case in which the expenses of testing are shared under section 4(d).

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To regulate interstate commerce to protect health and the environment from hazardous chemical substances."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5356) 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 disagrees to the amendment of the House to the bill (S. 1888) entitled "An act to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. EASTLAND, Mr. MCGOVERN, Mr. ALLEN, Mr. CURTIS, Mr. AIKEN, and Mr. YOUNG to be the conferees on the part of the Senate.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 512, TO EXTEND THE AUTHORITY OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT WITH RESPECT TO THE INSURANCE OF LOANS AND MORTGAGES

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 512) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. PATMAN, BARRETT, Mrs. SULLIVAN, Messrs. ASHLEY, MOORHEAD of Pennsylvania, STEPHENS, ST GERMAIN, GONZALEZ, REUSS, WIDNALL, BROWN of Michigan, J. WILLIAM STANTON, BLACKBURN, Mrs. HECKLER of Massachusetts, and Mr. ROUSSELOT.

APPOINTMENT OF CONFEREES ON S. 1888, AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

Mr. POAGE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1888) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices, together with the House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

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

Mr. CONTE. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

FURTHER LEGISLATIVE PROGRAM

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

Mr. McFALL. Mr. Speaker, I take this time to advise the Members of the program for the balance of the day and, tentatively, for the balance of the week.

We will proceed to take up the rule on H.R. 8929, Educational and Cultural Postal Amendments, at this time. Hopefully, we will complete the 2 hours of debate or as much of it as possible this evening, but we would not take up the 5-minute rule.

Tomorrow, we will begin consideration of H.R. 8480, impoundment control and 1974 expenditure ceiling. When we complete that bill tomorrow or the next day, we will begin the foreign aid bill, H.R. 9360.

The completion of the postal amendment bill will be taken up after we finish the other two bills. Hopefully, then, we will get to the national flood insurance expansion bill before the end of the week.

PROVIDING FOR CONSIDERATION OF H.R. 8929, EDUCATIONAL AND CULTURAL POSTAL AMENDMENTS OF 1973

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 495 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 495

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(e), rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8929) to amend title 39, United States Code, with respect to the financing

of the cost of mailing certain matter free of postage or at reduced rates of postage, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from California (Mr. DEL CLAWSON) and pending that I yield myself such time as I may consume.

For the moment, Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE of Texas. Mr. Speaker, in the 1970 Postal Reorganization Act, the Congress put the Postal Service on a break-even, pay-as-it-goes basis, primarily on the assumption that the application of modern business techniques by cost-effective corporate managers would make the new Postal Service efficient and economical. That assumption has been proved wrong by the poor performance of the new Postal Service we have all witnessed and heard about from our constituents. And in adopting the break even principle, we clearly overlooked its effect on nonprofit community oriented organizations that use the mails extensively in order to serve their members and benefit the country.

I for one had no conception in 1970 of the magnitude of the postal rate increases that would be imposed on nonprofit organizations. If I had, I certainly would not have favored the Postal Reorganization Act in its present form.

The postal rate increases imposed on nonprofit organizations range from 200 percent to over 800 percent more than they were paying in second-class postage prior to May of 1971. In absolute dollar terms the projected increases are astounding and the financial impact clear. For example, the second-class postage on the American Legion magazine will rise from about $200.000 a year in 1971 to more than $1 million a year in 1980.

This magazine is mailed to all members of the Legion and to schools, libraries and veterans hospitals throughout the country and overseas. The magazine provides information on legislation and other matters of concern to veterans and their dependents and contains articles on patriotism, national security, youth programs, and the history and culture of our country. The editorial content averages 75 percent and the advertising content is 25 percent or less in each issue. Under the present schedule of rate increases, by 1980 the cost of mailing this magazine will be prohibitive unless relief is granted by the Congress.

Publications of other veterans organizations as well as the religious, fraternal, farm, and labor groups are equally affected. I am advised that the postage on Rev. Belly Graham's magazine, Decision, will increase from $11,000 a month to almost $165,000 a month when fully in effect.

The principal inequity of the present rate schedule is the per-piece-charge—surcharge—of up to 1.5 cents because this additional cost does not adjust for publications with a low percentage of advertising income. The per-piece-charge applies equally to all publications regardless of size. It makes no distinction between a 50-page magazine and a 4-page newsletter. This surcharge is in addition to the basic rate established for such mail. Until the new schedule of rates became effective a per-piece-charge had never been imposed upon second-class nonprofit mailers.

For over half a century prior to enactment of the Postal Reorganization Act, the Congress had provided preferential mail rates for publications of veterans organizations and other nonprofit mailers who disseminate information of benefit to their members and to the public. I do not believe the Congress intended to abandon the traditional treatment accorded these organizations.

The Postal Rate Commission has assigned to nonprofit mailers the second highest rate increase of all classes of mail in an apparent effort to "close the gap" in the second-class rate structure for nonprofit organizations as opposed to regular rate publications. Comparisons between the second-class structure of regular rate publications and publications of authorized nonprofit organizations, and a comparison of income/postage ratios make it clear that the rates for nonprofit organizations are a complete and dramatic departure from the rate concept traditionally accorded preferential second-class users.

In its enthusiasm to balance its budget, the Rate Commission has callously ignored those provisions of the Postal Reorganization Act and 55 years of congressional policy concerning the rate treatment of nonprofit community oriented organizations. The rates discriminate against a class of publications which are least able to absorb the increases and whose history has been one of disseminating news and useful information in the public interest rather than becoming income oriented through the sale of large amounts of advertising.

Postal costs have already risen significantly and are anticipated to go up another $2 billion over the next 2 years. Under the Postal Reorganization Act, additional rate increases will have to be imposed to recover these costs. Veterans organizations rely almost entirely on membership dues, not only to pay for the cost of publishing their newspapers and magazines, but also to accomplish all of the objectives for which they exist. Advertising revenue received by other publications, particularly in the profit field, is not available to the veterans organizations. Their principal source of income is through subscription revenue which is part of the dues structure of each organization. The veterans organizations cannot arbitrarily raise their subscription prices in order to absorb the increased postal costs. They must await approval of their membership to modify the dues structure and this is not easily accomplished.

Obviously, the postage increase under the new rate schedule represents a severe financial burden to the veterans organizations. Every dollar that must be devoted to increased postage is taken away from the worthwhile purposes these organizations fulfill. When the Postal Reorganization Act was passed. I think all of us anticipated that reasonable postal rate increases would be required for all mail users, including nonprofit organizations. But I seriously doubt that any Member had the slightest inkling that rates would be increased to the extent that they have.

The veterans organizations simply cannot bear this radically higher postage without serious impairment of their other functions or without eliminating their publications which are the only direct link of communications they have with their members. Either result is detrimental and should not be permitted to happen.

I do not believe that a slavish adherence to the Postal Service break-even requirement should be permitted to affect the nonprofit community-oriented organizations as seriously and as detrimentally as will be the case unless the Congress takes action.

H.R. 8929 is designed to alleviate to some extent the extreme financial impact of these higher postal rates. This is consistent with Congress historic and consistent policy of providing nonprofit institutions with a low-cost means of distributing their publications and communicating with their members through the mails. In my opinion, H.R. 8929 merely corrects an oversight contained in the Postal Reorganization Act and remedies an unintended and harmful effect. Enactment of this legislation will make it clear that the Congress continues to recognize the enormous contribution that the veterans organizations make to their communities, their States and to this Nation.

Mr. PEPPER. Mr. Speaker, House Resolution 495 provides for on open rule with 2 hours of general debate on H.R. 8929, a bill to provide relief from postal rate increases for certain mailers.

House Resolution 495 provides that the provisions of clause 27(e), rule XI of the Rules of the House of Representatives are waived.

I will state to my able friend from Iowa, whose inquiry I anticipate, if I may, that the occasion for this request for a waiver by the Rules Committee is this: The committee had before it H.R. 7554. The committee, on the 21st of June, I believe it was, voted, with a quorum present, by a record vote of 33 to 10, to report out the committee bill, H.R. 7554, with amendments. The bill and the amendments were voted favorably by the committee.

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

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. DERWINSKI. The gentleman said the vote was 33 to 10. It was 13 to 10.

Mr. PEPPER. I am sorry. It was 13 to 10. I understand that there are 25 members of the committee, and 23 voted, and the vote to report out the bill was 13 to 10.

The committee voted to report out a clean bill, which would embody H.R. 7554 and the amendments in a single clean bill.

On the day following that meeting of the committee there was introduced a clean bill, embodying exactly H.R. 7554 plus the amendments that had been voted upon favorably by the committee. There was not a subsequent meeting of the committee upon the clean bill. But the clean bill embodying what was voted upon exactly by the committee, as H.R. 8929, was reported out and presented to the Rules Committee. The situation was reported to the Rules Committee, and the Rules Committee voted to recommend consideration of the bill to the House, but recommended that there be a waiver of points of order so that any technicality which might arise out of that situation would be cured by the waiver of the rule, if the House adopted the waiver of the rule.

If I have not stated the facts correctly I will ask the able gentleman from New York, the chairman of the subcommittee, if he would care to make any correction in the statement I have made.

Mr. HANLEY. No. The facts are as the gentleman has stated them.

Mr. PEPPER. I thank the gentleman.

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

Mr. PEPPER. I yield to the gentleman from Iowa.

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

I believe one slight correction should be made. A clean bill was introduced 2 days after the committee voted on the proposition, and I would have to differ again with the gentleman in his statement that this is an open rule. It is not an open rule since it waives a point of order.

Mr. PEPPER. Mr. Speaker, it is an open rule.

Mr. GROSS. The Committee on Rules in effect is doing the homework for the Committee on Post Office and Civil Service in that they did not abide by the rules of the House and vote on a clean bill.

Mr. PEPPER. Mr. Speaker, H.R. 8929 grants relief from postal rate increases for mailers of large commercial publications, books, and sound recordings on a temporary basis, and for mailers of nonprofit and other preferred rate publications, small commercial publications, and books and sound recordings to and from libraries.

The total cost of the bill from the present time until 1980 is $865.5 million.

H.R. 8929 also exempts the Postal Service from the Budget and Accounting Act.

Mr. Speaker, I urge adoption of House Resolution 495 in order that we may discuss and debate H.R. 8929.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 372]

Anderson, Ill.	Gibbons	O'Neill
Barrett	Green, Pa.	Pike
Bell	Gubser	Poage
Bevill	Gunter	Quie
Blatnik	Hanna	Quillen
Boland	Harrington	Reid
Bolling	Harsha	Roberts
Burton	Hébert	Roe
Camp	Horton	Rooney, N.Y.
Clark	Hutchinson	Rosenthal
Clay	Ichord	Rostenkowski
Collier	Jarman	Ryan
Conable	Kemp	St Germain
Conyers	King	Shoup
Dent	Kuykendall	Sisk
Diggs	Landgrebe	Stanton,
Dulski	Landrum	James V.
Evans, Colo.	McFall	Steiger, Wis.
Evins, Tenn.	Melcher	Stephens
Fisher	Milford	Talcott
Foley	Mills, Ark.	Tiernan
Ford,	Minshall, Ohio	Widnall
Gerald, R.	Mizell	Wilson,
Fraser	Murphy, N.Y.	Charles, Tex.
Giaimo	Nichols	Winn
	O'Brien	

The SPEAKER. On this rollcall 360 Members have recorded their presence by electronic device, a quorum.

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

PROVIDING FOR CONSIDERATION OF H.R. 8929, EDUCATIONAL AND CULTURAL POSTAL AMENDMENTS OF 1973

Mr. PEPPER. Mr. Speaker, I yield to the gentleman from California (Mr. DEL CLAWSON).

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 495 provides a rule with 2 hours of general debate for the consideration of H.R. 8929, Educational and Cultural Postal Amendments. The rule also includes a waiver of clause 27(e) of rule XI. This rule requires the presence of a quorum when a bill is reported. In this case the committee, with a quorum present, agreed to report a clean bill, but never actually held a meeting officially reporting out the clean bill. Therefore, the waiver is necessary in order to prevent a point of order against consideration of the bill.

H.R. 8929, the bill made in order under this rule, would provide huge and unwarranted windfalls to certain profit-oriented newspaper, periodical, and magazine publishers and high-volume distributors of books and records. It would accord "favored status" to selected mailers by: First, stretching out, from 5 to 9 years and in biennal increments, the phased rate increases for profit-oriented second-class publications and fourth-class books and records; second, providing for a one-third discount on the first 100,000 copies of each issue of profit-oriented second-class publications and on the first 250,000 copies of each issue of nonprofit second-class publications; third, providing a 50-percent subsidy for any future rate increases for nonprofit publications.

Upon the general taxpayer would fall the burden of this generosity—approximately $950 million during the next 7 years. Beyond 1980 these continuing subsidies would prove equally exorbitant and inequitable.

The proposed legislation is completely contrary to priniciples underlying the Postal Reorganization Act of 1970. Once again it involves the Congress in the postal ratesetting process. It not only makes the already complicated second-class rates more confusing and complicated, but by locking into permanent law references to former rate classifications that were repealed by the act, it perpetuates an archaic classification structure.

Enactment of H.R. 8929 would prove a serious and costly error. It violates the structuring of postal rates and destroys the effective operation of the Postal Rate Commission. It is an unwarranted raid on the Federal Treasury for the unneeded benefit of a selected few.

Mr. Speaker, I am opposed to this bill and the rule. Upon completion of debate on the rule, I will ask that the House defeat the rule. This will prevent the House from wasting time on a bill which never should have been reported out of committee, and in fact was reported out only by a narrow margin.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I commend the gentleman from California for a very profound statement. While we are debating the rule I would like to return to a point that was discussed by the gentleman from Iowa just before we had the quorum call—and obviously it was not the intent of the quorum call to have the Members listen to me but I will take advantage of it anyway, and I might as well make that point again.

I am reading from a report on the action of the full committee on July 21, 1973, and I quote from this committee statement:

> By a vote of 13 to 10, the committee ordered reported a clean bill, relating to reduced postal rates for second and special rate fourth-class mail matter, incorporating the text of H.R. 7554, as amended by the committee.

The gentleman from Iowa (Mr. GROSS) properly made the point at the time the committee acted that this bill was not before us and was not introduced until a day or two later, a very interesting procedure which is covered by the rule waiving points of order.

I would suggest to the Members that regardless of their views on this bill itself that this is the kind of precedent we should not be setting and it makes for bad legislation. I think the rule should be defeated and we should let the committee produce a proper vehicle for final

consideration and then we will not have any argument about the need for a protected rule.

I think this is a classic case of sloppy legislation which it behooves the House to reject out of hand.

This bill by the way is one of the rare creatures that cannot be improved by amendment and has got to be defeated outright. This is necessary because the proper procedure was not followed in the committee.

Mr. Speaker, I urge rejection of the rule.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, anyone who has read the committee report is probably wondering how this bill ever got to the place where it is today. Let me say that the vote in the Post Office and Civil Service Committee was a close 13 to 10, and in the Rules Committee it was 7 to 5. I might hastily add I was one of the five who voted not to report this bill.

When we look at the contents of this bill we begin to wonder how the special interests—and this is a special interest bill—can in one sweep practically undo the work of the new Postal Rate Commission we heard so much about a couple of years ago during the debate on the postal reorganization bill. This bill is attempting to negate the work of the Rate Commission to at least head the Service in the direction of paying its own way. It has been stated by the gentleman from California this bill would grant an estimated $950 million surplus to these special interest groups.

I know the Members probably have already heard from a goodly number of them. A good many have cried crocodile tears, but when we turn to the minority views of the committee report, we find they are making money; they are not going out of business; and the tears are not so real.

For example, Reader's Digest, one of the most successful publishing enterprises in the world, would get a windfall of $14.8 million under this bill. This is virtually double the postal subsidy it already receives. It is equally ridiculous that Time, Inc.. whose net income last year was $22 million, should reap a subsidy of $12.5 million, twice the subsidy it is already receiving. The Wall Street Journal, with a 1972 income profit of nearly $20 million, would have its postal subsidy doubled from $17.3 to $34.7 million.

This all would occur at a time when we are hearing from the Postmaster General that we should expect a 25-percent increase in first class rates next year. Actually they are asking of the average taxpayer, the user of the 8 cent and soon to be 10 cent stamp, is for him to pick up this $950 million subsidy for the big corporations so they can report higher profits.

We haven't heard much about this legislation. I have not heard anything about it back in my district, nor have I read much about it in these subsidized publications I wonder why? Doesn't the public have a right to know it is paying these huge subsidies?

I predict, however, that the members are going to be asked to explain the reason for an increase in the first class rates when they occur. Try then to explain the reason for the increase in that stamp from 8 cents to 10 cents without mentioning the $950 million subsidy you are trying to put in this bill.

This is an unjustified raid on the Treasury if I have ever seen one, and certainly it will put an additional hardship on the low-income individual who is going to be using first class mail and paying 10 cents to mail his letter.

The publishers of these very profitable magazines are already paying the first step of the 1972 rate increases, and not one—not one publication has failed financially as a result of this initial first step. As a matter of fact, Time, Inc., had first quarter earnings this year of 73 cents as opposed to 42 cents in the first quarter of last year.

Costs other than postage have also been rising—newsprint, machinery, wages, and so forth. There is no evidence to suggest that postage costs are significantly high in relation to other publishing costs. The cost of second-class postage, of course, really plays a very small role in the economic picture of publishing magazines. Advertising, circulation, manufacturing, and production constitute, in the aggregate, almost 80 percent of the total magazine expenses, according to the Magazine Publishers Association.

Second-class postage costs are under 5 percent of these total costs. That is what we are dealing with here today. As a matter of fact, the Magazine Publishing Association's own figures show no substantive change in postage cost between 1966 and 1971, where the percentages have gone from 4.65 percent in 1966 to 4.94 percent in 1971.

Data from the 6,500-member National Newspaper Association—which, incidentally, opposes this legislation—reflects that before increases, second-class postage approximated a mere 2 percent of the total cost.

I, for one, find it hard to believe that the magazine industry, the newspaper industry, the book publishing industry, or any other part of it, has been imperiled by rate increases approved to date. They simply have not made a case that they should be subsidized by the American people in this legislation to the tune of $950 million. Nor should the people who do not subscribe to magazines, books, records, and so forth, be asked to further subsidize the postage for those who choose to receive them.

Mr. Speaker, by this time the Members have probably guessed that I do not support this legislation. I intend to vote against the rule as the House should not be asked to consider it. I urge you to defeat the rule and if we must have legislation to help nonprofit publications stay in business, then let the committee return to the House with the bill to do just that and only that.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I should like to read briefly from the New York Times of July 17, slightly less than a week ago. It states as follows:

> The Magazine Publishers Association—specialist in upbeat reports—has outdone itself with its June statement. Not only did the members of the Publishers Information Bureau ring up the highest monthly ad revenues ever—$109.8-million, a 10 per cent increase over June, 1972—marking the 30th consecutive month of increases—but it also closed out a six-month period without parallel in magazine history. Collectively, it is estimated, member publications increased their revenues 8 per cent to more than $636-million and their ad pages 6 per cent to 42,460 over the first half of last year.

It concludes by saying:

> Wow! Golly! Gee!

Apparently in enthusiastic approval of this report.

This bill ought never to have come out of the Committee on Post Office and Civil Service. Having come out of that committee, it ought not to have been given consideration by the Rules Committee.

This is bad legislation, as has been previously stated. It provides for a subsidy of almost a billion dollars to publications, many of which are showing excellent profits.

The bill is labeled, among other things, as the Educational and Cultural Postal Amendments of 1973. As we stated in the minority views on this bill, it is educational only as a lesson in raiding the Treasury. It is cultural to the extent of its cultivation of special interest groups.

Mr. Speaker, I suggest that the Members of the House would do themselves a favor this evening to defeat this rule, end the consideration of this legislation here and now, and go on to other business.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. KEATING).

Mr. KEATING. Mr. Speaker, I rise in opposition to the bill and in opposition to the rule.

During fiscal year 1974, the U.S. Postal Service will receive Federal subsidies on the order of $1,373,096,000. Passage of H.R. 8929 would raise this total to $2,323,096,000. And the provision of the bill which would limit future rate increases to 50 percent of the otherwise applicable costs could substantially increase this already staggering figure. Before Congress can even begin to consider imposing the cost burden of these massive additional subsidies on the taxpayer, we must raise the issue of fairness.

Fairness, in the words of the Postal Reorganization Act, obliges the Postal Service—

> To apportion the costs of all postal operations to all users of the mail on a fair and equitable basis.

Accordingly, the act requires that each class of mail produce enough revenue to cover the costs directly attributable to its handling. I would maintain that current practice does not conform to the spirit of this act because second-class mail and parcel post are already receiv-

ing indirect subsidies at the expense of the other classes of mail.

I would further maintain that this situation is already unfair and should not be exacerbated by the passage of legislation which would authorize direct subsidies to favored mailers at the general expense.

I base my first assertion on the figures which Mr. Benjamin F. Bailar, Senior Assistant Postmaster General, submitted to the Committee on the Post Office and Civil Service last May. At that time, Mr. Bailar stated that institutional costs which cannot be directly attributed to any given class of mail account for roughly half of the total costs of postal service. Thus, it stands to reason that each class of mail should bring in revenues covering approximately 200 percent of its attributable costs. This, however, is not the case. It is not even a goal. When all phasing steps are complete, Mr. Bailar projects that the different classes of mail will stand in the following relationship to each other:

[Cost coverage as a percent of attributable costs—In percent]

Class of mail:	
First class	198.0
Priority mail	312.5
Third class regular rate bulk	203.5
Parcel post and catalogs	159.8
Second-class regular rates	129.5

From Bailar's statistics, it is clear that the projected rate levels do not distribute institutional costs evenly over all classes of mail. Proportionately, parcel post and second-class mail contribute far less toward these costs than the other classes of mail do.

Since the Postal Service has a monopoly on letter carrying, I do not think that any other types of mail should be given favored status. It is unfair to the individual citizens and businesses who must send their letters via U.S. mail. It is unfair to independent mail carriers who must compete with the Postal Service for the package and magazine delivery business without relying on letter revenues to meet overhead costs. And it is unfair to the other media which must compete with magazines for advertising without benefit of Federal subsidies.

It is preposterous to ask the American people to spend over $950 million in order to subsidize such publications as Time and the Wall Street Journal, each of which showed net profits in excess of $20 million last year. The present structure of the postal rate system provides enough in the way of hidden subsidies to such publications. Passage of H.R. 8929 would result in gross unfairness to the American people.

Mr. DEL CLAWSON. Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee which reported this bill, the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. I thank the gentleman.

Mr. Speaker, I know the hour is late. Certainly the few minutes we have to debate the rule here tonight is not going to allow the opportunity to respond to all the implications that have been thrust about during the course of the last 20 or 30 minutes.

The fact of the matter is that this legislation was considered in a previous Congress. The gentleman from Arizona (Mr. UDALL) at that time was chairman of the subcommittee. The gentleman conducted 19 days of rather intensive hearings. Economic jeopardy was very clearly understood.

Those who are to derive a subsidy from this measure are the American public, not the publishers, as some Members have indicated here tonight.

Some have evidenced concern about the first-class postage stamp. I am concerned about that first-class patron, too, and the increase he or she might be subjected to. I am equally concerned about the increase in the way of subscription cost that citizen is going to be subjected to if we do not provide the relief that is contained in this measure.

Mr. Speaker, we have heard a great deal about the Reader's Digest and the Wall Street Journal and others, but we have not heard anything about the nonprofit entities which are accommodated through this legislation, the nonprofit entities incidentally upon which we impose an 800-percent increase in their rate.

Is that fair? Once again we are not dealing with postal rates per se, and it is not the intention of this committee at all to undercut the activity of the U.S. Postal Service Rate Commission. Actually what we are considering here is a policy matter.

Now, was it the intent of the Congress when we enacted the postal reform legislation to deprive citizens of their traditional access to subscriptions to newspapers, publications, and so forth, that our Founding Fathers determined they should have so that we would have an informed citizenry?

Mr. Speaker, I am referring to publications such as, for instance, religious magazines. Let me quote the effect of this legislation on Decision magazine, published by Billy Graham, for what it is worth. The postal bill for that entity will increase from $11,340 to $164,640 a month at the end of this phase.

Now, these are the people whom we seek to accommodate through this legislation. I would hope very much that we would get on with the rule, adopt the rule, and I believe we can respond quite well to the implications that have been thrust upon us here tonight.

Mr. HENDERSON. Mr. speaker, will the distinguished gentleman yield?

Mr. HANLEY. I yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Speaker, inasmuch as the gentleman has mentioned Decision magazine published by Billy Graham, I would like to take the opportunity to advise the House that if the rule is adopted, I will oppose this bill, and the first argument I will use is why we should subsidize Decision magazine published by Dr. Billy Graham. And I believe that if we can vote against that nonprofit publication, we ought to vote all the rest of them down.

Mr. Speaker, I urge that this rule be defeated so that we may not be forced to go through that exercise.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, if I read the mood of the House at this hour with any accuracy, this rule is in real trouble, and I want to state my feeling on it, and, I hope that I may change a mind or two.

I voted against this bill coming out of the committee. As now constituted, it is a "Christmas tree" which ought to be buried somewhere in the archives of unwise legislation. I will vote against it unless it is amended substantially.

However, I plead with the Members not to vote down the rule, because there are very serious questions raised. We held extensive hearings last year, and the chairman of the subcommittee again held hearings this year. The magazine industry, the little magazines, which support so much culture in this country and make possible the exchange of ideas are in serious trouble.

Mr. Speaker, we at least ought to listen to the debate. We at least ought to see if we can clean up this bill and put it in a satisfactory form and send it off to the Senate before we vote it down. I believe it is a very unwise and dangerous thing at this hour to vote down the rule. I urge that the Members adopt the rule, even though I have the gravest kind of doubts about the legislation.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, to correct the record, there are too many Members on the floor to let the gentleman from New York (Mr. HANLEY) get away with his not-for-profit argument. This bill is not intended to help the poor religious magazines as far as profit is concerned. For every dollar of subsidy added to this bill for a not-for-profit publication, there is $7 added for for-profit publications. The "not-for-profits" are being used as a sweetener in an otherwise very sour piece of legislation.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Speaker, in this debate on H.R. 8929 I am reminded of our lengthy consideration of the Postal Reorganization Act on the floor of the House on June 18, 1970. Members will recall at that time I raised a question concerning the preferred status of science of agriculture magazines shipped for delivery in zones 1 and 2. I was concerned that they be granted the preferred rate. Despite the assurances of this distinguished body, I have since learned that the Postal Rate Commission granted the preferred status to such magazines for their advertising content only.

Mr. Speaker, I am pleased to note on page 3 of report No. 93–369 that the Congress has corrected this anomaly and by law has placed the entire magazine; namely, both the editorial and the advertising content of science of agriculture magazines shipped for delivery in zones 1 and 2, under the preferred rate. As the report states, without this adjustment the nonadvertising or editorial content would have been paying a higher rate than the advertising content.

I commend the chairman of the committee for this correction and believe that it is in the best interest of Wallace's Farmer, the Nebraska Farmer, and other

important magazines dedicated to the science of agriculture that are issued in the various regions of the United States.

The continued flow of vital information to the American Farmer is in the national interest, and I believe, will benefit agriculture in all regions of the United States. For surely maintaining this conduit of scientific information from the laboratory to the land has been the main purpose of our dedicated agriculture magazines and with all the shortages threatening this Nation and other nations of the World, I, for one, want the agriculture magazines encouraged to continue their good work for America.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the able gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. WILLIAM D. FORD. Mr. Speaker, unfortunately, all of the debate here has taken place concerning such publications as the Reader's Digest and its organization gorging itself on the lifeblood of the American consumer. What has not yet been discussed is the attitude of this Congress and this Government toward the free flow of ideas and information to the citizens of this country.

Mr. Speaker, during the years since the Nixon administration has come into being we have witnessed an unprecedented attack on the communications media. We have seen our most prestigious newspapers and magazines attacked by the highest Government officials. We have seen our television networks condemned. The past few years have been the most dangerous in our history for the American tradition of freedom of the press and for the free flow of information. We have, during this same period, witnessed the demise of some of our greatest magazines—first Colliers, then Look, and finally, Life, and if you please, the Saturday Evening Post, which was a specific source of public knowledge in the mind of Ben Franklin when he initiated the basic premises upon which the U.S. Postal Service was founded.

The legislation we are now debating is simply designed to insure that the free flow of ideas and information will continue, uninterrupted. Freedom of information is essential to the freedom of man, not all Americans have access to higher education or expensive means of expression, but in the spirit of Franklin's leadership all Americans should and must have access to the best expressions of fact and opinions on issues of every degree of importance. In supporting this legislation, the Congress can demonstrate to the American people, that unlike the Nixon administration, we do not fear the free flow of ideas and information, and we believe that education is never restricted to the schoolroom.

We can show the American people that, unlike the Nixon administration, we are not antagonistic to the institutions of education and communication which have been traditionally indicative of the distinction between of the American constitutional democracy as opposed to the totalitarian forms of government which have been identified in the past with communism and fascism.

Nevertheless, Mr. Speaker, it would appear the opponents of the rule would prefer to put forward the most unpopular targets they can conceive. I may tell you, if you vote with them to get the Readers Digest, you will also be getting some other people as well: You will be getting every school and every library in this country, and most prominent among the victims you will get is the rural libraries who receive 90 percent of their materials through the mail. Because a very important part of this bill, and one I have been working on now since the 92d Congress with the distinguished gentleman from New York (Mr. HANLEY) is that provision which would continue the congressional intention that second-class matter, such as magazines, and, in addition, the legislation which I proposed which would include special fourth-class matter, such as books and other educational materials, would continue to have, because of its educational and cultural nature, special handling.

The Postal Rate Commission was not at all upset by this part of the bill. I will tell you at the appropriate time that we will put in the RECORD the comments of the Postal Rate Commission. The gentlemen there said we should protect this Commission, if possible.

Mr. HAYS. Will the gentleman yield?

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

Mr. HAYS. All I can say is I am going to vote for the rule for one simple reason, that is, under this present Postal Service, if they carry magazines as well as they do first-class mail, we not only ought to subsidize the magazines, but we ought to pay them for going in the mail.

Mr. WILLIAM D. FORD. The Postal Rate Commission has written to our committee about this proposal.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PEPPER. I yield the gentleman 2 additional minutes.

Mr. WILLIAM D. FORD. As a matter of fact, the objections by the Postal Rate Commission as to the form of the bill at the time they wrote to us have been almost entirely met by the committee.

There was in the legislation when it was originally introduced a provision that would have given a 50-percent discount—in effect—to magazines and newspapers. That has been stricken now, as the chairman indicated, except with respect to nonprofit publications, and I assume you have heard from some of them.

There was also a provision for a rate discount for commercial magazines for the first 250,000 of any press run which the committee lowered to 100,000 copies, is intended to take care of the small magazine that is operating on a marginal basis.

I may say to those of you from the agricultural areas all you have to do is take a look at how many agricultural magazines are mailed to your constituents now and how many were mailed 5 years ago, and you will discover that more than half of them have ceased publication during that period of time.

One of the principal reasons is the long-term contracts they have with their people for the delivery of the mail. There is nothing new in this bill except the extension of the time when the rate will take effect, as was confirmed by the Postal Rate Commission in their letter to the Post Office and Civil Service Committee.

What this bill does is to reaffirm the legislative principle in the 1970 Postal Reorganization Act. In that act all of you who voted to create the Postal Corporation voted for a provision in the law which says that the full second-class rate will not be applied in the year in which the rate increase is instituted by the Rate Commission but will be applied instead in five annual steps. All this bill says is that when you jump the rate as much as has happened in the first class rate case, you will apply it in five steps occurring every other year instead of every year. In this particular case it will stretch it out to 9 years instead of 5. In no way does it attempt to set the level of the rate but only the time period in which it will be applied. The principle is not new, and let me emphasize again, it only changes the time during which the stretchout will be applied.

If you refer to the CONGRESSIONAL RECORD, you will see that you have the assurance of the supporters of the Postal Corporation, that if we found 5 years was not adequate, they would be back on the floor asking you to assure them that the congressional intent was not lost.

Mr. SAYLOR. Mr. Speaker, this afternoon I find myself in a strange position in that I agree with the comments of the USPS, more commonly known as the "unusually slow postal system," with regard to the provisions of H.R. 8929.

The bill is mislabeled as the Education and Cultural Postal Amendments Act, when it is, in fact, a "fat cat" subsidy bill for the for-profit mailers of the United States. For some unexplained reason, the majority of the House Post Office and Civil Service Committee believes that the rate for mailing letters written by my constituents should be enough to cover the administrative costs of delivering those letters, but that the monster- mailers should be supported out of the taxpayer's pocket. I do not understand the logic behind the legislation but I can assure you that I will oppose another raid on the taxpayer's billfold by the so-called quasi-public USPS in the name of educational and cultural necessity.

Mr. HECHLER of West Virginia. Mr. Speaker, the rule on this giveaway grab ought to be soundly defeated, and I intend to cast a solid vote against this raid on the Treasury. Despite the massive propaganda drive and furious lobbying by numerous wealthy publishers, it simply does not make any sense for the taxpayers of this Nation to raise the ante and dish out more dollars to subsidize those who are already doing rather well financially through low postage rates. Furthermore, action to take up this bill will also open the door for other Treasury raids by the junk mailers and everybody else.

The best way to defeat this bill is to defeat the rule, and bury this bill once and for all.

What is worse, if Congress enacts this senseless piece of legislation, it will result in a very early hike in first-class mail rates. Why on earth should Reader's Digest double its $14 million subsidy over the next 4 years while the first-class mailer—John Q. Public—takes it on the chin?

In 1972, Time magazine realized a profit of $22 million, and Time's subsidy under second-class rates would rocket from $12.5 million to $25 million over the next 4 years by the terms of H.R. 8929. The poor Wall Street Journal will get over $17 million in subsidy in the next 4 years, but if we pass this rule and bill the collapsing Wall Street Journal will rake in $34 million in Government subsidy alone. This is an outrageous misuse of Government power to help those who do not need help, and to put the burden on the backs of those who must mail their letters first class.

The Postal Service estimates that this bill will cost $949.9 million to the American taxpayers over the next 7 years. Statements by objective sources like Standard & Poor's indicate conclusively that the newspaper and magazine publishing industries are not hurting, but are prospering as never before, thanks to the already-existing subsidies. Now is the last time when we should be hiking these outrageously high second-class subsidies.

I certainly hope that this rule is defeated, and then we will not even have to consider this bill at all.

Mr. PEPPER. Mr. Speaker, this is an open rule with 2 hours of debate. There will be ample opportunity for every Member of the House to express his or her views on this matter. I hope the rule will be adopted.

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. McFALL). The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HANLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 180, nays 202, not voting 51, as follows:

[Roll No. 373]

YEAS—180

Abnor	Delaney	Hudnut
Abzug	Dellenback	Johnson, Pa.
Adams	Dellums	Jones, Ala.
Addabbo	Denholm	Jones, Okla.
Annunzio	Dingell	Jordan
Ashley	Donohue	Karth
Aspin	Drinan	Kastenmeier
Badillo	Eckhardt	Kazen
Bergland	Edwards, Calif.	Kemp
Biaggi	Eilberg	Kluczynski
Bingham	Esch	Koch
Blatnik	Evans, Colo.	Kyros
Boggs	Fascell	Leggett
Brademas	Fish	Lehman
Brasco	Flood	Long, La.
Bray	Ford, William D.	McCloskey
Breaux	Fraser	McCollister
Breckinridge	Fulton	McFall
Brinkley	Gaydos	McKay
Brotzman	Giaimo	McKinney
Brown, Calif.	Gilman	McSpadden
Brown, Mich.	Gonzalez	Macdonald
Burke, Calif.	Grasso	Madden
Burke, Mass.	Gray	Matsunaga
Burleson, Tex.	Hamilton	Meeds
Carey, N.Y.	Hanley	Melcher
Carney, Ohio	Hansen, Wash.	Metcalfe
Casey, Tex.	Harvey	Mezvinsky
Chisholm	Hawkins	Miller
Cohen	Hays	Minish
Collins, Ill.	Heckler, Mass.	Mink
Conte	Helstoski	Mitchell, Md.
Corman	Hicks	Mitchell, N.Y.
Cotter	Holifield	Moakley
Culver	Holtzman	Mollohan
Daniels, Dominick V.	Horton	Moorhead, Pa.
Danielson	Howard	Morgan
Davis, Ga.	Jarman	Murphy, N.Y.
Davis, S.C.	Johnson, Calif.	Steed
Davis, Wis.	Johnson, Colo.	Steiger, Ariz.
de la Garza	Jones, N.C.	Steiger, Wis.
Dennis	Jones, Tenn.	Stuckey
Derwinski	Keating	Symms
Devine	Ketchum	Taylor, Mo.
Dickinson	Landrum	Taylor, N.C.
Dorn	Latta	Teague, Calif.
Downing	Lent	Thomson, Wis.
Duncan	Litton	Towell, Nev.
du Pont	Long, Md.	Treen
Edwards, Ala.	Lott	Ullman
Erlenborn	Lujan	Vander Jagt
Eshleman	McClory	Vanik
Findley	McCormack	Veysey
Flowers	McDade	Waggonner
Flynt	McEwen	Ware
Forsythe	Madigan	Whitehurst
Fountain	Mahon	Whitten
Frelinghuysen	Mailliard	Widnall
Frenzel	Mallary	Wiggins
Frey	Mann	Wilson, Bob
Froehlich	Maraziti	Wilson, Charles H., Calif.
Fuqua	Martin, Nebr.	Wyatt
Gettys	Martin, N.C.	Wydler
Gibbons	Mathias, Calif.	Wylie
Ginn	Mathis, Ga.	Young, Alaska
Goldwater	Mayne	Young, Fla.
Goodling	Mazzoli	Young, Ga.
Green, Oreg.	Michel	Young, Ill.
Griffiths	Montgomery	Young, S.C.
Gross	Moorhead, Calif.	Zion
Grover	Mosher	Zwach
Gude	Moss	
Guyer	Murphy, Ill.	
Haley	Nelsen	
Hammer-schmidt	Nichols	
Hanrahan	Parris	
Hansen, Idaho	Passman	
Harsha	Preyer	
Hastings	Price, Tex.	
Hechler, W. Va.	Pritchard	
Heinz	Railsback	
Henderson	Rarick	
Hillis	Regula	
Hinshaw	Rhodes	
Hogan	Rinaldo	
Holt	Robinson, Va.	
Hosmer	Robison, N.Y.	
Huber	Rogers	
Hungate	Roncallo, N.Y.	
Hunt	Rousselot	
Ichord	Runnels	
Jarman	Sandman	
Johnson, Calif.	Satterfield	
Johnson, Colo.	Saylor	
Jones, N.C.	Scherle	
Jones, Tenn.	Sebelius	
Keating	Shipley	
Ketchum	Shoup	
Landrum	Shriver	
Latta	Shuster	
Lent	Sikes	
Litton	Skubitz	
Long, Md.	Slack	
Lott	Smith, N.Y.	
Lujan	Snyder	
McClory	Spence	
McCormack	Stanton, J. William	
McDade	Steed	
McEwen	Steiger, Ariz.	
Madigan	Steiger, Wis.	
Mahon	Stuckey	
Mailliard	Symms	
Mallary	Taylor, Mo.	
Mann	Taylor, N.C.	
Maraziti	Teague, Calif.	
Martin, Nebr.	Thomson, Wis.	
Martin, N.C.	Towell, Nev.	
Mathias, Calif.	Treen	
Mathis, Ga.	Ullman	
Mayne	Vander Jagt	
Mazzoli	Vanik	
Michel	Veysey	
Montgomery	Waggonner	
Moorhead, Calif.	Ware	
Mosher	Whitehurst	
Moss	Whitten	
Murphy, Ill.	Widnall	
Nelsen	Wiggins	
Myers	Wilson, Bob	
Natcher	Wilson, Charles H., Calif.	
Nedzi	Wyatt	
Nix	Wydler	
Obey	Wylie	
O'Hara	Young, Alaska	
Owens	Young, Fla.	
Patten	Young, Ga.	
Pepper	Young, Ill.	
Perkins	Young, S.C.	
Pettis	Zion	
Pike	Zwach	
Poage		
Podell		
Powell, Ohio		
Price, Ill.		
Randall		
Rangel		
Rees		
Reuss		
Riegle		
Rodino		
Roncalio, Wyo.		
Rooney, Pa.		
Roush		
Roy		
Roybal		
Ruppe		
Ruth		
St Germain		
Sarasin		
Sarbanes		
Schneebeli		
Schroeder		
Seiberling		
Sisk		
Smith, Iowa		
Staggers		
Stark		
Steele		
Steelman		
Stokes		
Stratton		
Studds		
Sullivan		
Symington		
Talcott		
Teague, Tex.		
Thompson, N.J.		
Thone		
Thornton		
Tiernan		
Udall		
Van Deerlin		
Vigorito		
Waldie		
Walsh		
Wampler		
Whalen		
White		
Williams		
Wilson, Charles, Tex.		
Wolff		
Wright		
Wyman		
Yates		
Yatron		
Young, Tex.		
Zablocki		

NAYS—202

Alexander	Frey	Nichols
Anderson, Calif.	Froehlich	Parris
Andrews, N.C.	Fuqua	Passman
Andrews, N. Dak.	Gettys	Preyer
Archer	Gibbons	Price, Tex.
Arends	Ginn	Pritchard
Armstrong	Goldwater	Railsback
Ashbrook	Goodling	Rarick
Bafalis	Green, Oreg.	Regula
Baker	Griffiths	Rhodes
Beard	Gross	Rinaldo
Bennett	Grover	Robinson, Va.
Bevill	Gude	Robison, N.Y.
Biester	Guyer	Rogers
Blackburn	Haley	Roncallo, N.Y.
Bowen	Hammer-schmidt	Rousselot
Brooks	Hanrahan	Runnels
Broomfield	Hansen, Idaho	Sandman
Brown, Ohio	Harsha	Satterfield
Broyhill, N.C.	Hastings	Saylor
Broyhill, Va.	Hechler, W. Va.	Scherle
Buchanan	Heinz	Sebelius
Burgener	Henderson	Shipley
Burke, Fla.	Hillis	Shoup
Burlison, Mo.	Hinshaw	Shriver
Butler	Hogan	Shuster
Byron	Holt	Sikes
Carter	Hosmer	Skubitz
Cederberg	Huber	Slack
Chamberlain	Hungate	Smith, N.Y.
Chappell	Hunt	Snyder
Clancy	Ichord	Spence
Clark	Jarman	Stanton, J. William
Clausen, Don H.	Johnson, Calif.	Steed
Clawson, Del	Johnson, Colo.	Steiger, Ariz.
Cleveland	Jones, N.C.	Steiger, Wis.
Cochran	Jones, Tenn.	Stuckey
Collins, Tex.	Keating	Symms
Conlan	Ketchum	Taylor, Mo.
Conyers	Landrum	Taylor, N.C.
Coughlin	Latta	Teague, Calif.
Crane	Lent	Thomson, Wis.
Cronin	Litton	Towell, Nev.
Daniel, Dan	Long, Md.	Treen
Daniel, Robert W., Jr.	Lott	Ullman
Davis, Ga.	Lujan	Vander Jagt
Davis, S.C.	McClory	Vanik
Davis, Wis.	McCormack	Veysey
de la Garza	McDade	Waggonner
Dennis	McEwen	Ware
Derwinski	Madigan	Whitehurst
Devine	Mahon	Whitten
Dickinson	Mailliard	Widnall
Dorn	Mallary	Wiggins
Downing	Mann	Wilson, Bob
Duncan	Maraziti	Wilson, Charles H., Calif.
du Pont	Martin, Nebr.	Wyatt
Edwards, Ala.	Martin, N.C.	Wydler
Erlenborn	Mathias, Calif.	Wylie
Eshleman	Mathis, Ga.	Young, Alaska
Findley	Mayne	Young, Fla.
Flowers	Mazzoli	Young, Ga.
Flynt	Michel	Young, Ill.
Forsythe	Montgomery	Young, S.C.
Fountain	Moorhead, Calif.	Zion
Frelinghuysen	Mosher	Zwach
Frenzel	Moss	
	Murphy, Ill.	
	Nelsen	

NOT VOTING—51

Anderson, Ill.	Collier	Ford, Gerald R.
Barrett	Conable	Green, Pa.
Bell	Dent	Gubser
Boland	Diggs	Gunter
Bolling	Dulski	Hanna
Burton	Evins, Tenn.	Harrington
Camp	Fisher	Hébert
Clay	Foley	Hutchinson
King	Peyser	Rostenkowski
Kuykendall	Pickle	Ryan
Landgrebe	Quie	Stanton, James V.
Milford	Quillen	Stephens
Mills, Ark.	Reid	Stubblefield
Minshall, Ohio	Roberts	Talcott
Mizell	Roe	Winn
O'Brien	Rooney, N.Y.	
O'Neill	Rose	
Patman	Rosenthal	

So the resolution was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Talcott against.

Mr. Rostenkowski for, with Mr. Peyser against.

Mr. Quillen for, with Mr. Camp against.

Mr. Harrington for, with Mr. Hutchinson against.

Mr. Burton for, with Mr. Landgrebe against.

Mr. Dent for, with Mr. Collier against.

Mr. Gunter for, with Mr. O'Brien against.

Mr. Rosenthal for, with Mr. Kuykendall against.

Mr. Rose for, with Mr. Winn against.

Mr. James V. Stanton for, with Mr. Quie against.

Mr. Barrett for, with Mr. King against.

Until further notice:

Mr. Green of Pennsylvania with Mr. Evins of Tennessee.

Mr. Hanna with Mr. Fisher.

Mr. Hébert with Mr. Milford.

Mr. O'Neill with Mr. Gerald R. Ford.

Mr. Clay with Mr. Ryan.

Mr. Stephens with Mr. Bell.

Mr. Reid with Mr. Mizell.

Mr. Diggs with Mr. Foley.

Mr. Dulski with Mr. Minshall of Ohio.

Mr. Mills of Arkansas with Mr. Anderson of Illinois.

Mr. Roe with Mr. Conable.

Mr. Patman with Mr. Gubser.

Mr. Pickle with Mr. Stubblefield.

Mr. Roberts with Mr. Boland.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL ANNOUNCEMENT

Mr. DENT. Mr. Speaker, on rollcall No. 373 I was in conference with the Senate and was late by 1 second. Had I been here, I would have voted "yea."

PERSONAL ANNOUNCEMENT

Mr. BURTON. Mr. Speaker, on rollcall No. 373 which was just completed, I am recorded as not voting. Had I been present, I would have voted "yea."

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET DURING 5-MINUTE RULE TOMORROW

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to meet while the House is in session during consideration of bills under the 5-minute rule tomorrow, July 24, 1973.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

Mr. SAYLOR. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

SCHOOL BUSING, BY CHOICE

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

Mr. VAN DEERLIN. Mr. Speaker, we tend to look on school busing as a procedure under which children, against their own wish and that of their parents, are taken from their neighborhood school and forced to attend a school miles away—all this, of course, in the name of racial integration. Many insist busing is a program to benefit blacks at the expense of whites. They argue, often vehemently, that busing will not raise the level of minority schools, but instead will drag down the standard of schools in white areas. They might laugh at a suggestion that white children from an affluent neighborhood would voluntarily ride a bus for an hour to attend classes in a poorer, integrated area.

In my district in San Diego, however, many children in the first through sixth grades are doing just this. They are taking part in something called the Magnet School project, designed to demonstrate that if a school attains a high standard of academic achievement, and if it offers a rewarding program of satisfying accomplishment, it can attract enrollment whether the teachers and students are black or white, brown or yellow.

San Diego's Encanto Elementary School was selected as a test for this proposition. A number of factors governed the selection of the school—a major one being that the site included a multiethnic student population, yet one that was racially imbalanced. Almost equally important, a significant number of staff members—notably the principal, Jack Klein, and Mrs. Sarah Olinde—along with parents, had indicated a commitment to quality education in integrated classrooms.

The school is situated in an area of Southeast San Diego where most homes are in the lower price range. An explanation of the program, along with an invitation to participate, was sent to parents of children elsewhere in the city. The program got underway in January of this year. Although this was in the middle of the school year, 23 students were enrolled, leaving their neighborhood schools and taking a bus ride of up to an hour to Encanto.

Scant publicity was given to the program, but a close check was kept on the students to determine how they fared, and whether they were benefitting. The results, including responses from the children themselves, indicated an astounding degree of success. The youngsters by a vast majority said they liked it better than their former school, found it just as easy to make friends, and thought the new school considerably more challenging.

Even without publicity, word of the program's achievements has spread. Already 60 students have been enrolled for next fall, and more are being accepted each week.

The Magnet project in Encanto does not involve a special school with unusual facilities, or handpicked faculty offering new and different courses. Rather, it is a school with an idea—an idea which has sparked the desire in teachers to make it work. Additional ingredients are the support and goodwill of parents.

Given these, Mr. Speaker, the picture of school busing we have seen with sickening frequency—of screaming mothers venting their emotions for the TV news cameras, of confused children, of pleading administrators and obdurate judges—this could become a bogey of the past.

STATEMENT OF CHARLES E. WIGGINS BEFORE THE U.S. HOUSE OF REPRESENTATIVES RELATING TO THE HOBBS ACT

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

Mr. WIGGINS. Mr. Speaker, I have today introduced a bill designed to plug a major loophole in an important criminal statute, the Hobbs Act (18 U.S.C. 1951), created by the 5–4 decision of the U.S. Supreme Court on February 22, 1973, in *United States* v. *Enmons*, No. 71–1193.

The *Enmons* case involved a direct appeal by the United States to the Supreme Court from the judgment of a Federal district court in Louisiana dismissing the Government's indictment under the Hobbs Act as not stating an offense. The defendants were members and officers of a union which was on strike seeking a new collective bargaining agreement with the Gulf State Utilities Co. The indictment charged that the defendants and others conspired to obtain the property of the company in the form of wages and other things of value with the consent of the company, "such consent to be induced by the wrongful use of actual force, violence and fear of economic injury—in that the—defendants—did commit acts of physical violence and destruction against property owned by" the company, including firing high powered rifles at transformers and blowing up a transformer substation.

The Hobbs Act provides in pertinent part that:

> Whoever in any way or degree obstructs, delays, or affects, commerce or the movement of any article or commodity in commerce, by . . . extortion or attempts or conspires so to do, . . . shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.

Extortion is defined as the "obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear."

In an earlier case, *United States* v. *Green*, 350 U.S. 415 (1956), the Supreme Court had held that an indictment charged an offense under the Hobbs Act by alleging extortionate acts by union members to obtain wages from an employer for wholly fictitious services. The Government in *Enmons* argued that the act was intended to proscribe all extortionate conduct to obtain the property of another, irrespective of whether the objective of the accused could be attained by lawful means, as through collective bargaining in a labor dispute.

The district court held, however, and the Supreme Court agreed, that the law reached only "instances where the obtaining of the property would itself be "wrongful" because the alleged extortionist has no lawful claim to that property." The majority, finding an ambiguity in the terms "wrongful force" or "wrongful violence," determined that there was no intent in Congress to have the Hobbs Act apply to acts of extortion committed in pursuance of legitimate union ends during bargaining disputes, notwithstanding that the 79th Congress, in 1945, had specifically eliminated a clause in the prior act exempting the "payment of wages by a bona fide employer to a bona fide employee." The deletion was occasioned by a decision of the Supreme Court in 1942 that the clause protected the activities of a union which extorted moneys from out of town trucking firms whose trucks sought to enter New York City via the Holland Tunnel. The minority in *Enmons*, composed of Justices Douglas, Burger, Powell, and Rehnquist, argued that the language and history of the statute were clear that all illegal extortionate activities affecting interstate commerce were meant to be proscribed regardless of whether committed by employees, unions, or others and without regard to whether the end sought was attainable through legitimate collective bargaining methods.

It is appropriate for Congress once again to respond to the Supreme Court's action with respect to the Hobbs Act, since the majority's interpretation of the Hobbs Act in the *Enmons* case creates a major loophole for extortionate activities by racketeers who may also be union members and creates an irrational and plainly unintended distinction between extortion to obtain wages for fictitious services and extortion to obtain higher wages for work being performed. It is the illegal means—extortion—which should be punished, whether or not the end is obtainable by legitimate means.

The proper interpretation can be assured and the existing loophole closed by the simple deletion of the word "wrongful" from the statute's definition of "extortion," since it was the alleged ambiguity in the terms of "wrongful force" and "wrongful violence" which enabled the majority of the Court to adopt the strained construction it did. The definition of "extortion" in 18 U.S.C. 1951 would then read as follows—deletion shown in brackets:

> The term "extortion" means the obtaining of property from another, with his consent, induced by [wrongful] use of actual or threatened force, violence, or fear, or under color of official right.

Mr. Speaker, there can be no fear that this amendment would render ordinary picket line violence, in the course of a labor dispute with an employer affecting commerce, a violation of the Hobbs Act. As the minority of the Court in Enmons pointed out and as the Government in its brief conceded, low-level acts of violence during a strike are not within the scope of the act since these are the by-product of frustration engendered by a prolonged collective bargaining negotiation or dispute and are not done with any intent to extort property from an employer.

Mr. Speaker, the simple amendment

which this bill proposes would accomplish a significant result. It would restore the Hobbs Act to the position it was intended by the 79th Congress to occupy more than 25 years ago, that is, legislation punishing all extortionate conduct affecting interstate or foreign commerce without exception. This is not an anti-labor proposal. Organized labor cannot seriously contend, just as an employer could not, that extortion to achieve a collective bargaining goal is a legitimate kind of activity which the Federal Government should not proscribe. The amendment I propose would simply restore the original understanding and scope of the Hobbs Act which was unexpectedly altered by the Supreme Court's ruling last term. I urge that the bill be enacted without delay.

A DEMOCRAT ON WATERGATE

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

Mr. DEVINE. Mr. Speaker, since most of the eastern media as well as the networks seem to belong to the "lynch-mob," perhaps the views of a highly respected Democrat, former officeholder, might add a little balance to the views on "Watergate."

A DEMOCRAT ON WATERGATE

(NOTE.—The following letter to the Editor of the Cincinnati Enquirer was written by Charles Sawyer of Cincinnati who was the Democratic nominee for Governor of Ohio in 1938, Ambassador to Belgium under President Roosevelt and Secretary of Commerce under President Truman.)

I am a Democrat. I have participated in and observed politics for a long time. I am a realist, I hope, and perhaps even a cynic with reference to politics. As a Democrat I am happy and relieved that my party is not involved in the so-called Watergate matter. I am, moreover, quite willing to admit that Democrats at various times and places have been guilty of irregularities or even crimes—some of which have been made public.

I am moved to suggest that the persons in both parties who are, to the point of nausea, undertaking to display their self-righteous indignation, should be exposed for what they are—either completely dishonest in their proclamation of virtue, or so ignorant of what goes on in politics that they are not entitled to be heard. I believe many of my fellow Democrats, and probably many Republicans, despise the self-righteous politicians who are trying to capitalize on the misfortunes of Richard Nixon.

In all the years that I have watched politics, I have never seen a campaign as mean and indefensible as the effort headed by the New York Times, the Washington Post and most of the television news media to crucify Richard Nixon.

I have said many times (not always in jest) that Republicans are stupid politically. In no case has my theory been more completely vindicated than in Watergate. The one thing properly chargeable to President Nixon is that, as a seasoned politician, he permitted his campaign for re-election to be run by men who were not politicians, who knew nothing about politics, and not one of whom had ever been elected to public office. One would have thought that such a mistake would not be made by Mr. Nixon. But we all make mistakes, and he is like the rest of us in that regard.

The publicity which this matter has received is completely out of hand. Rarely does anyone undertake to analyze the motives behind this episode. None of the men involved made this burglary attempt in order to benefit himself personally. They did not get in to steal money. They went in apparently impelled by some unexplained motive—at least so far unexplained adequately—which, however mistaken, did not involve any personal benefit. The whole episode is inexplicable. It was wholly unnecessary, and badly conceived.

One question which has occurred to me but has not, so far as I know ever been answered, is: What part was played in this affair by the concern about Castro? Why did the men in the Committee to Re-elect the President think it was of any importance or would be helpful to involve the Cuban problem in Mr. Nixon's campaign?

This, of course, is merely one of many things which have not as yet been explained. My own feeling is that the episode has been overworked and the Senate committee has contributed to no result of any benefit to the American people. In fact, this monotonous piling up second- and third-hand hearsay evidence has already dragged on far too long.

I do not agree with many things which President Nixon says and does, but I believe he is not stupid. That is why I believe he had nothing to do with the Watergate effort.

Personally, I am sick of the Watergate publicity. I believe the average American is sick of it, too. It is being exploited by publicity-seekers in both parties and, in particular, by the enemies of the President. In fairness to my own party, I believe that most of our leaders have been restrained and fair. I would include Sen. George McGovern (D-S.D.) in this group. I would not, however, include Sen. William Fulbright (D-Ark.), who suggested that the President and vice president should resign. He knows that this will not happen President Nixon is not a quitter. He rather welcomes than avoids a fight.

Not only will President Nixon not resign, but why in Heaven's name, should Mr. Agnew resign? It has never been charged or intimated that he had the slightest connection with Watergate. If Fulbright and others in both parties are so anxious to ditch Mr. Nixon, why don't they do what is called for by the U.S. Constitution—impeach him? That course is open to them. It is not a course which I, as a Democrat, recommend. Jim Farley recently pointed out the folly of any such action, but it can be tried.

I, of course, do not condone for one minute the things which were done by the Nixon committee. Those who have committed crimes should be punished. Let this be our sole objective.

I am moved to make one further comment. As I have watched the developing and mounting volume of attack on and criticism of President Nixon, I have tried to think of what other man there is in public life today, in either party, who could have taken the punishment which he has taken day after day, week after week and month after month, from the news media and television, and still retain, as he has done, his sanity, his ability to function (involving a constructive readjustment of his own staff), and his determination to ride out this storm. In my judgment, most prominent Washington officeholders would have caved in under the pressures to which he has been subjected.

When the lawyer for James McCord, who is trying desperately to save himself, says that his own client is a liar, and McCord's second lawyer states that their objective now is to "go after the President," should not the sensible and bored voters of this country tell them all to close the show, and let those who may have committed wrong be tried by the efforts of the man appointed by the President—a Democrat, Archibald Cox—to punish whatever wrongdoing has been perpetrated?

MILITARY RECORDS MUST BE PROTECTED

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

Mr. DORN. Mr. Speaker, I have received many expressions of concern about the disastrous fire on July 12 in the Military Records Center in St. Louis. This fire severely damaged the sixth floor of the Military Records Center and there was considerable water damage on other floors. It did not affect the Veterans' Administration own Records Processing Center in the St. Louis area, which is located about 10 miles away. The damage to service records in the fire will have no impact on the 13 million veterans and dependents currently receiving VA benefits. In these cases, the Veterans' Administration has already assembled the necessary records, and in many cases, copies of all medical records, and these are intact in the VA files in the Agency's 57 regional offices, or at the VA's 169 hospitals and 2 insurance centers.

Fortunately, the Veterans' Administration also maintains other backup files which contain essential military service information. Although these backup files do not contain medical records, they will be helpful in processing any new applications for benefits from veterans whose military records might have been destroyed in the fire. Since 1968 the Veterans' Administration has kept computer master records on 3 million Vietnam era veterans discharged since that date. In addition, the VA maintains a computerized master index record on more than 32 million veterans, living and dead. These records contain information on dates and branches of service, character of discharge and other information which is useful to the Veterans' Administration in adjudicating claims.

The most difficult problem will be in the case of those veterans applying in the future for VA service-connected disability compensation, whose military and medical records may have been destroyed in the fire. Fortunately, the servicemen being separated with serious disabilities are often given copies of their medical records by the military. Where such records do not exist, the Veterans' Administration will be required to follow other methods of developing the veteran's claim. The Veterans' Administration would already know if the veteran has basic eligibility as far as period of service and character of discharge is concerned. A current veteran's VA medical examination would be used to establish the present extent of any disability, and in those cases where records have been lost, it would be necessary for the Veterans' Administration to assist in developing the veteran's claim through affidavits from the veteran, his family, military personnel with whom he served, and hometown doctor's records.

The impact of this fire will be serious enough on the administration of the veterans' programs. Had the entire building been lost, it would be a disaster. I understand that there have been fires in this building previously, which should

have served as a warning to responsible personnel that additional steps should be taken to duplicate and protect these important records. I certainly hope that we will now profit from this costly lesson and take steps to duplicate and protect servicemen's records.

If there is any doubt about the Army's capacity to take these steps, I advocate that the Veterans' Administration automatically request the medical records of all personnel upon discharge so that a duplicate copy can be maintained in the Veterans' Administration files. I am asking the Veterans' Administration to explore this possibility and report back to the Veterans' Affairs Committee.

TESTIMONIAL DINNER HONORING DR. HORACIO AGUIRRE

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

Mr. FASCELL. Mr. Speaker, all over the world the struggle for freedom continues unabated—its need ever present. People want strong leaders in every walk of life who are dedicated to principles which inspire men to the higher planes of life and whose efforts promote and protect freedom for all. When men of this caliber are found and recognized by those who live and work with them, it is an exciting and important event.

On July 21, 1973, such an event of hemispheric significance took place in Miami Beach, Fla. There a testimonial dinner was held for an outstanding man, Dr. Horacio Aguirre; the 20th anniversary of an outstanding newspaper which he publishes, Diario Las Americas; his brother Francisco; and their families.

What also distinguished this great occasion was that there were not only leaders from the Greater Miami community where Diario Las Americas is published, but also leaders from the government of the State of Florida, the U.S. Government and many governments and countries in Latin America. Dr. Horacio Aguirre, his brother Francisco, and Diario Las Americas are well known and respected throughout the Western Hemisphere. During the last 20 years, they have been truly a constant force for hemispheric solidarity.

Diario Las Americas has been a staunch leader in the struggle to promote freedom and improve relations in the community, State, and country and with equal fervor and fearlessness throughout Latin America—always in a constructive manner, with the high principles and values of its director, Dr. Horacio Aguirre.

No wonder, therefore, that this testimonial banquet was one of the largest ever held in Greater Miami and was attended by many people from the North American and Latin community—there were mayors, councilmen, judges, representatives, Senators, former presidents of countries, State cabinet officials, U.S. Congressmen, foreign ministers, ambassadors, consuls, and the president and many members of the Inter-American Press Association.

This was a stellar affair. I was proud and honored to join the thousands in the distinguished group to pay tribute to a universally admired publisher and Inter-American leader, Dr. Horacio Aguirre, publisher of Diario Las Americas; his equally distinguished brother Francisco; their lovely wives, Helen and Gladys; and their wonderful families.

Diario Las Americas, a Spanish language daily, under the leadership of Dr. Horacio Aguirre, has taken its place as one of the great newspapers of influence in this hemisphere.

The principal speaker of the testimonial banquet was a truly inspirational one, Dr. Manolo Reyes. Dr. Reyes is one of the outstanding and respected leaders of the Greater Miami community. As vice president of Latin American news for channel 4 television station, he is listened to and seen by hundreds of thousands of viewers. His news reports are a principal and vital bridge in the community for the large Latin population.

He is recognized as the leader in the struggles for freedom in this hemisphere and particularly in his dream that his beloved Cuba shall one day be free of tyranny.

OPEN SPACE MONEY IN HUD APPROPRIATION BILL

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI), is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, on June 22, 1973, the House passed H.R. 8825, the Housing and Urban Development appropriation bill for fiscal year 1974. An amended version of this bill passed the Senate on June 30, 1973. A conference has yet to be held on these bills.

I think it is most important at this time to note that there is a major discrepancy with regard to the appropriations for the Open Space program between the House and Senate versions of the bill. The House has provided $70 million in its bill for Open Space for fiscal year 1974. The Senate passed bill contains no appropriations at all for Open Space.

As the House has recognized, adequate funding of the Open Space program is essential for the purchase of park lands in our metropolitan areas. It is very simply, the only program that enables cities to preserve open space in our cramped urban communities. As it presently stands, the Open Space program has had to cutback on its services to metropolitan communities during fiscal year 1973. For example, in 1972, my Eighth Congressional District in Chicago received $42,560.00 for nine separate park sites. These funds were allotted from $1,060,000.00 grant to the city of Chicago. In 1973, my district received no funds from Open Space, and the city received only $701,092.12. Such a sizable cut would seem to reflect a significant change in priorities on the Federal level. The HUD area office in Chicago has reported requests for Open Space funds for the present fiscal year amounting to well over $10 million. Since there is no money available for this year as yet, the requests have been necessarily returned to the city.

I congratulate the members of the House Appropriations Committee for their support of Open Space appropriations. Now, it is essential that conferees soon be appointed by the House in order to expedite the passage of the entire HUD Appropriation bill; and that those conferees insure that the House appropriation level for Open Space remains intact in the final bill.

FEASIBILITY STUDY FOR HIGH-SPEED GROUND TRANSPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 10 minutes.

Mr. HOGAN. Mr. Speaker, I am today introducing legislation authorizing the Secretary of Transportation to conduct a feasibility study for an experimental high-speed ground transportation system between Washington and Annapolis and a high-speed marine vessel system between the Baltimore-Annapolis area and the Yorktown-Williamsburg-Norfolk area.

The anticipated influx of visitors to these areas at the time of the Bicentennial presents an ideal opportunity both to test the feasibility and desirability of these advanced systems, while providing practical methods of transporting our many visitors to and from the historical sites of the area.

The high-speed ground system proposed is a tracked air cushion vehicle which could utilize the median strip of the John Hanson Highway, terminating at the New Carrollton station where Metro and the Metroliner will meet, thus providing a connection to all of Washington, Baltimore, and northeastern cities. Moreover, by joining an existing rapid-rail system, rather than coming into the central city, and utilizing an existing highway median, costly right-of-way and city construction features are avoided.

The proposed marine transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia would make use of new concepts in high-speed marine transportation, such as the surface effect vessel, vessels utilizing hydrofoils, or hovercraft.

As part of the study, the Secretary of Transportation would be required to consider questions of social advisability, environmental impact, and economic practicability. The study must include such factors as possible growth patterns resulting from the system, anticipated effects on competing modes of transportation, and the advisability of placing it in another location. The Secretary of Transportation would also be directed to determine the degree to which the system could become operationally self-sustaining, since continual operating subsidies would be undesirable.

I am pleased to have 10 Members of the House as cosponsors of this legislation with me. They are:

Mr. BRASCO, of New Jersey; Mr. DE LUGO, of the Virgin Islands; Mr. DOWNING, of Virginia; Mr. FAUNTROY, of the

District of Columbia; Mr. GOLDWATER, of California; Mrs. HOLT, of Maryland; Mr. PARRIS, of Virginia; Mr. TIERNAN, of Rhode Island; Mr. WHITEHURST, of Virginia; and Mr. WON PAT, of Guam.

This bill is identical to S. 797, the Bicentennial Advanced Technology Transportation System Demonstrations Act, as introduced in the Senate. S. 797 was passed by the Senate on June 14, 1973, with an amendment which provided that the Secretary of Transportation must find that "the system or systems can be completed by July 4, 1976." I had planned to introduce legislation which was identical to that passed by the Senate. However, it appears more logical that any completion deadline must be set after the feasibility study and not before. Therefore, the 9 months limit for study and report as provided on the original version would appear to be sufficient. Until there is a study I frankly doubt whether a deadline for construction can be set.

The hour is late for our Nation to have an effective and efficient high speed rail and marine transportation facility which moves people. With Metro and Metroliner terminal facilities and beltway parking available we have a nearly perfect terminus for metropolitan Washington. For Annapolis the facility would be a commuters' picnic from both Baltimore and Washington. For the tourist it would be a "must" on a visit to the Nation's Capital and to the Williamsburg historic shrines.

Because of the objective to have the system operational for the Bicentennial, I hope there can be prompt action on the part of the Committee on Interstate and Foreign Commerce and by my colleagues when the bill reaches the floor.

Mr. Speaker, at this point I would like to insert the full text of the bill:

H.R. 9479

A bill to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Maryland, and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such system if such study demonstrates their feasibility

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 "Bicentennial Advanced Technology Transportation System Demonstration Act".

SEC. 2. (a) For the purpose of providing the millions of citizens of the United States and foreign nations who will visit the National Capital area during the Bicentennial of American Independence celebration with a pleasant, efficient, and unique way of seeing the historic cities and sights of such areas and providing practical demonstrations of technologically advanced transportation systems which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow, the Secretary of Transportation is hereby authorized and directed to make an investigation and study for the purposes of determining the feasibility, social advisability, environmental impact, and economic practicability of (1) a tracked air-cushioned vehicle or other high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Maryland, with appropriate intermediate stops, and (2) a surface effect vessel or other high-speed marine transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia.

(b) In conducting such investigation and study, the Secretary—

(1) shall consult with appropriate Federal, State, local, and District of Columbia agencies; and

(2) may enter into contracts or other agreements with public or private agencies, institutions, organizations, corporations, or individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(c) The Secretary shall report the results of such investigation and study, together with his recommendations, to the President and the Congress no later than nine months after the enactment of this Act.

(d) There is authorized to be appropriated for purposes of this section a sum not to exceed $300,000.

SEC. 3. If after carrying out the investigation and study pursuant to section 2, the Secretary of Transportation recommends the establishment of either the transportation system described in subsection (a)(1) or (a)(2) of such section or both such systems, he may, to the extent funds are appropriated for the purpose of this section, enter into such contracts and other arrangements as necessary for the construction and operation of such system or systems, except that the system described in such subsection (a)(1) may not be constructed unless the State of Maryland furnishes the necessary rights-of-way, to the extent such rights-of-way are presently owned by such State within existing highway alinements or acquired by such State with funds authorized under this Act and determined usable for such system by the Secretary of Transportation.

PHASE IV, FOOD, AND FUEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER. Mr. Speaker, the phase IV announcement by President Nixon last week is good news for consumers and good news for farmers.

The effort of the action is that we are going to have more plentiful food in the months ahead.

Farmers will be able to plan without fear that the Government is going to come along at the last minute and freeze them into an unprofitable situation.

Farmers will continue to show that they are the most efficient and productive sector in the economy.

But some conditions are beyond the control of farmers For instance, farmers cannot harvest and dry this fall's crop unless they have the fuel to do it.

We don't feed oats to the mule anymore to get our horsepower on farms. We put fuel into the tractor. And we use fuel to dry crops so that they will not spoil. So unless farmers have enough fuel to do the job, they will suffer—and consumers will suffer.

We must do everything that we can to see that farmers have first call on the fuel supplies to save their crops and keep those counters filled down at the supermarket.

I call on the oil industry and the Energy Policy Office and the Department of Agriculture to take every precaution now to see that we have enough fuel on farms this fall.

Secretary of Agriculture Butz has called for this assurance in a meeting at the Department of Agriculture. The Secretary knows that fuel is vital to farmers. The Secretary knows that if we are going to have adequate food we must have adequate fuel.

Food and fuel go together. They are twins. This is something that we must all understand. If fuel is short on the farm, food will be short. Only if fuel is adequate food can be plentiful.

I urge the fuel industry to work with farmers to see that they not only have adequate bulk supplies nearby, but that they have the storage facilities on farms to carry farmers through periods of heavy use of fuel. If this requires some credit, I hope that the industry will work with farmers to see that they have the credit to install the storage.

This is something that we can do now to see that the crops that are growing out there right now are harvested, dried, and stored properly this fall.

This is important to farmers and to consumers.

WOMEN'S RIGHT TO CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I am today introducing a bill that I quite frankly consider is one of the most significant pieces of legislation relating to women before the 93d Congress. Every women's rights proposal—to be successful—needs the strong support of enlightened men, and I hope that my colleagues will give this proposal their careful consideration.

This legislation—in the simplest terms—will prohibit discrimination based on sex or marital status against individuals seeking credit.

The need for such legislation is critical. Documented studies have proven that single women have more trouble obtaining credit than single men. I might note that while this legislation is limited to personal credit transactions, I have introduced a mortgage credit amendment to the "minibus" housing bill, which passed the Housing Subcommittee, which will make it possible for responsible single women to receive mortgage loans.

Married women are deeply affected by credit discrimination as well. We are far beyond the day when the so-called little woman kept her pin money in the sugar bowl saving for a rainy day. Women now constitute 44 percent of the labor force, and in these changing economic times deserve as much right to access to credit as do men.

It is documented that creditors are often unwilling to extend credit to a married woman in her own name—despite the fact that in some instances she may be the major breadwinner in the family.

We know that women who are divorced or widowed have trouble reestablishing credit.

And it is an unfortunate fact that creditors are often unwilling to count the

wife's income when a married couple applies for credit.

Today, women are in the professions, the factories, the stores and offices—in fact are earning steady incomes in all walks of life.

If women are to be such active participants in the economic scheme of things, then women are entitled to equal involvement in the way America does business.

Let me point out that this legislation certainly does not call for extending credit to individuals who are not worthy of credit. It is a bill that will work to the credit of those who are in a position to pay their bills. Responsible working women can pay their bills promptly, and we feel that Congress should act prompty.

I might note that similar legislation has been introduced in a multiplicity of forms in recent months. That is all to the good. It shows that such legislation has solid support. But we are taking a pragmatic step today; the bill which we are introducing is identical in language to one that has already received the unanimous support of the Senate Banking Committee. If we can achieve passage of this legislation in the House—and we feel that we can—then the battle will be won efficiently and expeditiously.

One example of the problem that this legislation is aimed at solving occurred in my own office. My legislative assistant, earning a good salary, happened to be the breadwinner in her family. Her husband was attending graduate school, and did not hold a job. Yet when she applied for retail credit, the firm involved insisted that it be in her husband's name. This gave him the credit rating, of course, and should something drastic happen to that marriage, or to the husband, this young woman who had been paying all the bills would have no credit rating at all.

That is just one example. There have been, and are, thousands of other similar instances.

It is my hope that this legislation can be passed, in this session, so that this discrimination, a carryover from our economic past, can be eliminated once and for all.

TOOLS FOR VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. DU PONT) is recognized for 5 minutes.

Mr. DU PONT. Mr. Speaker, today I am introducing legislation that will assist young veterans in their attempt to become productive members of the country's work force. My bill proposes to give money to veterans for the purchase of tools needed to start work upon completion of vocational apprenticeship programs.

Recently discharged veterans are currently eligible to enter Government-sponsored veteran apprenticeship programs that teach a variety of crafts, including such skills as carpentry, masonry, and auto mechanics. The apprentice program is supposed to fulfill the two-fo'd task of teaching veterans the necessary skills for meaningful and productive jobs as well as providing the country with a new source of badly needed skilled craftsmen. Many returning soldiers who complete the program are unable to get jobs, however, because they do not have the resources with which to purchase the necessary tools. An equipment expense of $100 to $150 is prohibitive for an unemployed person.

I first became aware of this problem after talking with members of the Wilmington—Manpower—Training Skills Center staff. This center, ably headed by Mr. John Pickett, is one of the agencies in my home State of Delaware that offers apprenticeship programs to veterans. In my discussions with Mr. Pickett and Mr. B. G. Washington, one of the center's job counselors, it became clear that many veterans had successfully completed the apprenticeship program, but were unable to purchase the necessary equipment to start work in their newly-learned trade. Further interviewing of recently trained craftsmen by myself and my staff has confirmed this distressing fact. It is apparent that because of this small stumbling block, many well-trained, ex-GI's are forced to accept unskilled jobs or go on welfare.

As it now exists, the vocational apprenticeship program is a double waste of the taxpayers' dollar. We spend large sums to train veterans in a trade, but due to a lack of seed money for tools, these craftsmen are unable to start work. The government is then forced to spend much larger sums to support them on welfare. This is a tragic squandering of both talent and Federal money.

It distresses me that in this day and age, when contractors say we are facing a severe shortage of highly skilled workers, we are letting this valuable source of manpower slip away. If we can provide books and other benefits for persons who enter college on VA scholarships, we should equally provide beginning tools to those who are enrolled in vocational training programs.

OUR MIA'S MUST NOT BE FORGOTTEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP), is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, nothing has so united and inspired the American people than have our returning POW's, who even in the darkest hours of their ordeal kept alive an unshakable faith in their country.

But in our joy over the return of these brave men, we must never forget our obligation to the 1,300 members of our Armed Forces who are currently listed as missing in action—MIA—in Indochina.

I have just returned from my third trip to Southeast Asia and my personal visit to the area has reinforced my determination that we must not rest until each MIA is either accounted for or returned to his family. Unremitting efforts must be made to secure the cooperation of all parties in the Indochina conflict to insure full compliance with article 8, section b, of the January 27, 1973, Agreement on Ending the War and Restoring Peace in Vietnam which states:

> The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

In the supplemental agreements of June 13, 1973, there appears the statement:

> In conformity with Article 8(b) of the Agreement the parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriations of the remain, and to take any such other measures as may be required to get information about those still considered missing in action. For this purpose, frequent and regular liaison flights shall be made between Saigon and Hanoi.

And furthermore, the protocol to the January 27 agreement "concerning the return of captured military personnel and foreign civilians and captured and detained Vietnamese civilian personnel" states in article 10, "with regard to dead and missing persons," that—

> (a) The Four-Party Joint Military Commission shall ensure joint action by the parties in implementing Article 8(b) of the Agreement. When the Four-Party Joint Military Commission has ended its activities, a Four-Party Joint Military team shall be maintained to carry on this task. Disagreement will be referred to the International Commission on Control and Supervision (Article 17 of the Agreement).

Mr. Speaker, despite these clear agreements, to date the Department of Defense teams set up for the purpose of investigating crash sites, exhuming remains, and conducting similar investigations, have not been permitted by the North Vietnamese and the provisional revolutionary government—the Vietcong—to visit the sites our people need to, or even to exhume the remains in graves shown to us.

No visits to possible crash sites have been allowed in Vietcong territory and only two trips have been made to North Vietnam—on May 11 and May 18. Our teams were shown alleged U.S. graves in Hanoi, but no exhumation of bodies was allowed.

Mr. Speaker, the families of these 1,300 men live day to day fluctuating between hope and despair. We owe them no less than a full and expeditious resolution of the status of our MIA's.

I would like to commend my distinguished colleague from Michigan, the Honorable ROBERT J. HUBER, for introducing a House concurrent resolution, that I plan to cosponsor, which will make clear the determination of Congress concerning the MIA issue and will let the families of the MIA's know that we are aware of the inexcusable failure of the government of North Vietnam and the Viet Cong to comply with the agreements and our humanitarian request which is securely grounded in every known precept of international law.

The resolution states in part:

> That it is the sense of Congress that it shall be the policy of the United States that the Government of the United States shall

cease forthwith all consideration of aid, trade, diplomatic recognition or any other form of communication, travel or accommodation with the Democratic Republic of North Vietnam or the Provisional Revolutionary Government (Viet Cong) until such time as the aforesaid agreements are complied with to the fullest extent.

Such agreements meaning article 8, paragraph (b) and the protocol in article 10 of the January 27, 1973, agreements and the explanatory statement on the same article contained in the June 13, 1973, agreements.

Mr. Speaker, I urge my colleagues' support of this resolution and I hope for its early consideration and passage.

I include at this time, Mr. Speaker, an article from U.S. News & World Report which was furnished to me by the National League of Families of American Prisoners and Missing in Southeast Asia. There is still no accounting for any of the American military men missing in Indochina—after months of intensive effort. The question is: Why?

The article follows:

MYSTERY OF MISSING GI'S

Almost forgotten in the wake of the Vietnam truce are the 1,300 U.S. servicemen still listed as "MIA"—missing in action—in the Indo-China war.

Despite massive efforts over the past four months to find out what has happened to these men, the mystery appears to have deepened, not lessened.

The cease-fire agreement signed last January 27 provided for an accounting of the American MIA's, with Communist commanders to supply lists of known dead and to enable teams to search for bodies and possible survivors.

Thus far, U.S efforts to obtain this accounting have run into one roadblock after another, thrown up by Communist officials in North Vietnam, Laos and Cambodia—as well as by the Viet Cong in South Vietnam.

FRUSTRATION

Families of the men missing in action are angry and frustrated. They are demanding that the U.S. Government find out what has happened to these men—establish whether they are dead or alive. On June 3, hundreds of relatives of the missing men staged a silent vigil at the Lincoln Memorial in Washington to call attention to the tragic situation.

Speaking for the relatives is the National League of Families of American Prisoners and Missing in Southeast Asia. On May 30, Mrs. Herman L. Knapp, national co-ordinator of the League, told a committee of Congress that after four months, "these are the facts"—

North Vietnam is known—by Hanoi's own claims—to have captured men who were not returned, not listed as dead, and not accounted for.

No National Red Cross team has ever been allowed to visit and inspect the places where American prisoners were held.

No arrangements have yet been worked out for the return of the remains of the 55 men North Vietnam claims died in captivity.

No prisoners held in Laos have been sent back, and no accounting made of the dead.

The nine POW's supposedly repatriated from Laos actually had been held in North Vietnam.

Now, said Mrs. Knapp, "we are asked to believe that 300 other Americans still missing in Laos have disappeared into thin air."

BARGAINING PAWNS?

Among families of the MIA's, there is growing suspicion that some captured Americans are still alive in North Vietnam and Laos, being held as pawns for further bargaining with the U.S. over final terms of the war's settlement.

This same tactic, the MIA families point out, was used by the North Vietnamese after the French were forced out of Indo-China in 1954. At that time, several hundred prisoners were held back, returned months and years later. The French Government was also asked to pay a fee for the remains of each soldier who had died in the war in Communist-held territory.

U.S. officials are reluctant to comment on this possibility. But one says openly: "We do not think that everyone now on the missing list is dead."

Behind the hope expressed by both the League and some Government officials that there are survivors is a file of solid evidence that at least 53 of the MIA's were captured alive. In each case, the evidence was strong enough for the man to be listed officially as a war prisoner, rather than missing in action or killed in action. And there are indications, less concrete, concerning 15 or 20 more.

Photos released by Hanoi, for example, show some of the U.S. airmen who obviously were alive and well after being shot down. These pictures were taken by the Communists themselves and distributed to news agencies. But the men have never been accounted for. They have simply disappeared.

A sampling of these case histories, taken from Pentagon and League files, is given on these pages.

FACILITIES FOR SEARCH

American efforts to get official information on what has happened to the 1,300 missing men center now in a group of 175 U.S. military men and civilian specialists based in Thailand near the border of Laos.

1,284 "MIA'S"—WHO THEY ARE, WHERE THEY WERE LOST

	Air Force	Navy	Marines	Army	Total
As of early June—					
North Vietnam	322	133	25	3	483
South Vietnam	69	5	70	329	473
Laos	265	13	14	16	308
Cambodia [1]					20

[1] Branches of service unreported.

Source: U.S. Dept. of Defense.

This group, located in what is known as the Joint Casualty Resolution Center, has dossiers on each of the missing men, complete with their dental X-rays, fingerprints, descriptions of once-broken bones and other identifying features, plus locations of where each of their planes crashed.

Teams equipped with this information, and some highly sophisticated search equipment, were set up to visit about 1,200 crash sites scattered throughout the rugged terrain of North Vietnam, Laos, Cambodia and Viet Cong areas of South Vietnam.

They are to seek out, identify and exhume the bodies of dead U.S. servicemen, and—hopefully—track down any surviving ones. Hundreds of local guides will assist.

To date, only two quick visits have been permitted into North Vietnam, one on May 11 and the other on May 18. Both of these visits were to Hanoi. The JCRC searchers were shown three graves the first time, 21 the second. They were not allowed to establish positive identification, to examine the bodies, or to exhume any of them for shipment back to the United States.

Granite headstones, 8 inches wide and 10 inches above the ground, marked each grave in Hanoi. Names on the headstones all were written in Vietnamese, with initials in English printed below the names.

"We still don't know why the North Vietnamese gave these people Vietnamese names," says an officer who was there. "But the initials below the names were the English-language ones for the persons buried there."

Those 24 men, Hanoi claims, were known prisoners of war who died, rather than MIA's There was no accounting for the rest of 55 American military men and 5 civilians who, the North Vietnamese say, died in captivity.

HANOI'S REFUSAL

Even though the U.S. teams have made very specific requests about where they wish to look, Hanoi has not agreed to searches in any other part of North Vietnam. Said one American:

"The North Vietnamese always respond with the answer that planes were shot down all over the countryside, and that a search would be difficult if not impossible."

Within South Vietnam, teams have visited five crash sites in Government-held territory, but found only one body, that of an unidentified pilot who crashed eight years ago.

The search teams have not yet been permitted to enter any Viet Cong-held territory in the South.

Each Tuesday and Friday, U.S. representatives meet with the Viet Cong at regular meetings of the Four-Power Joint Military Team in Saigon. There, they always raise the subject of sending in teams to search Communist-held areas for specific crash sites. The Viet Cong representatives refuse to discuss it.

Says one U.S. official in Saigon:

"We don't want to press them too hard at this stage, because maybe that would mean a longer wait before they become cooperative."

SEARCHERS' THEORIES

U.S. authorities say privately that they are assuming some prisoners died in captivity because they did not receive proper medical attention or were tortured beyond survival.

It is conceivable too, they say, that a pilot captured in a remote village may have been photographed, but then beaten and killed by angry villagers. Photos of these men might have gotten into the propaganda mill without anyone realizing they were dead or dying.

Other more bizarre possibilities are being suggested, such as some prisoners having voluntarily stayed behind, or some having been killed by other POW's.

In Laos, the search for approximately 300 missing Americans has been ready to start for months, only to run up against another kind of Communist roadblock.

Under terms of the Laotian cease-fire, the teams were to be permitted to enter the country to search specific sites and look for signs of any survivors—but only after a coalition government had been established in the Laotian capital. This has not yet occurred, and the teams are not yet permitted in.

In Cambodia, there are reports of 20 missing Americans—some of whom are among 18 war correspondents lost in that country.

The Communists deny holding any POW's and refuse entry to the teams into territory that they hold.

MANY RUMORS, NO EVIDENCE

Is there any real chance that some of the missing are still alive? That depends on whom you ask. For example—

There are rumors aplenty in Saigon. One which crops up repeatedly tells of a group of tall, bearded Caucasians—obviously Americans—seen on two occasions about a year ago, under guard inside a jungle area of Laos.

At the Pentagon, Dr. Roger Shields, director of POW/MIA affairs for the Defense Department, will say only that 1,354 Americans were classified as missing two months ago, and about 70 of these have since been declared officially dead. More "changes of status," he says, are being made on a case-by-case basis.

"There is no positive evidence of any survivors anywhere in Indo-China at this time," Dr. Shields reports.

At the State Department, Frank A. Sie-

verts, the official in charge of MIA affairs, spells out three types of efforts now going on to get an accounting. These include: (1) detailed questioning of all returned war prisoners for possible leads; (2) a diplomatic drive for more information from governments in Southeast Asia, and (3) a search for possible survivors and bodies of the missing dead.

Mr. Sieverts says the debriefing of returned POW's has not brought to light any promising leads. "In fact," he goes on, "the United States has gotten no information to indicate that there are any survivors of the 1,300 classed as missing."

PRESSURE ON REDS

Behind the scenes, Mr. Sieverts suggests, pressure is being applied to get Communist officials to permit the search teams to look at crash sites—90 per cent of which are in Red-held territory—and to offer rewards to local natives for information leading to either bodies or survivors.

Families of the missing men, through their League, do not speculate about the likely number of survivors. But Col. J. Scott Albright, chairman of the League's committee on identification and discrepancies, put it this way:

"Last January 27, when our Government finally was handed an official list of POW's who were to be repatriated, more than 50 families learned for the first time that their 'missing' man was actually alive. . . .

"If we could trust the North Vietnamese, then our problem today would be a simple one. They say they have returned all of our prisoners of war; they say they have given us a list of all the men who died in captivity; they say they will assist us in accounting for those men who are still missing.

"But when they have lied to us so often in the past, when they have deceived us and misled us and when so many inconsistencies abound in the claims they have made, it is most difficult for many of our families not to believe that there are Americans still alive in Communist hands, and that others who could easily be accounted for have not been accounted for."

WHY—A MYSTERY

Just why Communist officials have refused in the past to admit holding American captives whom they later released, and why they would refuse to account for either living or dead Americans whom they may now be holding, remains a mystery.

Greatest hope for survivors centers on Laos, where most of the 308 downed American fliers crashed in territory controlled by the North Vietnamese, not the Communist Pathet Lao. As Colonel Albright sees it:

"It is inconceivable that men who fell into the hands of North Vietnamese in Laos would be treated in any different way than they were in North Vietnam."

In North Vietnam, Dr. Shields reports, latest accounting shows that 49 per cent of the shot-down U. S. fliers managed to survive and were ultimately repatriated as war prisoners.

It is on such reasoning that hope remains that at least a few of the 1,300 men now missing may still be alive. Frustrations, meanwhile, mount over the endless roadblocks placed in the way of efforts to account for the MIA's.

BEHIND HOPES THAT SOME "MIA'S" ARE STILL ALIVE—

A sampling of more than 50 cases now documented in files at the Pentagon and at the League of Families:

Navy Lt. Ronald Dodge: Shot down on May 27, 1967. Lieutenant Dodge survived the crash, talked with his fellow pilots on his radio from the ground. Later, his photo was circulated by Hanoi as that of a captured American, and it appeared on the cover of a French magazine. But he was never included in a North Vietnamese POW list, was not returned, still has not been accounted for.

Air Force Capt. Samuel E. Waters: Shot down in North Vietnam on Dec. 13, 1966. Captain Waters was seen to eject successfully and parachute to earth. Three days later, a Hanoi newspaper reported that Captain Waters had been captured. A month later, a Bulgarian newspaper carried an article quoting him by name and carrying a photo of his personal armed-forces identification card. He, too, never appeared on any POW list, and has not yet been accounted for.

Navy Lts. (j.g.) Walter O. Estes and James E. Teague: Shot down near Haiphong on Nov. 19, 1967. A radiophoto transmitted by the official North Vietnam News Agency, and received in Warsaw, carried photographs of the ID cards of both men, with the caption that they were "captured in Haiphong." Later, their crew members were repatriated, and so were two other fliers whose ID cards were shown in the same radiophoto. But neither of these two Navy fliers was heard from again.

Air Force Capt. John M. Brucher: Ejected from his crippled aircraft near the Laotian border on Feb. 18, 1969. Radio reports said he had landed in a tree and was unable to free himself from his parachute. An American rescue team reached the area the following day, but found only his empty parachute still hanging in the tree. Captain Brucher has not been heard from or accounted for.

Army Capt. Gary B. Scull: Disappeared on May 12, 1970, when a bunker at Quangtri, in South Vietnam, was apparently overrun by enemy forces. Later, the area was searched, but no sign of Captain Scull was found. There has been no report of his capture by either the Viet Cong or North Vietnamese.

Air Force Capt. Richard H. Van Dyke: Shot down in North Vietnam on Sept. 11, 1968. According to the Pentagon, Captain Van Dyke ejected safely from rear seat while the pilot flew the crippled plane to sea and was rescued. Captain Van Dyke was seen to parachute into a rice field. Three days later a Hanoi newspaper reported that an American in the same area was captured after coming down slowly by parachute. Hanoi now claims to have never heard of Captain Van Dyke.

THE SHAH OF IRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 5 minutes.

Mr. PODELL. Mr. Speaker, the United States receives many visitors to its shores, and the American people welcome them all as is befitting a hospitable nation. Some of the visitors are old friends, renewing ties of long standing, and other visitors are new acquaintances whom we hope will become our friends. One of our old friends is returning to the United States, the Shah of Iran, and I want to take this opportunity to welcome the Shah and extend to the people of Iran my sincere hope that the friendship between the United States and Iran will continue to prosper and to grow.

Iran is an ancient nation, and in fact celebrated its 2,500th anniversary 2 years ago. Iran has known days of glory and power when the name Persia was recognized across the world as a synonym for empire. Persian poets, mathematicians, artists, astronomers, and statesmen are liberally scattered through the pages of history and in the artistic, scientific, and cultural heritage of mankind. But the power of the Persian Empire faded, as did the glory of Rome or the splendor of Greece, and the people of Iran were bypassed by the wave of progress and modernity that swept through the Western World.

In our own time, we have witnessed the rebirth of the ancient nation of Iran, a rebirth made possible because the Iranian people were determined that they should be members in full standing of the community of nations, and that their place should be earned by their own work and effort. Under the leadership of the Shah of Iran, the inheritors of the Persian Empire have rebuilt and renewed their land until today Iran is considered to be one of those few nations in the modern world to have bridged the gap between the underdeveloped and the developed nations. It is a source of pride to the American people that we were able to help the Iranian people and to assist them with technical and financial aid. It is also gratifying to know that whatever assistance we did provide to the Iranian people was not a gift squandered for luxuries but was a helping hand accepted in humility and with the resolve and assurance that it would be put to good use.

Our aid program to Iran has ended, but the abiding friendship established over the years remains firm. It is our hope that the friendship between Iran and the United States will be as enduring as the Persian people themselves, who, despite their trials, have remained constant for over two millenia. We welcome the Shah of Iran as a representative of his people and as an able leader of a dynamic nation.

RIGHT TO FINANCIAL PRIVACY ACT OF 1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, I recently introduced legislation to provide stringent regulations for the disclosure of an individual's financial records. This bill, H.R. 9424, known as the Right to Financial Privacy Act of 1973, was introduced in the Senate by Senator ALAN CRANSTON, and cosponsored by Senators HUMPHREY, ERVIN, BROCK, MATHIAS, GRAVEL, PACKWOOD, and TUNNEY.

Under the Bank Secrecy Act of 1970, all financial institutions were required to keep complete records of all transactions. The Secretary of the Treasury was delegated authority to require complete records of any such institution's customers. The financial institution might also be required, upon request of the Treasury Department, to submit the entire financial history of a particular customer to the Treasury.

The intent of Congress in passing the act was to provide to law enforcement authorities a sufficiently broad framework for criminal investigation. The practical question of access to this information, however, was never squarely addressed. The right of the individual to privacy was presumed to be implicit, and therefore not a point of contention in passing the legislation. It was generally understood that there must not be easy access to these records, but the act did

not require the issuance of a subpena to obtain the information.

The bill I have introduced, H.R. 9424, resolves all the ambiguities in existing law relating to an individual's financial records. It clearly safeguards the individual's right to privacy with respect to his financial transactions and history. Specifically, the Right to Financial Privacy Act establishes four means of access to private records held by financial institutions: customer consent, administrative subpenas and summonses, search warrants, and judicial subpenas. Correspondingly, the act places an obligation on the financial institutions not to disclose information from customer records unless one of the above requirements has been met. In addition, it is stipulated that the information obtained by the Government must be used only for those purposes for which it was originally solicited.

The need for this act, while not resulting directly from the Bank Secrecy Act, stems from subsequent controversy over the precise interpretation of an individual's fourth amendment rights. At Senate hearings held last year on legislation to amend the recordkeeping laws, the Secretary of the Treasury admitted that subpenas are not required for the release of financial information. He suggested that as the 1970 act had not specifically addressed the matter of access to records, the Treasury could not take arbitrary administrative action to do so. It was therefore up to a bank to determine whether or not a subpena was necessary before records would be provided without the consent of the customer. The Treasury would take no position to supersede the bank's judgment.

In this situation, the privacy of a customer's financial records is dependent on the whim of his bank. Without his knowledge or consent, his entire financial history may be divulged. As he is unaware of official scrutiny, he cannot possibly challenge the dissemination of the information. There are no safeguards to protect this confidentiality.

In June 1972, I filed suit with the northern California ACLU and the California Bankers Association to test the constitutionality of this reporting system. The suit, asking for an injunction of the Bank Secrecy Act on the grounds that it authorized illegal search and seizure, was later joined by the Wells Fargo Bank. Bank of America representative Robert Fabian publicly voiced his own similar objections to the dangers inherent in the reporting provisions of the Act. He declared that "the regulations could undermine people's confidence in the banking system and the Government."

A Federal judge in San Francisco issued a temporary restraining order to prevent the act from taking effect. Subsequent to an appeals court decision, the Supreme Court is now deciding whether or not to hear the case.

This bill that I have introduced is not inconsistent with the essence of the Bank Secrecy Act. It recognizes the critical need for a thorough system of recordkeeping and reporting and upholds the requirements for reporting of information, subject to the previously mentioned limitations. Finally, the bill explicitly limits to two situations the Secretary of the Treasury's ability to require an institution to transmit reports or to keep records on customers. Such reports must either be required by the Internal Revenue Code, or by a supervisory agency. This, then, effectively repeals contrary provisions of titles I and II of the Bank Secrecy Act. However, I do not believe that their deletion in any way weakens the Bank Secrecy Act, or undermines its intent. Instead I believe it can only strengthen it, by removing any lingering doubt over possible or potential unconstitutional applications of its provisions.

This bill has already stimulated discussion. In particular, two areas of doubt have been raised, and I would like to attempt to answer them at this time. The first is criticism raised by certain members of the law enforcement sector—that the limits placed on the Secretary's right to obtain reports will inhibit important criminal investigation. I believe that the legal processes still open to any law enforcement officer under this Act are sufficient. This act simply guarantees that customers be notified and have an opportunity to respond to any attempt to gain access to their records except where the standard of probable cause has been met. Within the bounds of the fourth amendment rights, that is all that is constitutionally possible.

Others have objected to consideration of this act at this time on the grounds that airing of the issue may bias the upcoming decision of the Supreme Court to review the appeals case. It must be remembered, however, that legislative action will take precedence over court action in such a way as to render that appeal inoperative. If passed, this act answers all the charges filed in the original California suit.

I would like to include for the information of my colleagues an excerpt from a supporting statement by the California Bankers Association. On July 19, the Association wrote that:

> We should make it clear that, although the Association places a high value on maintaining the financial confidentiality which bank customers have come to expect, it certainly does not wish to deny in any way the necessary prerequisites of effective law enforcement. The Association feels, however, that it owes its highest responsibility to the banking public who have entrusted some of their most personal records of private financial affairs to our care. The public expects these records to be held in the highest confidence and the California Bankers Association welcomes legislation which would safeguard their expectations.

This act answers the need for such legislation. It is, as "The American Banker" has said, a compromise bill reached among several versions introduced in both houses last year, specifically between Senators CHARLES MATHIAS and JOHN TUNNEY. Broad bipartisan support has been registered in both Houses. This most basic right to privacy must be addressed, and it is my hope that many of my colleagues will join me in reintroducing this bill.

INFLATION GARDENS AND EVERY AMERICAN'S RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, in the preamble to our Constitution the Founding Fathers interpreted the role of the Constitution as the guarantor of domestic tranquility and the promoter of the general welfare. Hence it is the sacrosanct duty of the Congress to insure that these inviolable rights of every American are preserved and defended with all expedience. The ravaging effect on our economy that has been the result of unchecked inflation in no uncertain terms challenges, indeed hurls down the gauntlet at, domestic tranquility and the general welfare. Therefore the Congress is charged with the responsibility to meet the challenge of inflation and protect the clearly recognized general interest of the Nation.

The rampant march of food price increases continues unabated and constitutes a dissolution of the domestic tranquility for 6 out of every 10 Americans. Recently imposed economic controls saddled the Nation with the highest rise in food prices ever recorded and obviously were not beneficial to the general welfare of the country. It is precisely the general welfare of the Nation that is at stake and for that reason I find justification in the spirit of the Constitution for the right of every American to have the means at his disposal for the provision of a garden in which he or she can cultivate food products and take same recourse to high food prices. My amendment to the Agriculture Extension Act authorizing the Secretary of Agriculture to provide packets of seeds to every citizen upon request has generated nationwide support. This support springs from a rapidly spreading cognizance on the part of the public that it is their every right to protect themselves from inflationary food prices and that it is the duty of the Nation's Government to assist them in this effort.

During the extended debate on the Agriculture Act legislation a rhetorical question often came to mind that caused me some consternation. What gives us the right to take the taxpayers' money and dole out hundreds of thousands of dollars in farm subsidies to wealthy big farm corporations and then turn around and deny the average American family several packages of seeds? By such action Congress ignores its constitutional duty insofar as it provides for the welfare of the few and the rich to the detriment of the general welfare of the broad public. This is not a complex issue but one that offers a contrast as stark as day and night. It is a clear question that draws the line between the interests of the average American and the profit grabbing beneficiaries of high priced food.

I would like to include in the RECORD a copy of a newspaper article from the Christian Science Monitor of July 21, 1973. This article describes the many benefits beyond the important and obvious economic ones that come out of

these "inflation gardens." It is apparent that the public is well ahead of the Congress on this issue and we here in Washington had best take heed of this "back to the soil" movement.

Following is the text of that article:

RETIRED "GREEN THUMBERS" BATTLE INFLATION

(By Helen W. Kortz)

There are more than 100 residents living in a condominium community southeast of Denver who have turned to active "green thumbers."

A suitable plot was donated to them by a land-owning good Samaritan. This was virgin ground being held for a development in the far off future. Its location is most desirable since it adjoins the retirees' apartment homes.

Each gardener has his own 20 by 21 foot plot on which he plants to his own choosing whether it be a vegetable or flower garden. However, with the upsurge of food costs today, not many consume their valuable space for anything but what they can eat.

INFLATION GARDEN

One elderly lady who was busily working her garden plot remarked: "I can well remember how the victory gardens from World War II helped alleviate the food shortage. Well, I call this our 'inflation garden' to alleviate the high cost of vegetables. You might call it the 'I' garden for inflation," she added.

"I spent many weeks thumbing through the seed catalogs," an avid gardener said. "You see, with our limited garden plot we need to make every inch count. As for myself, I like to plant the traditional vegetables and save a small space to try out one new innovation. If my wife and I like the new vegetable, I'll replant it the following year, if not, I'll choose another usual specimen."

SENSE OF ARTISTRY

One lady gardener who tends to be artistic, plants her plot in this manner. In the center she has created a three-tier pyramid strawberry bed by the use of the metal garden edging, has run a pipe for irrigation up through the center, filled the spaces around with good soil. From this, she obtains fruit throughout the whole summer. Around this pyramid, she plants lettuce, radishes, carrots, and onions. The outer rim is planted with higher growing vegetables.

Another gardener placed a birdhouse on a high pole in the center of his plot. He plants his beans around the pole and allows them to twine up and around the wires attached to the pole. "I did this to attract the birds. They in turn have aided in keeping the insects under control," he said.

"Gardening is hard work, but most of us need this exercise, besides it gives me a great deal of satisfaction in raising my own fresh vegetables. Then too, it helps to stretch the food dollar," an elderly "green thumber" said.

SPACE SAVING

To conserve space, many gardeners stake their beans, cucumbers, and tomato plants to poles and allow low growing vegetables such as melons and squash and pumpkins to grow between their few rows of sweet corn.

This community garden is by no means just an ordinary garden, it is a thing of beauty. The whole garden area has been fenced in to keep out trespassers. At the entrance gate stands a bulletin board for the convenience of the gardeners should they want to leave a message for a neighbor.

On a nearby tree, a large outdoor thermometer is attached so that everyone can keep track of the daily temperature. One gentleman erected a flag pole which he himself tends to each day. At daybreak one can see him pulling up the flag and at dusk he is always on hand to pull it down.

BENCHES AND CHAIRS

Near and around an old cottonwood tree there are benches and chairs conveniently placed so that the gardeners can rest and chitchat a bit. The loveliest of flower gardens bloom profusely from the gate entrance and down the center garden path. Friendliness and a neighborly atmosphere prevail throughout the whole gardening project. A closeness is felt everywhere.

Actuate a gardening project in your own neighborhood. If you live in the suburbs, you're sure to find plenty of vacant, unused areas that are free to use for the asking. Influence neighbors and friends to join you in the program.

You could employ a work and share base or garden a plot on your own. You'll discover a project such as this will be a welcome addition to any neighborhood; also an exciting venture involving the whole family.

In a matter of weeks you'll be on your way in combating high food prices just like the apartment-living retirees have.

Why not start your inflation garden now?

WOMEN AND CREDIT DISCRIMINATION: THE SENATE ACTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, I am pleased to announce that this afternoon the Senate passed an equal credit opportunity measure as part of the Truth-in-Lending Amendments of 1973. This measure, which is the Senate version of my Equal Credit Opportunity Act (H.R. 9110), would bar discrimination on the basis of sex or marital status in the extension, terms, or renewal of any loan, credit card, mortgage, or retail credit. It would also bar discrimination in the extension of credit for commercial purposes.

Mr. Speaker, my bill has 70 cosponsors and broad bipartisan support. In the other body the companion measure was introduced by Senators HARRISON WILLIAMS and BILL BROCK.

In May 1972 I testified before the National Commission on Consumer Finance and on that day introduced in the House three bills that would prohibit credit discrimination because of sex or marital status. Those bills were the first of their kind to be offered in either the House or the Senate. I said when I introduced those bills—and unfortunately it is still true today:

Women in this country are treated as if they were totally dependent and unreliable when they apply for loans, consumer credit or mortgages. Under the present state of the law in many states, women have no credit rights at all.

In most states, women who are married, or have ever been married, find that credit, like domicile, follows the husband. A married woman thus receives credit only through her husband as his ward and not as an individual. She is a non-person for credit purposes. Credit cards and accounts are virtually always issued in the name of the husband and not the wife regardless of whether the woman is the applicant and regardless of whether she is a better credit risk. This is also true in many cases when women apply for mortgages or other kinds of loans.

All credit institutions—whether they be banks, department stores, credit unions, or mortgage companies—are able to do this because at present, neither the United States nor the individual states have passed legislation to prohibit credit discrimination based upon sex. Viable and vigorous legislation of this nature is needed in every state to correct this incredulous and dehumanizing practice against women.

I would like to cite a few cases where women in responsible business and professional positions have been denied credit in their names and told that they could only obtain credit through their husbands.

From a woman in Chicago, there is a typical story about Bank Americard:

"In April of 1970 I received a form letter notifying me as a First Card Holder that all First Cards would be revoked as of May 1, 1970, and that all holders in good standing would receive a Bank Americard to replace it. I had no reason to expect not to receive this new credit card, but it appears that to the First National Bank of Chicago members in good standing must be standing in a Men's room somewhere. My male friends received their cards automatically. I received only credit card applications. This surprised me because I had used my First Card not infrequently (once I reported an infraction on your First Card rules on the part of a member store, in letter and then by phone at request), paid my bills promptly also, and in April 1970 the sum of $2,232.24 in a Savings Account in your bank. My husband used his card much less than I, he paid his bills promptly also, and in April 1970 had $669.89 in his Savings Account in your bank. He received his card without question. I wrote two letters to the Bank. To the first letter I received another credit card application. The second letter was answered by a phone call from a Mr. Fletcher who proceeded to try to ask me the questions on the credit application over the phone. This irked me, and as soon as I mentioned my husband's experience with his replacement card Mr. Fletcher changed his tone and I assume brightened my prospects of approval. He said he would have to process my application through a computer and when I talked to him later that afternoon he said that yes, I could have a Bank Americard, but he didn't want to send it out so near to Christmas because it might be in jeopardy in the Christmas mail with so much part time help. I would have my new card in January. I waited until March and then all but closed my account with your bank as you can see by the accompanying xerox copy of both my husband's and my bank books showing the pertinent time period. I will never willingly put another penny in your bank, nor will I allow any money which I control to be entrusted to your care. If all the females who have been treated in this same high-handed fashion would take similar action I'm sure that you would have cause for much more regret than the removal of my $2,000 from a savings account. I hope someday they shall."

From Indiana, a woman describes her experiences with the Gulf Oil Company:

"My husband uses his card for business and keeps careful records of gas, repairs etc. for his car. I use my car and use my own credit cards for gas, etc. so that when the bills pile in, he knows right away which belong to which car.

"Last January, I sent in the standard credit card application form to Gulf Oil with all information provided as it pertained to me—a wage earner in the 5 figure range, employed for the past 4 years . . . and received a letter in reply requesting that the form again be completed, by my husband! My husband has had an active account with Gulf Oil for several years. . . . Needless to say, we no longer have any business with Gulf Oil. I was really quite insulted and we promptly terminated our account."

These two examples—and there are many more like them—indicate that regardless of her credit-worthiness, a married or formerly

married woman achieves the use of credit only as an appendage of the husband.

The Diner's Club blatantly sets forth this policy on its application by providing for "family head applicant" and "supplemental card" for the wife (with written permission from the husband).

Single women find that when they get married creditors will usually either notify them that their account is cancelled and ask for the return of the credit card, or find out the name of the husband and re-issue the account to him.

Women who become divorced find that they have no credit rating and cannot get credit since all accounts during marriage were in the husband's name. The huband takes the credit rating with him, unaffected by the change in marital status. Women who had business and good credit ratings prior to marriage are amazed to find that they suddenly have no credit rating, even though in the same business and just as credit-worthy as before.

Credit discrimination on the basis of sex is not only irrelevant and unfair but a peculiarly paralyzing form of denial of opportunity: without credit, a woman cannot get loans and therefore cannot go into business.

With the support of many of the national women's organizations such as the National Women's Political Caucus and the National Organization for Women, as well as many local groups and individuals, we were able to generate great interest in these measures. At the beginning of the 93d Congress. I reintroduced these bills with 22 cosponsors. I worked closely with the interested groups, with economists and other experts in the field and redrafted these three measures into one combination and reintroduced one bill. This new version now has 70 cosponsors.

The list of cosponsors follows:

LIST OF EQUAL CREDIT COSPONSORS

Mr. Addabbo, Mr. Ashley, Mr. Badillo, Mr. Bell, Mrs. Boggs, Mr. Burke, Mr. Boland, Mr. Brademas, Mr. Brown (Calif.), Mr. Cederberg.

Mrs. Chisholm, Mr,. Collins (Ill.), Mr. Conte, Mr. Conyers, Mr. Corman, Mr. Coughlin, Mr. Daniels, Mr. Dent, Mr. Diggs, Mr. Eckhardt, Mr. Edwards (Calif.).

Mr. Fish, Mr. Flowers, Mr. Ford, Mr. Fraser, Mr. Gaydos, Mr. Gibbons, Mr. Gonzalez, Mrs. Grasso, Mr. Gude, Mrs. Hansen (Wash.), Mr. Harrington, Mr. Hastings, Mr. Hawkins.

Mr. Helstoski, Ms. Holtzman, Mr. Hungate, Mr. Lehman, Mr. Lent, Mr. McCloskey, Mr. Meeds, Mr. Melcher, Mrs. Mink, Mr. Mitchell (Md.), Mr. Moakley, Mr. Moss.

Mr. Murphy (N.Y.), Mr. Nix, Mr. O'Hara, Mr. Owens, Mr. Pepper, Mr. Pike, Mr. Podell, Mr. Rangel, Mr. Rees, Mr. Reid, Mr. Riegle, Mr. Roe.

Mr. Rosenthal, Mr. Roush, Mr. Roybal, Mrs. Schroeder, Mr. Seiberling, Mr. Stokes, Mr. Studds, Mr. Tiernan, Mr. Waldie, Mr. Wolff, Mr. Won Pat.

The text of my bill follows:

H.R. —

A bill to prohibit discrimination on the basis of sex or marital status in the granting of credit

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 "Equal Credit Opportunity Act".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that there is a need to insure that the various financial institutions engaged in the extension of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

SEC. 3. (a) Title I of the Consumer Credit Protection Act (Public Law 90-321) is amended by adding thereto a new chapter as follows:

"Chapter 4—PROHIBITION OF DISCRIMINATION BASED UPON SEX OR MARITAL STATUS

"Sec.
"151. Prohibited discrimination.
"152. Civil liability.
"153. Effect upon other laws.

"§ 151. Prohibited discrimination

"It shall be unlawful for any creditor, card issuer, or other person to discriminate against any person on account of sex or marital status in connection with the approval or denial of any extension of credit, or with respect to the issuance, renewal, denial, or terms of any credit card. Any denial of credit or variation in terms or restriction on the amount or use of credit imposed by a creditor in whole or in part on the basis of sex or marital status shall constitute discrimination within the meaning of this section.

"§ 152. Civil liability

"(a) Any creditor, card issuer, or other person who violates section 151 of this Act shall be liable to the person aggrieved in an amount equal to the sum of—

"(1) the principal amount of credit applied for, except that the liability under this paragraph shall not be less than $100 or greater than $1,000 in an individual action, or greater than $100,000 in a class action, and

"(2) such punitive damages as the court may allow, and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court.

"(b) The district courts of the United States shall have jurisdiction to hear and determine actions to enforce the liability created by this section without regard to the amount in controversy. Such jurisdiction shall be concurrent with that of State courts.

"§ 153. Effect upon other laws

"This chapter shall not annul, alter, or affect in any manner the meaning, scope, or applicability of the laws of any State relating to prohibition against discrimination on the basis of sex or marital status except to the extent that such laws are inconsistent with the provisions of this chapter or regulations promulgated thereunder, and then only to the extent of such inconsistency."

(b) The chapter analysis at the beginning of title I of the Consumer Credit Protection Act (Public Law 90-321) is amended by adding at the end thereof the following:

"4. Prohibition of Discrimination Based Upon Sex or Marital Status..... 151".

SEC. 4. Section 104 of the Consumer Credit Protection Act (Public Law 90-321) is amended by striking out "This title does" and inserting in lieu thereof "Chapters 1, 2, and 3 of this title do".

SEC. 5. Section 121 of the Consumer Credit Protection Act (Public Law 90-321) is amended by redesignating subsection (b) as subsection (c) and by adding a new subsection (b) as follows:

"(b) Each creditor and card issuer shall disclose clearly and conspicuously, in accordance with regulations of the Board or other appropriate regulatory agency, the criteria upon which judgments of creditworthiness are made. Each creditor or card issuer shall provide in writing to any person whose application for a credit card or other extension of credit is denied the specific basis for such denial. The requirements imposed by this subsection shall not affect any other requirements of disclosure or explanation under the Consumer Credit Protection Act."

SEC. 6. This Act shall take effect thirty days after the date of its enactment.

THE ENERGY CRISIS AND THE OIL INDUSTRY PROFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, the more we hear about the so-called energy crisis from the multimillion dollar tax deductible, self-serving propaganda blitz conducted by the Nation's oil companies, the greater the profits seem to grow for the oil industry.

The returns are coming in now for the second quarter profit picture for 1973. Cities Service reported that earnings rose nearly 28 percent in the second quarter. Gulf Oil indicated its second quarter net income rocketed 82 percent. The first half net income for the Nation's fourth largest oil company climbed to a record $360 million. Exxon, the Nation's largest petroleum company, announced a 54-percent gain in profits for the second quarter. Its earnings were estimated at $510 million for the quarter and $1.018 billion for the first half of 1973.

It is anticipated that the other large oil companies will report sharp advances for the second quarter in the near future.

TEMPORARY REPLACEMENTS FOR NHSC PHYSICIANS WHO ARE UP FOR ANNUAL VACATIONS OR FOR POSTGRADUATE EDUCATIONAL LEAVES

(Mr. MAYNE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MAYNE. Mr. Speaker, I am very pleased that one of the first volunteers under "Project U.S.A." was J. H. Thomas, M.D., of Sibley, Iowa, in the Sixth Congressional District which it is my honor to represent. His determined efforts cut through the red tape and enabled him to provide his volunteer services as a temporary replacement for National Health Service Corps physicians providing health services for migratory workers in rural Florida. I am proud of Jim Thomas' fine contribution to the program, and of the solid backing he was given by his family in undertaking this new venture.

Dr. Thomas' experiences have been well described in the June 18 American Medical News article "Volunteers Serve Because 'They're really needed'." I believe many other physicians, nurses, and other health care providers would be similarly interested in providing their volunteer services through "Project U.S.A.," helping create an excellent back-up medical force or reserve capable of meeting needs of communities short of health personnel. I insert the article at this point in my remarks, in order that this material

may be given the wide circulation it deserves:

VOLUNTEERS SERVE BECAUSE "THEY'RE REALLY NEEDED"

Why should a small town family physician from the midwestern plains spend two months writing letters and making phone calls, virtually demanding a chance to provide medical care—without pay, if necessary—to migrant farm workers in rural Florida? And why does a state-employed physician from Connecticut drive a converted school bus 2,000 miles cross-country to spend 30 days working at an isolated community clinic in northern New Mexico?

Well, for J. H. Thomas, MD, Sibley, Iowa, and Jean E. Sullivan, MD, Southbury, Conn., the answer is disarmingly simple: The opportunity was there, and it was something they felt they should do.

The opportunity was created by Project USA, a relatively new—and perhaps unlikely—partnership involving two traditional adversaries, the American Medical Association and the federal government. The stage for this partnership was set three years ago with the formation of the National Health Service Corps (NHSC), a volunteer arm of the Public Health Service which assigns doctors, nurses, and other health care providers to medically needy communities. In three years, the AMA has become one of NHSC's most powerful supporters; and Project USA is the most recent demonstration of that support.

The project, started last year, is a contract service under which the AMA locates temporary replacements for NHSC physicians who are up for annual vacations or postgraduate educational leaves. Through none of its own doing, the project was dismally slow in getting off the ground; it had to wait out that federal hiring freeze declared early this year by the Nixon Administration. The freeze is no longer a factor, however, and Project USA is about its business.

Dr. Thomas and Dr. Sullivan were among the first volunteers to get field assignments—though in Dr. Thomas' case, getting an assignment proved to be no easy trick. "I received a flyer from AMA headquarters the first week in December," says the 49-year-old Iowa physician. "The appearance of the envelope rather struck me—I recall it had some red stripes on it—so I opened that up in the early part of going through my mail. And inside was a folder announcing the existence of Project USA.

"Well, this idea kind of caught my fancy," he continues, "I was immediately interested. So I brought the folder home that evening and showed it to my wife. I said, 'You know, this sounds like a very worthwhile project, and before my career is over I'd like to participate in something like this.' She told me, 'The most important thing is that it interests you. And if it interests you, go ahead and pursue it.' "

And he did. Dr. Thomas had a reply card back to the AMA within 24 hours. Then came an exchange of correspondence with the AMA's Walter H. Kimotek, then coordinator for Project USA, followed by a Civil Service application, and a long period of waiting. Dr. Thomas received his Civil Service appointment in early February, but that was right smack in the middle of the federal freeze on new hiring. So there was more waiting. "I waited a couple of weeks and nothing happened," Dr. Thomas recalls, "so I called the AMA.

"Here I was, ready, willing, and anxious to serve—I didn't care where—and time was running short. See, I had told the Project USA people that I wanted to serve in January, February, or March because of family commitments later in the year. But Mr. Kimotek told me there was nothing he could do because the federal hiring freeze was still on. So I told him I was willing to serve without pay. I didn't volunteer for financial reward; I just wanted to serve." Kimotek promised to check out the possibility of a non-paid volunteer assignment.

And in the meantime, darned if Dr. Thomas didn't call his Congressman. "I thought, 'Gee, here's an aroused citizen, a fellow out in the boondocks of Iowa; he wants to serve and they won't let him.' This seemed inconsistent to me, so I thought I'd make a little noise. I called my Congressman . . . Rep. Wiley Mayne (R., Iowa)."

Rep. Mayne's office was eager to help, but a check with the National Health Service Corps uncovered the fact that Dr. Thomas, even if he served for nothing, would not be covered by Uncle Sam's malpractice insurance. It was still no deal. Undaunted, Dr. Thomas called the Medical Protective Co., Ft. Wayne, Ind.—his liability carrier—and found out there were no restrictions on his policy. He could practice anywhere he wanted.

"This is what finally got the ball rolling," says Dr. Thomas. "I asked my underwriter to send letters confirming my coverage. And Kimotek was able to get the licensure matter cleared through the board of medical examiners in Florida."

That's how Dr. Thomas happened to arrive in Immokalee, Fla., for a 10-day assignment starting March 18. In retrospect, the Sibley physician says the period leading up to his assignment was definitely tougher than the assignment itself.

While in Florida, Dr. Thomas spent part of one week covering for Immokalee's three NHSC physicians while they attended a meeting in Atlanta, then stayed around another week to fill in while one of Immokalee's physicians was off checking another Corps site. On the days he worked solo at the Immokalee clinic, Dr. Thomas estimates he saw an average of 40 to 50 patients—most of them impoverished migrant workers or their families.

"I see 50 to 60 patients on a normal day here in Sibley," says Dr. Thomas, "so I didn't have a bad time with the volume; I was used to that. But the clinical materials, the pathology, was vast—just enormous. I saw diseases down there that I hadn't seen since I was in medical school: tuberculosis, active pulmonary disease, parasitic disease, skin disease—lots of sick, sick people."

The NHSC Medical team in Immokalee (*AMN*, Dec. 11, 1972) operates out of clinic facilities that "leave much to be desired," reports Dr. Thomas—a judgment that probably would bring nods of agreement from the town's Corps doctors. "The nearest hospital is something like 40 miles away, and laboratory facilities are virtually nonexistent," says the Iowa volunteer. "You had to practice medicine flying by the seat of your pants, and I'm not used to that. But I will say it was a challenge; and I think I adjusted fairly well. At least I did the best I could."

Compared to the county satellite clinic in Immokalee, the clinic in Tierra Amarilla, N. Mex., looks like Mayo. True, the nearest hospital is even farther away than Immokalee's—reached only by hazardous mountain roads—but the clinic itself, part of a growing co-op, is generally adequate for handling the day-to-day needs of its Chicano community. The local NHSC contingent includes a physician and a dentist; there is also a non-Corps MD who works full-time at the clinic.

The NHSC doctor in Tierra Amarilla is 27-year-old Phillip A. Hertzman, MD, a St. Louis native who began his Corps tour last July. Earlier this year when Dr. Hertzman scheduled three weeks of vacation around a one-week post-graduate course in internal medicine, it was Dr. Jean Sullivan who drove three-quarters of the way across the country to fill in for him.

Dr. Sullivan, 48, who works as resident physician at a state-run training school for the mentally retarded in Southbury, Conn., first learned about Project USA last winter through a story in *American Medical News*. Though she originally applied for an assignment in Montana, she's glad now that she accepted the chance to cover for Dr. Hertzman. "I was really quite lucky to fall into the Tierra Amarilla assignment," she says, "because it turned out to be a very pleasant experience for me and my four children."

Since her assignment followed the federal freeze on new hiring, Dr. Sullivan experienced none of the bureaucratic difficulties encountered by Dr. Thomas. Her biggest problem was getting a converted school bus-camper and four children, age 9 to 13, from Southbury to Tierra Amarilla. She managed, though it did take about 20 hours longer than anticipated.

She arrived in Tierra Amarilla about 4 p.m. April 14 and stayed through May 14. The 30-day assignment featured a little bit of everything: Making a "house call" to the county jail to see a prisoner who was suffering withdrawal symptoms; performing an anatomy-lesson autopsy on a prairie dog for the benefit of the clinic staff; treating Apache Indians who apparently preferred her services to those of the Indian Service doctor; and taking night calls at the clinic.

"I hadn't been told about the night calls," says Dr. Sullivan, "but it was kind of interesting—kind of lonesome, too, with that wind whistling around the eaves all night."

Asked about her general reception in Tierra Amarilla, Dr. Sullivan confides, "I think they may have been a little uneasy about having a woman physician. I guess it was a first for that area, maybe for the county—so there was a little hesitation at first. One interesting thing, though, I noticed an awful lot of the local women rushing in to get their pelvic examinations before I left."

Dr. Sullivan also handled one childbirth while she was in Tierra Amarilla—and frankly wishes she'd had more. "But even one delivery was a thrill after 15 years out of obstetrics," she says. "And fortunately, everything worked out well for the mother . . . and the doctor. Really, it was just exciting to get back into a little more general-type practice than I have at the training school."

"Also," she adds, "it was interesting to see local people work at making their own clinic go. I even got to go to a benefit dance for the clinic."

As one of Project USA's first volunteers, Dr. Sullivan is asked if she has any advice for physicians who will be participating in the program later this year. "I think you have to be prepared to hang loose and let people tell you what they want of you," she replies. "Coming into a situation for just a short time, you don't want to create shock waves. So, generally, if you give people a chance, they'll let you know where you can be of service."

Going into an area like Tierra Amarilla, adds Dr. Sullivan, it also helps to know, or learn, Spanish—"even if it's only six or seven words, because it lets the people know that you respect their culture."

As for Project USA itself, Dr. Sullivan advises, "If you don't get involved, you'll never know what you're missing. I really am grateful to the AMA—and that's a new feeling, by the way—for making this opportunity available and publicizing it."

Sibley's Dr. Thomas expresses similar sentiments, saying he'd accept another assignment if he had a chance. "I think this project has great merit," he declares. "It has great potential because there must be thousands of guys like me around the country, guys who'd be willing to leave their practices for short periods of time and fill in at places where they're really needed.

"It's a rewarding thing for physicians. And I think the project might serve as an excellent back-up medical force to help take care of the medically impoverished people of this country."

EQUAL CREDIT FOR ALL WITHOUT REGARD TO SEX OR MARITAL STATUS

(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 am very pleased today to be joining with Representatives MARGARET HECKLER and MATTHEW RINALDO in introducing legislation to prohibit discrimination on the basis of a person's sex or marital status in credit applications. The compelling need for such legislation has been demonstrated both by numerous individual complaints and by two sets of hearings—those in May 1972 before the National Commission on Consumer Finance on Consumer Credit and those held in December 1972, by the Federal Deposit Insurance Corporation dealing with mortgages and other bank credit practices.

The legislation we are introducing today would prohibit these widespread discriminatory practices in both consumer and commercial credit applications. No longer can we tolerate the inequitable exclusion of such a large percentage of our population—women constitute over 40 percent of the Nation's work force—from our credit economy. No longer can we accept the case, as documented in the hearings, of a 40-year-old working woman, the head of her household, who could not get a mortgage for her house without the signature of her 70-year-old father who was living on a pension.

The same bill that we are introducing today has already been reported out of the Senate Banking Committee as part of a larger bill, and we are hopeful that our joint cosponsorship of this bill will give further impetus to prompt action on this most important area of legislation. I see this bill as the legislative vehicle for obtaining hearings on the entire subject of equal credit for women before the Consumer Affairs Subcommittee of the Banking and Currency Committee. A number of Members, myself included, have introduced separate bills on the subject, and it is my intention at the hearings on this subject to press for increased coverage to eliminate any ambiguities that might exist in the proposed legislation.

Equal credit opportunity for women is not a partisan matter, and that is why I am delighted to be cosponsoring this legislation with my colleague, MARGARET HECKLER, Republican of Massachusetts.

Discrimination in credit applications is a very widespread practice. Just today I received a letter from a woman who, in her own personal experience, has several times and in several States been subjected to this discrimination. The incidents detailed in this letter are very descriptive of the kind of inequities that women seeking credit are subjected to, and I am inserting the text of the letter here in the RECORD for the benefit of my colleagues:

JULY 15, 1973.

EDWARD I. KOCH,
Washington, D.C.

DEAR CONGRESSMAN: I am glad to see that someone is finally investigating discriminatory insurance and credit practices. The ways in which I have been discriminated against since I have become a married woman have been many. Unfortunately, with credit, the discrimination can be so subtle that it is impossible to put in a letter. I hope that these instances of more obvious discrimination will help your committee and that eventually legislation will be passed to stop it entirely.

My husband and I were married in New Jersey in 1969. At that time he was in the service and held the rank of E–4. I had a GS–5 position with a laboratory in the area. Before we were married, I had opened two charge accounts—one with Montgomery Ward and the other with Bamburgers. After we were married, Bamburgers allowed me to keep my account, but I had to change the name to Mrs. Allan Drake. They would not permit me to use Judy P. Drake.

Wards changed the account immediately to my husband's name and refused to give us separate accounts or an account in both names. Later, we moved to Alaska and mail-ordered large amounts of merchandise from Wards. My husband had to sign all the orders. Orders with my signature were returned even though we had cosigned the credit application and I was our principal support during much of that time. While still in New Jersey we tried to get a charge account at Bradlees. We were turned down because his rank was only E–4 and they did not give credit to servicemen below the rank of E–6. The credit department freely admitted that had I been single, my job would have been sufficient to get me an account.

While in Fairbanks, I was attending the University of Alaska on a $400 a month fellowship. My husband worked as a mechanic at various garages in the area. None of the male graduate students had trouble getting credit from Penny's, Standard Oil Co. or Sears. While my stipend and circumstances were similar, I could get none because my husband was "only a mechanic."

When I went to a doctor in Fairbanks, I received a bill as follows: Name: Allan Drake; Item: Judy Drake. When I complained that my husband didn't even attend this clinic, and I had earned the money to pay the bill, I was informed that if I wanted to see a doctor I had better go along with the system, as all the clinics operated the same way. The receipt was also issued to him, even though paid by me with *my* hard-earned money.

For a while my husband was unemployed and I was working as a lab technician at U. of Alaska. I made $4.16/hr. and my salary was our only source of income. I went to Beneficial Finance to get money to buy a used truck. They told me they couldn't lend me the money unless my husband signed. About a week later he went in to make the same loan. Even though I was our sole support at that time, he easily got the loan without my signature.

While I realize that my experiences have not been dramatic as some others, I do hope that they help your committee realize that some real inequities exist, and to propose legislation to get rid of them.

Sincerely,

JUDY P. DRAKE.

UMTA MUST INSIST ON THOROUGH GRAND CENTRAL STUDY

(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, the New York Times carried an excellent editorial today on a matter of considerable importance to New York City: the location of a mid-Manhattan terminal for the Long Island Railroad. The Federal Government is involved because of the possibility of Federal funding of the project through UMTA.

In dispute is whether the Metropolitan Transportation Authority in New York should move ahead with its plans for a $342 million terminal at Third Avenue and 48th Street while inadequate consideration has been given to utilizing an existing facility, Grand Central Station. Grand Central lies just a few blocks away from the proposed Third Avenue site and is now underutilized. At the same time, it provides a convenient nexus for a number of modes of rapid transit in New York City.

Pending is the question of whether the MTA really will give Grand Central the consideration it deserves and that's required by Federal law for such federally funded projects. This will be answered in great part by how fully UMTA administers the Federal law requiring full consideration of all alternative locations for any federally funded construction project. The New York Times editorial expresses the concern shared by many of us in the New York that the required study of Grand Central may only be pro forma. It is important that this not happen and that instead the study be thorough and objective.

For the interest of our colleagues, the editorial follows:

TERMINAL PROBE

The Metropolitan Transit Authority's plan for an eastside Long Island Rail Road terminal on Third Avenue is being tentatively questioned by the Federal Urban Mass Transit Administration. It should be—and severely.

That appeared to be exactly what U.M.T. Administrator Frank Herringer intended to do when he first asked New York State to consider expanding and modernizing Grand Central Terminal to serve the same purpose. Since then, however, the attitude of the Urban Mass Transit Administration, which would have to do two-thirds of the funding, has changed to the point where it will apparently be satisfied with little more than a *pro forma* report from M.T.A. stating why Grand Central won't do.

It is entirely possible that the M.T.A. is correct in its judgment that the Third Avenue site would be preferable. Traffic at Grand Central, underused as that station is, might still be too great at peak commuter hours to allow it to serve Long Island riders as well as those it now accommodates. Nevertheless, such are the advantages the Grand Central plan might afford that it is incredible that a $341-million project would be contemplated without absolute certainty that the existing facility would be inadequate.

Mr. Herringer originally suggested that the old station might offer the same benefits as the Third Avenue site "at a lower cost and with less disruption of the surrounding area." The Third Avenue site would impose some 30,000 peak-hour pedestrians a day on the largely residential neighborhood of Turtle Bay, between 41st and 51st Streets east of Lexington Avenue. It would mean years of drilling, digging and disruption. Furthermore, the Grand Central location not only offers substantial savings in money but also the great advantage of having existing subway links in all four directions.

Representative Edward I. Koch, who has taken the lead in forcing Federal attention to the alternative, states that so far the M.T.A has given the Grand Central plan hardly more than a quick brush-off. It deserves a great deal more than that. It deserves the kind of definitive and impartial probing that can only be done by an independent agency and that would leave no room for further doubt.

THE LATE EDDIE RICKENBACKER

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

Mr. DEVINE. Mr. Speaker, we learned today of the passing of one of America's greatest heroes, Capt. Edward V. Rickenbacker.

Born in Columbus, Ohio, in 1890, he first gained recognition as a winning driver in automobile races. When he enlisted in the U.S. Army, he was assigned as chauffer to Gen. John Pershing.

In World War I, Captain Eddie was a member of the 94th Aero Pursuit Squadron, and was classified as an "ace" shooting down 26 enemy planes. His insignia became renown, the "Hat in the Ring." Among his many decorations, he received the Congressional Medal of Honor.

The world watched with great concern and apprehension while Eddie was on a mission for the War Department during World War II, survived a plane crash in the Pacific, and was rescued after 3 perilous weeks adrift in a liferaft.

Eddie Rickenbacker, former president and chairman of the board of Eastern Airlines was admitted to the Aviation Hall of Fame in 1965.

Mr. Speaker, to perpetuate the memory of this great American, I have introduced a bill to rename Lockbourne Air Force Base in my district in Ohio, in his honor.

CAREY QUESTIONS LATEST HEW REORGANIZATION

(Mr. CAREY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CAREY of New York. Mr. Speaker, the Department of Health, Education, and Welfare is planning to reorganize the Health Services and Mental Health Administration into the Health Resources Administration and the Health Services Administration.

These proposed administrative changes, as outlined very broadly on page 18260 of the Federal Register of July 9, 1973, would seem to set the stage for what Dr. Arthur Lesser, in his statement of resignation as Program Director for Maternal and Child Health Care, protested:

> Would amount to the first step in the elimination of categorical programs. It is another disregard for the intent of Congress.

For further information on this issue and the protest resignation of this highly respected, veteran health professional, please see my remarks on page 22627 of the June 30, 1973, CONGRESSIONAL RECORD.

Mr. Speaker, I have been joined by 34 of my House colleagues in requesting an explanation of this latest HEW "efficiency" shakeup. These gentlemen share my concern that this plan is of questionable legality and wisdom, particularly in light of recent congressional approval of project funding for maternal and child health care programs funded under title V of the Social Security Act. In this particular regard, I am pleased to be joined in this letter by Congressman FLOOD, chairman of the House Labor-HEW Appropriations Subcommittee—which subcommittee reported a bill funding this program and the projects it administers. This bill passed the House overwhelmingly and has been sent to the Senate.

Mr. Speaker, in conclusion, I should like to include in the RECORD, the text of the joint letter sent to Mr. Weinberger and the names of the Members who have joined me in this inquiry:

JULY 20, 1973.

Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education and Welfare, Washington, D.C.

DEAR MR. SECRETARY: The lack of current information regarding the proposed reorganization of Health Services and Mental Health Administration into the Health Resources Administration and the Health Services Administration is causing anxiety, and it is hoped that your response to this inquiry might convey Administration proposals as they might affect the effective achievement of program goals directed by the Congress. Specifically, concern is mounting that the new organizational structure will be incapable of fulfilling the purpose for which each individual program had been initially established.

The organization proposed reflects a new Bureau of Community Health Services comprised of Maternal and Child Health, Family Planning, Migrant Health, Neighborhood Health Centers, National Health Service Corps and Health Maintenance Organization. The director of each of these programs will become an Assistant Bureau Director. It appears that each program will be treated similarly regardless of whether they are equal in scope, history, funding, accomplishments, expectations or mandate. In addition, while the Director of Maternal and Child Health Service for example, maintains apparent responsibility for the program, he has no line authority over employees justifiably employed with Title V funds, since the personnel are redistributed among the various offices, save five or six employees who will work on the Assistant Bureau Director's immediate staff, primarily as apologists.

This reorganization plan, unlike previous plans, appears to dismantle the maternal and child health program components rather than merely give them new administrative superiors. This appears as not only unsound health policy and unwise administrative practice, but a disregard for the populations to be served and the compassionate mandate which established and maintains the MCH program.

This reorganization fails to assure that programs will advance at the accelerated pace which is so vital. The Congress maintains a very active interest in maternal and child health programs, as manifested by the strong support Title V project extension received recently in both Houses. The maternal and child health program has been established for 38 years, and has continued through years marked by distinguished accomplishment. The proposed reorganization is not a solution for the problems of the program, which admittedly may exist, nor would it provide improvement for the program.

The anxiety of the Congress with the new reorganization plan has intensified recently with press accounts regarding the resignations of Arthur Lesser and Dr. Gordon MacLeod, two highly regarded program directors. Each official has stated that his resignation stems from the incompatibility of reorganization and program objectives. Dr. Lesser has stated, "This is the first step in the elimination of categorical programs. It is another disregard for the intent of Congress."

In light of the seriousness of this issue, and the relative scarcity of information, it would be appreciated that your response include comments on these questions:

1. Why has no revised appropriations request been submitted to reflect the reorganization?

2. Are there plans to change program allottees as required by Section 36799 of the Revised Statutes and the HEW Accounting Manual Chapter 2-10 (6/26/67)?

3. How will each allottee be able to maintain supervision and accountability of personnel working in other offices?

4. Will each office have assigned staff to work exclusively on each of the programs, or will there be an "equivalent time" arrangement to assure that programs receive staff support proportionate to appropriations for direct program operations?

5. What recourse is available to the Assistant Bureau Director when offices are not responsive?

6. What are the long range plans since five of the programs are operating under one year extensions and maternal and child health program is under permanent authority? Is it the ultimate intention to phase out these six categorical programs?

7. Might the Department initiate this reorganization July 1, 1974, after the Congress decides upon the future of these categorical programs?

8. When will the retails of the plans be available for public review?

9. Will comments on the plan be solicited and considered before it is initiated?

10. When might the Congress expect to be fully informed of administrative plans?

11. Will Congressional approval be sought?

The Committee on Ways and Means and, indeed, the entire Congress, would prefer to leave administrative organization and detail to the Executive. However, when administrative changes seem imminent, and these changes appear to run counter to the policy intent of the law, it becomes incumbent on the Congress, and even more so on the Executive, to engage in a dialogue which protects the intent of the Congress, maintains the integrity of the programs under discussion, preserves true administrative flexibility, and permits the Executive department in question to retain the confidence of the Congress in like matters.

It is our concern that the Department of Health, Education and Welfare administer all programs mandated to it by the Congress in the most efficient manner consistent with the program goals determined by the Congress. However, it is equally our concern that various categorical and other programs not be done to death through administrative legerdemain—a process that deprives programs of adequate fiscal and administrative support and strong professional leadership and then declares to the Congress that these starving and stumbling programs are clearly ineffective and surely inefficient, and should be terminated or blended with an even more amorphous administrative unit, which itself is earmarked for destruction.

Your early response to both the specific questions and the larger philosophical one is appreciated. Advance communication through this informal means would seem to be preferable to repeated last minute legislative resuscitation by the Congress—action necessarily less well designed than is desirable.

Sincerely,

HUGH L. CAREY.

The following Members of the House joined Congressman CAREY in his letter of inquiry to HEW:

Bella S. Abzug, Joseph P. Addabbo, Mario Biaggi, Jonathan B. Bingham, Edward P. Boland, Frank J. Brasco, James A. Burke, John Conyers, James C. Corman, Ronald V. Dellums, Don Edwards, Dante B. Fascell, Daniel J. Flood, Donald M. Fraser, Michael Harrington, Robert W. Kastenmeier, and Edward I. Koch.

Peter Kyros, Lloyd Meeds, Patsy T. Mink, Robert N. C. Nix, Claude Pepper, Bertram L. Podell, Charles B. Rangel, Thomas M. Rees,

Robert A. Roe, Benjamin S. Rosenthal, Dan Rostenkowski, William R. Roy, Fernand J. St Germain, Paul S. Sarbanes, Patricia Schroeder, Frank Thompson, and Charles H. Wilson.

CAREY QUESTIONS POSSIBLE ILL EFFECTS OF HEW REORGANIZATION PLAN

WASHINGTON.—Congressman Hugh L. Carey, (D–N.Y.) was joined today by 34 of his House Colleagues in requesting an explanation from H.E.W. of an administrative reorganization that Carey believes will have very serious ill-effects on Maternal and Child Health Care programs throughout the Nation.

Carey's letter to Secretary Weinberger was prompted by the continued H.E.W. assault on Health and other programs the Department is supposed to foster and see successful. The Congressman is increasingly dismayed at seeing the present Secretary of Health, Education, and Welfare destroying progressive, human needs programs passed by the Congress and administered in the recent past by such distinguished men as Abraham Ribicoff, Anthony Celebreeze, Wilbur Cohen and John Gardner.

In a letter to H.E.W. Secretary Weinberger, Carey asks, in eleven specific questions, for clarification of the Department's intentions with regard to Maternal and Child Health Care, and other categorical health programs being lumped together for purposes that may be "efficient", but which have been condemned by deeply worried health care professionals as destructive of the health care goals the Congress intended in creating them.

"The anxiety of the Congress with the new reorganization plan has intensified recently with press accounts regarding the resignations of Drs. Arthur Lesser and Gordon McLeod, two highly regarded directors of affected programs. Each official has stated that his resignation stems directly from the incompatibility of reorganization and program objectives. Dr. Lesser stated, "This is the first step in the elimination of categorical programs. It is another disregard for the intent of Congress."

The Congressman, further declared, "It is the concern of the Congress that the Department of Health, Education and Welfare administer all programs mandated to it by the Congress in the most efficient manner. However, it is equally our concern that various categorical programs not be done to death through administrative legerdemain—a process that deprives programs of adequate fiscal and administrative support and strong professional leadership and then declares to the Congress that these starving and stumbling programs are clearly ineffective and surely inefficient, and should be terminated or blended with an even more amorphous administrative unit, which itself is earmarked for destruction."

In closing, Carey stated that if the Department of H.E.W. expects to regain the confidence of the Congress and retain authority in administrative reorganizations affecting policy goals set by the Congress, "Advance and thorough communication would seem to be preferable to repeated last-minute legislative resuscitation by the Congress."

The following Congressmen have added their names to the letter sent by Congressman Carey:

Bella S. Abzug, Joseph P. Addabbo, Mario Biaggi, Jonathan B. Bingham, Edward P. Boland, Frank J. Brasco, James A. Burke, John Conyers, James C. Corman, Ronald V. Dellums, Don Edwards, Dante B. Fascell, Daniel J. Flood, Donald M. Fraser, Michael Harrington, Robert W. Kastenmeier, and Edward I. Koch.

Peter Kyros, Lloyd Meeds, Patsy T. Mink, Robert N. C. Nix, Claude Pepper, Bertram L. Podell, Charles B. Rangel, Thomas M. Rees, Robert A. Roe, Benjamin S. Rosenthal, Dan Rostenkowski, William R. Roy, Fernand J. St Germain, Paul S. Sarbanes, Patricia Schroeder, Frank Thompson, and Charles H. Wilson.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MITCHELL of New York) to revise and extend their remarks and include extraneous material:)

Mr. HOGAN, for 10 minutes, today.
Mr. MILLER, for 5 minutes, today.
Mr. FORSYTHE, for 5 minutes, today.
Mrs. HECKLER of Massachusetts, for 5 minutes, today.
Mr. DU PONT, for 5 minutes, today.
Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. STUDDS) and to revise and extend their remarks and include extraneous matter:)

Mr. BINGHAM, for 10 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. PODELL, for 5 minutes, today.
Mr. STARK, for 5 minutes, today.
Mr. BURKE of Massachusetts, for 5 minutes, today.
Ms. ABZUG, for 10 minutes, today.
Mr. KASTENMEIER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BINGHAM, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $731.50.

Mr. RANDALL in four instances and to include extraneous matter.

Mr. HECHLER of West Virginia and to include extraneous matter during debate on House Resolution 495, today.

(The following Members (at the request of Mr. MITCHELL of New York) and to include extraneous material:)

Mr. BLACKBURN.
Mr. ARCHER.
Mr. STEIGER of Arizona in two instances.
Mr. ASHBROOK in three instances.
Mr. CONTE in two instances.
Mr. JOHNSON of Pennsylvania.
Mr. DERWINSKI in two instances.
Mr. WYMAN in two instances.
Mr. HOGAN.
Mr. SEBELIUS.
Mr. BRAY in two instances.
Mr. FINDLEY.
Mr. DELLENBACK.
Mr. HEINZ.
Mr. FORSYTHE.
Mr. WALSH.
Mr. MITCHELL of New York.
Mr. MCCLORY in two instances.
Mr. DAVIS of Wisconsin.
Mr. LENT.
Mr. HUBER.
Mr. BAFALIS in five instances.
Mr. KEMP in two instances.

(The following Members (at the request of Mr. STUDDS) and to include extraneous matter:)

Mr. EDWARDS of California in three instances.
Mr. MINISH.
Mr. FRASER in five instances.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. HUNGATE.
Mr. MOORHEAD of Pennsylvania in 10 instances.
Mr. CULVER in six instances.
Mr. REES in three instances.
Mr. HOWARD in six instances.
Mr. MATSUNAGA in 10 instances.
Mr. CAREY of New York.
Mr. HARRINGTON in three instances.
Mr. JONES of Tennessee.
Mr. ROSTENKOWSKI.
Mr. DRINAN.
Mr. KYROS.
Mr. BURKE of Massachusetts.
Mr. PATMAN.
Mr. EVINS of Tennessee in five instances.
Mr. REUSS.
Mr. STARK in 10 instances.
Mr. ANDERSON of California in two instances.
Mr. NEDZI.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 440. An act to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress; to the Committee on Foreign Affairs.

S. 782. An act to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the Expediting Act as it pertains to Appellate Review; to the Committee on the Judiciary.

S. 1816. An act to amend the Wool Products Labeling Act of 1939 with respect to recycled wool; to the Committee on Interstate and Foreign Commerce.

S.J. Res. 134. Joint resolution to prohibit any reduction in the number of employees of the Forest Service during the current fiscal year; to the Committee on Agriculture.

ENROLLED BILLS 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. 9172. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bill of the Senate of the following title:

S. 59. An act to amend title 38 of the United States Code to provide improved and expanded medical and nursing home care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on July 20, 1973, present to the President, for his approval, bills of the House of the following titles:

H.R. 6717. An act to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes; and

H.R. 8949. An act to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans.

ADJOURNMENT

Mr. STUDDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 24, 1973, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of the 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. 8056. A bill to provide financial assistance for research Arkansas River Basin compact, Arkansas-Oklahoma; with amendment (Rept. No. 93-391). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee of conference. Conference report on S. 1636 (Rept. No. 93-389). 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. ANDERSON of California:

H.R. 9463. A bill to amend the Public Health Service Act to provide for the screening and counseling of Americans with respect to Tay-Sachs disease; to the Committee on Interstate and Foreign Commerce.

By Mr. BEVILL:

H.R. 9464. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

H.R. 9465. A bill to amend title II of the Social Security so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. BRAY:

H.R. 9466. A bill to limit certain legal remedies involving the involuntary busing of schoolchildren; to the Committee on the Judiciary.

By Mr. BURKE of Massachusetts:

H.R. 9467. A bill to amend the Internal Revenue Code of 1954 to provide income tax incentives to improve the economics of recycling waste paper; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts (for himself, Mr. TIERNAN, Mr. NIX, Mr. COTTER, Mr. STUDDS, and Mr. MOAKLEY):

H.R. 9468. A bill to authorize the Secretary of Agriculture to distribute seeds and plants for use in home gardens; to the Committee on Agriculture.

By Mr. CARNEY of Ohio:

H.R. 9469. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. DELLUMS:

H.R. 9470. A bill to provide for an autonomous elected Board of Education for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. DENHOLM:

H.R. 9471. A bill to amend Public Law 92-181 (85 Stat. (383) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products; to the Committee on Agriculture.

By Mr. DERWINSKI:

H.R. 9472. A bill to amend the State and Local Fiscal Assistance Act of 1972 to make it clear that local governments may use amounts freed by revenue sharing for tax reduction; to the Committee on Ways and Means.

By Mr. DEVINE:

H.R. 9473. A bill to change the name of the Lockbourne Air Force Base, Ohio, to the Eddie Rickenbacker Air Force Base; to the Committee on Armed Services.

By Mr. DORN (for himself, Mr. TEAGUE of Texas, Mr. HALEY, Mr. DULSKI, Mr. ROBERTS, Mr. SATTERFIELD, Mr. HELSTOSKI, Mr. EDWARDS of California, Mr. MONTGOMERY, Mr. CARNEY of Ohio, Mr. DANIELSON, Mrs. GRASSO, Mr. WOLFF, Mr. BRINKLEY, Mr. CHARLES WILSON of Texas, Mr. HAMMERSCHMIDT, Mr. SAYLOR, Mr. TEAGUE of California, Mrs. HECKLER of Massachusetts, Mr. ZWACH, Mr. WYLIE, Mr. HILLIS, Mr. ABDNOR, and Mr. WALSH):

H.R. 9474. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pension, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DU PONT:

H.R. 9475. A bill to provide an allowance for tools to eligible veterans pursuing apprenticeship training programs; to the Committee on Veterans' Affairs.

By Mr. FISH:

H.R. 9476. A bill to provide for the awarding of a medal of honor for policemen and a medal of honor for firemen; to the Committee on Banking and Currency.

By Mr. FULTON (for himself, Mr. BROYHILL of Virginia, and Mr. DENHOLM):

H.R. 9477. A bill to amend the Social Security Act to provide for medical, hospital, and dental 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 Mrs. GRASSO:

H.R. 9478. A bill to amend title II of the Social Security Act to provide that an individual otherwise eligible may be paid full widow's or widower's insurance benefits at age 55, or reduced widow's or widower's insurance benefits at age 50 (age 45 in case of disability); to the Committee on Ways and Means.

By Mr. HOGAN (for himself, Mr BRASCO, Mr DE LUGO, Mr. DOWNING, Mr. FAUNTROY, Mr. GOLDWATER, Mrs. HOLT, Mr. PARRIS, Mr. TIERNAN, Mr. WHITEHURST, and Mr. WON PAT):

H.R. 9479. A bill to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, D.C., and Annapolis, Md., and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such system if such study demonstrates their feasibility; to the Committee on Interstate and Foreign Commerce.

By Mr. KASTENMEIER (for himself, Ms. ABZUG, Mr. BADILLO, Mr. BURTON, Mrs. CHISHOLM, Mr. CONYERS, Mr. DELLUMS, Mr. DE LUGO, Mr. DIGGS, Mr. EDWARDS of California, Mr. ECKHARDT, Mr. FRASER, Mr. GUDE, Ms. JORDAN, Mr. KOCH, Mr. LEGGETT, Mr. MAZZOLI, Mr. METCALFE, Mr. NIX, Mr. PEPPER, Mr. PODELL, Mr. RANGEL, Mr. ROONEY of Pennsylvania, Mr. ROSENTHAL, and Mr. STARK):

H.R. 9480. A bill to amend the Voting Rights Act of 1970 to prohibit the States from denying the right to vote in Federal elections to former criminal offenders who have not been convicted of any offense related to voting or elections and who are not confined in a correctional institution; to the Committee on the Judiciary.

By Mr. KASTENMEIER (for himself and Mr. WON PAT):

H.R. 9481. A bill to amend the Voting Rights Act of 1970 to prohibit the States from denying the right to vote in Federal elections to former criminal offenders who have not been convicted of any offense related to voting or elections and who are not confined in a correctional institution; to the Committee on the Judiciary.

By Mr. McSPADDEN:

H.R. 9482. A bill to improve the conduct and regulation of Federal election campaign activite and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. MOAKLEY:

H.R. 9483. A bill to amend title 5 of the United States Code in order to apply to National Guard technician certain retention and overtime work benefits now extended to Federal employees, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 9484. A bill to amend title II of the Social Security Act to provide that the remarriage of a widow, widower, or parent shall not terminate his or her entitlement to widow's, widower's, or parent's insurance benefits or reduce the amount thereof; to the Committee on Ways and Means.

H.R. 9485. A bill to amend title II of the Social Security Act to provide that an individual who resides with and maintains a household for another person or persons (while such person or any of such persons is employed or self-employed) shall be considered as performing covered services in maintaining such household and shall be credited accordingly for benefit purposes; to the Committee on Ways and Means.

By Mr. ROBISON of New York (for himself, Mr. STEIGER of Wisconsin, Mr. ANDERSON of Illinois, and Mr. ESCH):

H.R. 9486. A bill to establish within the Peace Corps a special program to be known as the Vietnam assistance volunteers program; to the Committee on Foreign Affairs.

By Mr. RODINO:

H.R. 9487. A bill to amend titles 39 and 5, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RONCALLO of New York (for himself, Mr. BAFALIS, Mr. JONES of Oklahoma, and Mr. POWELL of Ohio):

H.R. 9488. A bill to prohibit the use of appropriated funds to carry out or assist research on living human fetuses; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 9489. A bill to provide for the inclusion of emergency power equipment in federally assisted multifamily housing facilities which are designed for occupancy in whole or substantial part by the elderly, and to authorize Federal loans to finance the provision of such equipment for those facilities; to the Committee on Banking and Currency.

H.R. 9490. A bill to amend title 38, United States Code, to provide for the payment of certain preservice educational loans made by veterans; to the Committee on Veterans' Affairs.

By Mr. STEELE (for himself and Mr. McKINNEY):

H.R. 9491. A bill to authorize the disposal of approximately 258,700 short tons of copper from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

By Mr. TAYLOR of North Carolina (for himself, Mr. LANDRUM, Mr. DORN, and Mr. MANN):

H.R. 9492. A bill to designate the Chattooga River in the States of North Carolina, South Carolina, and Georgia as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. VANDER JAGT (for himself, Mr. SYMINGTON, Mr. RINALDO, and Mr. STUCKEY):

H.R. 9493. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITEHURST:

H.R. 9494. A bill to provide for the continued supply of petroleum products to independent oil marketers; to the Committee on Interstate and Foreign Commerce.

By Mr. WIGGINS:

H.R. 9495. A bill to amend section 1951 of title 18 of the United States Code; to the Committee on the Judiciary.

By Mr. CHARLES WILSON of Texas (for himself and Mr. SAYLOR):

H.R. 9496. A bill to amend the Outer Continental Shelf Lands Act and to authorize the Secretary of the Interior to regulate the construction and operation of deepwater port facilities; to the Committee on Interior and Insular Affairs.

By Mr. DORN (for himself, Mr. DAN DANIEL, Mr. GETTYS, Mr. BROYHILL of Virginia, Mr. EDWARDS of Alabama, Mr. PRICE of Texas, Mr. MARTIN of Nebraska, Mr. BEVILL, Mr. BROYHILL of North Carolina, Mr. SNYDER, Mr. ZION, Mr. SMITH of Iowa, Mr. FLOWERS, Mr. SHUSTER, Mr. COUGHLIN, Mr. ESHLEMAN, Mr. JOHNSON of Pennsylvania, Mr. WARE, Mr. WILLIAMS, and Mr. PETTIS):

H.R. 9497. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pension and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DORN (for himself, Mr. HEINZ, Mr. SPENCE, Mr. BEARD, Mr. RUPPE, Mr. ESCH, Mr. BROWN of Michigan, Mr. VANDER JAGT, Mr. LENT, Mr. SANDMAN, Mr. STEIGER of Arizona, Mr. DON H. CLAUSEN, Mr. MCDADE, Mr. DUNCAN, Mr. NICHOLS, Mr. BURKE of Massachusetts, Mr. PREYER, Mr. BOWEN, Mr. BREAUX, Mr. MARTIN of North Carolina, and Mr. DAVIS of South Carolina):

H.R. 9498. A bill to amend title 38 of the United States Code to increase the monthly rates of disability and death pension, and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. HECKLER of Massachusetts (for herself and Mr. KOCH):

H.R. 9499. A bill to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of sex or marital status in the granting of credit, and to make certain changes with respect to the civil liability provisions of such act; to the Committee on Banking and Currency.

By Mr. PARRIS (for himself and Mr. BROYHILL of Virginia):

H.R. 9500. A bill to authorize and provide for the construction of the 4-Mile Run project, in the city of Alexandria and Arlington County, Va.; to the Committee on Public Works.

By Mr. YOUNG of Illinois:

H.R. 9501. A bill to amend the Occupational Safety and Health Act of 1970; to the Committee on Education and Labor.

H.R. 9502. A bill to amend the Controlled Substances Act to permit the referral to drug counseling or treatment programs of certain first-time marihuana offenders and to remove certain age restrictions against the expunging of certain official records; to the Committee on Interstate and Foreign Commerce.

H.R. 9503. A bill to provide a penalty for the robbery or attempted robbery of any narcotic drug from any pharmacy; to the Committee on the Judiciary.

H.R. 9504. A bill to amend the Internal Revenue Code of 1954 to raise the limitations on contributions by self-employed individuals to certain retirement plans; to the Committee on Ways and Means.

H.R. 9505. A bill to amend the Internal Revenue Code of 1954 to provide relief to certain individuals 65 or more years of age who own or rent their homes, through a system of income tax credits and refunds; to the Committee on Ways and means.

By Mr. RIEGLE:

H.J. Res. 679. Joint resolution, a national education policy; to the Committee on Education and Labor.

By Mr. BRAY:

H. Con. Res. 273. Concurrent resolution expressing the sense of the Congress that the Commission on Executive, Legislative, and Judicial Salaries omit recommendations for pay increases for Members of Congress in its report to the President on the results of its 1973 salary studies; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Illinois:

H. Con. Res. 274. Concurrent resolution requesting the President to proclaim the 14th day in October of each year as "National Friendship Day"; to the Committee on the Judiciary.

By Mr. FISH:

H. Res. 501. Resolution to establish a congressional internship program for secondary school teachers of government or social studies in honor of President Lyndon Baines Johnson; to the Committee on House Administration.

By Mr. GUDE (for himself, Mr. FRASER, Mr. BRADEMAS, Ms. BURKE of California, and Mr. PODELL):

H. Res. 502. Resolution expressing the sense of the House that the U.S. Government should seek agreement with other members of the United Nations on prohibition of weather modification activity as a weapon of war; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

284. The SPEAKER presented a memorial of the Legislature of the State of California, relative to extension of the Federal Emergency Employment Act of 1971 and various summer youth opportunities programs; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H.R. 9506. A bill for the relief of Shigeru Nakano; to the Committee on the Judiciary.

By Mr. GUDE:

H.R. 9507. A bill for the relief of James A. Horkan; to the Committee on the Judiciary.

By Mr. MARAZITI:

H.J. Res. 680. Joint resolution authorizing the President to award the Legion of Merit to Dr. Emanuel M. Satulsky, major, U.S. Army (retired); to the Committee on Armed Services.

EXTENSIONS OF REMARKS

AMERICAN LIBRARY ASSOCIATION SAYS "THANK YOU" TO HOUSE OF REPRESENTATIVES

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1973

Mr. MATSUNAGA. Mr. Speaker, the American Library Association, at its recent annual conference in Las Vegas, unanimously adopted a resolution thanking the U.S. House of Representatives, and particularly the members of the House Appropriations Committee, for saving federally funded library programs.

The House passed, on June 26, 1973, H.R. 8877, a bill making fiscal year 1974 appropriations for library programs at the following levels: Library Services and Construction Act—$58,709,000; title II of the Elementary and Secondary Education Act—$90,000,000; title II—a and b—of the Higher Education Act—$15,000,000.

The House-passed bill would make possible the continuation of essential library services for millions of American citizens, the American Library Association said in its resolution, which was forwarded to me by Prof. Yukihisa Suzuki of the University of Hawaii Graduate School of Library Studies. Professor Suzuki is a councilor of the American Library Association and was instrumental in obtaining the unanimous adoption of the "Thank You" resolution.

The full text of the resolution follows:

RESOLUTION EXPRESSING APPRECIATION OF MEMBERS OF U.S. HOUSE OF REPRESENTATIVES

Whereas fiscal year 1974 begins on July 1, 1973; and

Whereas the President's budget recommends zero funding in FY 1974 for all library programs authorized by the Library Services and Construction Act, title II of the Elementary and Secondary Education Act, and title II-A&B of the Higher Education Act; and

Whereas the United States House of Representatives on June 26 passed the bill, H.R.