THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Legal Compilation

Statutes and Legislative History
Executive Orders
Regulations
Guidelines and Reports

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JANUARY 1973

WILLIAM D. RUCKELSHAUS
Administrator

U.S. Environmental Protection Agency
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FOREWORD

It has been said that America is like a gigantic boiler in that once the fire is lighted, there are no limits to the power it can generate. Environmentally, the fire has been lit.

With a mandate from the President and an aroused public concerning the environment, we are experiencing a new American Revolution, a revolution in our way of life. The era which began with the industrial revolution is over and things will never be quite the same again. We are moving slowly, perhaps even grudgingly at times, but inexorably into an age when social, spiritual and aesthetic values will be prized more than production and consumption. We have reached a point where we must balance civilization and nature through our technology.

The U.S. Environmental Protection Agency, formed by Reorganization Plan No. 3 of 1970, was a major commitment to this new ethic. It exists and acts in the public's name to ensure that due regard is given to the environmental consequences of actions by public and private institutions.

In a large measure, this is a regulatory role, one that encompasses basic, applied, and effects research; setting and enforcing standards; monitoring; and making delicate risks—benefit decisions aimed at creating the kind of world the public desires.

The Agency was not created to harass industry or to act as a shield behind which man could wreak havoc on nature. The greatest disservice the Environmental Protection Agency could do to American industry is to be a poor regulator. The environment would suffer, public trust would diminish and instead of free enterprise, environmental anarchy would result.

It was once sufficient that the regulatory process produce wise and well-founded courses of action. The public, largely indifferent to regulatory activities, accepted agency actions as being for the "public convenience and necessity." Credibility gaps and cynicism make it essential not only that today's decisions be wise and well-founded but that the public know this to be true. Certitude, not faith, is de rigueur.

In order to participate intelligently in regulatory proceedings, the citizen should have access to the information available to the agency. EPA's policy is to make the fullest possible disclosure of information,

without unjustifiable expense or delay, to any interested party. With this in mind, the EPA Compilation of Legal Authority was produced not only for internal operations of EPA, but as a service to the public, as we strive together to lead the way, through the law, to preserving the earth as a place both habitable by and hospitable to man.

WILLIAM D. RUCKELSHAUS,
Administrator
U.S. Environmental Protection Agency

PREFACE

Reorganization Plan No. 3 of 1970 transferred 15 governmental units with their functions and legal authority to create the U.S. Environmental Protection Agency. Since only the major laws were cited in the Plan, the Administrator, William D. Ruckelshaus, requested that a compilation of EPA legal authority be researched and published.

The publication has the primary function of providing a working document for the Agency itself. Secondarily, it will serve as a research tool for the public.

A permanent office in the Office of Legislation has been established to keep the publication updated by supplements.

It is the hope of EPA that this set will assist in the awesome task of developing a better environment.

LANE WARD, J.D.,
Assistant Director for Field Operations
Office of Legislation
U.S. Environmental Protection Agency.

ACKNOWLEDGMENT

The idea of producing a compilation of the legal authority of EPA was conceived and commissioned by William D. Ruckelshaus, Administrator of EPA. The production of this compilation involved the cooperation and effort of numerous sources, both within and outside the Agency. The departmental libraries at Justice and Interior were used extensively; therefore we express our appreciation to Marvin P. Hogan, Librarian, Department of Justice; Arley E. Long, Land & Natural Resources Division Librarian, Department of Justice; Frederic E. Murray, Assistant Director, Library Services, Department of the Interior.

For exceptional assistance and cooperation, my gratitude to: Gary Baise, formerly Assistant to the Administrator, currently, Director, Office of Legislation, who first began with me on this project; A. James Barnes, Assistant to the Administrator; K. Kirke Harper, Jr., Special Assistant for Executive Communications; John Dezzutti, Administrative Assistant, Office of Executive Communications; Roland O. Sorensen, Chief, Printing Management Branch, and Jacqueline Gouge and Thomas Green, Printing Management Staff; Ruth Simpkins, Janis Collier, Wm. Lee Rawls, James G. Chandler, Jeffrey D. Light, Randy Mott, Thomas H. Rawls, and John D. Whittaker, Peter J. McKenna, Linda L. Payne, John M. Himmelberg, and Dana W. Smith, a beautiful staff who gave unlimited effort; and to many others, behind the scenes who rendered varied assistance.

LANE WARD, J.D.,
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INSTRUCTIONS

The goal of this text is to create a useful compilation of the legal authority under which the U.S. Environmental Protection Agency operates. These documents are for the general use of personnel of the EPA in assisting them in attaining the purposes set out by the President in creating the Agency. This work is not intended and should not be used for legal citations or any use other than as reference of a general nature. The author disclaims all responsibility for liabilities growing out of the use of these materials contrary to their intended purpose. Moreover, it should be noted that portions of the Congressional Record from the 92nd Congress were extracted from the "unofficial" daily version and are subject to subsequent modification.

EPA Legal Compilation consists of the Statutes with their legislative history, Executive Orders, Regulations, Guidelines and Reports. To facilitate the usefulness of this composite, the Legal Compilation is divided into the eight following chapters:

A. General
B. Air
C. Water
D. Solid Waste
E. Pesticides
F. Radiation
G. Noise
H. International

WATER

The chapter labeled "Water" and color coded blue contains the legal authority of the Agency as it applies to water pollution abatement. It is well to note that any law which is applicable to more than one chapter of the compilation will appear in each of the chapters; however, its legislative history will be cross referenced into the "General" chapter where it is printed in full.

SUBCHAPTERS:

Statutes and Legislative History

For convenience, the Statutes are listed throughout the Compilation by a one-point system, i.e., 1.1, 1.2, 1.3, etc., and Legislative History begins wherever a letter follows the one-point system.

Thusly, any 1.1a, 1.1b, 1.2a, etc., denotes the public laws comprising the 1.1, 1.2 statute. Each public law is followed by its legislative history. The legislative history in each case consists of the House Report, Senate Report, Conference Report (where applicable), the Congressional Record beginning with the time the bill was reported from committee.

Example: 1.4 Amortization of Pollution Control Facilities, as amended, 26 U.S.C. §169 (1969).

1.4a Amortization of Pollution Control Facilities, December 30, 1969, P.L. 91–172, §704, 83 Stat. 667.

(1) House Committee on Ways and Means, H.R. REP. No. 91–413 (Part I), 91st Cong., 1st Sess. (1969).

(2) House Committee on Ways and Means, H.R. REP. No. 91–413 (Part II), 91st Cong., 1st Sess. (1969).

(3) Senate Committee on Finance, S. REP. No. 91–552, 91st Cong., 1st Sess. (1969).

(4) Committee of Conference, H.R. REP. No. 91–782, 91st Cong., 1st Sess. (1969).

(5) Congressional Record, Vol. 115 (1969):

(a) Aug. 7: Debated and passed House, pp. 22746, 22774–22775;

(b) Nov. 24, Dec. 5, 8, 9: Debated and passed Senate, pp. 35486, 37321–37322, 37631–37633, 37884–37888;

(c) Dec. 22: Senate agrees to conference report, p. 40718;*

(d) Dec. 22: House debates and agrees to conference report, pp. 40820, 40900.

This example not only demonstrates the pattern followed for legislative history, but indicates the procedure where only one section of a public law appears. You will note that the Congressional Record cited pages are only those pages dealing with the discussion and/or action taken pertinent to the section of law applicable to EPA. In the event there is no discussion of the pertinent section, only action or passage, then the asterisk (*) is used to so indicate, and no text is reprinted in the Compilation. In regard to the situation where only one section of a public law is applicable, then only the parts of the report dealing with same are printed in the Compilation.

Secondary Statutes

Many statutes make reference to other laws and rather than have this manual serve only for major statutes, these secondary statutes have been included where practical. These secondary statutes are indicated in the table of contents to each chapter by a bracketed cite to the particular section of the major act which made the reference.

Citations

The United States Code, being the official citation, is used throughout the Statute section of the compilation. In four Statutes, a parallel table to the Statutes at Large is provided for your convenience.

TABLE OF STATUTORY SOURCE

	STATUTES	SOURCE
1.1	River and Harbor Act of 1899, 33 U.S.C. §§403, 407, 411 (1899).	E.O. 11574 sets out EPA's function under this Act.
1.2	Federal Water Pollution Control Act, as amended, 33 U.S.C. §1151 *et seq.* (1970).	Transferred to EPA in Reorg. Plan No. 3 of 1970.
1.3	Pollution of the Sea by Oil, as amended, 33 U.S.C. §1001 *et seq.* (1966).	Implements the Convention of
1.4	Advances of Public Moneys, Prohibition Against, as revised, 31 U.S.C. §529 (1946).	Referred to in the Federal Water Pollution Control Act at §1155(g) (3) (A).
1.5	Public Contracts, Advertisements for Proposals for Purchases and Contracts for Supplies or Services for Government Departments; App Application to Government Sales and Contracts to Sell and to Government Corporations, as amended, 41 U.S.C. §5 (1958).	Referred to in Federal Water Pollution Control Act in §1155(g) (3) (A).
1.6	Courts of Appeals, Certiorari; Appeal; Certified Questions, as amended, 28 U.S.C. §1254 (1948).	Referred to in the Federal Water Pollution Control Act at §1157(g) (2).
1.7	Davis-Bacon Act, as amended, 40 U.S.C. §276a–275a–5 (1964).	Referred to in the Federal Water Pollution Control Act at §1158(g).
1.8	Per Diem, Travel and Transportation Expenses; Experts and Consultants; Individuals Serving Without Pay, as amended, 5 U.S.C. §5703 (1966).	Referred to in the Federal Water Pollution Control Act at §1159(a) (2) (B), 1160(c) (4), (i).
1.9	1909 Boundry Waters Treaty Between Canada and the United States, and the Water Utilization Treaty of 1944 Between Mexico and the United States, 36 Stat. 2448 (1909), 59 Stat. 1219 (1944).	Referred to in the Federal Water Pollution Control Act at §1160(d) (2).

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1.10	Disclosure of Confidential Information Generally, as amended, 18 U.S.C. §1905 (1948).	Referred to in the Federal Water Pollution Control Act at §§1160(f)(2), (k), (1), 1163(g)(3).
1.11	Convention on the Territorial Sea and the Contiguous Zone, Article XXIV, 5 U.S.T. 1612, 1613 (1958).	Referred to in the Federal Water Pollution Control Act at §1161(a)(9).
1.12	International Convention for the Prevention of Pollution of the Sea by Oil, 1954, Article IV, as amended, 17 U.S.T. 1528 (1954).	Referred to in the Federal Water Pollution Control Act at §1161(b)(2)(A).
1.13	Granting Clearances, as amended, 46 U.S.C. §91 (1951).	Referred to in the Federal Water Pollution Control Act at §1161(b)(5).
1.14	Outer Continental Shelf Lands Act, as amended, 43 U.S.C. §1331 *et seq.* (1953).	Referred to in the Federal Water Pollution Control Act at §1161(i)(2).
1.15	Administrative Procedure Act, as amended, 5 U.S.C. §§551–559, 701–705 (1968).	Referred to in the Federal Water Pollution Control Act at §§1162(b), 1163(e).
1.16	Higher Education General Provision, Definitions, as amended, 20 U.S.C. §1141 (1970).	Referred to in the Federal Water Pollution Control Act at §1169(1)(B).
1.17	National Environmental Policy Act of 1969, 42 U.S.C. §4321 *et seq.* (1970).	Direct reference in the Reorg. Plan No. 3 of 1970.
1.18	Public Health Service Act, as amended, 42 U.S.C. §§241, 243, 246 (1970).	Directly cited in Reorg. Plan No. 3 of 1970.
1.19	The Water Resource Planning Act, as amended, 42 U.S.C. §1962 *et seq.* (1970).	E.O. 11613.
1.20	Appalachian Regional Development Act of 1965, as amended, 40 App. U.S.C. §§212, 214 (1971).	All functions of the Secretary of the Interior and the Department of the Interior administrative to the Federal Water Quality Administration, all functions which were transferred to the Secretary of the Interior by Reorg. Plan No. 2 of 1966, and all functions vested in the Secretary of the Interior of the Department of the Interior by the Federal Water Pollution Control Act were transferred to the Administrator of the Environmental Protection Agency by Reorg. Plan No. 3 of 1970.
1.21	The Disaster Relief Act, 42 U.S.C. §4401 *et seq.* (1970).	Direct reference made to the Water Quality Administration at the Department of the Interior by E.O. 11490, §§703(3), 1102(1), 1103(2), etc., this administration being transferred to EPA through Reorg. Plan No. 3 of 1970.
1.22	Department of Transportation Act, 49 U.S.C. §1653(f) (1968).	The Federal Water Pollution Control Act in section 1153 regarding the preservation of fish and wildlife.

	STATUTES	SOURCE
1.23	Federal Aid Highway Act, as amended, 23 U.S.C. §109(h) (1970).	The Act at §109(h) requires the Secretary of Transportation to consult with the appropriate agency dealing with water pollution, in this case, the Administrator of EPA, before promulgating guidelines for any proposed project on any federal aid system.
1.24	Amortization of Pollution Control Facilities, as amended, 26 U.S.C. §169(d)(1)(B), (3) (1969).	The section cited in the Act refers directly to the Federal Water Pollution Control Act and the Federal certifying authority requirement filing to the Secretary of the Interior in the case of water pollution, both functions being transferred through Reorg. Plan
1.25	Airport and Airway Development Act, 49 U.S.C. §§1712(f), 1716(c)(4), (e) (1970).	Direct reference made to water pollution and the appropriate agency to deal with same in the Act.
1.26	Interest on Certain Government Obligations, as amended, 26 U.S.C. §103 (1969).	The sections of the Act provide a tax relief on industrial development bonds for sewage or solid waste disposal facility and water pollution control facilities, at the section cited.
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Executive Orders

The Executive Orders are listed by a two-point system (2.1, 2.2, etc.). Executive Orders found in General are ones applying to more than one area of the pollution chapters.

Regulations

The Regulations are noted by a three-point system (3.1, 3.2, etc.). Included in the Regulations are those not only promulgated by the Environmental Protection Agency, but those under which the Agency has direct contact.

Guidelines and Reports

This subchapter is noted by a four-point system (4.1, 4.2, etc.). In this subchapter is found the statutorily required reports of EPA, published guidelines of EPA, selected reports other than EPA's and inter-departmental agreements of note.

UPDATING:

Periodically, a supplement will be sent to the interagency distribution and made available through the U.S. Government Printing Office in order to provide an accurate working set of EPA Legal Compilation.

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(2) Senate Committee on Public Works, S. REP. No. 91–351, 91st Cong., 1st Sess. (1969). 1324

(3) Committee of Conference, H.R. REP. No. 91–940, 91st Cong., 2d Sess. (1970). 1470

(4) Congressional Record:

(a) Vol. 115 (1969), April 15, 16: Considered and passed House, pp. 9015–9052; 9259; 9264–9292; 1611

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(b) Vol. 115 (1969), Oct. 7, 8: Considered and passed Senate, amended, pp. 28947; 28953–29008; 29046–29065; 29089–29102; 1762

(c) Vol. 116 (1970), March 24: Senate agreed to conference report, pp. 8975; 8983–8984; 9003–9008; 1964

(d) Vol. 116 (1970), March 25: House agreed to conference report, pp. 9325–9334. 1976

(5) Message from the President of the United States "Conservation and Water Management," H.R. REP. Doc. No. 273, 90th Cong., 2d Sess. (1968). 1997

1.2l Rivers and Harbors Act of 1970, December 31, 1970, P.L. 91–611, Title I, §§120, 123, 84 Stat. 1823. 2017

(1) House Committee on Public Works, H.R. REP. No. 91–1665, 91st Cong., 2d Sess. (1970). 2020

(2) Senate Committee on Public Works, S. REP. No. 91–1422, 91st Cong., 2d Sess. (1970). 2023

(3) Committee of Conference, H.R. REP. No. 91–1782, 91st Cong., 2d Sess. (1970). 2024

(4) Congressional Record, Vol. 116 (1970):

(a) Dec. 7: Passed House, pp. 40139; 40143; 40145–40147; 40149; 2029

(b) Dec. 9: Amended and passed Senate, pp. 40594, 40598 2033

(c) Dec. 18: House agreed to conference report, pp. 42509, 42512; 2034

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(d) Dec. 19: Senate agreed to conference report, pp. 42724. 2035

1.2m Extension of Authorized Funds for Federal Water Pollution Control Act of 1971, July 9, 1971, P.L. 92–50, §§2, 3, 85 Stat. 124. 2035

(1) Senate Committee on Public Works, S. REP. No. 92–234, 92d Cong., 1st Sess. (1971). 2036

(2) Congressional Record, Vol. 117 (1971):

(a) June 23: Considered and passed Senate, p. S9807; 2037

(b) July 1: Considered and passed House, pp. H6229–H6230. 2038

1.2n Extension of Federal Water Pollution Control Act of 1971, October 13, 1971, P.L. 92–137, 85 Stat. 379. 2040

(1) Senate Committee on Public Works, S. REP. No. 92–383, 92d Cong., 1st Sess. (1971). 2041

(2) Congressional Record, Vol. 117 (1971):

(a) Sept. 29: Passed Senate, p. S15406; 2042

(b) Sept. 30: Passed House, pp. H8939–H8940. 2043

1.2o Extension of Certain Provisions of Federal Water Pollution Control Act of 1971, March 1, 1972, P.L. 92–240, 86 Stat. 47. 2044

(1) Senate Committee on Public Works, S. REP. No. 92–602, 92d Cong., 2d Sess. (1972). 2045

(2) House Committee on Public Works, H.R. REP. No. 92–812, 92d Cong., 2d Sess. (1972). 2046

(3) Committee of Conference, H.R. REP. No. 92–834, 92d Cong., 2d Sess. (1972). 2051

(4) Congressional Record, Vol. 118 (1972):

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(b) Feb. 7: Considered and passed House, amended, pp. H801–H808; 2055

(c) Feb. 16: House agreed to conference report, pp. H1056–H1057; 2069

(d) Feb. 16: Senate agreed to Conference Report, p. S1901. 2072

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(1) Senate Committee on Commerce, S. REP. No. 666, 87th Cong., 1st Sess. (1961). 2087

(2) House Committee on Merchant Marine and Fisheries, H.R. REP. No. 838, 87th Cong., 1st Sess. (1961). 2099

(3) Congressional Record, Vol. 107 (1961):

(a) Aug. 14: Amended and passed Senate, pp. 15663–15665; 2108

(b) Aug. 21: Passed House, pp. 16520–16521. 2109

1.3b 1966 Amendments to the Oil Pollution Act of 1961, September 1, 1966, P.L. 89–551, 80 Stat. 372. 2109

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(1) House Committee on Merchant Marine and Fisheries, H.R. REP. No. 1620, 89th Cong., 2d Sess. (1966). 2113
(2) Senate Committee on Commerce, S. REP. No. 1479, 89th Cong., 2d Sess. (1966). 2136
(3) Congressional Record, Vol. 112 (1966):
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(3) Annals of Congress (1822–23):
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(1) Committee on Expenditures in the Executive Departments, H.R. REP. No. 2186, 79th Cong., 2d Sess. (1946). 2163
(2) Committee on Expenditures in the Executive Departments, S. REP. No. 1636, 79th Cong., 2d Sess. (1946). 2165
(3) Congressional Record, Vol. 92 (1946):
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[1] Document in Dept. of Interior Library, but in nonreproducible condition.
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1.6b Act to Amend the Judicial Code and to Further Define the Jurisdiction of Circuit Courts of Appeal and of the Supreme Court and for Other Purposes, February 13, 1925, P.L. 68–415, §1, 43 Stat. 936–939. 2168
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(3) Congressional Record, Vol. 66 (1925):
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(2) Senate Committee on Finance, S. REP. No. 2326, 83rd Cong., 2d Sess. (1954). 2312
(3) Congressional Record, Vol. 100 (1954):
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(1) House Committee on the Judiciary, H.R REP. No. 125, 90th Cong., 1st Sess. (1967). 2604
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(3) Congressional Record, Vol. 113 (1967):
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(1) House Committee on the Judiciary, H.R. REP. No. 1721, 90th Cong., 2d Sess. (1968). 2622
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(1) House Committee on Education and Labor, H.R. REP. No. 621, 89th Cong., 1st Sess. (1965). 2628
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(1) Senate Committee on Labor and Public Welfare, S. REP. No. 1387, 90th Cong., 2d Sess. (1968). 2636
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(4) Congressional Record, Vol. 114 (1968):
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(1) House Committee on Education and Labor H.R. REP. No. 91-114, 91st Cong., 1st Sess. (1969). 2652
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(b) Vol. 116 (1970), Feb. 19: Amended and passed Senate, p. 4141; 2655
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(2) Senate Committee on Interior and Insular Affairs, S. REP. No. 68, 89th Cong., 1st Sess. (1965). 2736
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(4) Congressional Record, Vol. 111 (1965):
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(c) Dec. 18: House agrees to conference report, pp. 42509–42510, 42513–42514; 2782
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(1) House Committee on Interior and Insular Affairs, H.R. REP. No. 92-197, 92d Cong., 1st Sess. (1971). 2787
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(2) House Committee on Public Works, H.R. REP. No. 51, 89th Cong., 1st Sess. (1965). 2807
(3) Congressional Record, Vol. 111 (1965):
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(b) March 3: Passed House, p. 4030.* 2809

1.20b 1966 Reorganization Plan No. 2, May 10, 1966, 80 Stat. 1608. 2809

1.20c To Revise and Extend the Appalachian Regional Development Act of 1965, and to Amend the Public Works and Economic Development Act of 1965, October 11, 1967, P.L. 90-103, Title I, §§114, 116, 81 Stat. 262, 263. 2812
(1) Senate Committee on Public Works, S. REP. No. 159, 90th Cong., 1st Sess. (1967). 2814
(2) House Committee on Public Works, H.R. REP. No. 548, 90th Cong., 1st Sess. (1967). 2820
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1.20d 1969 Amendments to the Appalachian Regional Development Act, November 25, 1969, P L. 91-123, Title I, §107, 83 Stat. 215. 2833
(1) House Committee on Public Works, H.R. REP. No. 91-336, 91st Cong., 1st Sess. (1969). 2834
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(3) Committee of Conference, H.R. REP. No. 91–614, 91st Cong., 1st Sess. (1969). 2837
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(b) July 15: Amended and passed House, p. 19607;* 2838
(c) Nov. 5: Senate agrees to conference report, p. 33031;* 2838
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(2) Senate Committee on Commerce, S. REP. No. 91–565, 91st Cong., 1st Sess. (1969). 2840
(3) Senate Finance Committee, S. REP. No. 91–706, 91st Cong., 2d Sess. (1970). 2840
(4) Committee of Conference, H.R. REP. No. 91–1074, 91st Cong., 2d Sess. (1970). 2841
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(d) Vol. 116 (1970), May 13: House agrees to conference report, p. 15297.* 2842

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(1) Senate Committee on Public Works, S. REP. No. 92–273, 92d Cong., 1st Sess. (1971). 2843
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regard, the Minnesota Legislature in 1967 created a Minnesota Pollution Control Agency to help coordinate Federal-State programs pertaining to all facets of the pollution problem.

With the additional assistance that this legislation will provide, the lake pollution problem can be fully researched and brought under control. This is an important victory for conservationists throughout the Nation, and a hopeful step for those of us who love Minnesota's beautiful lakes.

Mr. KLUCZYNSKI. Mr. Chairman, this is a particularly important piece of water pollution control legislation for several reasons, one of which is that it sets up preventive measures as well as remedial ones. The oil pollution control section establishes the machinery for reducing or eliminating the pollution of our rivers, harbors, and lakes by oil and other dangerous substances, but it also establishes the procedures for preventing pollution from major spills of oil and matter through a rapid cleanup process.

The vessel sewage provisions are in most respects a preventive measure. In many of our waters this is not yet a major problem, but with the rapidly increasing boat population it is certain to become a real problem, and the requirements in the bill for research to find ways to control it as well as the regulatory controls themselves afford a real opportunity to prevent a serious buildup in this area.

The expanded training program holds promise of increasing the number of competent people to operate the vast numbers of treatment disposal plants that are and will be required if we are to successfully clean up the waters of the States.

The bill contains other essential provisions, including the extension of existing grant programs. But perhaps the most significant to my own area are the provisions of the Federal cooperation section and the special section devoted to cleanup in the Great Lakes. This has been a matter of primary concern to me for several years and I have worked diligently to find new methods by which Federal agencies could eliminate the pollution in their own activities. In this bill we give the force of law to a previous Executive order requiring Federal agencies to reduce or eliminate pollution to the maximum extent possible within existing appropriations The requirement that Federal agencies have assurance that activities they license will not lower water quality standards is also an important move forward.

The pollution of the Great Lakes from all sources will have to be brought to a halt in as short a time as possible. We are making progress in this direction, but we are obviously not making it fast enough. I have recently served as chairman at a meeting with the Corps of Engineers and the Interior Department officials to review the results of a study to find alternative methods of disposing of dredging materials, as I have served as organizer and chairman of several meetings in the past. There are alternative methods. They are expensive and they will require maximum cooperation on the part of the Government at all levels, but we must strive to put them into operation as promptly as possible.

I wholeheartedly support this legislation, as I have supported every water pollution control bill that has been considered by our committee since I came to the Congress.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee substitute amendment, 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 SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as

amended, and for other purposes, pursuant to House Resolution 340, 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? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. CRAMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 392, nays 1, not voting 39, as follows:

* * * * *

[p. 9292]

1.2k(4)(b) Vol. 115 (1969), Oct. 7, 8: Considered and passed Senate, amended, pp. 28947, 28953–29008, 29046–29065, 29089–29102

WATER QUALITY IMPROVEMENT ACT OF 1969

The PRESIDING OFFICER. Pursuant to the previous order, the Chair lays before the Senate Calendar 346, S. 7, which will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 7) to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

The Senate proceeded to consider the bill which had been reported from the Committee on Public Works with an amendment to strike out all after the enacting clause and insert:

* * * * *

[p. 28947]

PRIVILEGE OF THE FLOOR

Mr. RANDOLPH. Mr. President, during the consideration of S. 7, I ask unanimous consent that the necessary

[p. 28953]

members of the staff of the Committee on Public Works be permitted to have the privilege of the floor for the purpose of assistance to and consultation with the members of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLOTT subsequently said: Mr. President, I ask unanimous consent that during the consideration of S. 7 or amendments thereto, or S. 1075, two minority members of the staff of the Committee on Interior and Insular Affairs may be permitted on the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. What is the pending business?

The PRESIDING OFFICER. The pending business is S. 7. The question is on agreeing to the committee amend-

ment in the nature of a substitute.

The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, today the Senate begins consideration of a major water pollution control measure which provides for specific approaches to deal with particular kinds of water pollution problems.

S. 7, if enacted, will authorize the Federal Government to clean up disastrous oil spills which seriously jeopardize the Nation's waters and beaches.

This legislation requires Federal licensees and permittees to comply with water quality standards as a precondition of the license or permit.

Vessel sewage which fouls many of the Nation's marinas, harbors, and ports will be subject to new methods of control.

The bill authorizes the designation and cleanup of hazardous substances which present a substantial endangerment to health and welfare when discharged into the Nation's waters.

Authorizations for continued research and new authority to deal with eutrophication—the natural process of aging of lakes—and acid mine drainage are also important provisions of the bill.

Title II of S. 7 provides for meaningful consideration of the environmental policies set by the Federal Water Pollution Control Act, the Clean Air Act, and the Solid Waste Disposal Act in all federally supported public works activities Other provisions of title II are intended to bring those environmental policies into all other programs of the Federal Government.

Title III provides for the acquisition of land for use of the U.S. Senate. This title will be discussed by the junior Senator from North Carolina (Mr JORDAN), chairman of the Subcommittee on Buildings and Grounds.

TITLE I

For the past 6 years, Congress has recognized that the success of our effort to clean up the Nation's waters depends on an urgent commitment of organization, planning, engineering skill, and funds. We have acknowledged the need for clean water in the broadest sense. But the demand for clean water is so great and is growing so rapidly that we cannot afford to overlook any opportunity to increase the available supply of water, or to prevent and control sources of pollution which threaten the existing supply. This legislation will provide new tools to accomplish these tasks.

The provisions of S. 7 are not entirely new. While the committee has refined the language, the basic provisions of this bill are similar to those to which the Senate gave unanimous agreement in S. 3206 last year and in S. 2760 in 1967.

Several of the features of the bill either will be discussed by other members of the committee, or are analyzed in detail in the report. I would like to concentrate my remarks on three principal provisions of title I and on title II in its entirety.

The part of title I which establishes oil pollution liability for vessels and on- and off-shore facilities has received a great deal of attention and consideration from the subcommittee and the full committee.

As introduced, S. 7 provided that liability on vessels and onshore and offshore facilities would be based on a test of negligence with the burden of proof on the owner or operator of the vessel or onshore or offshore facility to show that a discharge of oil was not negligent.

Expert testimony to the committee indicated that while the cost of cleanup of a barrel of oil might average $75, the possibility of any single vessel or facility discharging its entire capacity was remote even in a catastrophic disaster. The figures recommended by the committee, $125 per gross ton for vessels and non-production facilities and $8 million for drilling or production facilities, would be adequate in the judgment of the committee, to finance the cleanup cost of the largest oil spills on record.

The type of liability to be imposed presented the committee with troublesome

questions. Lengthy testimony was presented in the 13 days of hearings held by the subcommittee and extensive discussion took place in executive session concerning the factors which should be considered in determining the type of liability. Among those factors were: First, the effect of a rigid liability on maritime commerce; second, the availability of insurance for the owner of the vessel or the shipper of oil; and, third, the impact of different types of liability on the U.S. Government and the people of the United States.

Heretofore, maritime liability has concerned the vessel, its cargo, and its employees. Insurance covers the hull, the cargo, personal injury, and death, and has been designed to protect people who either work for, use, own, or operate a vessel. Were these risks comparable to those associated with oil pollution, the imposition of negligent liability would not be questioned. However, the discharge of oil often affects the general public, persons, and property wholly unrelated to the vessel, who have no control over it, and who have no interest in it.

It can be argued that the public interest would be completely protected only by absolute and unlimited liability; negligence and limited liability would protect only private interests. If Congress imposed negligence liability, it followed that there should be no limits on such liability.

The representatives of the insurance industry and the oil industry testified that they could not imagine a circumstance where a discharge of oil could occur without negligence. In fact, the witness for the British Maritime Insurance Brokers stated in a letter dated August 1, 1969:

> Presumable (sic) this means negligence of the shipowners servant as I read the words and surely it is realized that almost every marine casualty is caused by negligence.

Therefore, it appeared to the committee that negligence liability with a reverse burden of proof and absolute liability are similar in practical application. One practical advantage to absolute liability is the avoidance of litigation on the question of responsibility.

Parenthetically, it is important to note that this section deals only with the costs of the cleanup of discharges. The bill in no way affects the rights of third parties against the party alleged responsible for the discharge.

After deciding to recommend unlimited negligence liability and limited absolute liability, the committee then determined that some exceptions to absolute liability were justified. The committee decided that an owner or operator of a vessel or facility should not be held liable if he could prove that a discharge was caused solely by an act of war.

The committee also decided that an owner or operator should be exempt from liability if he could prove that the discharge was caused solely by an act of God about which he could have no foreknowledge, could make no plans to avoid, or could not predict. Under this exception, only discharges resulting from grave natural disasters, which could not be anticipated in the design, location or operation of the facility or vessel in light of historic, geologic, or climatic circumstances or phenomena, would be outside the scope of the owner's or operator's responsibility.

It was brought to the attention of the committee that there have been circumstances in which a negligent act of Government was the cause of a discharge of oil. The committee decided that an owner or operator should not be held liable if he could prove that such act of U.S. Government negligence was the sole cause of discharge.

Finally, the committee included a discharge which occurs solely due to an act of a third party.

The committee decided that while the owner or operator should not be liable if he could prove that a discharge was

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caused by one of these acts, it was also

necessary that such exceptions be allowed only when the owner or operator proved the discharge to be solely the result of one of the exceptions. Any culpability on the part of the owner or operator would vitiate the exception.

The committee recognized that no discharge of oil from a vessel, affecting the coastal waters of the United States, has approached the liabilities imposed by this bill. However, the risk of such spills and the possibility of major catastrophic discharges from onshore or offshore facilities or from oil-drilling operations must be considered.

During hearings in Washington and throughout the country, representatives of local governments, industrial concerns, community and conservation groups, and the public have questioned repeatedly the justification for requiring compliance with water quality standards in their activities when Federal agencies are not subject to a similar requirement.

If the Nation is to have an effective water pollution control program or any effective environmental control program whatever, Federal agencies must consider the environmental aspects of their programs as a matter of first priority.

Recognizing that point, Mr. President, this committee, under the leadership of the distinguished Senator from Delaware (Mr. BOGGS) has pressed for years for an upgrading of the performance of the Federal Government in the field of pollution control and environmental improvement.

S. 7, as reported, provides an orderly mechanism for insuring that all Federal activities will comply with the philosophy and intent of the Nation's water quality program. This section calls for Federal agencies to control their own wastes and to require control by Federal licensees and permittees. This task will be neither easy nor inexpensive. Nevertheless, the committee expects that it will be accomplished.

The existing water quality standards program envisions preventive policies rather than abatement procedures as the best method of pollution control. This provision of S. 7 applies that policy. It does not impose an unjust burden on any applicant for a Federal license or permit, since the committee assumes that Federal licensees and permittees, like any other organization or individual that intends to use the waters of the United States, will anticipate pollution control in the construction or the modification of any facility.

The committee expects that communication between the applicant and the appropriate pollution control agency relative to the planning of any facility which will affect water quality will take place at the earliest possible time. Site location is an essential aspect of the effective implementation of the Nation's water quality program. There are some sites where no such facility should be constructed because pollution control technology is not adequate to assure the maintenance and the enhancement of water quality. Those who make decisions concerning site locations should be aware of this fact and deal with it before making any investment in new facilities.

Waste from watercraft is one of the many sources of pollution that has an impact on the water quality of our Nation. This pollution is most severe in bays, lakes, harbors, and marinas where the concentration of vessels is heaviest and where there is minimum natural dilution of contaminants. The increasing use of our waterways will further compound these problems. This new section provides for the economic and practical control of discharges of raw or inadequately treated sewage from vessels into the navigable waters of the United States at the earliest possible date.

The committee recognized that many States have moved to control inadequately treated or untreated discharges of waste from vessels and praises the efforts of those States. However, conflicting regulations and standards for marine sanitation devices present a hardship to recreational boaters who

move between States and present potentially serious restrictions on the interstate movement of commercial vessels.

In order to avoid these difficulties, the committee has provided for Federal preemption of the authority to regulate the design, use, manufacture, and installation of marine sanitation devices. No State shall have authority to require any device of any kind on any vessel subject to the provisions of this section after the effective date of the standards and regulations.

The committee is nonetheless aware of the necessity to relate any sewage treatment control measure to existing water quality programs. Consistent with this philosophy, the committee has provided authority for the States to prohibit entirely the discharge of any sewage from vessels without regard to the regulations set by this act if an approved plan for the implementation of water quality standards requires such restrictive measures.

This exception is not intended to be broadly construed. A State cannot prohibit vessel waste discharges for all its rivers, lakes, and coastal waters unless the State has adopted standards which establish uses for all of those waters consistent with an absolute prohibition. The committee intends that any State prohibition apply only to areas designated for the protection of public drinking-water supplies, shellfish beds, and areas designated for body-contact recreation.

The committee expects that the States will provide alternative facilities for disposal of sewage from vessels wherever necessary.

This provision is substantially the same as that passed by the Senate and the House in 1968 and evaluated in the report language found in Senate Report No. 1371 of the 90th Congress which accompanied S. 2525.

The provision for acid mine drainage which was included in S. 2760 in 1967 as two sections has been combined into one section authorizing $15 million for both research and demonstration programs and is substantially the same as provisions passed in 1967.

The clean lakes provision, originally sponsored by Senators WALTER MONDALE and QUENTIN BURDICK, has been expanded to authorize the development of necessary research facilities but is otherwise identical to the legislation which passed the Senate unanimously in 1967.

The committee was also confronted with the dilemma of how to deal with the problem of the discharge of hazardous substances—other than oil—which present an imminent and substantial endangerment to the public health and welfare, but for which there is no clear Federal cleanup authority. The record on this subject was inadequate. Information indicated only that such discharges do occur and that the damage caused by such discharges of oil and other materials is often extensive. The list of discharges of oil and other materials since January of this year, on page 59 of the report, records several discharges of hazardous substances.

S. 7, as reported, authorizes the President to designate as hazardous any substance, the discharge of which in any quantity presents an imminent and substantial endangerment to public health or welfare, and to require notice of the discharge of any such substance after such designation. The Federal Government is authorized to clean up those discharges where practical. The committee recognized that many of the substances which will be designated are water-soluble or for other reasons cannot be cleaned up effectively. This section will primarily serve to notify downstream water users of a dangerous discharge.

The committee expects a report from the President by November of 1970 which will discuss the types and amounts of liability which should be imposed to recover the cost of cleaning up hazardous substances. The findings of that will be the subject of future legislation.

The committee has included in this legislation a provision offered by Sena-

tor STEPHEN M. YOUNG and identical to one passed by the House of Representatives. It provides relief for the citizens of the Great Lakes area who are confronted with a rapid deterioration of their vital water resources.

This section authorizes the Secretary to grant up to 75 percent of the cost of projects demonstrating new methods to control and eliminate pollution in the Great Lakes drainage basin. There is no question that this legislation is essential. The Great Lakes are perhaps the Nation's most vital inland water resource, yet Lake Erie is dying and Lake Michigan is the subject of serious concern. No Federal dollars will be better spent than those which produce effective methods to deal with the critical problems of the Great Lakes, for not only will those dollars help remedy an already critical situation but they will undoubtedly demonstrate methods which can be used to prevent the accelerated eutrophication of other lakes and reservoirs which are equally important to other regions of the country.

The committee has been increasingly concerned about the availability of trained technical personnel to operate sewage treatment plants. As a result of that concern the committee authorized a study of manpower and training needs in the Clean Water Restoration Act of 1966. That study was transmitted to the

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Congress in mid-1967 and was printed as Senate Document No. 49 on August 31, 1967. On the basis of that report, which indicated a demand for 18,500 new plant operators and the need to upgrade the skills of many existing plant operators, and on the basis of another report prepared for the Subcommittee on Air and Water Pollution by the General Accounting Office on the effects of inadequately trained personnel on the operation of federally assisted sewage treatment plants, the committee was pleased to receive and include in the bill a proposal by Senator HUGH SCOTT to authorize pilot programs for training plant operators and technicians.

The committee recognizes that a great deal more than a pilot program will be required if Federal funds for sewage treatment plant construction are invested wisely, but it believes that experience with a pilot program would provide a sound base for expanded legislation in the near future.

Title I of S. 7 is as significant as any water pollution legislation ever reported by the Committee on Public Works. It provides authority to deal with a variety of critical yet definable water pollution problems. Unlike prior measures which have been reported by this committee, title I does not develop a new policy for water pollution control but rather provides additional tools to implement the national policy of water quality enhancement established by the Water Quality Act of 1965. Effective control of water pollution cannot be obtained without these additional preventive and enhancement measures. The sources covered by this title require specific attention.

TITLE II

In recent years, and especially since 1963, Congress has developed a strong policy for the enhancement of environmental quality. This policy is based on the knowledge that man and his environment are closely interrelated and that environmental quality is necessary to the improvement of living standards for all men—and, indeed, possibly for the survival of the human race.

The legislation which has formed this broad policy has been developed through the efforts of many congressional committees, including the Senate Committee on Agriculture, Banking and Currency, Commerce, Finance, Government Operations, Interior, Labor and Public Welfare, and Public Works. Participation in this development has been broad-based because the problems of environmental quality transcend artificial divisions of committee jurisdiction.

Much of the substantive legislation in this area has come from the Public Works Committee and its Subcommittee on Air and Water Pollution. The committee's work has resulted in the Clean Air Act of 1963, and the 1965 and 1966 amendments; the Air Quality Act of 1967; the Water Quality Act of 1965; the Clean Water Restoration Act of 1966; and the Solid Waste Disposal Act of 1965.

Originally drafted to meet specific pollution problems which demanded immediate abatement actions, legislation from the Public Works Committee evolved to the point where it is based on the concept of the prevention of pollution and the enhancement of the quality of the air, water, and land environment.

A strong partnership among governmental agencies at the Federal, regional, and State levels is the basis for this broad strategy. The States have been delegated the primary responsibility to protect and enhance the quality of the environment within their jurisdictions and—in cooperation with neighboring States—within river basins and air sheds common to those States. Water and air quality standards are to be adopted, implemented, and enforced at the State and regional levels on the basis of criteria promulgated by the Departments of the Interior and Health, Education, and Welfare. The Federal Government has the responsibility to develop these criteria; to act to set or enforce standards where States do not fulfill their obligations; to conduct research to improve our understanding of environmental threats and develop new means of protection; and to protect the environment in the conduct of its own activities.

The opportunity to act first has been given to the States because the national policy of environmental enhancement recognizes the need to involve individual citizens and communities in any decisions concerning the environment in which they live. The best way to put this policy into practice—to make participation in the decisionmaking process as close to individual citizens as possible, within the guidelines of the criteria.

The committee has emphasized, however, that the opportunities for local control are not open-ended. If the States and regions fail adequately to carry out their responsibilities under these sets or are unable to do so, the Congress has expressly authorized the Federal agencies administering these programs to assume the responsibilities.

The States cannot succeed in meeting their obligations without the complete cooperation of all Federal departments and agencies. The Federal responsibility to protect the environment in the conduct of its programs which are not subject to State regulation has often gone unmet. This shortcoming is present in every Federal department and agency and is in direct conflict with the Nation's environmental policy and the purposes and provisions of the legislation which has developed that policy.

It is clear that there is no one answer to the problem of environmental regulation of the Federal Government's own activities The committee believes that it is the responsibility of each standing committee in Congress to examine carefully the activities of those departments and agencies within its jurisdiction and to insist that the policy of the enhancement of environmental quality is strictly followed.

The Public Works Committee is committed to reviewing all legislation and Federal activity under its jurisdiction with these duties in mind and expects to initiate this review during this Congress. Furthermore, title II of S. 7 explicitly requires that all federally supported public works projects and programs be planned, developed, and administered with full consideration of their impact on our air, water, and land and with strict adherence to the national policy of environmental enhancement.

More and more public officials and individual citizens share this concern of

the committee and have recognized the need for the integration of environmental consideration in all programs and policies of the Federal Government We are confronted with problems of accelerating environmental deterioration on the one hand, and the inadequacies of our public and private institutions to deal with these problems on the other.

The Public Works Committee has focussed on several measures designed to remedy these inadequacies and has concluded that the problems of management are even more urgent than the problems of organization Therefore, the committee has proposed in title II an Office of Environmental Quality in the Office of the President. This office would have the management capability to bring coherence and consistency into the environmental activities of the Federal Government. The committee has given careful study to other proposals and has concluded than an independent environmental staff in the Executive Office of the President is crucial to the effective coordination and administration of all Federal programs in line with the Nation's policy of environmental enhancement.

The Office of Science and Technology presently supplies the staff for the President's Cabinet Council on Environmental Quality. Unfortunately, the Office of Science and Technology has widespread responsibilities, is thinly staffed, and must look to the departments and agencies of the Federal Government for staff assistance. Thus, the advice and assistance the President receives concerning the programs and policies of the Federal agencies comes from the agencies themselves. No matter how well intentioned, this arrangement will not produce a critical and independent review of Federal departments and agencies.

No Federal department or agency which is not primarily oriented to environmental matters can be expected to have either the sufficient expertise or the proper perspective to evaluate their own programs satisfactorily by themselves. This assumption is the basis for both section 16 of title I and the provision establishing the Office of Environmental Quality in title II.

The most difficult task facing the President and the Congress in the area of environmental quality is the review and analysis of the administration of the environmental programs and policies of the Federal Government, a function which should be coordinated from the Office of the President. The committee strongly feels that the President requires a competent, independent staff, not affiliated with any other Federal agency, to accomplish this purpose.

The Office of Environmental Quality would provide the independent staff required by the new Cabinet Level Council and would make available to the President the professional competence to review and analyze all programs and policies relating to the air, water, and land environment The office would also pro-

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vide reports on environmental issues to the appropriate committees of Congress, the Council, and the public.

The bill reported by the committee does not tell the President how to organize his administration to deal with environmental problems It provides him with staff for whatever arrangement he determines most appropriate to his approach to the administration of the executive branch.

One of the principal advantages of this legislation is the recognition that progress can be made in enhancing the quality of the environment only if the national policy has the full support of both the President and the Congress The Office of Environmental Quality should increase the capacity of the President to support that policy.

Mr. President, I conclude what may appear to be a lengthy analysis of the bill, but which, in fact, in the light of its broad coverage, is a brief analysis of the bill.

I would like, at this time, to express my appreciation to all members of the committee, but specifically, to the distinguished Senator from West Virginia (Mr. RANDOLPH), chairman of the full committee, the distinguished Senator from Kentucky (Mr. COOPER), the ranking Republican member of the full committee, and my good friend and longstanding right hand in this fight against pollution, the distinguished Senator from Delaware (Mr. BOGGS), for the excellent cooperation which we have had.

I must say that our experience with this bill has been one of the most reassuring that I have had in my years in the Senate and in my years of dealing with this kind of legislation.

We had long hearings, but, more than that, we had extensive executive sessions beginning in March and continuing through June and July—sessions which were attended most of the time by the full membership of the committee, all of whom participated in the discussion of problems which surfaced in an effort to come to grips with them and solve them soundly, from the legislative point of view, without regard to partisan considerations. I do not believe there is a partisan comma in the bill. It reflects the work of members on both sides of the aisle, and for them I would like to express my appreciation, through Senator BOGGS, to all of his colleagues on the Republican side of the committee.

I yield to the distinguished Senator from Delaware.

Mr. BOGGS. Mr. President, I thank the distinguished Senator from Maine, chairman of the subcommittee and manager of this bill, for his very kind and generous remarks.

I rise to support S. 7, the Water Quality Improvement Act of 1969, and to associate myself with the remarks of the distinguished Senator from Maine (Mr. MUSKIE), chairman of the Subcommittee on Air and Water Pollution.

Under his able and thoughtful leadership, we have conducted an exhaustive investigation into the various aspects of the water pollution problem and we have written a bill that I consider as important as any seeking to enhance environmental quality that will come before the Senate for many years.

Before I discuss the merits of this legislation and try to further clarify some points that may be of interest, I wish to thank the Senator from Maine (Mr. MUSKIE) and the other members of the subcommittee for their efforts on behalf of the bill. I also wish to thank especially the distinguished chairman of the full committee, Senator RANDOLPH of West Virginia, and the distinguished ranking minority member, Senator COOPER of Kentucky. They both have been great to work with, and they each have contributed so much in the consideration and writing of this proposed legislation.

It has been a great privilege to work on this committee and serve with the distinguished chairman of the subcommittee, who is recognized as an able leader in this field. As he has stated so eloquently, there has been completely bipartisan approach in the consideration of the provisions of this bill. This bipartisan cooperation began with the introduction of the bill, and went through the hearings, the markup, to the bringing of this bill from the committee to the floor.

We have sought legislation that will meet a need—a pressing need. And in this effort, we have received great work and cooperation from the committee staff.

The chairman of the subcommittee has already discussed the need for legislation that will obligate the owner of a vessel or a drilling facility to clean up an oil spill. I shall not detain the Senate by restating his persuasive arguments. However, I should like to point out that such legislation is not new to the Senate. These provisions are an outgrowth of S. 2760, which passed the Senate in December 1967. This earlier legislation imposed unlimited dollar liability for oil

cleanup costs, with an exception for acts of God. S. 7 places a dollar limit on liability, except when negligence is proven, and exempts acts of God, acts of war, acts of Government, and acts of a third party. These were limitations that were discussed at great length in committee, and raised repeatedly in hearings with representatives of the oil and shipping industries. It was the committee's belief that such exemptions have the effect of protecting the public in nearly every case, while safeguarding private interests at rare times of great disaster.

There is one important point I should like to add in relation to the oil cleanup liability section of the bill. The emphasis in this section is on the word "cleanup," not "liability." It is the intent of this legislation, and I cannot stress this point too strongly, that the polluter should clean up any oil spill on his own, and that the Government should not need to act. The Government should take action only when the polluter fails, himself, to take prompt and effective action. This is a responsible approach, fitting the sense of public responsibility held by the vast majority of American businesses.

In Delaware, my home State, I recall an incident when an oil barge of the Hess Oil Co. ran aground off Rehoboth, spilling oil. Hess Oil went in at once and cleaned up that spill, spending its time and effort and not throwing the burden on the Government. That is what this bill seeks to encourage The liability standard only will take effect, I feel certain, in the rare cases of businesses that lack this public spirit.

That 1967 legislation and a bill that the Senate passed in July 1968, S. 3206, dealt with many other aspects of water pollution also handled in the current bill. This bill, S. 7, and the previous legislation, authorizes research and development on problems of lake pollution, demonstration projects for controlling acid mine drainage, and provisions insuring cooperation among all Federal agencies in maintaining water quality standards.

Last year's legislation contained a provision authorizing a national standard for devices to treat sewage from vessels. A similar provision appears in S. 7. I should point out that the new legislation adds wording that gives to each State the right to bar vessel discharge where necessary to protect that State's waters for such purposes as drinking, recreation, shellfish production. This is a right the States should have. This means that if water quality at a specific location would be degraded below applicable water quality standards by a discharge, treated or otherwise, the State may prohibit the discharge in that area to protect the lake, marina, oyster bed, or municipal water intake location.

Some boatowners have argued that States would act capriciously, and establish a variety of restrictive standards in their waters. This cannot happen. There would be only two standards: A discharge standard and a no-discharge standard. When an automobile driver crosses State lines on a trip, he is required to know a new set of laws. Why is it any more of a burden for a boatowner to know where there is a discharge and where there is a no-discharge policy in another State he intends to visit?

It should be emphasized further that the language permits a discharge prohibition only when "applicable water quality standards require such prohibition." Thus, if a State acts capriciously, the boatowners may go to court to halt such unreasonable action by the States.

This provision has created some controversy among boatowners They argue the provision gives States the rights to bar discharges in some locations, an unnecessary restriction on boatowners.

We have discussed this at great length. Following the filing of the report on this bill, I received a letter from an executive who had forcefully brought to com-

mittee members his objections to the S. 7 discharge language. The letter says:

I also believe that if the administrators will follow the intention and guidance of the Committee, as I understand it in the Report, and if common sense and practicality prevails, the owners and operators of both recreational and small commercial vessels will be able to live with the situation and will be glad to cooperate toward the objective that we all have, namely, cleaner waters for the use and enjoyment of everyone in our great country.

I discuss these several points and their legislative history to demonstrate that

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the pending legislation holds a direct inheritance from legislation previously adopted by this body.

The distinguished Senator from Maine has discussed many of the new provisions, such as the authorizaton of a study on cleanup of other hazardous substances, plus a most essential provision establishing in the White House an Office of Environmental Quality. I endorse these portions of the bill, as I do the entire measure, but, in addition, there is one further provision of the bill I wish to mention briefly. This is section 16(g), dealing with manpower training, suggested to the committee by the distinguished minority leader, Senator SCOTT. The cost to implement this provision is small: $5 million during this fiscal year, $7.5 million in fiscal 1971. But the rewards should be great. The paragraph authorizes pilot projects to train technicians to operate sewage treatment plants. The Federal Water Pollution Control Administration estimates that these funds will finance the training of 9,000 technicians, toward filling a national shortage of 30,000 such technicians. This will offer to the Nation greater assurance that the waste treatment plants we are building under the Clean Water Restoration Act of 1966 will not stand idle or inefficiently utilized. As we look ahead toward the enhancement of our environment, this training section should have an impact for good far beyond its cost.

For the reasons that I have enumerated, I am happy to support this legislation. I urge my colleagues to give it orderly consideration, and I hope they will support it. It is most essential legislation.

I again, in conclusion, wish to thank the distinguished chairman of the committee, the Senator from Maine (Mr. MUSKIE), for his outstanding leadership and ability, and for the great privilege it has been to work him him and the other members of the committee on this legislation.

Mr. SPONG. Mr. President, will the Senator yield? ?

Mr. MUSKIE. I thank my good friend from Delaware, and I appreciate his comments. I shall yield in a moment to the distinguished Senator from Virgina (Mr. SPONG). Before I do, however, I should like to say, in response to something the distinguished Senator from Delaware has said, that I neglected to give appropriate credit to the distinguished Senator from Kansas (Mr. DOLE) for the provision in the bill dealing with hazardous substances. He took a special interest in that matter, and developed the amendment and presented it to the committee, and I should like to give him full credit for that provision.

Mr. BOGGS. I join with the distinguished chairman.

Mr. MUSKIE. I yield to the Senator from Virginia.

Mr. SPONG. Mr. President, the bill before the Senate represents a forward-looking response to the national concern over the deteriorating condition of our water resources.

The measure is the product of most careful consideration by the Subcommittee on Air and Water Pollution, and its parent Committee on Public Works. We are indebted to the leadership of the Senator from Maine (Mr. MUSKIE) and the Senator from West Virginia (Mr. RANDOLPH) during the development of this important and far-reaching legislation. We also are grateful for the con-

tributions made by Senators BOGGS, COOPER, and BAKER.

Because I represent a coastal State, I am particularly interested in those provisions of the bill which deal with oil pollution, thermal pollution, and the discharge of wastes from vessels.

After lengthy deliberations, the committee decided to recommend absolute liability upon vessel owners or operators for the cleanup costs of oil spills Liability would be limited to $125 per gross ton of the offending vessel or $14 million, whichever is lesser. This concept places the risk on the responsible party, not innocent third parties and the general public. Our objective was to protect the taxpayers from potential cleanup costs, without imposing liability in excess of reasonable risks. It is the understanding of the committee that the limits in the bill are sufficient to cover the costs of the most expensive spills

Fortunately, there have been no spills from vessels in the coastal waters of the United States which even approach the limits. Moreover, the outer limit of $14 million would be sufficient to cover the liability, at $125 per ton, of any vessel presently capable of using U.S. ports. However, the committee was of the opinion that the danger from potential spills from vessels, as well as from onshore and offshore oil facilities, should be taken into account in the development of this legislation.

The owner or operator, not the Government, would be given first opportunity to clean up a spill If an owner or operator later proved the discharge was caused solely by an act of God, an act of war, negligence on the part of the U.S. Government, or an act of a third party, he could recover his costs from the Government.

If the owner or operator failed to act, the Government would clean up the spill and be entitled to recover its costs. If the Government could prove a spill the result of negligence or a willful act, it would be entitled to recover all costs regardless of the liability limits.

Vessel owners or operators would be required to provide evidence of financial responsibility of $100 per gross ton for vessels over 300 gross tons. The committee believes that the exceptions it has recommended with respect to absolute liability will enable owners or operators to obtain insurance to cover their financial responsibility of at least $100 per ton. Owners or operators may then determine the extent to which their risk may exceed their insurance coverage, or self-insurance.

The liability standards for offshore and onshore facilities are similar to those for vessels. However, liability would be limited to $125 per ton of oil which any processing, transporting or transferring facility can pass through in a 24-hour period, or which can be stored by the largest unit of a tank farm. The limit for drilling-production facilities would be $8 million.

The vessel pollution section provides for Federal preemption of authority to regulate the design, use, manufacture, and installation of marine sanitation devices. The committee adopted this approach to avoid a proliferation of conflicting State regulations which would work a hardship upon recreational boaters who enjoy the waters of several States.

However, in order to relate this section of the bill to the water quality standards of the States, the committee has proposed that States be allowed to prohibit the discharge of any sewage from vessels in areas where such a restriction is necessary for the implementation of applicable water quality standards. The committee has emphasized in its report on the bill its intention that a prohibition should apply only to areas from which public water supplies are drawn, to areas where there are shellfish beds, and to areas designated for body contact recreation. In other words, a prohibition against discharges must be tied to water quality standards.

The section would not apply to ships

and boats which do not have installed toilets. In addition, the committee recognizes, because of shortcomings in technology, that it may be necessary to waive the applicability of the standards for various classes, types, and sizes of vessels. It obviously will be necessary to exercise common sense in the administration of this aspect of the legislation. This is not to suggest, however, that there should be footdragging in the implementation of the program.

The Secretary of the Interior would be empowered under the vessel pollution section to develop performance standards indicating what a sewage treatment or holding device must accomplish to be acceptable for marine use. Because of its expertise in marine engineering and design, the Coast Guard would be vested with enforcement authority, and with authority to develop regulations governing the design, installation and operation of marine sanitation devices. The Coast Guard is particularly well suited to administer these matters; it has the capability to work out a practical and workable system of implementation.

Mr. President, I hope the Department of Defense will expedite its program to equip naval vessels with sanitation devices, and will request the funds necessary to carry out the intent of this legislation. Pollution from Navy ships constitutes a substantial problem in many of the country's ports. The Navy has a public responsibility to demonstrate by continuing affirmative action its willingness to cooperate in the effort to resolve environmental problems.

The bill takes a preventive approach toward activities over which the Federal Government already exercises a degree of control. Section 16 is directed primarily at thermal discharges, and pollution from dredged spoil.

Applicants for a Federal license or permit to build or operate any facility which might discharge pollutants into navigable waters would be required under the section to provide certification [p. 28958] of reasonable assurance that the facility will comply with applicable water quality standards. In most instances, the certification would come from the State in which the discharge occurs.

Nuclear-power electric generating facilities and other activities requiring more than one Federal license or permit would be required to provide only one certificate of compliance, unless there is a change in the nature or design of the activity, or a change in the water quality standards applicable to the waters involved.

There is provision for the suspension or termination of a certificate in the event a court of competent jurisdiction finds that a facility is operating in violation of water quality standards.

Pollution from dredging posed a special problem to the committee because only one State has developed water quality standards for temporary turbidity and the disposal of spoil resulting from this activity. The committee recommended that certification not be required as a precondition of a dredging permit until such time as the States have developed appropriate water quality standards. However, at any time following the development of water quality standards for dredging, an applicant for a new license or permit would be subject to other provisions of the section.

Mr. President, S. 7, the Water Quality Improvement Act of 1969, is a major piece of legislation carried over as unfinished business from the 90th session of Congress. The measure is not punitive. The committee's overriding interest in the development of the legislation was to establish procedures which will be helpful to preserve and protect our water resources.

Our existing laws have serious gaps which threaten the success of our efforts to abate pollution. This bill will fill the gaps. It will go a long way toward putting the responsibility for pollution control where it rightfully belongs—on the polluter.

I again commend the distinguished

Senator from Maine (Mr. MUSKIE) for the leadership he has afforded.

Mr. MUSKIE. I want to thank the distinguished Senator from Virginia for his continuing interest and dedication to solving the pollution crisis. He has been a diligent contributor to the subcommittee's work in this area and the full Senate is indebted to him.

Mr. LONG. Mr. President, I applaud the Senate Public Works Committee and its distinguished chairman, Senator RANDOLPH, and the chairman of its Subcommittee on Water Pollution, Senator MUSKIE, for the devoted efforts they have made since the beginning of this Congress to meet the mounting public concern over the depletion and spoilage of our waterways by various types of pollution. Obviously, it is in the national interest to update and extend the requirements and prohibitions of the Federal Water Pollution Control Act and to assure that, for centuries to come, the water resources of the United States will meet the highest possible standards of purity.

However, as chairman of the Senate Merchant Marine Subcommittee and as one who only last week urged the Senate to provide millions of dollars of additional Federal funds for the construction of new merchant ships to save our merchant fleet from sinking into almost total obscurity, I feel I must express my deep concern regarding the very adverse effect the provisions of sections 12(f)(1) and (2) of S. 7 might have upon the ability of the American merchant marine to continue to operate at all.

As I read section 12(f)(1) of the bill, in the event a vessel of the American merchant marine is involved in an oil spill which its owner cannot prove was caused by, first, an act of God; second, an act of war; third, negligence on the part of the U.S. Government, or, fourth, by an act of a third party, the owner is automatically liable to the United States for the actual costs of the cleanup, up to an amount equal to $125 per gross ton of the vessel or $14,000,000, whichever is lesser. If, on the other hand, the Government can show that such discharge was the result of simple negligence on the part of the vessel, then the vessel owner is liable to the United States "for the full amount of such costs," even if they far exceed $14,000,000.

Section 12(f)(2) of the bill, however, permits vessels of the American merchant marine to sail if they are able to establish "financial responsibility" (in the form of insurance or a bond) of only $100 per gross ton for any and all oil cleanup costs. Thus, under the bill, a vessel of 10,000 gross tons is authorized to sail if it can establish to the satisfaction of the Federal Government that it carries $1,000,000 worth of insurance for oil cleanup costs; while a vessel of 100,000 gross tons, including tankers, is permitted to sail if it carries $10,000,000 of insurance to cover cleanup costs in the event it becomes involved in an oil spill.

Clearly, therefore, S. 7 makes vessels of the American Merchant Marine subject to liabilities ranging up to $125 per gross ton for oil cleanup costs while the bill simultaneously requires them to carry insurance of only $100 per ton—and the first mentioned liability of $125 per ton can arise even in cases where an oil spill occurs without any negligence whatsoever on the part of the vessel owner or operator involved.

Indeed, if negligence is proved to exist, under S 7, the owner has an unlimited liability, whereas, as indicated, the bill permits him to sail with insurance in an amount equal to only $100 per ton.

Obviously, if this were only an oversight or mistake in the drafting of this bill, it would be a simple matter to correct it here on the Senate floor. We could merely increase the "financial responsibility" requirement of section 12(f)(2) to $125 per gross ton, and then, absent negligence, American merchant marine vessels would be covered against at least the minimum, automatic liability provisions of section 12(f)(1). The

"unlimited liability" exposure would thereby be limited to cases of proved negligence only.

Unfortunately, however, I am advised that these serious, substantial liability differences are not the result of mistake at all. On the contrary, it is my understanding that section 12(f)(2) enables American vessels to sail with proof of "financial responsibility" of only $100 per gross ton because, in fact, that is the maximum amount of insurance for oil cleanup costs which can be obtained, both here in the United States and from all of the other worldwide marine insurance underwriters located in England.

Thus, if S. 7 required each and every American vessel to establish "financial responsibility" of $125 per gross ton under section 12(f)(2), the result would be that most American vessels would have to remain in port, that is without insurance—and thus without clearance from the Government under S. 7—they would be unable to sail. S. 7, as I have said, avoids that catastrophe by limiting the "ability to sail" requirements to only $100 per ton—that is, to a clearly insurable amount.

But, simultaneously section 12(f)(1) of the bill goes on to provide that, when and if an oil spill actually occurs, the American vessel is liable for cleanup costs up to $125 per ton; that is, in an amount which apparently S. 7 itself recognizes to be uninsurable. And, of course, if $125 per ton is not insurable, it follows, as day follows night, that unlimited liability for a negligent oil spill is equally uninsurable beyond the $100 per ton figure mentioned before.

The result for the American merchant marine is obviously intolerable and it promises to force many of the smaller vessel operators out of business. In effect, each vessel operator must, under S. 7, become a self-insurer for the difference in liability between $100 per ton, which is insurable, and the unlimited amount of liability which can be assessed against him in the event of a negligent oil spill.

Thus, in a moment, a small operator whose vessel is insured for only $1,000,000 can, under S. 7, become liable for $14,000,000 or more in oil cleanup costs if his vessel unavoidably collides with an oil tanker off the coast of the United States. Sudden liability in such a staggering uninsured amount would immediately bankrupt most American shipping concerns which are struggling to continue to remain in business today.

And, sadly, the inability of such a vessel to pay the oil cleanup costs assessed against it would still leave the United States in the position where it would have to pay the costs of the oil cleanup itself.

For all of these reason, therefore, as chairman of the Senate Merchant Marine Subcommittee, I have come to the conclusion that the better solution, for both the United States and the American merchant marine, would be to adopt the provisions of section 17(e) of H.R. 4148, which the House unanimously passed on April 16 of this year, whereby each vessel of the American merchant marine would be held liable for oil cleanup costs in the clearly insurable amounts of $100 per gross ton or $10,000,000, whichever is lesser, unless it is able to prove affirmatively that it had no responsibility whatsoever for the oil spill which made the cleanup necessary in the first place.

Under the House bill, the liabilities assessed are clearly insurable and funds

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will thus be available up to those insurable limits to defray for the United States at least the statutory portion of all oil spill costs for which a vessel of the American merchant marine is responsible.

Because of the very complicated situation which has been created for all concerned by the conflicting provisions of section 12(f) of S. 7 mentioned above, I shall not endeavor by amendment here on the Senate floor to resolve that which the committee has been unable fairly

to rectify after months of consideration. However, because the two differing versions of this legislation will ultimately have to be ironed out in conference, I strenuously urge the Senate conferees to keep in mind during those crucial deliberations the existing plight of our American merchant marine; the fact that it is presently at its lowest ebb in modern history and is thus unable to self-insure risks far beyond that which the marine insurance industry will dare to underwrite; that the merchant marine is vital to the national defense of the United States; and that both Congress and the administration are currently seeking to establish programs whereby hundreds of millions of dollars of Federal funds will be spent on ship construction simply to keep the merchant marine alive. In the face of these conditions and developments, it seems academic to me that we should not simultaneously proceed to try to drive large segments of the industry out of business by saddling its fleet with statutory liabilities which cannot be insured either here in the United States or abroad.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement which was prepared for delivery today by the Senator from Alaska (Mr. GRAVEL), who is necessarily absent.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MIKE GRAVEL

Mr. President, I would like to associate myself with the remarks of the distinguished Chairman of the Senate Merchant Marine Subcommittee. Like him, I strongly favor and support the basic purposes of the pending legislation which are to combat pollution of our nation's waters and to provide means whereby cleanup costs connected with damaging oil spills or oil leaks along our coastlines will be defrayed, to the maximum extent possible, by those who are actually responsible for such water pollution. My State of Alaska is obviously deeply concerned over the possibility of such catastrophes and thus I join the Senator from Louisiana in congratulating the distinguished Chairman of the Public Works Committee, Senator Randolph, and the brilliant Chairman of the Senate Subcommittee on Water Pollution, Senator Muskie, for the untiring efforts they have made to bring this bill to the floor for early action.

At the same time, I am also deeply disturbed by those provisions of Section 12(f) of the bill which require all vessels over 300 tons which utilize American ports or waterways to establish "financial responsibility" for oil cleanup costs of only $100 per gross ton, but which simultaneously provide that, in the event of an *actual oil spill*, the vessel's statutory liability for cleanup costs, depending on the circumstances involved, might be as high as

(1) $125 per gross ton, or

(2) an *unlimited sum* equal to the "full amount" of such cleanup costs, regardless of how large that amount might be.

My concern regarding these provisions of Section 12(f) would not be so profound if evidence were available that adequate marine insurance could be obtained by all vessels of our merchant fleet to cover these statutory risks and liabilities. Unfortunately, however the testimony presented before the Senate Public Works Committee on this subject, by both the American and British marine insurance industries, was to the contrary. Indeed, during the past several days, as a member of that Committee, I have received copies of letters addressed to our Chairman by representatives of the British insurance underwriters (companies which I understand actually underwrite most of the marine insurance aound the world) stating that "the capacity of the market to insure this kind of liability at the present time is *$100 per gross registered ton or $10,000,000, whichever is the less.*" These letters to the Committee bluntly conclude with the statement that "Insurance above those amounts is, we are satisfied, *unobtainable.*"

If these warnings from the marine insurance industry are correct, then under Section 12(f) of the pending bill, the $100 per ton "financial responsibility" requirement in S. 7 actually represents all that can be insured. It follows as the distinguished Senator from Louisiana demonstrated, that the $125 and unlimited oil cleanup liabilities, specified in the bill for assessment against any vessel in the event of an oil spill, are simply uninsurable.

What effect this "uninsurability" might have on some segments of the American Merchant Marine in their present low position of prosperity, I am unable to say at this time. Clearly, all vessels with maximum insurance of only $100 per ton will, in the event S. 7 becomes law, be *sailing as self-insurers* of the two statutory liabilities S. 7

assesses in excess of that amount Considering the pitiful condition of our merchant fleet, it seems highly unlikely that many would be able to assume this additional risk, but even if they do, patently their vessels will be face-to-face with financial disaster, if, perchance, they become involved, innocently or negligently, in a very costly oil spill

And, of course, just as Alaska cherishes its beautiful unscarred coastlines and thus strongly favors all measures aimed at protecting its shores against destructive oil spills, it also depends upon the maritime industry for most of its daily needs and to service the requirements of its blossoming oil industry. Therefore, we are concerned, seriously concerned, about the adverse effects the "uninsurable provisions" of Section 12(f) might have upon the Merchant Marine and upon the ability of our shipping interests to continue to operate for the well being and progress of Alaska as they have in the past

In conclusion, therefore, what I urge here is that every possible effort be made by the distinguished members of the Public Works Committee who are and will be in charge of this legislation both here on the floor and in conference with the House, to reach some acceptable solution with reference to Section 12(f) which will (1) meet the basic needs of water pollution control but (2) establish clean-up liabilities for the Merchant Marine which are, beyond dispute and peradventure, insurable.

Mr. RANDOLPH. Mr President, the Water Quality Improvement Act of 1969—S. 7—is another significant step toward controlling one of the major environmental problems facing this Nation It will extend society's control over water quality and insure against further degradation of our priceless water resources both in the inland fresh lakes and streams and along our coastal shores.

Senator MUSKIE, our able and informed chairman of the Subcommittee on Air and Water Pollution, who is floor manager of S. 7, is discussing the general features of this legislation.

I shall focus my remarks on three particular sections of the measure which are especially noteworthy because they attack three of the very real water pollution problems of today. These are: acid and other mine drainage pollution; pollution from dredging operations; and oil pollution.

Acid and alkali pollution discharged into various local watercourses are carried by the natural flow of stream systems into our major river basins, thus creating extensive pollution problems both intrastate and interstate. The specific impact of mine drainage pollution is characterized by stream sterility. This is a condition in which the normal stream ecology, or balance between living organisms and their environment, is disrupted by the presence of large volumes of acid or alkali mine drainage wastes. If the "wild" upstream portions of streams and rivers are virtually destroyed by such problems as acid mine drainage, how much hope is there that the waters reaching the major cities will be able to serve our growing population?

It has been estimated that 3.5 million tons of acid are discharged into more than 6,000 miles of the Nation's streams, resulting in damage to aquatic life and potential sever loss of recreational capacity of the waterways. In addition, untold damage occurs to vessels, dams, bridges, water and sewer works, and other facilities downstream.

The impact of acid pollution is compounded by other than direct effects on our rivers and streams. The many seepage areas around mines are barren of plantlife to such an extent that as much as 1,000 times as much sediment is washed from them into streams by erosion than from forest and grass lands. There are more than 30,000 surface acres of impounded waters and reservoirs which are seriously affected by surface and subsurface mining operations.

The most serious problem is the fact that 80 percent of acid mine drainage comes from abandoned and orphaned mines. Though laws and regulations in some States control present and future mining operations, there appears to be no simple way to achieve control over the thousands of abandoned mines.

The Department of the Interior has identified several priority areas for the major attack against acid mine drainage under this new legislation. There is, for example, a very real need for more basic

research and development into the mechanisms of formation of acid mine drainage in order to find new and different methods of preventing its formation.

In addition to basic research, the Department expects to move quickly to find new techniques and mechanisms at various stages of acid drainage formation. The priorities include development of new mining techniques to reduce or prevent mine drainage and new or im-

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proved mine drainage treatment processes, the most promising of which is the development of rapid oxidation of ferrous iron from the mineral wastes; isolation of byproducts having economic value, with a special emphasis on iron oxide; and new methods for settling and thickening sludges resulting from the neutralization of acid mine waters and new methods for economically disposing of that sludge, including possible use on agricultural lands.

Though much research has been carried out, Federal efforts have been sporadic and poorly coordinated, and current programs of practical scale reclamation are not nearly ambitious enough to meet the problem. Testimony before the committee strongly suggests that the cooperative State-Federal effort envisioned in the demonstration provisions of this bill would be an important step toward the total solution.

The bill would also add a new section to the act authorizing the Secretary of the Interior to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of feasible and practical areawide methods of controlling acid pollution resulting from mining activities. Another key provision directs the use of "various abatement techniques" for acid mine water elimination or control rather than limiting the approach to a particular process. This is important because the techniques used and the relative importance of each will vary from area to area.

In the Appalachian areas where the acid mine drainage problem is most severe, quality agricultural land is at a premium Recreational opportunities have also been limited by the relatively small number of natural lakes. Land reclamation demonstration projects could provide both new and improved agricultural land and new recreation sites near heavily populated metropolitan areas.

This new attack on acid mine drainage will benefit peoples in all parts of the Nation, from those in the depressed mining regions like West Virginia and Ohio to those who depend on the flow of clean, pure waters along the length and breadth of the country. This section of S 7 not only assures cleaner waters, but less loss of minerals and industrial products, less sedimentation and subsequent silting of our reservoirs, better control of the topographic blight in mining regions, and more areas for farming, building, recreation, and other uses for our expanding population.

A second major area of water pollution which S. 7 will bring under control is sediment from dredging operations in the Nation's lakes and rivers. At the outset, the committee makes it clear that under section 16, all dredging—Federal, State, or private—shall comply with applicable water quality standards

Approximately 400,000,000 cubic yards of material are dredged annually from the Federal project waterways by the Corps of Engineers. If the amounts dredged by private contractors from slips, berths, private channels and for reclamation work are added to the Federal work, it is estimated that the total may be about three-fourths billion cubic yards

In enacting section 10(c)(3) of the Water Quality Act of 1965, Congress directed that water quality standards be prepared, considering, in the words of the act, "their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other legitimate

uses." The Committee on Public Works has taken the further step of adding language in section 10 of the basic act to specifically include navigation.

Although turbidity, or muddiness, is included as a measure of water quality in existing standards, the committee was informed that, with one exception, such standards were not drawn to accommodate or otherwise consider temporary turbidity relating to dredging. We noted the specific provision dealing with dredging turbidity in the approved water quality standards of Michigan as one approach to the problem. We expect the States to review their standards to deal with this problem of temporary turbidity in order to conform with the intent of section 10(c) (3) of the basic act as amended by this bill.

In order to accomplish the objective of providing for essential dredging without adversely affecting water quality, the committee expects the Secretary to provide the States with technical assistance required to evaluate both the real and potential pollution associated with dredging and disposal of dredge spoil. The pilot study of dredging and water quality problems in the Great Lakes being conducted by the Corps of Engineers should be of material assistance in this effort.

It should be noted that nothing in this bill should be construed as requiring the disposal of all dredge spoil on land. Where spoil is determined to be nonpolluting and causes no long-term environmental damage, we feel it may be properly discharged into lakes or rivers where permitted under appropriate State or Federal license.

In the interim period during which the States will be reviewing their water quality standards, no arbitrary or unreasonable restrictions shall be imposed on dredging essential for the maintenance of interstate commerce. This applies to dredging and disposal activities of private dredgers as well as the Corps of Engineers.

I feel very strongly that this vital operation must continue unimpaired for the period in which the States and the Federal Government are developing standards for temporary turbidity. There is no question that dredging activities for the maintenance of navigation in our waterways are important to the growth and vitality of the Nation. The States must develop meaningful long-term solutions to dredging, and especially to the ultimate disposal of dredging materials, if they are to continue to reap the benefits of these operations.

What this bill provides, therefore, is an interim solution to the problem, allowing a period of adjustment while the States work out their own definitions of water quality and determine the trade-off between continued water quality and necessary dredging. For the long run, however, new answers must be found for the ultimate protection of the overall quality of the Nation's waters.

On another front, S. 7 will provide broad protection against such oil pollution disasters as the one which befell Santa Barbara earlier this year. It would also provide protection against such tanker spills as the 1967 *Torrey Canyon* incident or the spill which took place in the San Juan Harbor when the *Ocean Eagle* broke up.

A vital key to the oil pollution problem is that of adequate research associated with the spilling of oil and its cleanup. A great deal of testimony before the Subcommittee on Air and Water Pollution, especially in light of the difficulties associated with cleanup in Santa Barbara, dealt with the inadequacy of technology to effectively contain and remove oil spills. Several witnesses noted that the use of straw to absorb oil on the water and on the beaches is a technique which has been available for centuries. More modern techniques such as various types of booms are often inadequate due to the nature of the tides and winds. A variety of dispersant chemicals have been applied but, because so little information existed on potential adverse eco-

logical effects, the Department of the Interior is properly reluctant to allow uncontrolled or excessive use.

Dispersal of oil as a method of cleanup must be evaluated on the basis of possible long-term effects. Once oil is dispersed, there is potential for incorporation of hydrocarbons in aquatic organisms harvested for human consumption. The Committee on Public Works expects the Federal agencies to carry out research activities on the potential effects of accumulation of hydrocarbons in the food chain in order to determine the desirability of cleanup methods which do not involve actual physical removal of the oil.

The highest priority, therefore, is the development of effective techniques to deal with oil spills and making those techniques readily available at appropriate locations throughout the country.

The primary responsibility for research is placed in the Department of the Interior, but the committee intends that the Secretary should transfer some research functions and funds to the Coast Guard for those activities over which that agency has significant responsibility. Other agencies should be encouraged to conduct and support research along similar or different lines.

The Department of the Interior must gather and develop information on the effects of oil spills and chemicals and other methods used to disperse oil. The Department should also be investigating improved methods to control oil discharges in connection with ongoing efforts to achieve and maintain compliance with water quality standards.

This oil pollution research section is an integral part of the entire Federal effort to bring under control those types of pollution which have eluded us under the current laws. This is one of the most important parts of the overall ap-

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proach of S. 7 to provide the basic framework for continual upgrading of water quality standards to insure that future generations of Americans will have access to pure, clean water.

Throughout our entire deliberations on S. 7, the Committee on Public Works followed a single strong thread, which is woven through the entire fabric of recent legislation by the committee. This thread is the committee concern for maintaining and enhancing the quality of our environment.

The heart of our concern is the growing awareness that we can no longer fail to take into consideration the effects of our activities on the total environment. As the President's Science Advisory Committee Report of 1965, "Restoring the Quality of our Environment," so aptly pointed out:

> The public should come to recognize individual rights to quality of living, as expressed by the absence of pollution, as it has come to recognize rights to education, to economic advance, and to public recreation . There should be no "right" to pollute.

It is this awareness that brought about title II of the Water Quality Act of 1969. Title II weaves together the many strands of environmental quality which make up the pattern for a national policy for environmental quality, to insure that Americans now and in the future have that right to clean water, clean air, clean land, and freedom from physical and psychological insults of all kinds. This concept, I would point out was embodied originally in S. 2391 which was cosponsored by myself and 41 of our colleagues in the Senate early this year.

Title II of S. 7 provides for more effective coordination of Federal air quality, water quality, and solid waste disposal programs, for the consideration of environmental quality in all public works programs and projects, and for the coordination of all Federal research programs which improve knowledge of environmental modifications resulting from increased population and urban concentration.

What we have come to realize, of course, is that environmental quality goes beyond water and air pollution and

solid waste management. Assurance of environmental quality means that every man, woman, and child has the opportunity to live in a world which will in no way insult his body, mind, or spirit.

It is a sad fact that nearly all of the important and critical environmental problems—air and water pollution, the growing pervasiveness of pesticides, mounting solid wastes, the effects of smoking—have emerged as serious health problems only after a series of crises have crystallized public attention. Each of these problems has been an undesired and unforeseen byproduct of goods or services which society has wanted. But it has been our habit to take action only after a crisis develops, rather than to prevent its occurrence. We fail to heed the old saying that an ounce of prevention is worth a pound of cure.

In the past we have relied on what has been termed the "natural assimilative capacity" of nature to reprocess or destroy most of the waste of our civilization, with little concern for its long-term capability to perform this function. Only recently have we become acutely aware of the fact that we are exceeding nature's ability and capacity to reprocess the kinds and qualities of wastes which are being produced by modern technology.

The majority of the Nation's streams and rivers are no longer able to support the life which has for eons processed the wastes of man and the animals and plants upstream. Experiences in the late 1950's and early 1960's with nondegradable detergents dramatically underscored the lack of planning and understanding of our waste systems and the effects of our newly developed materials on vital water resources.

The urgency of finding new solutions to the problems of water pollution is apparent when we reflect that by 1980 this Nation will be producing enough sewage and other waterborne wastes to consume all of the oxygen of all the flow in dry weather in the 22 river systems of the United States. At the same time the need for fresh, clean water will increase from our present consumption rate of 370 billion gallons per day to 600 billion gallons a day. The supply of fresh water is limited. The total daily flow in the United States is about 1,100 billion gallons. By the year 2000, because of population growth and industrial expansion, our withdrawal rate will be almost four-fifths of the total available supply, and we will return approximately two-thirds of the total available supply with some degree of waste.

Air pollution loomed as a major problem in 1963, when 809 people died in one air pollution catastrophe in New York City, and the Nation suddenly awoke to the perils of tainted air.

The illusion that man has conquered nature through science and technology has been abruptly challenged by nature herself. Only slowly are we beginning to realize that it is not the conquest of nature that we seek to achieve, but a harmonious balance with nature through which we may enhance the quality of human life.

There will never be—on a nationwide basis—absolutely clean air or pristine pure water. There is a necessary and acceptable amount of each pollutant that society will understand and accept. Because of varying uses of land and air and water, the right amount of pollution—the desirable compromise—is not the same everywhere. Some communities may determine the economic and industrial development is more important than fishing, and that some pollution of their streams is acceptable. Others, like the untouched wilderness areas of the great Northwest, will find that low tolerances—but not impossibly low—will be the goal for recreational areas.

The broad problems of solid waste management are just now being recognized as a crisis of gigantic proportions. Americans throw away billions of tons of solid materials each year. From our homes and offices each person contrib-

utes almost 5½ pounds of garbage and miscellaneous trash every day to our overstrained and underdesigned refuse system. The cost is more than $4 5 billion a year. And the figure will reach 8 pounds per person a day by 1980. Added to that, industrial solid waste contribute another 3.2 pounds per person per day to the environment; agricultural wastes from animal feedlots, packinghouses, lumbering operations, and related industries produce another 30 pounds per person; and 7 million automobiles are junked each year.

The thrust of these remarks is to remind my colleagues that what is important is not the isolated pollution problem nor the quick solution of an immediate crisis. We are pleased that S. 7 solves some of the problems which we have recently experienced. It clarifies and tightens Federal regulations over water pollution generally and provides rigid penalties for operations like the disastrous oil well blow-out that spilled oil on the beaches around Santa Barbara.

What we must plan for, however, is environmental quality for the future Today, the Committee on Public Works is working with an official advisory panel of experts—scientists, engineers, and specialists from a variety of disciplines—to help determine the problems of environmental degradation before they become problems. We are assessing the impact of land mismanagement from highway construction, from urban redevelopment, from mining, or from sanitary landfills. We are looking at the question of biological imbalances created by dredging, thermal pollution, pesticides, and air pollution. And we are probing problems connected with flooding and dam construction, the effects of building reservoirs, and the use of nuclear energy for power or construction

I am aware that the solutions to many of these problems do not now exist and that the search for technology—economically feasible technology—may be a costly one. It is for this reason that I have, as chairman of the Committee on Public Works, emphasized so heavily the importance of Federal coordination and support for research and development in all of these areas.

But the problem is not one of research in itself. Nor can it rest solely on the Federal Government. Industry, the States and local governments must take a big share in the solution, as their share in the product of a clean and wholesome environment will be large.

Today, society places higher priorities on the values of our physical environment, and these priorities must be incorporated in the technology that serves us. Americans are ready, I believe, to improve the environment, and in so doing we will build a better society for ourselves and for future generations.

S. 7—and especially title II—will provide the basis for the long-term enhancement of the quality of the environment for which we are all striving. I urge the speedy adoption of this legislation.

Mr. President, since report No. 91-351

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of the Committee on Public Works was filed August 7, 1969, by the distinguished chairman of the Subcommittee on Air and Water Pollution, Senator MUSKIE, of Maine, to accompany S. 7, with amendments, several letters have been addressed to me as chairman of the committee They offer interpretations of certain sections of the pending measure which are said to impose liabilities on shipowners which are alleged to be commercially uninsurable.

Among the communications to which I make reference is one dated August 20, 1969, from London, England, signed by 14 persons or firms noting in the first paragraph that they are "fourteen of the leading insurers of shipowners' liabilities and represent approximately 705 of the world shipping tonnage"

And, Mr. President, their letter further notes in the opening paragraph:

Even with this wide spread of tonnage it would not be possible for us to insure the liabilities we do without adequate reinsurance and to obtain this it has been necessary

to have recourse to the insurance markets of the world. Therefore this letter is also written on behalf of the Reinsurers and, therefore, represents the views of the world market for the insurance of shipowners' liabilities.

Continuing, the letter's second paragraph makes this comment:

We have carefully examined S. 7, in the form reported out by the Senate Committee on Public Works on August 7th and the Committee Report accompanying the Bill, in relation to the shipowners' interests which we represent, and in the light of the insurance markets' capacity to insure the liabilities, which the Bill seeks to impose. While we have nothing but praise for the ideas behind the Bill and no criticism of most of its provisions, we most respectfully wish to bring the following facts to your notice. (1) The provisions of Section 12(f)(2)(C) relating to the rights of direct action against an insurer, *as written*, makes the liability imposed by Section 12 of the Bill *completely uninsurable*. (2) The provisions of Section 12(f)(1) imposes an *unlimited liability* for the discharge of oil resulting from negligent acts—*even those of members of the crew. Such unlimited liability is, as such, uninsurable.*

I will not read the complete letter at this time, but I will make a copy available to the manager of the bill so that he may give cognizance to it and make comments on it.

Also, Mr. President, I ask unanimous consent to have the letter from London on behalf of the 14 insurance firms printed in the RECORD at this point, together with a response I made to it September 18, 1969.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THOS. R. MILLER & SON,
(INSURANCE) LTD.,
London, August 20, 1969.

Re S. 7.

HON. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: We the undersigned are fourteen of the leading insurers of shipowners' liabilities and represent approximately 70% of the world shipping tonnage. Even with this wide spread of tonnage it would not be possible for us to insure the liabilities we do without adequate reinsurance and to obtain this it has been necessary to have recourse to the insurance markets of the world. Therefore this letter is also written on behalf of the Reinsurers and, therefore, represents the views of the world market for the insurance of shipowners' liabilities.

We have carefully examined S. 7, in the form reported out by the Senate Committee on Public Works on August 7th and the Committee Report accompanying the Bill, in relation to the shipowners' interests which we represent, and in the light of the insurance markets' capacity to insure the liabilities, which the Bill seeks to impose. While we have nothing but praise for the ideas behind the Bill and no criticism of most of its provisions, we most respectfully wish to bring the following facts to your notice.

(1) The provisions of Section 12(f)(2)(C) relating to rights of direct action against an insurer, *as written*, make the liabilities imposed by Section 12 of the Bill *completely uninsurable.*

(2) The provisions of Section 12(f)(1) impose an *unlimited liability* for the discharge of oil resulting from negligent acts—*even those of members of the crew. Such unlimited liability is, as such, uninsurable.*

For the sake of simplicity, we will first set out shortly what can be insured, since we cannot believe that it is the purpose of the Senate to impose on shipowners liabilities which are totally uninsurable; or that to do so is in the best interests of the people of the United States.

(1) As insurers, we have no objection to a requirement of evidence of financial responsibility, but if such provisions include the right of direct action against the insurer certain safeguards must be included in order to make such liabilities insurable.

(2) Limitation of Liability should be permitted in cases of negligence or wilful acts of a member of the crew as distinguished from those of the Owner personally or, in the case of a corporate owner, those of someone in a managerial position. We know that the capacity of the market to insure this kind of liability at the present time is $100- per gross registered ton or $10,000,000-, whichever is the less. Insurance above the maximum of $10,000,000- is, we are satisfied, unobtainable.

We will now proceed to develop in detail the objections which we have to the two mentioned Sections of the Bill. Neither the Protection and Indemnity Associations, nor the world market Underwriters (who together make up the insurance market for shipowners' liabilities) will accept insurance of shipowners' liabilities with provisions for direct action against them unless certain safeguards are incorporated. At the very least, it would be necessary to modify Section 12(f)(2)(C):—

(a) by the inclusion of a provision placing the insurer in exactly the same position vis a vis the Government, as plaintiff, as the assured would have been in, had the action been brought against the assured; i.e. any defences which would have been available to the assured under the law would be equally available to the insurer; and

(b) by the inclusion of a provision expressly preserving to the insurer any defences which would have been available to the insurer in an action by the assured against the insurer under the policy We attach to this letter suggested language modifying Section 12(f)(2)(C) on the lines of the language in the Draft Convention on Oil Pollution Liability, adopted by the Comite Maritime International at its Tokyo meeting last April. Without some such modification, we must repeat that the provisions of Section 12(f)(2)(C) make the Bill, from the point of view of the shipowners' liabilities which it imposes, *totally uninsurable.*

We now turn to the liabilities imposed by Section 12(f)(1) This section makes an owner liable to the United States Government *for the costs of removal of* discharged oil, in an amount not exceeding $125 per gross ton or $14,000,000, whichever is the lesser. The Section then continues "except that where such discharge was the result of negligence or a willful act, such owner or operator shall be liable for the full amount of such costs "

These words appear to be in direct conflict with the figures of limitation given in the immediately preceding phrase, since they make a shipowner liable in an unlimited amount in every conceivable circumstance except those of act of God, act of war, act of a third party, and negligence of the U S Government where, under the wording of the Section, he can escape liability completely. *In our unanimous opinion, and in that of* our legal advisers, there is, in practice, no other case to which the purported limitation figures could apply and they are therefore meaningless.

We respectfully submit on this point, that what was quite properly in the minds of the legislators, was that a shipowner should not have the right to limit his liability in the event of *his personal negligence or wilful act* as distinguished from the negligence or willful act of a crew member. To make a shipowner liable for an unlimited amount, where he is guilty of personal negligence or willful misconduct, is in accordance with established principles of international maritime law, including the United States Limitation of Liability Act, Title 46, *United States Code*, Sections 183–189, however, to make a shipowner liable in an unlimited amount where the negligence is purely that of a member of the crew or other such minor employee, is to impose upon him a burden which is not only unfair but also contrary to universally accepted principles of maritime law on the basis of which marine insurance has been written for centuries. The universal distinction made in the Statutes and International Conventions relating to shipowners Limitation of Liability, is not between negligent and nonnegligent conduct, but between negligence of employees and negligence of the shipowner himself (or in the case of a corporate shipowner, negligence of someone acting in a managerial capacity, e.g., the Operations Manager of the Company)

From the evidence given to both Senate and House Committees, it is clear that such an unlimited liability is uninsurable, such a provision would have no effect whatever on the prevention of oil spills, since, in the case of American vessels at least, the owner has absolutely no choice in the selection of crew members below the rank of Chief Officer and First Assistant Engineer Moreover, such a provision must have the effect, *as must any provision which imposes on a shipowner liabilities beyond the capacity of the market to insure,* of seriously dislocating trade to the country imposing such liabilities and of a most undesirable proliferation of single ship Companies.

As spokesmen for, and insurers of, 70% of the world's ocean tonnage, we must say to you that unless S 7 is modified so that shipowners are not to be required to be self-insurers beyond the amounts for which they can get insurance, the Bill will make trading to the United States or between United States ports virtually impossible for many shipowners Limitation of a shipowner's liability has been universally accepted not out of charity to shipowners but so that the people of all nations can enjoy the benefits of seaborne traffic When limits of liability are increased to a point at which this is not possible to insure, the nation which imposes such limits is inevitably deprived of the benefits which it could reap from sea-

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borne traffic, particularly coastal traffic, such as ability to export its goods or to receive its imports at a reasonable cost or indeed at all If S 7 were to become law in its present form, it would surely be a reckless shipowner who allowed his ship to enter United States waters with the liabilities imposed by the Bill uncovered by insurance and a reckless shipowner would be unlikely to be able to provide evidence of financial responsibility As indicated to you, the practical limits of liability *within the capacity of the world market to* insure are whichever is the lesser of $100-per gross registered ton or $10,000,000

You will realize from this letter that we

are commenting on only two sections of the Bill. We have already respectfully submitted a rewording of Section 12(f) (2) (C) and now attach the minor amendments which in our opinion, are required in Section 12(f) (1). In our view it would be better in that Section to omit altogether the words which we have put in parentheses in our suggested redraft. These comments are made in a sincere effort on our part to make the Bill succeed and we trust that the Senate will decide to accept the short but vital amendments we have suggested.

Finally, you will know that an IMCO Convention on the whole subject of oil pollution is imminent The Senate may well wish to consider not deferring the legislation, but including a section whereby the operation of the provisions concerning shipowners' liabilities are held in abeyance for, say, six months after enactment This would enable Congress to incorporate in or alter its legislation in any way it felt appropriate in the light of the International Convention. In particular, it is obviously desirable to all concerned that regulations concerning evidence of financial responsibility be common among the 100 or so coastal States who will require such evidence; we submit that any regulations on this subject included in the United States legislation should be deferred until it is known what is internationally agreed.

Yours sincerely,

The Britannia Steamship Insurance Association Limited, per: Tindall, Riley & Company, Managers; The Steamship Mutual Underwriting Association Limited, per: Alfred Stockton & Company Limited, Managers; The Sunderland Steamship Protecting and Indemnity Association, per: John Rutherford & Son, Secretaries; The West of England Steamship Owners Protecting and Indemnity Association Limited, General Manager; The United Kingdom Steamship Owners Mutual Assurance Association Limited, per: Thos. R. Miller & Son, Managers; The United Kingdom Steamship Owners Mutual Assurance Association Limited (Bermuda), per: Thos R. Miller & Son (Bermuda), Managers.

The Liverpool and London Steamship Protection and Indemnity Insurance Association Limited, for Management; The London Steamship Owners Mutual Insurance Association Limited, per: A. Bilbrough & Company Limited, Managers; The Newcastle Protecting and Indemnity Association, Secretary; The North of England Protecting and Indemnity Association Limited, Deputy General Manager; The Standard Steamship Owners Protecting and Indemnity Association Limited, per: Charles Taylor & Company, Managers.

Assuranceforeningen Skuld, Oslo, Norway; Assuranceforeningen Gard, Arendal, Norway; Sveriges Angfartygs Assurans Forening, Gothenburg, Sweden; Reinsuring Underwriters: Lloyd's Leading Underwriters: Syndicate 615. Guy Janson Esq & Ors; Syndicate 418. R. J. Merrett, Esq & Ors; Syndicate 277. C. B. Gilroy, Esq & Ors.

Lloyd's Syndicates following the above: Insurance Companies Members of the Institute of London Underwriters; Insurance Companies Members of the Liverpool Underwriters Association; Insurance Companies in the United Kingdom, United States of America, Germany, Switzerland, Sweden, Finland, Japan, Australia etc ; Per: Thos R. Miller & Son (Insurance) Limited, Director.

SUGGESTED REWORDING OF SECTION 12(f) (1)

(New Material Italicized)

"(f) (1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act of a third party, such owner or operator of any vessel from which oil is discharged, or which causes the discharge of oil, into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (e) for the removal of such oil by the United States Government in an amount not to exceed *$100 per gross ton of such vessel or $100,000,000*, whichever is lesser (except that where such discharge was the result of *the actual fault or privity* of the owner or operator, such owner or operator shall be liable to the United States Government for the full amount of such costs).

SUGGESTED REWORDING OF SECTION 12(f) (2) (C)

(New Material Italicized)

When the owner or operator of such vessel has applied for a suspension of payments or has been adjudicated bankrupt or, if a company, is being or has been wound up, any claim for costs incurred by such vessel may be brought against the insurer or any other person providing evidence of financial responsibility as required under this subsection, *provided, however, that where such* direct action *is exercised the insurer or any other person providing evidence of financial responsibility shall be entitled to invoke all rights and defenses which would have been*

available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator. (Adapted from Article 8(7) of the CMI Draft Convention approved at Tokyo, April 4, 1969).

THOS. R. MILLER & SON
(INSURANCE) LTD.,
London, August 20, 1969.

Re S. 7.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: Just a short personal note to advise you that I have sent copies of this letter to all Members of the Senate Public Works Committee.

I do hope this is correctly in accordance with Senate protocol, but if this is not so please forgive me!

Yours sincerely,

PETER MILLER.

U S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., September 18, 1969.

Mr. PETER MILLER,
THOS. R. MILLER & SON (INSURANCE) LTD.
London, England.

DEAR MR. MILLER: Thanks for your letter of August 20, 1969, advising me of your position and that of the other thirteen insurers of shipowners' liabilities regarding the provisions of S. 7, The Water Quality Improvement Act of 1969 Your comments are being discussed with the members of the Committee on Public Works.

Your expressed concern relating to rights of direct action against an insurer under the provisions of section 12(f)(2)(C) is noted. It is the Committee's intent that the insurer have available to him any defenses available to the assured, and I would therefore have no objection to further clarification on this matter.

Your question relating to the handling of unlimited liability in the case of the negligence of shipboard employees is a subject to be resolved either during Senate consideration of S. 7 or in the House-Senate Conference on the many points of difference between H R. 4148, as passed by the House, and S 7. The issues which you raise are worthy of fullest consideration, and assuredly will have attention.

With appreciation for your further information and counsel, I am

Truly,

JENNINGS RANDOLPH,
Chairman.

Mr. RANDOLPH. Mr. President, in addition to the communication received from London on behalf of the 14 insurance firms whose representatives signed it, letters were received by me as chairman of the Committee on Public Works from the following, to whom I responded substantially as I did to Peter N. Miller and the 13 associated with him in the August 20, 1969, letter:

American Institute of Marine Underwriters, 99 John Street, New York, N.Y., by G. Doane McCarthy, Jr., president, August 18, 1969.

American Petroleum Institute, 1101 Seventeenth Street N.W., Washington, D.C., by E. S. Checket, September 18, 1969.

Maritime Law Association of the United States, Special Committee on Oil Pollution, John F. Gerity, chairman, 120 Broadway, New York, N.Y., August 28, 1969.

Labor-Management Maritime Committee, Earl W. Clark and Hoyt S. Haddock, co-directors, 100 Indiana Avenue N.W., Washington, D.C., September 3, 1969.

Chamber of Shipping of the United Kingdom, 30-32 St. Mary Axe, London E.C. 3, England, by Francis E. Hill, president, August 27, 1969.

Mr. President, I will not read the letters I have cited, but I will make a copy of each available to the manager of the bill so that he may give cognizance to it and make comments on it.

And, Mr. President, I ask unanimous consent to have the five letters printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN INSTITUTE OF MARINE
UNDERWRITERS,
New York, N.Y., August 18, 1969.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR MR RANDOLPH: The American Institute of Marine Underwriters representing more than 125 marine underwriting organizations in the United States wishes to record its strong objection to the proposed legisla-

tion as set forth in the text of S. 7 as reported by your Committee on August 7 (Report No. 91-351).

It is the considered judgment of this institute that this bill as presently reported will create insurance exposures to American-flag

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ship operators which are uninsurable without incorporating underwriting limits set by the insurer as described below.

We base this judgment on the provisions provided in the text of S. 7 *for direct rights of action against the insurer without any adequate safeguards as being the basic reason* which will prevent any insurance capacity in any measurable amount being made available for the insurance exposures created by the proposed legislation.

Clause 12 (F)(2)(C) creates in this proposed legislation a potentially uninsurable situation since in our judgment those American underwriters engaged in undertakings of a shipowner's liability insurances and P&I insurances may, under circumstances to be reviewed in each policy, refuse to accept such insurances of these liabilities when the controlling legislation permits direct action to be available against them.

We would reiterate the advices informally given to the Marine Committee of the New York Brokers Association who testified at earlier hearings that the probably available limits of insurance for this type of coverage are as follows:

(1) If the basis of liability is negligence (including the doctrine of reversal of burden of proof) the probable insurable limit available the world market would be in the area of $100. per gross registered ton or $10,000,000 each accident each vessel, whichever amount proves to be the lesser.

(2) If the doctrine of absolute liability were enforced the probable maximum world market would be in the area of $67. per gross registered ton or $5,000,000 each accident each vessel, again whichever amount is the lesser.

We reiterate that in our judgment there will be no insurance market available if the doctrine of direct rights of action against the insurer, with no adequate safeguards provided, is to be enforced. *Here we strongly feel that any insurer must be permitted to place himself in the same position against the claimant as is the assured.* Further we believe that any defense under the law which the insurer would have against the assured must be preserved.

It must be stipulated—and understood—that while there exists an American insurance capacity to meet American-flag operators' third party marine liabilities, this capacity in America exists to the best of our knowledge only because of the existence of a far greater capacity for such risks in the English market for reinsurance. Such liabilities as the American underwriters enjoy to utilize this English reinsurance market tends to establish the capacity (or limits) beyond which the American underwriter cannot venture.

Sincerely yours,

G. DOANE MCCARTHY, JR.,
President.

AMERICAN PETROLEUM INSTITUTE,
Washington, D.C , September 18, 1969.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: I believe the testimony on behalf of the American Petroleum Institute before both House and Senate Committees over the past several years is ample evidence of the petroleum industry's deep concern with the problem of oil pollution from vessels and of our desire to see the enactment of meaningful and workable legislation dealing with this problem If such legislation is to be workable, it must not impose liabilities on shipowners which are commercially uninsurable. Therefore, after having reviewed S. 7 as reported out by the Committee on Public Works, I respectfully call your attention to several provisions of Section 12 of the Bill which in my opinion do make such liabilities uninsurable.

We concur in your earlier comments that some of the previous testimony on what liabilities of a shipowner were insurable and the amount of insurance available to him under varying conditions of liability was confusing to those unfamiliar with marine insurance However, I do believe, and trust you will agree, that the latest communications from the insurance industry, both in this country and abroad, clarify any past confusion and make the following points crystal clear

First, Section 12(f)(2)(C) providing for direct action against the insurer means, as a practical matter, that the liabilities imposed by Section 12(f)(1) on the owner or operator of the vessel cannot be underwritten. This results from the fact that marine underwriters simply will not accept policies with this kind of unqualified right of recourse against them, as they have formally advised your Committee. The Bill, therefore, would force shipowners to be totally self-insured for those liabilities when operating within the navigable waters of the United States This is a risk which, I submit, no prudent independent shipowner would assume.

I feel sure that it was not the intent of the Committee to create such a situation and I accordingly urge your serious consideration of the modifications to Section 12(f)(2)(C), as recently recommended to you by various leading insurance underwriters and reinsurers, to make the shipowner's liability

insurable.

Second, the provisions of Section 12(f)(1) impose an *unlimited* liability to the U.S. Government for the cost of cleanup where the discharge of oil was the result of a negligent act—even that of the least skilled crew member.

Such unlimited liability is uninsurable, the underwriters having informed you that they are unwilling to issue policies covering negligent spills in excess of $100 per gross registered ton or $10 million dollars, whichever is the lesser The shipowner would thus be faced with assuming all of the risk above those amounts. Again, I submit that the small independent ship operator might well refuse to assume such a risk which could force him into bankruptcy

At the same time we support the proposition that the shipowner or operator should not have a right of limitation for his own personal negligence or willful act and, therefore, we would suggest that the language in question be amended to read as follows:

"Except that where such discharge was the result of the personal fault or privity of such owner or operator, the latter shall be liable to the United States Government for the full amount of such costs."

Third, even with this change in language the dollar limitations in Section 12(f)(1) of $125 per gross ton or $14 million dollars, whichever is lesser, should be reduced to limits that are insurable, i.e $100 per gross ton or $10 million.

In my testimony before the Subcommittee on Air and Water Pollution, I stated that shipowners through their mutual assurance clubs already are bearing the first $1.4 million of loss per vessel per incident. We believe it is unfair and unrealistic to require a shipowner, particularly a small independent owner, to assume an additional financial burden for excess of what he can protect himself against through insurance.

In conclusion, I should like to reiterate our desire to see legislation enacted which will effectively protect the U.S. harbors, rivers and coastlines against oil pollution but which will not at the same time pose a serious threat to the United States Merchant Marine and the inland waterways industry and present a deterrent to our waterborne commerce, both domestic and international. I must state my conviction that S-7 as presently drawn does pose such a threat and if enacted in its present form will not be in the best interests of the United States. However, if S-7 is modified in line with the foregoing, it will protect the public interest without imposing an unbearable hardship on the shipping industry or our waterborne commerce.

Respectfully yours,

E S. CHECKET.

MARITIME LAW ASSOCIATION OF THE UNITED STATES, SPECIAL COMMITTEE ON OIL POLLUTION,

New York, August 28, 1969.

Hon JENNINGS RANDOLPH,

Chairman, Committee on Public Works, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SIR: The Maritime Law Association of the United States through its President, and the statements of the undersigned Special Committee on Oil Pollution, have had the privilege of appearing before the Public Works Committees of the Congress in connection with the above entitled legislation. This committee has also submitted numerous documents in a sincere effort to assist the Congress to enact laws for the betterment and preservation of our environment from pollution by oil of the Inland waters of the United States and of the Seas. Such assistance as we could render for consideration by the Committees of the Congress, we hoped would permit the enactment of legislation upon which the liabilities to be imposed would be insurable and would not be a serious deterrent to the continuity of the domestic and foreign trade and commerce of the United States, including the trade of the Merchant Marine of this and other countries to and from our shores. We submit, with respect, that H.R 4148 embraces all of the principles required by responsible legislation which apparently shipowners can insure as a risk and, our waters will be adequately protected.

With respect, we are compelled to say that the legislation proposed by material sections of S 7 do not meet these elementary standards *On advice we have received, the liability and financial responsibility sections plus unrestricted rights of direct action against underwriters are totally uninsurable as written.* It is equally apparent that S. 7 in these respects, can only work to the serious detriment of the American Merchant Marine as a whole and the ocean commerce of the United States—dry cargo vessels and tankers alike. *Many of the proposals are also repugnant to settled principles of United States' maritime law and the laws of many maritime nations.* We sincerely regret this turn of events in the legislation to be proposed by S. 7.

May we, Sirs, take this opportunity to respectfully urge the Committees of the Congress to fully consider the constructive content of letters which we are advised have been written by what may be substantially described as the world's marine insurance markets and shipping industry associations, so that the uninterrupted continuity of our maritime trade can be preserved. We can foresee situations in which, if S. 7 in material respects is enacted into the law of the United

States, many shipowners will be required to either (a) trade at their own risk without insurance, but with realistic risk of ultimate bankruptcy by putting all of their assets at the disposal of our Government to secure any damage by pollution of our waters or (b) obtain some nominal insurance, if available at all, at a cost which may well be commercially prohibitive to an economically depressed Merchant Marine plus needed material assets to meet the financial responsibility requirements or (c) trade elsewhere.

Why must such legislation as proposed in S 7, as above, be unnecessarily punitive against the entire maritime commerce of the United States? We appeal for maritime legislation rooted in reason and written with legal force and clarity to fully achieve the

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intended objective, protection of our waters, such as exemplified by H.R. 4148.

We are, dear Sir,

Respectfully yours,

JOHN F. GERITY,
BURTON H. WHITE,
GORDON W. PAULSEN,
JOHN F. GERITY, *Chairman.*

LABOR-MANAGEMENT
MARITIME COMMITTEE,
Washington, D.C., September 3, 1969.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: We have been advised that S 7, a bill amending the Federal Water Pollution Control Act, known as the Water Quality Improvement Act of 1969, will be on the floor of the Senate for legislative action. We are concerned with the risks imposed by S. 7 which would remove all limits for negligent oil spills and according to marine insurance sources are uninsurable anywhere in the world. This could have an extremely detrimental effect on the entire merchant marine.

We favor H R. 4148 recently passed by the House of Representatives.

Sincerely yours,

EARL W. CLARK,
HOYT S. HADDOCK,
Co-Directors.

CHAMBER OF SHIPPING
OF THE UNITED KINGDOM,
London, 27th August, 1969.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: As President of the Chamber of Shipping of the United Kingdom which represents over 19 million gross tons of shipping on the U.K. register, I am taking the liberty of addressing myself to you in view of your particular interest in the problems of oil pollution and your major role in the shaping of S-7.

As you can imagine, it is not only United States shipowners who have been following with interest the progress of S-7. The Bill affects all vessels calling at U.S. ports, whether tankers or dry cargo, and as at present drafted, would have some startling, and we believe, unintended results.

To us the most difficult clause is that which provides that a negligent shipowner shall not be able to limit his liability. As you have heard, the market cannot insure unlimited liability. This proposal would therefore *make it impossible for shipowners to insure* and yet the Bill goes on to provide that every single vessel over 300 g.r.t. shall produce evidence that it is satisfactorily covered!

British shipowners naturally like to obtain cover against their liabilities for oil pollution; the one certain way to stop them doing so is to make insurance impossible, which is what I am afraid the Bill in its present form does.

As the Senate is aware, it is difficult to produce legislation on liability for oil pollution which is not self-defeating—IMCO itself has narrowly avoided one or two traps of this sort—and we hope that on this point of insurability, you will, in the interests of the United States, heed the expert opinion that has been given by insurance representatives.

There are other features of the Bill which U.K. shipowners do not favour, but I would not wish to complicate this letter by listing them I would, however, like to leave with you the thought that the interests of the United States, as well as its shipping lines, will best be served by a single worldwide agreement on liability. All the schemes that have been discussed will give the shipowner a powerful incentive to avoid pollution; the choice of one rather than another will therefore not affect by one ounce the amount of pollution on the beaches. That depends on the preventive measures we are all devising; accordingly, nothing would be lost and much might be gained if the special problem of liability was held over until the end of the year when there will be available a finished convention agreed by all coastal states as being a sound and effective solution.

Please let me know if there is any aspect of this subject on which we here can help you further.

I am writing in the same terms to Senator Edmund Muskie.

Yours sincerely,

FRANCIS HILL.

Mr. RANDOLPH. Mr. President, the communications and information which I have placed in the RECORD I am sure will not be of interest for discussion by

my colleagues in the Senate this afternoon, but I am sure they will be helpful as Members of the Senate read the RECORD in reference to the legislation which is before us and the position of the insurers from the standpoint of companies that ship in the coastal waters of the United States.

I hope the importance of this legislation will cause the Senate to act, of course, with deliberation, but with a certain promptness.

I have spoken longer than I should have, but I felt that, as chairman of the Public Works Committee, in cooperation with the chairman of the Subcommittee on Air and Water Pollution, I should lay out, as it were, the broad, productive provisions which have been encompassed in Senate bill. 7.

Mr. MUSKIE. Mr. President, may I respond to the distinguished Senator's remarks? When I yielded to him earlier, I was engaged in discussion and could not pay proper tribute to his efforts, interest, and cooperation in this field, not only in connection with Senate bill 7, but in air and water pollution legislation over the years. No chairman could have been more cooperative or more understanding, not only in making facilities and staff available, but in contributing to the substance of the legislation with which we deal. I express my appreciation to him.

Mr. RANDOLPH. I thank the Senator. And I wish to acknowledge again the outstanding leadership which the distinguished Senator from Maine has given to environmental improvement legislation in his role as chairman of the Subcommittee on Air and Water Pollution. This effort has been supported and strengthened by a bipartisan approach led by the able junior Senator from Delaware (Mr. BOGGS), ranking minority member of the subcommittee, and my good friend from Kentucky (Mr. COOPER), ranking member of the full committee.

I would add, Mr. President, that S.7 was reported unanimously, a fact that attests to the effort and attention given to this legislation by every member of the committee; in addition to those I have mentioned I commend for their contributions to this legislation, Senator STEVE YOUNG, Senator B. EVERETT JORDAN, Senator BAYH, Senator MONTOYA, Senator SPONG, Senator EAGLETON, Senator GRAVEL, Senator BAKER, Senator DOLE, Senator GURNEY, and Senator PACKWOOD.

Mr. YOUNG of Ohio. Mr. President, the Water Quality Improvement Act of 1969—S. 7—provides America with a powerful lever against three major sources of pollution which have continued to ravage our water resources; oil pollution, vessel pollution, and thermal pollution.

Despite the enactment of the Water Quality Act in 1965, the quality of the Great Lakes and the territorial and contiguous waters of this Nation has been continuously damaged and seriously polluted and poisoned. Industry, shipping and oil interests have blatantly continued to dump and spill materials often intentionally, into these formerly clear, pure, and precious waters. For 200 years we Americans have had every reason to be proud of our beautiful Great Lakes and their pure uncontaminated waters. Also, we of the Midwestern States have been proud of the fact that the Ohio River and other rivers were free of pollution and contamination.

As our report on S. 7 points out, frequent oil spills from vessels and from on-and-off-shore facilities have ruined Atlantic and Pacific Ocean beaches and lowered the quality of our rivers and shore waters. They have jeopardized not only animal and vegetable life, but human life as well. Terrible tragedies in recent months and years, such as the Santa Barbara oil well leak which spilled tens of thousands of barrels of oil on beautiful beaches along the California coast, have underscored these problems. Spills from the *Torrey Canyon* off the coast of Great Britain and other similar incidents have alerted us to the dangers

of having supertankers carrying oil along our shores.

We in Ohio and the Great Lakes region are all too aware of the problems of pollution. We are particularly concerned over the spillage of oil and shipping wastes. Only recently we witnessed several disasters and near-disasters in and around the Great Lakes which should have been avoided.

While many have already written the obituary for Lake Erie and are mourning the imminent deaths of the other Great Lakes, we in the Midwest are determined not to write off these vital bodies of water. These lakes are surrounded by the heartland of America with a dense population with growing needs for clean, fresh water.

However, in Lake Erie great green skiens of algae have broken loose from rocky moorings and washed ashore to rot on the once beautiful beaches. Near Chicago, the beaches of Lake Michigan are lined with dead fish caused by such pollution as the 440 million gallons of waste water dumped daily from United States Steel Corp.'s south works. Amazing as it may seem, the oil-thick Buffalo River, which flows into Lake Erie, has been declared a fire hazard by the Buffalo Fire Department.

This deplorable situation is exactly what the pending legislation is intended to correct. Under provisions of the Water Quality Improvement Act of 1969, this pollution will be halted and the quality of the lakes improved.

Let me point specifically to section

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16(h) of the bill, which would authorize the Secretary of the Interior to enter into contracts or issue grants for research aimed at the roots of pollution. These grants and contracts would be "for the prevention, removal, and control of natural or manmade pollution in lakes, including the undesirable effects of nutrients and vegetation." This section would also provide funds for the construction of publicly owned research facilities for such purposes.

Beyond this, however, section 15 would authorize a special demonstration program to attack the unique and critical problems of the Great Lakes region. This program is in addition to the authority in the legislation to control lake pollution or lake eutrophication in general.

Under this program, the Secretary of the Interior, in cooperation with other Federal agencies, is authorized to enter into agreements with any State, regional or local agency. These agreements would provide support for demonstration projects to test new methods and techniques and to develop preliminary plans for the elimination or control of pollution in and around the Great Lakes.

This program goes farther than simply the Great Lakes themselves. It specifically includes "all or any part of the watersheds of the Great Lakes."

The Committee on Public Works recognized that pollution must be controlled at its source before it enters the bodies of water. Only then can we insure the quality of the waters in and around the United States.

The bill would authorize $20 million for the Great Lakes pollution control program. The States or local agencies would share the cost of these projects.

Most of the States adjoining the Great Lakes have already undertaken significant programs against polllution. This underscores their willingness to meet their obligations in this intergovernmental effort.

Special efforts as called for in S. 7 are needed to accomplish substantial remedial action in order to reverse the tide of pollution on the Great Lakes and to insure cleaner waters for future generations.

Thermal pollution has become a nationwide problem only in recent years as nuclear power plants have sprung up and more industries have been built on the edge of the waterways and lakes. They disgorge water at temperatures far exceeding normal ones. This is not only harmful to fish and aquatic animals, but

long-term changes in the atmosphere can result from the circulation of air over these waters. The vegetation in and around these areas will change, often to the detriment of animal and human inhabitants.

S. 7 provides the Government with new authority for controlling thermal pollution in the Nation's lakes and streams.

Another key provision of the new water quality bill is section 11, which would control sewage discharges from vessels.

Waste from water craft is one of the most obvious sources of pollution both in the inland waterways and in our coastal waters and contiguous zones. It is most severe in bays, lakes, harbors, and marinas where vessels congregate and traffic is heaviest and water circulates the least. As our use of these waters increases, the problem will become more acute.

Section 11 will assist in preventing discharge of untreated sewage into navigable waters by pleasure or commercial vessels, and provide for continuing upgrading of technology to bring a complete halt to this practice.

To insure and enforce this stronger vessel anti-pollution legislation, the bill gives the Coast Guard fuller and more specific authority to develop and promulgate the regulations concerning the design, installation, and operation of marine sanitation devices and to certify these devices as complying with regulation standards. These regulations must also assure compliance with the standards of performance issued by the Secretary of the Interior.

Many States have already moved to control vessel discharge. However, conflicting regulations and standards have presented hardships to recreational boaters who move between States and present potentially serious restrictions on interstate movement of commercial vessels. For this reason, the bill would provide State authority to prohibit entirely the discharge of any sewage from vessels in line with its designated water quality standards.

This section of the bill, I feel, will go a long way in upgrading the quality of the waters of the Great Lakes Region as well as the inland waterways and coastal waters of the entire Nation.

It is essential, in addition, that America have a coordinated policy for the quality of the environment—a policy which will insure not only cleaner water, cleaner air, and freedom from solid wastes, but will provide future generations of Americans with the type of environment necessary for good health and well-being.

Title II, entitled the "Environmental Quality Improvement Act of 1969," simply and succinctly states that:

> There is a national policy for the environment which provides for the enhancement of environmental quality.

We have come to the point where we can no longer ignore the consequences of our actions in the name of economy. Two hundred years ago, when our country was young and growing and the population was fairly well dispersed, we could afford to turn our backs on the impact of industrial pollution in favor of building our industrial might.

Today, we are more than 200 million and will be 320 million by the year 2000. Today, industries dot every shore; highways stretch endlessly across the continent; buildings rise where there was once only wilderness. Today, there is little of nature left, except in isolated patches of heretofore unwanted or undevelopable land.

With pollution at the crisis level—air and water pollution, noise pollution, thermal pollution—and space at a premium, it is high time that we squarely face the issue of environmental quality.

Title II of S. 7 intends that all Federal moneys spent on public works activities which affect the environment would be reviewed and found not to be detrimental to the environment. It would establish an Office of Environmental Quality within the Executive Office to assist and advise the President and to help coordinate Federal activities affecting the

environment.

There can be no question that this important first step must be taken in the direction of Federal coordination of activities involving our natural environment. We must pledge ourselves to the upgrading of the quality of life—all life—on this planet, now and in the future.

Senator JENNINGS RANDOLPH, chairman of the Committee on Public Works, and the distinguished junior Senator from Maine (Mr. MUSKIE), chairman of the Subcommittee on Air and Water Pollution, deserve the gratitude of all Americans for their outstanding leadership and hard work in formulating the pending bill which is a powerful vehicle for the attack against environmental degradation. I urge its enactment.

AMENDMENTS NOS. 226 AND 227

Mr. AIKEN. Mr. President, I submit two amendments, which I ask to have printed and lie on the table. I hope the chairman of the Public Works Committee and the chairman of the subcommittee handling the bill will see fit to accept these amendments, but if they do not, I shall endeavor to offer and explain them later. At this time I simply submit them.

The PRESIDING OFFICER. The amendments will be received and printed, and will lie on the table.

Mr. MUSKIE. Mr. President, I yield to the distinguished Senator from Florida (Mr. GURNEY), or if the Senator wishes to have the floor in his own right, I yield the floor to him.

Mr. GURNEY. I wanted to make general remarks on the bill. Did the Senator wish to comment on the amendments just submitted?

Mr. MUSKIE. Not at this time.

Mr. GURNEY. Mr. President, I strongly support passage of S. 7. This legislation is a very thorough and comprehensive effort on the part of the Senate Public Works Committee to provide meaningful and effective methods for combating water pollution problems.

Several of my colleagues, especially those who have worked most carefully on the legislation, have already presented the statements on some sections of the bill, describing them in detail. I will make only a few remarks at this time.

Certainly, one of the most controversial areas is that of pollution caused by oil spills, and the process of creating some liability guidelines in this area. As the vessel traffic and volumes of oil increase, this naturally enhances the risk of major oil spills in our waters.

The Public Works Committee, after long discussion and thorough consideration, provided for centralized authority for cleanup and spelled out very specifically financial responsibility in the case of oil spills. Certainly, this part of the bill constitutes major new legislation. It will be landmark law making.

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The problem of water pollution has grown to such magnitude that it is imperative for the Congress to enact effective legislation, and certainly the time for S. 7 has indeed arrived.

In spite of the amounts we are spending for pollution—and we have committed large amounts in recent years in the Congress—it appears that the Federal Government itself has been lax in enforcing compliance with water quality standards. The Government has been charged with a leadership role in combating pollution, and has required communities and private industry to make large investments in sewage treatment facilities. Ironically enough, many Federal agencies have made only token efforts in this area.

In my own State of Florida, there are 187 military installations alone. In addition, the Atomic Energy Commission and, of course, NASA have large facilities there. Bearing this in mind, it is not hard to arrive at the conclusion that Florida could certainly suffer from Federal pollution. Other States are in similar circumstances. Certainly, the Federal Government must be willing to share its responsibility for those activities.

I feel we must require that activities over which the Federal Government has direct control be conducted in a manner to assure compliance with applicable water quality standards.

Mr. President, one thing that I would particularly like to call to the attention of my colleagues is the matter of clean lakes, and the necessity of cleaning them up and correcting pollution in that area.

There are over 7,700 lakes in the State of Florida. My native State of Maine, the State from which Senator MUSKIE comes, has about 10,000 lakes.

In Florida many of those lakes have been slowly choked to death by aquatic weeds. Those of you from Louisiana, Alabama, Hawaii, and New York will be especially familiar with this problem. Other States are faced with this problem also.

Several of my colleagues in the House joined me in a bipartisan effort last year to control and eradicate these obnoxious weeds. The main thrust of the legislation was to get some coordination in the field of aquatic weed research so we could expand effective control programs.

During my research on the bill, I found that over 39 different agencies were involved in lake pollution efforts in the State of Florida. It occurred to me that interagency rivalry, lack of authority, and just plain lack of interest in some cases was evident. Needless to say, with a system of centralized control, coordination, and concentration of effort, we could do a better job. That is what my bill sought to do. I was not able to get it passed.

But one thing S. 7 does is provide for a means to concentrate presently scattered efforts into a coordinated attack on lake pollution The bill creates a Federal Water Pollution Control Administration in the Department of the Interior. This new administration will be charged with centralizing and coordinating the now scattered efforts at weed control Certainly, this is a major step forward, long overdue, and ought to make a major contribution to water pollution control, at least as far as lakes are concerned.

The problems caused by lake pollution are becoming of such a magnitude that the matter is creating an emergency situation in our waterways, lakes, and streams. In Florida again—and this is true of many other States—water intakes of all sorts of systems are becoming clogged because of the weed problem alone. Dangers of flooding are imminent because runoff water cannot escape. Boats cannot be used in my home city of Winter Park, Fla. We have a system of five lakes that are connected with canals. It is one of the greatest resources we have as far as recreation is concerned. Within the past 2 years, at one time or another, one or two, and sometimes more, of the lakes have been completely closed to boating and water skiing because of the aquatic weed problem.

This bill provides a major step forward to do something about the problem. I think the coordination of the effort and the concentration of money, rather than scattering it out among 39 different agencies, is one of the major factors in getting ahead with the problem.

There are many good features in the bill, as the Senator from Maine, the chairman, the Senator from West Virginia, and the ranking member of the committee have explained to the committee. I hope we will achieve general support in the Senate today or tomorrow, when we vote on this measure, for S. 7 is a major landmark bill in the area of helping solve our great water pollution problem.

Mr. MUSKIE. Mr. President, I wish to express my appreciation to the distinguished Senator from Florida for his very active interest and participation in the development of S. 7. His participation in both the hearings and the markup sessions was conscientious and constructive, and extremely useful to all of us.

Mr. GURNEY. I thank the Senator.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the Senator from Alaska.

Mr. STEVENS. It is my understanding that the committee has a committee substitute for S. 7, and it is my further understanding, from the Parliamentarian, that I should offer the amendment that the Senator from Massachusetts and I have left at the desk before the Senator makes a motion to adopt that substitute.

Will the Senator tell me when he anticipates making that motion?

Mr. MUSKIE. Not until every Senator who has an amendment has had an opportunity to offer it. I will go out of my way to make sure that no Senator is denied such opportunity.

Mr. STEVENS. I thank the Senator. I want him to know that I have listened to his address today, and I think he has done a yeoman's task in this field. I happen to come from a State that has no problems with water or air pollution except in one small area. We are however, trying to do everything possible to help the rest of the Nation get back to the pristine quality of environment we have thus far been able to maintain.

Mr. MUSKIE. With reference to the Senator's amendment, perhaps I have slipped in not focusing more on that problem. I was not aware that I had, but in any case, I shall do everything I can to help the Senator solve his problem.

Mr. STEVENS. I thank the Senator for that comment.

I point out that the problem of pollution we are dealing with is a problem involving some 178 villages located on rivers. Because of pollution, as you go up the river, the death rate goes down. This is an area where one-fifth of the children die in their first year, and the reason that they die, we now know, is strictly bad water. It is pollution. There are no sanitation facilities, there is no running water, there are no sewers. Only 8 percent of the homes even have inside toilets. Less than 8 percent have running water.

What we are dealing with is the most basic problem of pollution, and that is clean water for the purpose of preserving human life. I think the major part of this bill deals with the esthetic portion of the pollution problem, the problem of how to restore clean rivers and lakes, which is what the Senator from Florida has been talking about.

But we are talking about fighting pollution in the sense of trying to preserve life and give these native children a better chance. It is my hope that the Senator from Maine would not look at this matter casually, when one-fifth of the children die in their first year and their parents have an estimated expectancy of only 34 years, because of the same problem of persistent pollution.

We have done everything we can, and this is a crash program that the Senator from Massachusetts and I tried to devise after our return from the Arctic last spring. I invite the attention of the Senate to this phase of the problem again, before the Senate votes tomorrow.

Mr. MUSKIE. I understand, and I thank the Senator from Alaska.

I yield now to the Senator from Kentucky; and I use this opportunity to thank him for the marvelous cooperation he has given us over the years.

Mr. COOPER. I thank the Senator.

Mr. President, this subject has been discussed very fully and comprehensively by the Senator from Maine, the Senator from Delaware (Mr. BOGGS), and others, I shall dwell on only a few aspects of the legislation.

I should like at this point to say something about the work of the Senate Public Works Committee. I have served on the Committee on Public Works continuously since 1957. Prior to that time, when I spent 2 years in the Senate in 1947 and 1948, I was a member of the Committee on Public Works. In times past, our subjects were matters under the jurisdiction of the Corps of Engineers, which is very important in dealing with flood control, navigation and water supply; the Federal-aid highway system —which is also of vital importance to the country—and public buildings. Later,

we added responsibility in connection with large watershed projects.

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In the last 8 or 10 years, as the country has become aware—and it is sad that it has been such a short time ago—of this problem of pollution and its effect upon the environment, the Senate Committee on Public Works has assumed an entirely new significance and undertaken to deal with new environmental problems of the greatest importance.

Largely due to the initiative of the Senator from Maine (Mr. MUSKIE), this committee has been developing programs for the prevention of water pollution, air pollution, solid waste pollution. Most recently we have considered the special problem of oil spillages, not a new field in the sense that it is an aspect of the pollution problem, but a very difficult topic for legislation and one which has caused long study by the committee.

So I express, without any reservation whatever, my appreciation and that which I think the country owes to the Senator from Maine, who serves as chairman of the subcommittee, and his coworker, the Senator from Delaware (Mr. BOGGS), along with the guidance and help of the chairman, the Senator from West Virginia (Mr. RANDOLPH). I pay tribute also to all the members of the committee. I am particularly proud, upon the minority side, to have noted among those who have worked hard on this bill the Senator from Delaware, to whom I have referred, the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), the Senator from Florida (Mr. GURNEY), and the Senator from Oregon (Mr. PACKWOOD), who, although new members, have been assiduous in their efforts.

In our executive meetings—I believe we had 12, as well as many informal conferences—it was challenging and very helpful that we had a full attendance of the committee membership practically all the time. Everyone was interested, and everyone contributed to the writing of the bill, including the new members of the Senate. While I have not mentioned those on the majority side, I am sure that the Senator from Maine (Mr. MUSKIE) has given them his praise, and I join with him in his accolades—or, as a fellow I talked with the other day said, he was very happy to hear I had an "allocade" for him.

I shall discuss the matter very briefly. S. 7 represents an important step in response to the public's demand that the degradation of our environment be halted and its quality enhanced. S. 7 is a comprehensive bill with provisions dealing with a wide range of difficult water pollution problems. Its provisions relate to nearly every aspect of the water environment and will affect nearly every major industry of our country. In addition to the water quality provisions, S. 7 incorporates in title II a timely contribution to the broad issue of the Federal Government's response to the quest for environmental quality.

The impact of Federal activities is clearly great, especially in the area of public works, and over the years many statutes, agencies, policies, and procedures have been created that, if not running counter to the objective of environmental quality are at least inadequate to meet the challenges that face our environment. Title II will go a long way toward resolving this paradox, and along with other legislation before Congress offers a program to update Federal performance. Such an effort would have great effect beyond the Federal performance and hopefully be duplicated throughout State and local governments as well as the private sector.

S. 7 is extremely important legislation. It is legislation on which the Committee on Public Works, in 1969 alone, held some 13 days of public hearings. These hearings were followed by more than 20 markup executive sessions; the bill has been thoroughly considered, thoughtfully drafted, and has been reported unanimously. In 1968 the Senate and the House each passed a water pollution

measure, however, agreement in conference was not obtained and the adjournment of the 90th Congress required that we begin the legislative process once again in the 91st Congress.

The vessel pollution provisions of S. 7 are basically the same as those designed to combat the problem of the discharge of sewage from all types of watercraft contained in the 1968 bill.

I am sure that the Senator from Maine has pointed out that, with respect to the equipment which is required to be installed upon watercraft, the Federal Government preempts authority to regulate the design, manufacture, installation, and use of marine sanitation devices. However, certain matters should be discussed, particularly the matter of Federal preemption.

Because many waters are navigable in nature, and therefore, cross State lines and because watercraft are easily transported for use in many States, it is essential that the boatowner or the vessel-owner and the equipment installed on his boat or vessel satisfy uniform requirements and regulations. This, of course, can be achieved through Federal regulations. S. 7 provides that only the Federal Government can adopt and enforce regulations with respect to the design, manufacture, installations, or use of any marine sanitation device in connection with any boat or vessel subject to the provisions of S. 7.

There remains, however, a substantial and vital interest of each State in certain local characteristics of the waters under the jurisdiction of that State. Only a State is in a position to know its waters so well as to know where water supply intakes, bathing beaches, oyster beds, or other use of waters demand high purity and consequently, only States are in a position to permit the discharge of sewage into these waters. Consequently, the bill, S. 7 makes provision that the States retain authority to prohibit absolutely, and only prohibit absolutely, the discharge of sewage, treated or not, in any waters within such State but only where implementation of applicable water quality standards requires such prohibition. Certainly States cannot act arbitrarily or capriciously. In addition the States have a distinct duty to encourage the development of vessel sewage equipment service facilities; a suitable and effective way of communicating to the boating public the exact areas subject to such a prohibition; and, of course, suitable public participation in the establishment of any prohibited zones.

The committee received much citizen reaction on this provision, and it is carefully drawn to make it clear under what situations the States can act. It is not anticipated that this provision will bring undue hardship to any boat or vessel owner and will result in those regulations which are necessary to achieve, in fact, water quality.

The *Torrey Canyon, Ocean Eagle,* Santa Barbara, and most recently the Buzzards Bay oil pollution have caused great damage and have aroused great concern among the public. It is clear that the tremendous increase in the transport of oil, has given rise to the almost certainty that oil will be discharged into the waters of the United States. We must, therefore, take every precaution to see that the public's interest in these waters and the adjacent shores is protected and damage minimized, and at the least direct expense to the public.

The problem is complex, it involves vessels, it involves onshore facilities, and of course it involves offshore facilities. The writing of provisions to deal with these potential threats has been extremely difficult and one on which the committee labored long.

I suppose that one of the most complicated and controversial questions was that of fixing a measure of liability for the cost of removal of oil discharges. In order for legislation to be responsive, it is necessary that it be clear, not complicated, applied equally to all and in all situations, and most importantly, en-

forceable. It is submitted that the framework adopted by the bill in imposing liability for removal costs meets this standard. Since this is indeed national legislation it is imperative that the standard of liability be a uniform standard. This can only be achieved if, to the fullest extent possible, the common law standard of negligence is avoided. If negligence were to have been the principal test, every discharge of oil would require that the Federal district court, in an action by the United States to recover costs, would be forced to refer to the relevant State law for a determination of negligence. It is likely that many different standards of liability would ensue.

To avoid this the committee adopted a framework of liability that begins with absolute liability; that is, liability without reference to fault, and then provides exceptions to this standard; the exceptions being where the owner or operator can prove either the discharge was caused solely by, first, an act of God; second, an act of war; and third, or an act of a third party, and in the case of vessels, negligence on the part of the U.S. Government. Although this liability has been called absolute, it is not, and the exceptions bring it very close, if not equivalent, to the standard that can be referred to as strict liability which is the standard that the international community is likely to adopt in the International Convention dealing with the discharge of oil. In testimony before the

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committee, the legal advisor of the Department of State testified that although the original position advocated by the United States at the international convention was absolute liability, the international community generally preferred a somewhat lesser standard which is referred to as strict liability that makes exceptions, as does the bill S. 7 to what otherwise would be considered absolute liability. It should be pointed out that the international convention when it is finally completed might include in its provisions liability for third party damages. On August 15, the United States notified the Intergovernmental Maritime Consultative Organization—IMCO:

> The United States continues in its preference for the strict liability provision set forth in alternative B.

I should like to quote the provisions of alternative B:

> 1. The owner shall be liable for any pollution damage caused by oil that has escaped or been discharged from his ship, except as provided in paragraphs 2 and 3 of this Article.
>
> 2. No liability shall attach to the owner with respect to pollution damage resulting directly from an act of war, hostilities, civil war, insurrection or a grave natural disaster of an exceptional character.
>
> 3. If the owner proves that the pollution damage resulted wholly or partially from an act or omission done with intent to cause damage by the person who suffered the damage, the owner shall be exonerated wholly or partially from his liability to such person.
>
> 4. No claim for compensation for pollution damage shall be made against the owner otherwise than in accordance with this Convention. No claim for pollution damage under this Convention or otherwise, may be made against the servants or agents of the owner.
>
> 5. Nothing in this Convention shall prejudice any right of recourse of the owner against third parties.

This is basically compatible with the liability provisions of S. 7.

The bill, S. 7, imposes liability only for the cost of removal of oil, should it be necessary, by the United States. The provisions of the bill further impose a dollar limit for the standard of liability that I have outlined. In accordance with general concepts of negligence, however, the bill goes on to provide that where the United States can show that a particular discharge was the result of negligence then there shall be no limit to the amount of liability and that such liability will extend to the full cost of removal to the United States. It should be noted that the testimony revealed no discharges in which the cost of cleanup have been as high as the dollar limits of the strict liability provisions. Testimony was also received that no spill requiring costs of cleanup in excess of those limits are anticipated. Therefore,

the unlimited liability provision, assuming negligence could be proved by the United States, is a highly unlikely eventuality and is included to cover those extreme events such as a negligent discharge, from perhaps a supertanker or a rupture in the proposed pipeline on the north slope of Alaska; hopefully these will never occur but this does not excuse the Government from advance preparation.

In order to impose on all vessels a uniform standard of liability, the bill requires that all vessels using the ports or waters of the United States must show evidence of financial responsibility to meet liability for the cost of removal to a limit of $100 per gross ton. The legislative record developed by the committee clearly indicates that the amount, $100 per ton, is insurable under this standard of liability and has, therefore, been chosen by the committee as a figure that will adequately protect the interests of the public.

It has been alleged that because the bill does not impose a dollar limit for negligent liability that it is uninsurable. This argument is misleading and does no justice to the carefully drawn framework of S. 7.

Under any standard of common law negligence, liability, upon proof of negligence is theoretically unlimited and is measured only by the amount of damage. Thus, each one of us is liable without limit for all damages caused as a result of the negligent act resulting in an automobile collision. Such theoretical liability is, of course, uninsurable. A continuation of this analogy is helpful. Many States require every automobile owner to obtain certain levels of insurance coverage; this is equivalent to the evidence of financial responsibility enclosed in the bill, S. 7. Should a citizen desire, he may negotiate with an auto insurance company for a higher level of coverage based upon anticipated risk and his willingness to pay.

It is anticipated that shipowners will engage in this same type of negotiation with the maritime insurance industry and arrive at a limit of insurability which will at least be $100 per gross ton as required by the bill, and may be higher based upon the anticipated risk and the vessel owner's willingness to pay. The bill, S. 7, does not, I repeat, does not require insurance to the full theoretical amount of liability for the cost of removal.

Of course, because of the great publicity involved in the Santa Barbara occurrence, much attention has been directed toward spillage at sea and in territorial waters. However, the bill also covers onshore facilities. We adapted to the provisions dealing with onshore facilities a formula to measure liability similar to that which was provided for spillage by vessels.

Since onshore facilities is a broad term and covers a wide range of operations, from small storage to large bulk storage, from marinas to large refineries, it was necessary to devise a formula which would base the limit of liability upon some measure of the risk, just as in the case of vessels and discharges from offshore facilities.

I suggested a formula which does not require any great originality. I was following the standard fixed for vessel spillages and suggested a formula that under the standard of strict liability, a dollar limit of liability was imposed of not to exceed $125 per ton of oil which such facility is capable of processing, transporting, transferring in any 24-hour period or storing in the largest unit of such onshore facility. The committee adopted this language unanimously.

In considering this legislation the committee was faced with a difficult problem of dealing with other substances whose discharge poses a threat to the water environment along with oil Testimony received was inadequate to enable the committee to impose the same framework developed for oil as does the House bill. Therefore, through the initiative of Senator DOLE, the bill proposes to treat hazardous substances separately in sec-

tion 13 and he is to be commended for his timely and important contribution. This section provides that the President shall designate hazardous substances which when discharged in any quantity in the navigable waters of the United States present a threat to public health and welfare.

The section also provides authority to the President to prepare regulations regarding the removal of such hazardous substances. Both in the designation and the promulgation of regulations the bill requires that the public, especially affected parties, be given full opportunity to participate. One critical problem faced in the discharge of any toxic material into water is notice to downstream water users. In both the oil and the hazardous substance sections, therefore, the bill requires that, upon discharge, the person in charge of a vessel or on- or offshore facilities shall immediately notify the United States. Failure to notify results in a criminal sanction. It is anticipated that under these two authorities, the United States will develop an efficient and wide-ranging network that will enable such information to be received and disseminated almost instantly. Such a system is clearly in the public interest.

Because the record did not support imposing liability for the cost of removal of hazardous substances, as it does in the case of oil, the Committee has authorized the President to submit a report to the Congress specifying what techniques are available for removal of hazardous substances and under what framework of liability costs could be recovered. This report is to be filed with the Congress by November 1, 1970. It is anticipated that this report will enable the Congress to effectively legislate to enable the recovery of the costs of removal of discharged hazardous substances.

There has been some misunderstanding of the kind of discharge to which section 13 would apply. It should be noted that this section does not attempt to alter the basic provisions of the Water Quality Act of 1965 providing for water quality standards and enforcement provisions for such standards. Section 13 is designed to respond to those situations where hazardous substances have been discharged suddenly and inadvertently into waters of the United States. This could be a ruptured pipline, an overturned truck, a leaking storage tank, or a vessel breaking up at sea. It should be emphasized that this matter does not grant to the Federal Government any authorities in excess of those granted in the Water Pollution Control Act of 1965 dealing with the abatement of continuous pollution from an industrial or other facility.

It is clear to those of us who sit on committees dealing with environmental

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matters that research simply does not exist in sufficient amounts to enable the development of programs, regulations, and procedures to remedy many forms of pollution. The research is not only lacking on the effects of these pollution problems; research does not even exist in sufficient quantities on the nature of the pollutant itself. S. 7 should go a long way to remedying the deficiency of knowledge that surrounds acid and mine drainage pollution that confronts many of our Appalachian communities and waterways. This is an urgent problem and I look forward to following the implementation of section 14 of this bill.

Another problem that none of us can be complacent with is the continuing and rapid deterioration of the Nation's Great Lakes. Special efforts are needed by all levels of Government to accomplish such remedial action as necessary to avoid irreversible deterioration of the water quality of the Great Lakes. Section 15 providing for demonstration projects to control pollution in the Great Lakes is designed as a limited step in that direction.

One of the paradoxes of our age is the fact that the Federal Government directly and indirectly contributes substantially to the degradation of the en-

vironment. Many Federal activities contribute directly to water pollution and these include such diverse activities as naval vessels discharging sewage and waste into the waters of the United States, dredging activities of the Corps of Engineers, and sewage and waste disposal from Federal facilities of all kinds. Indirectly, the Federal Government contributes to water pollution in its licensing activities over such things as nuclear power plants, hydroelectric power plants licensed by the Federal Power Commission and dredge and fill permits issued by the Army Corps of Engineers. S. 7 will require, without exception, that all Federal activities that have any effect on water quality be conducted so that water quality standards will be maintained. In the case of all Federal activities the bill declares a congressional mandate that these activities be conducted in compliance with water quality standards. This of course raises a problem of enforcement. However, if a Federal agency continues to pollute it would seem that private citizens affected by such pollution, and in a very real sense this would include each and every citizen, should be able to bring an abatement proceeding on their own behalf in a Federal court.

With respect to Federal licensing activity, the bill S. 7 requires that, as a part of the license activity, applicants must furnish certification from the State and affected States that the activity will comply with applicable water quality standards. During the course of consideration of the bill the committee was faced with difficult question regarding the application of this provision to dredging that demands further discussion analysis. Section 16 of the bill provides an integrated and comprehensive program designed to require compliance with applicable water quality standards in all Federal activity and federally licensed or permitted activity. While incorporating certain provisions necessary to provide for special characteristics of certain Federal licensing and permitting procedures, especially dredging, section 16 makes no exception for any licensed or permitted activity from its operative principle of State certification. Furthermore, section 16 is consistent with, and arises out of the policy of the 1965 act that the primary responsibility for controlling water pollution rests with the States. The committee has on innumerable occasions adhered to this principle and section 16 is another manifestation of it.

Under the Rivers and Harbors Act, 33 United States Code 403, no dredging or filling can be conducted in the navigable waters of the United States without a permit from the Corps of Engineers. This includes, inter alia, dredging for navigation purposes, sands and gravel exploitation and, real estate development.

Dredging for any of these purposes can and does affect water quality both in the active removal of spoil and in the open water disposal of dredge spoil. Both activities, it should be noted, in some circumstances, may be accomplished without any long-term degradation of water quality.

In drafting section 16 the committee has intensely studied its provisions vis-a-vis dredging and other federally-licensed or permitted activities. With respect to the special characteristics of dredging, the following steps have been incorporated into section 16.

First. The committee recognized that water quality standards considering temporary turbidity resulting from dredging operations involving otherwise nonpolluting spoil socially do not exist. Consequently, report language to accommodate this fact and give directions to the Secretary and to the States was prepared.

Second. The committee recognized that the disposal of dredged spoil, particularly from the contaminated sediments in major Great Lakes and marine ports, precludes dumping in open water if water quality standards are to be maintained. Consequently, alterna-

tive methods of spoil disposal must, in such cases, be adopted. Therefore, subsection (e) has been included in section 16 to make available to private dredgers, at a reasonable charge Federal spoil disposal areas.

Third. The committee has further recognized that the implementation of section 16 will cause an adjustment in practices followed in dredging and, of course, in all other activities conducted pursuant to a Federal license or permit. I suggested a "grace period" in which to develop new practices and procedures in order to achieve compliance with water quality standards in dredging operations. Consequently, paragraph (7) of subsection 16(c) provides that applications for Federal licenses or permits pending on the date of enactment is the Water Quality Improvement Act of 1969, which licenses and permits are issued within 1 year of such date, shall not require certification for 1 year following the date of such issuance. This provides, in effect, that a pending application could have from 1 to 2 years from the date of enactment before a certification of compliance would be required.

Fourth. The committee took the further step of providing that where there are no applicable water quality standards, in being or in preparation, no certification will be required. However, a Federal licensing or permitting agency, in such event, must impose, as a condition of any license or permit, a requirement that the licensee or permittee shall comply with the purposes of the act.

The Federal Water Pollution Control Act accomplished, for purposes relevant to understanding section 16, five things:

First, it states the policy of this Nation that there shall be enhancement of water quality;

Second, it declares that the primary responsibility to control water pollution rests with the States;

Third, it provides a factual test of maintenance and enhancement of water quality; that is, water quality standards;

Fourth, it provides that in the formation of water quality standards other policy interests must be considered;

Fifth, it provides that the court in reviewing alleged violations of standards, shall give consideration to "the practicability and to the physical and economic feasibility of complying with such standards." It should be noted that any court reviewing any challenged standards would look to this language as addition to 10(c)(3).

Consequently, there is built into the water pollution control procedure a system of checks and balances with two levels of objectivity: First, a measurable standard for determining compliance with water quality; and second a measure that can be challenged in a court of law to test whether the standards have been drawn consistent with the intent of Congress with regard to legitimate uses and feasibility. To make it absolutely clear that navigation is to be considered in the development of standards the committee adopted my amendment that inserts "navigation" into the factors to be considered in the development of standards under section 10(c)(3).

Testimony from all sources has revealed a great need for manpower and training to satisfy the technological demands required for pollution abatement. Senator SCOTT submitted an amendment that has been adopted by the committee and incorporated as section 17 to provide for a manpower training program designed to stimulate and develop professionalism, career achievement and satisfy the demand for servicing sewage and waste treatment facilities and operations. Without this kind of a program no amount of money or construction will be truly satisfactory for in the last analysis people are necessary to make programs and facilities operate efficiently. I look forward to the report that will be filed September 30, 1970, that will state future manpower needs and recommend improvements in training programs.

Lake eutrophication, a natural phenomenon, that has been greatly acceler-

ated by man's activity in a process that demands full understanding. If we are to remedy the eutrophication that is now occurring at an accelerated rate on all of our Nation's estimated 10,000 lakes. S. 7 authorizes research necessary to achieve such understanding.

The remaining sections of title I provide necessary research authority to the Secretary of the Interior. I have already dwelled on the essential nature of research to the overall environmental quality effort and I only say now that these provisions should be vigorously implemented by the agency.

The legislative record from all committees on both sides of Congress has given a wealth of information on the Federal Government, its organization and policies, as they relate to environmental quality. It is obvious there is extreme fragmentation, there is poor communication, there is, in fact contradictory authority. For instance, the Department of the Interior is charged with, and has an extensive program in wetland preservation. On the other hand the Department of Agriculture has a program, and expends large amounts of money, for wetland reclamation. These problems have historical components; they have bureaucratic components; they have interest group components, and many others that all combine to make the Federal response to environmental quality one of the most complex problems facing this Congress.

The Committee on Public Works has held hearings on many aspects of environmental quality. It has had testimony from many agencies of government concerning their policies, procedures, and activities. Other committees such as the Committee on Interior and Insular Affairs has received similar testimony, the Committee on Commerce, the Committee on Labor and Public Welfare as well. On the House side the Committee on Merchant Marine and Fisheries, the Committee on Science and Astronautics, the Committee on Government Operations, have all received testimony indicating the depth of this problem.

From all of this testimony, a synthesis or integration can be made and an attempt begun that will enable us to reverse the trend of fragmentation, of overlap, of poor information exchange that now prevails. Title II of S. 7 represents one attempt to learn from all of the experience that is now available to us. It provides that there shall be established in the executive branch in the Office of the Presidency an Office of Environmental Quality. This Office is charged with reviewing the Federal operation and making recommendations to the President to implement through his Council of Environmental Quality, a Cabinet-level action organization designed to implement Presidential decisions and policy.

It is absolutely essential that we avoid placing this kind of responsibility in an agency or office of historical orientation and personnel staffing that would preclude it from operating efficiently in this area. It requires an office in the Executive Office of the President because the problems are found in all agencies and in all departments, therefore, only with the perspective of the Office of the Presidency will it be possible to make the necessary overview and analysis and the proper recommendations. It must be an office, too, that includes staffing of the character that will enable it to consider the broad and diverse issues involved in environmental quality.

These are simply not scientific matters, although there is a scientific component, they are not simply economic matters although there is an economic component, these are not simply fiscal matters although there is a fiscal component; rather these are problems that demand a new approach and orientation that can only be found from a new organization and cannot be found in any existing executive organization.

Many activities of the Federal establishment affecting environmental quality are under the jurisdiction of the

Committee on Public Works. These include the rivers and harbors activities of the Corps of Engineers, the Federal highway program, and of course much of the economic development programs. All of these programs must be reviewed for their effect on environmental quality. The Office of Environmental Quality should help perform that review. This does not, however, allow us to escape our responsibilities and I hope that taking the policy enunciated in title II the Committee on Public Works will begin to review the statutory base on which these operations are made, the policies and procedures that have been developed in implementing these statutes, and of course the end product of these activities. It is expected the Committee on Public Works will soon begin a review of all activities within its jurisdiction for an analysis of the effect the operations have for environmental quality.

It is submitted that this Office of Environmental Quality combined with the President's establishment of a Council on Environmental Quality represents a comprehensive program that will contribute to the development of a truly responsive Federal Government.

Mr. President, I close by saying that I echo what the distinguished Senator from Florida (Mr. GURNEY) has said—that this is a landmark bill.

Without a quality environment we will never succeed in developing a quality of life. It is a first priority of this Nation, we cannot escape it and we must face this responsibility. I would hope that all of my colleagues share my concern on these issues because the public demands it and the public deserves it. The matter of environmental quality goes to each individual, rich and poor, white and black. A deteriorating environment does not discriminate, it affects us all and makes all of those problems which we do face much more difficult. When viewed in this light it becomes urgent that we begin to restore the quality to our environment and we must begin now.

AMENDMENT NO. 178

Mr. TYDINGS. Mr. President, I call up my amendment No. 178.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TYDINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follow:

AMENDMENT NO. 178

On page 73, between lines 15 and 16, insert the following:

"SEC. 106. Subsection (c) of section 8 of the Federal Water Pollution Control Act is amended to read as follows:

"'(c) In determining the desirability of projects for treatment works and of approving Federal financial aid in connection therewith, consideration shall be given by the Secretary to the public benefits to be derived by the construction and the propriety of Federal aid in such construction, the relation of the ultimate cost of constructing and maintaining the works to the public interest and to the public necessity for the works, and the adequacy of the provisions made or proposed by the applicant for such Federal financial aid for assuring proper and efficient operation and maintenance of the treatment works after completion of the construction thereof. The sums appropriated pursuant to subsection (d) for each fiscal year ending on or before June 30, 1965, and the first $100,000,000 appropriated pursuant to subsection (d) for each fiscal year beginning on or after July 1, 1965, shall be allotted by the Secretary from time to time, in accordance with regulations, as follows: (1) 50 per centum of such sums in the ratio that the population of each State bears to the population of all the States, and (2) 50 per centum of such sums in the ratio that the quotient obtained by dividing the per capita income of the United States by the per capita income of each State bears to the sum of such quotients for all the States. All sums in excess of $100,000,000 and not in excess of $400,000,000 appropriated pursuant to subsection (d) for any fiscal year beginning after June 30, 1969, shall be allotted among the States eligible for reimbursement pursuant to the seventh and eighth sentences of this

subsection in the proportion that the amount each State is so eligible to receive on the first day of such fiscal year bears to the total such amounts on such day for all States, and such allotment shall not exceed the sum advanced and shall be available until the termination of six months following the fiscal year for which made only for the purpose of reimbursing such State pursuant to the seventh and eighth sentences of this subsection. All sums in excess of $400,000,000 appropriated pursuant to subsection (d) for each fiscal year ending after June 30, 1969, shall be allotted by the Secretary from time to time, in accordance with regulations, in the ratio that the population of each State bears to the population of all States. Sums allotted to a State under the three preceding sentences which are not obligated within six months following the end of the fiscal year for which they were allotted because of a lack of projects which have been approved by the State water pollution control agency under subsection (b)(1) of this section and certified as entitled to priority under subsection (b)(4) of this section, or for other reasons, shall be reallotted by the Secretary, on such basis as he determines to be reasonable and equitable and in accordance with regulations promulgated by him, to States having projects approved under this section for which grants have not been made for lack of funds: *Provided, however*, That whenever a State has funds subject to reallocation and the Secretary finds that the need for a project in a community in such State is due in part to any Federal institution or Federal construction activity, he may, prior to such reallocation, make an additional grant with

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respect to such project which will in his judgment reflect an equitable contribution for the need caused by such Federal institution or activity. Any sum made available to a State by reallotment under the preceding sentence shall be in addition to any funds otherwise allotted to such State under this Act. The allotments of a State under the second, fourth, and fifth sentences of this subsection shall be available, in accordance with the provisions of this section, for payments with respect to projects in such State which have been approved under this section, except that in the case of any project on which construction was initiated in such State after June 30, 1966, which was approved by the appropriate State water pollution control agency and which the Secretary finds meets the requirements of this section but was constructed without such assistance, such allotments for any fiscal year shall also be available, together with the allotments under the third sentence of this subsection, for payments in reimbursement of State or local funds used for such project to the extent that assistance could have been provided under this section if such project had been approved pursuant to this section and adequate funds had been available. In the case of any project on which construction was initiated in such State after June 30, 1966, and which was constructed with assistance pursuant to this section but the amount of such assistance was a lesser per centum of the cost of construction than was allowable pursuant to this section, such allotments shall also be available for payments in reimbursement of State or local funds used for such project to the extent that assistance could have been provided under this section if adequate funds had been available. Neither a finding by the Secretary that a project meets the requirements of this subsection, nor any other provision of this subsection, shall be construed to constitute a commitment or obligation of the United States to provide funds to make or pay any grant for such project. For purposes of this section, population shall be determined on the basis of the latest decennial census for which figures are available, as certified by the Secretary of Commerce, and per capita income for each State and for the United States shall be determined on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce.' "

On page 73, lines 16, 19, and 23, redesignate sections 106, 107, and 108 as sections 107, 108, and 109, respectively.

Mr. TYDINGS. Mr. President, the amendment is designed to provide urgently required financial relief to those States that have advanced the Federal share of construction costs for water quality treatment plants and have not yet received reimbursement from the Federal Government.

The amendment allocates up to $300 million from the annual appropriations to those States eligible for reimbursement.

This amount would be sufficient to repay the seven States that advanced the Federal share.

The principal method to restore the quality of our waters is by construction of water quality treatment facilities. This is an enormous task, because many plants are required throughout the Nation. Recognizing this, in 1966, Con-

gress passed the Clean Water Restoration Act authorizing $4.7 billion in grants over a period of 6 years to States with pollution programs for construction of such facilities.

To receive Federal assistance, States were required to have their own program. A Federal-State partnership was thus created to clean up our waters. Unfortunately, Federal funds were not forthcoming in the amount either anticipated or required. In fiscal year 1966, $150 million was authorized, $121 million was appropriated. In fiscal year 1967, $150 million was again authorized and this time actually appropriated. But in fiscal year 1968, $450 million was authorized and less than half, $203 million, appropriated. In fiscal year 1969, $700 million was authorized, only $214 appropriated. For fiscal year 1970, a full $1 billion has been authorized, yet the appropriation request of the administration is for only $214 million. Thus, there is a great gap between the authorizations and the monies actually spent or actually appropriated.

To illustrate this gap, Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table I have prepared entitled, "Gap in Funds for Construction of Water Quality Treatment Plants," as well as a chart entitled, "The Water Pollution Control Funding Gap," published in the September 1969 issue of Nation's Cities.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GAP IN FUNDS FOR CONSTRUCTION OF WATER QUALITY TREATMENT PLANTS

Fiscal year	Authorized	Appropriated
1961	$ 50,000,000	$ 46,000,000
1962	80,000,000	80,000,000
1963	90,000,000	90,000,000
1964	100,000,000	90,000,000
1965	100,000,000	93,000,000
1966	150,000,000	121,000,000
1967	150,000,000	150,000,000
1968	450,000,000	203,000,000
1969	700,000,000	214,000,000
1970	1,000,000,000	[1] 214,000,000
1971	1,250,000,000	.....
Total, including 1971	4,120,000,000	1,291,000,000
Total, excluding 1971	2,870,000,000	1,291,000,000

[1] Requested.

THE WATER POLLUTION CONTROL FUNDING GAP

AUTHORIZATIONS VERSUS ALLOCATIONS UNDER THE 1966 CLEAN WATERS RESTORATION ACT

[In millions]

States	1968		1969		1970		1968–70 Funding Gap Total [1]			
	Authorized	Allocated	Authorized	Allocated	Authorized	Allocated	Total dollars authorized	Total dollars allocated	Total dollars gap	Percent not funded
Total	$450.0	$203.0	$700.0	$214.0	$1,000.0	$214.0	$2,150.0	$631.0	$1,519.0	70.7
Alabama	8.4	4.1	12.9	4.1	18.3	4.1	39.6	12.3	27.3	68.9
Alaska	1.2	.9	1.5	.9	1.9	.9	4.6	2.7	1.9	41.3
Arizona	3.8	2.0	5.6	2.1	7.8	2.1	17.2	6.2	11.0	64.0
Arkansas	5.2	2.9	7.6	2.8	10.6	2.8	23.4	8.5	14.9	63.7
California	35.3	14.6	56.9	14.9	82.8	14.9	175.0	44.4	130.6	74.6
Colorado	4.7	2.4	7.1	2.4	10.0	2.4	21.8	7.2	14.6	67.0
Connecticut	6.2	2.9	9.7	2.9	13.9	2.9	29.8	8.7	21.1	70.8
Delaware	1.6	1.1	2.3	1.1	3.0	1.1	6.9	3.3	3.6	52.2
District of Columbia	2.3	1.3	3.3	1.3	4.6	1.3	10.2	3.9	6.3	61.8
Florida	11.8	5.3	18.6	5.4	26.8	5.4	57.2	16.1	41.1	71.9
Georgia	9.8	4.6	15.1	4.6	21.6	4.6	46.5	13.8	32.7	70.3
Hawaii	2.2	1.4	3.0	1.3	4.1	1.4	9.3	4.1	5.2	55.9
Idaho	2.5	[2].5	3.4	1.6	4.5	1.6	10.4	3.7	6.7	64.4
Illinois	22.9	9.6	36.7	9.8	53.4	9.8	113.0	29.2	83.8	74.2
Indiana	11.1	4.9	17.5	5.0	25.2	5.0	53.8	14.9	38.9	72.3
Iowa	6.9	3.3	10.7	3.3	15.3	3.3	32.9	9.9	23.0	69.9
Kansas	5.7	2.8	8.6	2.8	12.2	2.8	26.5	8.4	18.1	68.3
Kentucky	7.8	3.7	12.0	3.8	17.0	3.8	36.8	11.3	25.5	69.3
Louisiana	8.3	4.0	12.7	4.0	18.1	4.0	39.1	12.0	27.1	69.3
Maine	3.1	1.9	4.5	1.9	6.1	1.9	13.7	5.7	8.0	58.4
Maryland	7.5	3.5	11.8	3.6	17.0	3.6	36.3	10.7	25.6	70.5
Massachusetts	12.0	5.3	19.1	5.4	27.6	5.4	58.7	16.1	42.6	72.6
Michigan	18.0	7.7	28.7	7.8	41.6	7.8	88.3	23.3	65.0	73.6
Minnesota	8.4	3.9	13.1	3.9	18.7	3.9	40.2	11.7	28.5	70.9
Mississippi	6.2	3.4	9.2	3.4	12.8	3.4	28.2	10.2	18.0	63.8
Missouri	10.3	4.7	16.3	4.8	23.4	4.8	50.0	14.3	35.7	71.4

Montana	2.4	[2].7	3.3	1.5	4.5	1.5	10.2	3.7	6.5	63.7
Nebraska	4.0	2.2	5.9	2.1	8.2	2.1	18.1	6.4	11.7	64.6
Nevada	1.2	.9	1.7	.9	2.2	1.0	5.1	2.8	2.3	45.3
New Hampshire	2.2	1.4	3.0	1.4	4.0	1.4	9.2	4.2	5.0	54.2
New Jersey	14.0	6.1	22.4	6.2	32.4	6.2	68.8	18.5	50.3	73.1
New Mexico	3.1	[2].7	4.4	1.9	6.0	2.1	13.5	4.7	8.8	65.1

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New York	37.6	15.5	60.7	15.8	88.4	15.8	186.7	47.1	139.6	74.8
North Carolina	11.1	5.2	17.4	5.2	24.9	5.1	53.4	15.5	37.9	71.0
North Dakota	2.3	[2].3	3.3	1.6	4.3	1.6	9.9	3.5	6.4	64.6
Ohio	22.1	9.4	35.5	9.6	51.5	9.6	109.1	28.6	80.5	73.8
Oklahoma	6.1	3.1	9.3	3.1	13.2	3.1	28.6	9.3	19.3	67.5
Oregon	4.7	2.4	7.1	2.4	10.1	2.4	21.9	7.2	14.7	67.1
Pennsylvania	25.7	10.8	41.3	11.0	60.0	11.0	127.0	32.8	94.2	74.2
Rhode Island	2.7	1.6	3.9	1.6	5.3	1.6	11.9	4.8	7.1	59.7
South Carolina	6.5	3.4	9.7	3.4	13.7	3.3	29.9	10.1	19.8	66.2
South Dakota	2.5	[2].3	3.5	1.7	4.6	1.8	10.6	3.8	6.8	64.2
Tennessee	9.0	4.3	13.9	4.3	19.8	4.3	42.7	12.9	29.8	69.8
Texas	22.0	9.4	35.2	9.6	51.0	9.6	108.2	28.6	79.6	73.6
Utah	2.9	[2].7	4.1	1.8	5.6	1.8	12.6	4.3	8.3	65.9
Vermont	1.8	1.4	2.4	1.3	3.0	1.3	7.2	4.0	3.2	44.4
Virginia	9.7	4.5	15.1	4.5	21.7	4.5	46.5	13.5	33.0	71.0
Washington	7.0	3.3	11.0	3.3	15.7	3.3	33.7	9.9	23.8	70.6
West Virginia	5.2	2.7	7.8	2.8	10.8	2.8	23.8	8.3	15.5	65.1
Wisconsin	9.5	4.4	15.0	4.4	21.5	4.4	46.0	13.2	32.8	71.3
Wyoming	1.5	[2].005	2.1	1.2	2.6	1.2	6.2	2.4	3.8	61.3
Guam	1.6	[2].8	1.6	1.5	1.7	1.4	4.9	3.7	1.2	24.5
Puerto Rico	6.6	3.5	9.8	3.5	13.7	3.5	30.1	10.5	19.6	65.1
Virgin Islands	1.5	1.5	1.5	1.4	1.6	1.4	4.6	4.3	.3	6.5

[1] 1970 appropriations still pending.

[2] Actual amounts used by these 8 States although they were entitled to use more. Unused amount totaling $8,300,000 from these 8 reallocated to other States.

Source: Federal Water Pollution Control Administration.

Mr. TYDINGS. The result of this gap has been a severe setback for pollution control.

Congress did recognize, however, at the time the bill was written and passed, that immediate appropriation of all construction grant funds was not likely and that several States, New York and Maryland, to name just two, were prepared to move ahead on their own more rapidly than the availability of Federal funds. These States recognized the danger to our environment of water pollution and had set aside, or were prepared to set aside, money to help abate it. Yet they were understandably reluctant to forge ahead without sufficient Federal assistance if other States, by waiting until both the scale of authorizations and level of actual funding increased, would receive greater financial support.

These States would then have been penalized for being progressive.

Congress therefore included in the 1966 act a provision permitting Federal reimbursement of those projects, approved by both the State water pollution agency and the Secretary of the Interior, for which the States had advanced the Federal share of project cost. In their partnership with the Federal Government, several States prefinanced the Federal share so as not to lose momentum and time in the task of cleaning up the waters.

They did so, of course, with the understanding and belief that the Federal Government would honor the partnership, live up to the bargain, and repay the amounts advanced.

The Federal Government has not done so. Reimbursables, in the sum of nearly $300 million, have not been forthcoming to those States which have moved ahead in cleaning up their waters.

The inevitable result has been financial trouble for those States which have shown initiative and progress. They have not been repaid, and their water pollution programs are thereby in jeopardy.

The States affected are Connecticut, owed $60,900,000; New York, owed $150,315,000; Maine, owed $3,500,000; Massachusetts, due $8,500,000; Vermont, due $677,000; Pennsylvania, $16,095,000; and Maryland, owed $52,957,000.

The Federal Government owes these seven States a total of $292,944,000.

It is ironic that in a time when we increasingly emphasize the need to revitalize State and local governments, we are penalizing the very States we should be rewarding.

In a time when there is much talk about revitalizing State government, we have before us an example of seven States which acted on their own, with their own money, to meet head on a major problem. They are now being rewarded with sympathy rather than the money they deserve.

These seven States should be paid back. Fair play demands it.

My amendment, if adopted, would do it.

It provides for an allotment of up to $300 million to States eligible for reimbursement. It states that funds appropriated for construction of water quality treatment plants, in excess of $100 million and not more than $400 million, shall be allotted to States which prefinanced the Federal share.

Section 8 of the Federal Water Pollution Control Act deals with construction grants. Subsection (d) provides the authorizations for grants till fiscal year 1971. Subsection (c) determines how funds appropriated will be distributed. It also includes the reimbursement provision and is the section of the act I seek to amend.

Essentially, three patterns or bases of distribution are apparent in 8(c). The first is population. Of the sums appropriated, the first $50 million and all funds in excess of $100 million are distributed on the basis of population of the State. The specific basis is "the ratio that the population of each State bears to the population of all the States." The second pattern is per capita income. Of the first $100 million appropriated, the

second $50 million is distributed "in the ratio that the quotient obtained by dividing the per capita income of each State bears to the sum of such quotients for all the States." What this means, in simple language, is that the poorer State gets a little better break. The third pattern of distribution is what I shall call, for lack of a better term, Federal involvement. There is a provision in 8(c) which provides additional funds for a State whose pollution problem is heightened by the presence of Federal installations or construction activities.

In a sense there is another pattern, found in 8(d). There, a provision states that of the first $100 million appropriated for water pollution construction grants, at least half shall go to municipalities with populations of 125,0000 or under.

This amendment eliminates none of these patterns of distribution. Funds appropriated would still be allocated on the basis of population, per capita income, Federal involvement, and the size of municipality.

What it does is to add another pattern. Funds appropriated would also be distributed on the basis of the amount of the Federal share a State has advanced in anticipation of reimbursement.

The amendment provides that the second, third, and fourth hundred million dollars appropriated, thus a sum of up to $300 million, shall be allotted to States eligible for reimbursement from the Federal Government. The specific basis for distribution of these money—whether it be $300 million, $200 million, or $100 million—is the ratio that the amount each State has prefinanced bears to the total amount of prefinancing done by all the States.

For example, if a State has prefinanced X and the sum total of all the prefinancing is Y, then the amount the State receives under my amendment is Xk/Y, where k is the money appropriated and allocated by this amendment. In no case, however, could this be over $300 million. It might be less, depending on the 8(d) appropriation.

To make it clearer, I have prepared a small chart entitled "Allocations of Reimbursement Funds Under Proposed

[p. 28974]

Tydings Amendment, Revised," and I ask unanimous consent that it be printed in the RECORD at the conclusion of my prepared statement. The table shows how my amendment would work.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TYDINGS. Mr. President, looking at it, we see that Maine has prefinanced $3.5 million for water pollution control. This represents the Federal portion of Maine's program which the State has advanced on her own. It is the amount she is eligible for reimbursement. It represents 1.19 percent of the $292,944,000 total prefinanced by the seven States.

Under my amendment, which allocates "all sums in excess of $100,000,000 and not in excess of $400,000,000 appropriated *pursuant to subsection (d),*" Maine would receive $3,700,000 if the appropriation were $400 million or more. If this were the case $300 million would be allotted for reimbursement. Maine's program would be paid for. If it were less, the amount would be reduced proportionately.

The chart indicates that under the maximum amount permitted by the amendment, $300 million—which will be available as long as the 8(d) appropriation exceeds $400 million—the seven States would be allotted funds a little over the amount they actually prefinanced.

The purpose of my amendment is to ensure the Federal Government pay what it owes to these States. It is not to get them additional funds above and beyond what they prefinanced. Thus there is language in the amendment which says that any reimbursement "shall not exceed the sum advanced."

In cases where there are funds left

over, where the amendment allocates money that is not obligated, provision is made for these funds to be redistributed by the Secretary according to regulations he promulgates.

Maryland is another example of a State that would justify benefit from this amendment. Conscious of how important her water resources are, Maryland embarked on a major effort to restore their quality. The State has prefinanced 79 projects worth $52,957,000, a significant sum for a State the size of Maryland. Like the other six, she is waiting for the Federal Government to pay her back.

Should the section 8(d) appropriation be $300 million, the amendment would provide $200 million for reimbursement.

Maryland's percentage of total prefinancing is 18.08 percent. She would thus receive 18.08 percent of the funds available—$200 million—which is $36,160,000.

I wish to make it clear that the amendment does not affect the level of fiscal year 1970 appropriations for water quality treatment facilities. This is found in the public works appropriation bill which should come to the floor late in the session. My amendment affects title I of S. 7 which amends the Federal Water Pollution Control Act.

I am concerned, with this amendment, not with the level of appropriations but the distribution of whatever funds are appropriated.

The present appropriation request is $214 million. This is clearly inadequate as the Citizens Crusade for Clean Water has pointed out. It is likely that the Senate committee will up the $214 million to $600 million. I hope they will. I would fully support such an increase and feel it is required if we are ever to clean up our waters and restore the quality of our environment.

The amendment thus does not alter the level of appropriations.

Neither does it eliminate the present distribution pattern of appropriated funds. Population, per capita income and size of municipality are allotted funds prior to the amendment's taking effect. So, in part, is population, although some funds for this pattern could be diverted for reimbursement. Yet with the expected $600 million appropriation there will be ample funds for both population and reimbursement patterns.

Nor does the amendment make forever permanent the section 8(c) distribution patterns; 8(d) authorizations expire at the end of fiscal year 1971. Renewal will require extensive hearings at which further consideration can be given to the prefinancing problem; 8(c) could be changed at this time. In the meantime, however, seven-State water pollution programs are in financial jeopardy. They should be reimbursed now, without having to wait any further.

They require and deserve immediate reimbursement.

Such repayment by the Federal Government is essential. Without it, the financial integrity and stability of these programs are threatened. The success and continuity of the national effort to clean our waters depend on our paying for the water treatment facilities we construct.

The amendment will help us pay what we owe, some $292,944,000. It will help restore the confidence of the States in the grant programs of the Federal Government. This confidence has been severely shaken by instances such as this where the Federal Government fails to reimburse and violates the State-Federal partnership.

By adopting the reimbursement provision, the United States placed its good faith and credit on the line. If the Federal Government fails to meet its end of the bargain, the States trust in Federal programs will erode even further.

As David Dominick, the present Commissioner of the Federal Water Pollution Control Administration has noted:

> It is most important that we make every effort in Washington to keep faith with the states that have already begun construction on their own.

The amendment will reward State initiative and provide an incentive for other States to move ahead.

Indeed, one of the original reasons for accepting the reimbursement provisions was the incentive it would offer States to finance water pollution programs prior to receiving Federal assistance. That it was successful is evident in a letter of May 17, 1968, which I received from James B. Coulter, then Maryland's Assistant Commissioner Environmental Health Services and now Deputy Secretary of Maryland's Department of Natural Resources. Mr. Coulter wrote:

> The provision for repayment of state funds advanced to cover deficiencies in federal grant offers has made it possible for us to arrange a financing scheme combining state and federal funds designed to eliminate our backlog needs for municipal sewage treatment plants by 1971.

Another advantage to the States was pointed out by the distinguished junior Senator from Maine, Senator MUSKIE, during the 1966 water pollution hearings. Senator MUSKIE noted that the reimbursement provision would actually save money. Said Senator MUSKIE:

> As a matter of fact, I think it is an economy provision, because if we can enable the States like New York, which are in a position to do so, to press ahead with construction early with this prefinancing measure, they will build plants at lower cost than those who have to build them later I think we will save money

State government must now play a greater role in our affairs. We have learned that the Federal Government cannot do everything. Yet State responsibility for water quality control has always been primary, as the act's declaration of policy specifically states. Some States have met this responsibility and require now only that the Federal Government keep its part of the bargain. My amendment will bring this about

It put the money where the action is

In determining which projects are to receive Federal assistance, the Secretary is required in section 8(c) to consider "the propriety of Federal aid." Surely there are no projects more deserving of such assistance than those whose Federal share of costs have been advanced by the States.

It should be noted that section 8(d) contains the statement:

> Neither a finding by the Secretary that a project meets the requirements of this subsection, nor any other provision of this subsection, shall be construed to constitute a commitment or obligation of the United States to provide funds to make or pay any grant for such project.

But with the acceptance of the reimbursement provision, a promise was undertaken and agreement made.

The term used in drafting the provision was "prefinancing." The use of the prefix indicates that the States were financing before the Federal Government paid its share, not instead of the share itself. Were that the case, there would be no need for a partnership.

Maine, Maryland and the other five States advanced the Federal share of projects costs; they did not assume the share.

The 1966 report on S. 2947—Report No. 1367, 89th Congress, second session, July 11, 1966—in its section on reimbursement speaks of a "prefinancing provision" that will provide the Federal share "as it becomes available." The sentence does not read, "if it becomes available." The presumption is that it will and that the States will be paid back. But they

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have not been. My amendment merely provides that they are and is consistent with the philosophy of the water pollution legislation.

The "certain risk" which the report says is assumed by States which prefinance refers to a delay in reimbursement, not to the issue of whether reimbursement takes place. It is a time risk rather than a payment risk.

Mr. President, I would like now to answer three criticisms which this amendment has received. The first con-

cerns the maximum amount available for reimbursement. The amendment provides up to $300 million for this purpose. It is argued that this is too much. Three hundred million dollars is half the expected fiscal year 1970 appropriation, and leaves 43 other States with practically nothing.

I would answer that the sum of $300 million was selected with great care, and for a simple reason. It is approximately what the Federal Government owes the seven States—the actual figure is $292,944,000. It is what they are due. It leaves, moreover, $300 million—assuming a $600 million appropriation—for normal distribution. This is above the $214 million fiscal year 1969 appropriation, above the administration's $214 million fiscal year 1970 budget request, and is a significant sum of money.

The second criticism involves those States that moved ahead in pollution control with their own money prior to the adoption of the reimbursement provision. To be consistent, should not they receive Federal assistance also? Have not these States shown real leadership in meeting their responsibilities? Do they not deserve to be rewarded?

The answer to the last question is no. These States, and I applaud their action indeed—Maryland is also one of them, in this case moved without advancing Federal funds and without anticipating reimbursement. The acceptance of the reimbursement provision constituted a new, distinct, and specific partnership between State and Federal Governments that came into being as soon as the act passed. Reimbursement is due only those States that acted within its framework. It is not due States that acted prior to the existence of the partnership. These States could not and did not expect reimbursement.

Finally, the last criticism involves the amendment's deletion of the provision limiting reimbursement only to July 1, 1971. The reasoning behind the inclusion of the expiration date was to avoid an open ended commitment and insure acceptance of the reimbursement provision by the Senate. But this expiration date has had an unfortunate effect. It has forced the seven States to conclude that quite possibly unless they are reimbursed before July 1, 1971, they may not be reimbursed at all. As can be imagined, this has caused them great concern. The deletion of this provision would be a sign to these States that the Federal Government in good faith intends to repay them, if only eventually. It would assuage their fears and restore some of their confidence in the reimbursement provision and in the Federal Government itself.

Mr. President, the seven States have waited long enough. It is high time they are reimbursed for the funds they advanced in order to have progressive, worthwhile water pollution control programs.

It is the purpose and effect of my amendment to provide these funds.

Mr. President, I ask unanimous consent that following the printing in the RECORD of the tables referred to in my speech, a fourth chart entitled "State Funds Advanced in Lieu of Federal Funds for Construction of Sewage Treat- my amendment be printed in the RECORD, This chart offers additional information about the prefinancing problem. I also ask unanimous consent that the text of my amendment be printed in the R53*84, as well as a letter to me from James B. Coulter dated June 18, 1969; a letter to me from Louis S. Clapper of the National Wildlife Federation dated September 9, 1969; the testimony of Maryland Gov. Marvin Mandel to the Appropriations Committee's Subcommittee on Public Works dated June 9, 1969; a resolution of the Maryland General Assembly's Legislative Council Committee on Intergovernmental Cooperation; a fifth chart entitled "Tentative State Allocations of Fiscal Year 1970 FWPCA Grant Funds Under Selected Levels of Appropriations" which indicate how different levels of section 8(d) funds would be distributed under present law without

my amendment; an excellent article by Raymond L. Bancroft, managing editor of Nation's Cities, in their September 1969 issue entitled, "Are the Cities Trapped in the Water Pollution Control Funding Gap?"; a letter to me from C. W. Metcalf, director municipal services for the New Hampshire Water Supply and Pollution Control Commission dated September 30, 1969; and a letter to me from J. W. Penfold, conservation director of the Izaak Walton League of America dated September 30, 1969.

There being no objection, the material was ordered to be printed in the RECORD, as follows.

STATE FUNDS ADVANCED IN LIEU OF FEDERAL FUNDS FOR CONSTRUCTION OF SEWAGE TREATMENT FACILITIES

States	Number of projects	Cost	Federal grant entitlement	Federal grants made	State funds advanced (eligible to be reimbursed)
Total	295	$948,787,000	$334,077,000	$41,133,000	$292,944,000
Connecticut	38	121,400,000	64,280,000	3,380,000	60,900,000
New York	70	548,000,000	165,823,000	15,508,000	150,315,000
Maine	7	11,700,000	6,300,000	2,800,000	3,500,000
Massachusetts	12	20,800,000	9,900,000	1,400,000	8,500,000
Vermont	3	2,400,000	1,287,000	610,000	677,000
Pennsylvania	86	125,493,000	27,063,000	10,968,000	16,095,000
Maryland	79	118,994,000	59,424,000	6,467,000	52,957,000

AMENDMENT No. 178

On page 73, between lines 15 and 16, insert the following:

"SEC. 106. Subsection (c) of section 8 of the Federal Water Pollution Control Act is amended to read as follows:

"'(c) In determining the desirability of projects for treatment works and of approving Federal financial aid in connection therewith, consideration shall be given by the Secretary to the public benefits to be derived by the construction and the propriety of Federal aid in such construction, the relation of the ultimate cost of constructing and maintaining the works to the public interest and to the public necessity for the works, and the adequacy of the provisions made or proposed by the applicant for such Federal financial aid for assuring proper and efficient operation and maintenance of the treatment works after completion of the construction thereof. The sums appropriated pursuant to subsection (d) for each fiscal year ending on or before June 30, 1965, and the first $100,000,000 appropriated pursuant to subsection (d) for each fiscal year beginning on or after July 1, 1965, shall be allotted by the Secretary from time to time, in accordance with regulations, as follows: (1) 50 per centum of such sums in the ratio that the population of each State bears to the population of all the States, and (2) 50 per centum of such sums in the ratio that the quotient obtained by dividing the per capita income of the United States by the per capita income of each State bears to the sum of such quotients for all the States. All sums in excess of $100,000,000 and not in excess of $400,000,000 appropriated pursuant to subsection (d) for any fiscal year beginning after June 30, 1969, shall be allotted among the States eligible for reimbursement pursuant to the seventh and eighth sentences of this subsection in the proportion that the amount each State is so eligible to receive on the first day of such fiscal year bears to the total such amounts on such days for all States, and such allotment shall not exceed the sum advanced and shall be available until the termination of the six months following the fiscal year for which made only for the purpose of reimbursing such State pursuant to the seventh and eighth sentences of this subsection. All sums in excess of $400,000,000 appropriated pursuant to subsection (d) for each fiscal year ending after June 30, 1969, shall be allotted by the Secretary from time to time, in accordance with regulations, in the ratio that the population of each State bears to the population of all States. Sums allotted to a State under the three preceding sentences which are not obligated within six months following the end of the fiscal year for which they were allotted because of a lack of projects which have been approved by the State water pollution control agency under subsection (b) (1) of this section and certified as entitled to priority under subsection (b) (4) of this section, or for other reasons, shall be reallotted by the Secretary, on such basis as he determines to be reasonable and equitable

and in accordance with regulations promulgated by him, to States having projects approved under this section for which grants have not been made for lack of funds: Provided, however, That whenever a State has funds subject to reallocation and the Secretary finds that the need for a project in a community in such State is due in part to any Federal institution or Federal construction activity, he may, prior to such reallocation, make an additional grant with respect to such project which will in his judgment reflect an equitable contribution for the need caused by each Federal institution or ac-

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tivity. Any sum made available to a State by reallotment under the preceding sentence shall be in addition to any funds otherwise allotted to such State under this Act. The allotments of a State under the second, fourth, and fifth sentences of this subsection shall be available, in accordance with the provisions of this section, for payments with respect to projects in such State which have been approved under this section, except that in the case of any project on which construction was initiated in such State after June 30, 1966, which was approved by the appropriate State water pollution control agency and which the Secretary finds meets the requirements of this section but was constructed without such assistance, such allotments for any fiscal year shall also be available, together with the allotments under the third sentence of this subsection, for payments in reimbursement of State or local funds used for such project to the extent that assistance could have been provised under this section if such project had been approved pursuant to this section and adequate funds had been available. In the case of any project on which construction was initiated in such State after June 30, 1966, and which was constructed with assistance pursuant to this section but the amount of such assistance was a lesser per centum of the cost of construction than was allowable pursuant to this section, such allotments shall also be available for payments in reimbursement of State or local funds used for such project to the extent that assistance could have been provided under this section if adequate funds had been available. Neither a finding by the Secretary that a project meets the requirements of this subsection, nor any other provision of this subsection, shall be construed to constitute a commitment or obligation of the United States to provide funds to make or pay any grant for such project. For purposes of this section, population shall be determined on the basis of the latest decennial census for which figures are available, as certified by the Secretary of Commerce, and per capita income for each State and for the United States shall be determined on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available for the Department of Commerce.' "

On page 73, lines 16, 19, and 23, redesignate sections 106, 107, and 108 as sections 107, 108, and 109, respectively.

JUNE 18, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senator,
Washington, D.C.

DEAR SENATOR TYDINGS: You hit the nail on the head in your letter of June 4, 1968 when you observed: "Leadership in water pollution control among the states should be rewarded, not penalized." I am sure that is not only your goal but that of our friends in the Federal Water Pollution Control Administration. However, even though I am certain no one intended to harm Maryland's program, two provisions of the Administration's bill, H R. 15907 and companion bill S. 3206, would hurt us badly. These are the proposals to do away with the reimbursement feature and the requirement that bonds sold to prefinance Federal grant offers be taxable.

I have been in touch with Congressman Fallon's office and he has been very helpful. Enclosed is a copy of a statement I prepared for the record at the request of Congressman Blatnik. Mr. Maurice Tobin in Congressman Blatnik's office talked with me as a result of my correspondence with Congressman Fallon. The statement contains a brief summary of the Federal-State-local program that is working so well for us and the difficulties we would encounter under H.R. 15907. However, I might be able to more precisely pin-point the exact problems in funding that we visualize.

First of all, Maryland is advancing the full amount of both Federal and State grants as sewage treatment plants are constructed. Therefore, there would be no reason for our communities to enter into the proposed contract arrangement with the Federal Government.

When the General Assembly considered prefinancing of Federal grants, the reimbursement provision added by Section 204, PL 89-753, the Water Quality Act of 1965, proved a powerful incentive. In 1967, the General Assembly authorized 50 million dollars and in this last session an additional 100 million dollars was added to a Sanitary Facilities Fund. When a Federal grant offer is made, money is made available from this fund to cover the outright State grant and any deficiency in the Federal offer. Should future Federal appropriations be sufficient to reimburse the money advanced, the reimbursement would go back into the Sanitary

Facilities Fund to be used to finance still more sewage treatment works. With only a moderate degree of optimism, we believed that the fund would insure catching up with backlog needs by 1971 and staying abreast of growth needs into the early 1980's

It was our hope that the reimbursement feature would be renewed when it expired in 1971 To terminate it on July 1, 1968, as proposed in the current amendments, would be a cruel blow to our program aspirations. I don't see how the State could continue to fund Federal grant offers if there was no statutory basis for hope that the money would be reimbursed. If we cut our rate of construction back to the present rate of Federal dollars allotted to Maryland, it would take 15 years to do what we now plan to do by 1971; i.e., bring all plants up to a level of secondary treatment with disinfection of all effluents by 1971.

We might be able to amend the State law (but that in itself would cause delay and introduce a large element of uncertainty) to take advantage of the contract arrangement whereby the Federal Government would pay principal and interest on bonds sold to finance the Federal share, but the proposed taxable requirement for bonds sold for that purpose rules it out. Our bonds are of the general revenue type retired from real estate taxes. A special issue is not sold to finance sewage treatment plant construction. Rather, from time to time as need dictates, the State borrows money through sale of bonds and distributes the proceeds to various capital improvement projects and funds such as the Sanitary Facilities Fund. Our estimated needs during a quarter, or some other period of time, are lumped with the needs of other activities and one sale of State bonds is made to cover all of the needs.

Assuming, but not conceding, that the taxable provision is justifiable and desirable, placing a Federal tax on general revenue bonds of the State would be objectionable if not downright unconstitutional. If someone wants to fight that issue, I wish they would choose something other than water pollution control works for the test case. Besides, the complications resulting from setting up special bond issues for this purpose, establishing the contracts, and keeping records on the status of repayment on myriads of grant offers would drastically worsen an already bad bookkeeping problem.

Please be assured that we are grateful for your assistance in this matter and your continuing support of Maryland's Environmental Health Program. If we can be of assistance in return, please do not hesitate to call on us.

Sincerely yours,

JAMES B COULTER,
Assistant Commissioner,
Environmental Health Services.

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., September 9, 1969.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: We have been interested in learning of your intention to propose an amendment to S 7, amending the Federal Water Pollution Control Act, and welcome an invitation to comment upon it.

As we understand it, your proposed amendment would provide that construction funds in excess of $100 million and up to $400 million would be allocated to those States which have pre-financed Federal contributions. In short, this amount (up to $300 million) would go to seven States.

The National Wildlife Federation has been gravely concerned about the failure of the Federal Government to live up to its commitments to the States in grants for the construction of municipal waste treatment plants. It is this reason, principally, that our organization has supported efforts of the "Citizens' Crusade for Clean Waters," asking the President to seek the full $1 billion authorized in construction grants. It naturally follows that in the most precarious financial conditions are those States which prefinanced grants on the assurance that the Federal share would be forthcoming. Therefore, we fully understand and appreciate your concern in this regard, and it is our opinion that the full $1 billion authorized should be appropriated in order that the Federal Government can meet all of its commitments. If this is done, the allocation of $300 million for priority treatment to those States which already have financed the Federal share would not appear to be unreasonable.

Sincerely,

LOUIS S. CLAPPER,
Conservation Director.

RESOLUTION

Resolution of the Legislative Council Committee on Intergovernmental Cooperation concerning appropriations to the states for Water Pollution Control Programs

Whereas, the Congress of the United States enacted a Water Pollution Control Act which became effective in 1957 for the purpose of encouraging and assisting the states in the development of facilities to carry out the intent of the Act; and

Whereas, the State of Maryland has vigorously cooperated in this program since its inception, having authorized bond issues between 1957 and 1968 totalling more than $176 million for this purpose; and

Whereas, the Federal Government has provided funds for the cost of qualifying projects in Maryland only to the extent of about

$21,500,000 as opposed to an amount of approximately $90 million more than the State would have received if adequate funds had been authorized and appropriated; and

Whereas, the amount authorized by Congress for Fiscal 1970 is $1 billion, while the administration budget provided for an appropriation of only $214 million—Maryland's share of which would be only approximately $3,550,000; and

Whereas, this State is still faced with a very great cost for facilities to eliminate water pollution; now, therefore, be it

Resolved that the Legislative Council Committee on Intergovernmental Cooperation of the Maryland General Assembly urges its Congressional Delegation to take whatever action may be necessary to increase the appropriation for the 1970 Fiscal Year to the full authorization; and to bring about a sufficient increase in future authorizations and appropriations of monies to fully implement the purposes of the Water Pollution Control Act; and be it further

Resolved, That copies of this Resolution be submitted to each Maryland Congressman and United States Senator.

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TENTATIVE STATE ALLOCATIONS OF FISCAL YEAR 1970 FWPCA GRANT FUNDS UNDER SELECTED LEVELS OF APPROPRIATION

Total	$214,000,000	$300,000,000	$600,000,000	$1,000,000,000
Alabama	4,135,700	5,681,300	11,072,900	18,261,700
Alaska	906,100	1,013,100	1,386,300	1,883,900
Arizona	2,125,400	2,741,500	4,890,700	7,756,300
Arkansas	2,835,800	3,681,000	6,629,000	10,559,900
California	14,882,600	22,318,800	48,258,800	82,845,600
Colorado	2,414,900	3,244,800	6,139,500	9,999,100
Connecticut	2,942,200	4,141,700	8,325,700	13,904,600
Delaware	1,100,300	1,311,500	2,047,900	3,029,900
District of Columbia	1,315,300	1,676,800	2,937,600	4,618,900
Florida	5,386,400	7,729,100	15,901,500	26,797,900
Georgia	4,589,000	6,454,600	12,962,500	21,639,600
Hawaii	1,355,700	1,655,000	2,699,400	4,091,800
Idaho	1,589,400	1,905,000	3,005,900	4,474,000
Illinois	9,784,300	14,553,900	31,192,300	53,376,700
Indiana	5,008,400	7,214,300	14,909,400	25,169,300
Iowa	3,311,000	4,615,600	9,166,700	15,234,600
Kansas	2,812,700	3,843,400	7,439,000	12,233,000
Kentucky	3,827,100	5,264,500	10,278,700	16,964,300
Louisiana	4,009,800	5,550,700	10,926,000	18,093,300
Maine	1,853,100	2,311,700	3,911,300	6,044,100
Maryland	3,552,100	5,019,100	10,136,500	16,959,700
Massachusetts	5,382,800	7,818,700	16,315,900	27,645,500
Michigan	7,809,500	11,510,900	24,422,500	41,638,100
Minnesota	3,919,100	5,534,200	11,168,600	18,681,000
Mississippi	3,350,200	4,380,800	7,975,600	12,768,900
Missouri	4,760,400	6,804,100	13,933,700	23,439,700
Montana	1,535,700	1,854,900	2,968,500	4,453,300
Nebraska	2,115,500	2,783,200	5,112,400	8,218,000
Nevada	959,600	1,094,500	1,565,300	2,192,800
New Hampshire	1,409,300	1,696,500	2,698,100	4,033,700
New Jersey	6,176,800	9,474,100	19,059,900	32,410,300
New Mexico	2,058,000	2,508,000	4,077,600	6,170,400
New York	15,832,500	23,772,500	51,470,200	88,400,700
North Carolina	5,050,800	7,206,300	14,725,900	24,751,900
North Dakota	1,583,900	1,883,100	2,926,700	4,318,300
Ohio	9,555,500	14,147,900	30,167,500	51,527,100
Oklahoma	3,086,900	4,188,400	8,031,200	13,154,700
Oregon	2,429,000	3,265,800	6,184,800	10,076,800
Pennsylvania	11,029,600	16,385,000	35,066,600	59,975,400
Rhode Island	1,568,500	1,975,100	3,393,500	5,284,700
South Carolina	3,342,700	4,470,000	8,402,400	13,645,600
South Dakota	1,777,400	2,099,400	3,222,600	4,720,200
Tennessee	4,314,600	6,002,300	11,889,500	19,739,100
Texas	9,592,800	14,125,200	29,935,800	51,016,600
Utah	1,780,700	2,202,100	3,672,100	5,632,100
Vermont	1,282,200	1,466,600	2,110,200	2,968,200
Virginia	4,510,200	6,387,100	12,934,300	21,663,900
Washington	3,327,200	4,677,100	9,386,300	15,665,000
West Virginia	2,796,100	3,676,300	6,746,700	10,840,700
Wisconsin	4,388,100	6,257,700	12,779,700	21,475,700
Wyoming	1,172,700	1,328,900	1,873,700	2,600,100
Guam	1,445,500	1,477,200	1,588,000	1,735,500
Puerto Rico	3,504,900	4,616,500	8,494,200	13,664,700
Virgin Islands	1,414,000	1,429,200	1,482,400	1,553,100

ARE THE CITIES TRAPPED IN THE WATER POLLUTION CONTROL FUNDING GAP?

(By Raymond L. Brancroft)

(The Gulf Between Congressional Authorizations and Appropriations Grows Wider Each Year as Cities Struggle to Meet Tougher Standards.)

Hopes were high back in 1966 when the Congress approved the Clean Waters Restoration Act. NATION'S CITIES called

it "one of the 89th Congress' most sweeping accomplishments."

And indeed it was. The act called for a steady and steep rise in federal assistance for sewage treatment facility construction—from $150 million in fiscal 1967 to $450 million in 1968, $700 million in 1969, $1 billion in 1970, and $1.25 billion in 1971. Financially hard-pressed cities and counties were enthusiastic about the prospects of really being able—with increased federal help—to meet the water quality standards then being drafted by state water agencies under the Water Quality Act of 1965.

While the lofty money authorization levels set in the 1966 act remain intact, however, the appropriations to match them have not been made by Congress. In fact, as the table on page 8 shows, the appropriations from fiscal year 1967 through 1970 (including $214 million asked for '70) totals $781 million, only a third of $2.3 *billion* authorized. Construction grant officials in the Federal Water Pollution Control Administration said in July that applications for non-existent funds continue to pile up. A total of 4,648 applications for construction grants are now languishing in FWPCA regional offices or in state water pollution bureaus.

The result of the lag in federal funds for wastewater construction projects naturally has "put the burden back on the localities" to pay for needed projects, says Robert Canham, acting executive secretary of the Water Pollution Control Federation, a national association representing both industry and government.

"This whole situation has tended to lead to a lack of confidence by local and state officials in what federal aid levels will be," Canham adds. "The states are recognizing the problem where it counts . . . through their taxpayers with the expectation of federal assistance later."

The fact that municipalities and states are taking up the slack in waste treatment facility building left by inadequate federal assistance is borne out in a new WPCF publication, *Water Pollution Control Facts*.

"The influence of the federal grants program for the construction of wastewater treatment facilities, even at its $214-million per year level, assures the proper encouragement of construction by municipalities," the report states. "Witness the 1968 increase over 1967; it showed a 20 per cent increase for a total of $1.35 billion, despite the fact that the level of federal grants funds did not increase. Fiscal 1970 continues at the $214 million level, the same as fiscal 1969. At least this will keep up the momentum."

Canham, however, wonders what will happen to the fight against water pollution when the 1966 act's current authorization expires in fiscal 1971, particularly if increased federal appropriations aren't forthcoming.

"The whole effort is bound to suffer," he says.

In advocating that Congress appropriate the full $1 billion authorized for fiscal 1970 construction grants, the National League of Cities has pointed out the bind in which many cities will find themselves if they cannot get federal assistance.

"Local improvements must be made since the act provides for enforcement through the courts," said NLC President C. Beverly Briley, Mayor of Nashville, in a letter to President Nixon urging his support of the full appropriation.

"Local units will be compelled to proceed with major improvements and expenditures whether or not the federal government meets its obligations. The sad product will be that cities will be forced to clean up the waterways but will do so at the expense of improving housing, education, and other critical local needs which draw upon the same resource base."

Already communities in Pennsylvania, Missouri, Florida, California, and New Jersey have faced state-imposed restrictions on future residential and commercial construction because of water pollution problems.

But many observers, including the NLC, feel it is unfair for cities to be forced to comply with water quality standards while many are not able to financially meet them because Congress has failed to appropriate funds already authorized.

Mayor Briley urged the Administration to either support efforts to get full appropriations or, if this is not possible, to modify the schedule of compliance to permit cities a longer period of time in which to meet water quality standards.

1968 MUNICIPAL WASTE INVENTORY [1]

Size of place 1960 census	Primary treatment			Secondary treatment			No treatment	
	Total plants	Communities identifiable	Population served	Total plants	Communities identifiable	Population served	Communities	Population served
Unknown	112	65	6,284,805	643	302	8,049,603	15	271,725
Under 500	261	239	587,361	1,231	1,117	1,820,942	252	79,640
500 to 1,000	355	338	249,101	1,422	1,334	1,322,214	333	228,444
1,000 to 2,500	623	550	980,302	2,160	1,945	3,422,129	491	685,556
2,500 to 5,000	368	318	1,110,813	1,329	1,103	4,325,341	215	704,898
5,000 to 10,000	279	239	2,532,269	961	781	5,763,512	143	1,649,878
10,000 to 25,000	242	211	3,453,900	771	519	8,875,655	82	1,354,855
25,000 to 50,000	106	83	3,063,100	258	166	6,588,635	25	839,075
50,000 to 100,000	48	41	3,374,220	158	74	6,192,422	14	1,071,710
100,000 to 250,000	35	18	3,419,215	97	39	6,604,168	8	1,224,070
250,000 to 500,000	17	9	3,307,525	76	10	4,200,285	2	858,905
Over 500,000	22	6	15,372,410	77	9	18,620,880	2	2,305,900
Totals	2,468	2,117	43,735,021	9,183	7,399	75,785,786	1,582	11,274,656

[1] Includes 1962 rather than 1968 conditions for the States of New York, New Jersey, Pennsylvania, Iowa, and Arkansas.

Source: "The Cost of Clean Water and Its Economic Impact," vol. 1, 1969 (preliminary data). Federal Water Pollution Control Administration.

The primary reason for lack of adequate federal financing of the 1966 Clean Waters Restoration Act is the same given for other domestic program appropriation lags: the Vietnam War. Under prodding from the budget cutters, the Administration has sent Congress an alternative plan for financing waste treatment plant construction. Under the plan, the Secretary of the Interior could enter into contracts up to 30 years in length with a local or state government to pay the federal share of the costs of treatment plants. This means larger bond issues would have to be floated and the locality or state would have to pick up the interest on the federal share. Federal payments to the state or local government would be made up to 30 years to cover that U.S. share. The National League of Cities and other groups representing local governments are opposed to the plan. "We think it stinks," said one NLC staffer.

As Joe G. Moore, Jr., the former commissioner of the Federal Water Pollution Control Administration, expressed it at a conference earlier this year:

"Congress . . . will again this year wrestle with the problem of how to provide additional funds for the construction of waste treatment facilities without appropriating money."

David D. Dominick, Moore's successor, expresses disappointment at the length of time it took to get the alternate financing proposal to Congress. But, he adds, "we must make the best of a tight budget situation because right now we are lagging in the fight for clean water."

[p. 28978]

Dominick's FWPCA is caught in the middle of the financing dilemma. It pushed hard for an appropriation of $600 million for construction grants in the proposed 1970 budget but the Bureau of the Budget chopped that request to $214 million, the same as that appropriated in 1969.

"It is most important that we make every effort in Washington to keep faith with the states that have already begun construction on their own," Dominick says. "We must keep faith with the municipalities which need additional financial assistance in order to meet the water quality standards to which they have agreed."

FWPCA officials in the field also feel the pinch of congressional promises in the light of funding realities. Richard A. Vanderhoof, director of FWPCA's Ohio Basin Region, notes the "clearly incompatible" nature of water quality standards and the funds available to meet them.

"We're making progress in water pollution control if everyone would stand still," Vanderhoof says. "But we must run faster. The combination of industrial growth and municipal growth almost puts us in a position of status quo, particularly with the level of funds we have available."

Although it is generally agreed that there is a whopping backlog of unmet sewage treatment needs in the U.S. (a 1967 FWPCA estimate put the total at $8 billion to provide secondary treatment for most of the urban population), the 1969 edition of FWPCA's

The Cost of Clean Water and Its Economic Impact comes up with a much smaller backlog estimate of less than $2 billion.

"Only a fault in basic assumptions or a significant change in circumstances can account for the variation found to exist between various estimates of the cost of water pollution and control," the agency report says

"It may be argued," the report continues, "that the concept underlying almost every cost estimate that has been made—that is, the idea of a fixed backlog—is no longer a valid assumption in light of the current status of waste treatment as reflected in the 1968 Municipal Waste Inventory.

"Water pollution is a process as well as a condition It is dynamic in its occurrence; fluctuating in its circumstances. So water pollution control must be flexible in its approaches; and time forms an essential element in estimates of its cost.

"This document [the report], then, views the municipal costs of water pollution control within a context of dynamism. It gropes with the question of determining an *appropriate rate of investment* rather than establishing a final cost of water pollution control. In substituting the dynamic view for the static one, it recognizes the disagreeable fact that pollution control will continue to require expenditures, that pollution cannot be ended by spending any single sum. It loses something in apparent precision. It is felt, however, that the view compensates for any lack of definition by bringing us closer to a manageable statement of real conditions

"The changed way of looking at things imposes a broader view and forces recognition of problems in relating federal programs to events in such a way that the programs will not be out of date or mis-scaled by the time they are initiated. While all the ramifications of the approach are not understood, analyses now being undertaken can be expected to yield some insights over the coming year. These may be useful in recasting legislation after the expiration of current authorization in fiscal year 1971."

The FWPCA report also points out that new treatment plant investments are fairly close to the estimated need for construction and that rates of investment for interceptors and outfalls are very close to the level of indicated requirement. "But sewer, replacement, and expansion shortcomings seem to be developing," it adds. "Since 1963 the construction of new waste treatment plants has been declining relative to the other major categories of investment that qualify for FWPCA construction grants—replacements, additions, and installation of interceptor sewers."

But the FWPCA notes that the decline in new treatment projects should not be a surprise. An "enormous number" of new plants —more than 7,500—have been built between 1952 and 1967 and the great majority of the population with sewers now receives some sort of waste treatment.

Since only four cities over 250,000 population (Honolulu, New Orleans, Memphis, and parts of New York City) remain available for *initial* waste treatment investments, the coming investment in new plants is concentrated in small towns. The FWPCA report says communities under 10,000 population now account for almost half of the dollar value of investment for new waste treatment plants, up from slightly more than a third during the 1952–55 period.

Estimates from the states in their program plans indicate that municipal waste handling investments over the 1969 through 1973 period will amount to about $6 billion, roughly equal to that spent over the past five years, the FWPCA report says. It is very likely that spending for upgrading, expansion, and replacement needs in 1969 will exceed the outlays for new plant investments. "There seem to be great expansion and replacement needs in cities of all sizes," the report notes.

Adding to this trend will be the need for advanced waste treatment to meet the stricter state water quality control standards. Tertiary or advanced waste treatment is a state goal for many Indiana communities by 1977, is contemplated for some Ohio towns, is being phased into the Chicago system, and is planned for part of Long Island. Construction costs zoom upward for advanced treatment facilities.

The need for advanced treatment, the increased emphasis on upgrading operational efficiency, and the need to raise operator wages will increase operating and maintenance costs of municipal waste treatment plants "very sharply in the immediate future," the FWPCA report notes. Already these operating and maintenance costs total $150 million to $200 million a year, a doubling in the last decade.

In summarizing its findings, the FWPCA concludes·

"It would appear, then, that there may be a substantial gap opening between the amount the nation expects to spend—as measured by state program plans and by the level of federal construction grant appropriations—and the amount that will be required to complete the connection of all sewered places to waste treatment plants and to expand, replace, and upgrade treatment where it now exists.

"The fact that the states as a group anticipate programs that will involve a level of spending very close to that of the last six years is a cause for major concern, despite the major accomplishments of the last six years.

"The findings of this report show that in-

vestment requirements imposed by new plant construction, expansion, replacement and upgrading of plants, accelerating acceptance of industrial wastes in the municipal plant, increasing levels of waste reduction being required, and the fact that a very significant portion of needed new investment occurs in precisely those places where cost experience in the past has been highest, will all result in pressing capital requirements upward significantly for many years."

ST JOSEPH, MO., FACES ITS FINANCIAL BIND

As an example of one city's efforts to meet its water pollution control responsibilities, here are excerpts from the testimony of Mayor Douglas A. Merrifield of St. Joseph, Mo. (pop 80,000), before the Public Works Subcommittee of the Senate Appropriations Committee June 9. He was speaking on behalf of the National League of Cities and U S. Conference of Mayors in support of full funding for fiscal 1970 of the $1 billion authorized for waste treatment project assistance.

"In the past few years, St. Joseph has placed in operation or put under construction nearly $7 million worth of water and sewer improvements. I am proud of this record, and believe it exemplary of the efforts of municipalities around the nation The city is currently pushing ahead on another $2,512,000 of construction. For this program we have been advised that a grant of $1,290,000 is approved as a reimbursable grant if waste treatment funds are appropriated In good faith, the city is underwriting this new construction and advising our citizens that the federal government, in due time, will reimburse us for a portion of the improvement costs St Joseph has planned another ambitious project, costing about $3 million, to complete its primary treatment program However, it will be very difficult for us to finance this project unless increased federal aid to provide the 50 per cent matching share is assured. . . .

"Municipal bond interest rates are now at an all time high. In 1961 St. Joseph issued local sewer bonds at a 2.98 per cent interest rate Today municipal water and sewer bonds are marketed at rates of 5 to 6 per cent and more This means that debt service charges for long term financing projects such as waste treatment facilities will often exceed principal payments over the life of the bond. Despite record high interest rates, municipal bonds are becoming more difficult to sell. Large commercial banks, the traditional purchasers of municipal bonds, cut their net holdings of municipal bonds by nearly $1 billion in the first quarter of 1969 although a record number of municipal bond issues were presented for sale. . . .

"For clean water programs of the future, even greater levels of financing will be needed But demands for more local action are simply not realistic unless federal support is increased. In St. Joseph we are told that programs of secondary sewage treatment must be operational by 1972. I do not believe we

[p. 28979]

can construct the $4 million facility required before 1974, and even that will be impossible unless federal aid is available for the full 50 per cent share.

"In the distant future, the Interior Department is calling for separation of storm and sanitary sewers Such a program could cost St Joseph another $13 to $15 million and is estimated to cost between $15 billion and $30 billion nationally. My citizens will never vote bonds for this unless there is assurance of massive federal and state grants to back the local effort."

THE STATE OF NEW HAMPSHIRE
WATER SUPPLY AND POLLUTION
CONTROL COMMISSION

Concord, September 30, 1969.

Hon. JOSEPH D. TYDINGS,
U S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Quite recently there appeared in a National Wildlife Federation memorandum a reference to an amendment which you are drafting to the Water Quality Improvement Act. According to the brief statement, special consideration would be given to the "seven States" which have prefinanced at least a portion of the Federal share.

Although we realize it is impossible to be acquainted with legislative action in all fifty states, the Commission is most anxious to have it made a matter of record that the New Hampshire General Court passed a bill in the 1967 session which would prefinance the 50% Federal share.

As indicated in paragraph 376:1 of the enclosed Act, this State will prefinance "a maximum grant of ninety percent of the original costs involved in the construction of needed sewerage and/or sewage or waste treatment facilities." To finance this work over the next two years, New Hampshire's Legislature authorized bonding in the amount of one million, four hundred and ninety-nine thousand dollars. State payments on all prefinanced projects will be made over the life of the municipality's bond issue.

We would like to conclude by pointing out that the prefinancing of pollution abatement facilities has also been assumed by several New Hampshire municipalities. These communities have bonded for the entire cost of treatment works, or about 11½ million dollars up to the present time, with the hope that

they will be reimbursed the 50% Federal share at a later date.

Respectfully yours,

C. W. METCALF,
Director, Municipal Services.

H.B 162

An act to aid municipalities for water pollution control by state contribution for costs prior to receipt of federal funds

Be it Enacted by the Senate and House of Representatives in General Court convened:

376:1 Prefinancing of Federal Grant. When, for lack of adequate federal funds at the time of acquisition and construction of sewage and/or waste disposal facilities by any municipality, hereby defined as county, city, town or village district, the state of New Hampshire, in addition to contributions provided for under RSA 149-B, shall pay not in excess of fifty percent of the yearly amortization charges on the original costs resulting from the acquisition and construction of sewage and/or waste disposal facilities by it The word "construction" and the term "original costs" shall have the same meaning for the purposes of this section as they have for the purposes of RSA 149-B. The purpose of the additional payment as established herein is to provide each municipality, in the absence of federal funds, with a maximum grant of ninety percent of the original costs involved in the construction of needed sewerage and/or sewage or waste treatment facilities.

376:2 Prefinancing of Secondary Treatment. The state of New Hampshire, in addition to contributions provided for under RSA 149-B, shall pay an additional fifty percent of the yearly amortization charges on the original costs resulting from the acquisition and construction of secondary treatment facilities in the cities of Concord, Lebanon, Manchester, and Nashua, and the town of Plymouth. The word "construction" and the term "original costs" shall have the same meaning for the purposes of this section as they have under the provisions of RSA 149-B. The purpose of the additional payment as established herein is to provide the cities of Concord, Lebanon, Manchester, and Nashua, and the town of Plymouth, in the absence of federal funds, a grant of ninety percent of the original costs involved in the construction of secondary treatment facilities.

376:3 Appropriation. There is hereby appropriated for the purposes of carrying out the provisions of section 1 of this act and to furnish aid provided for in RSA 149-B, for any municipality which shall acquire or construct sewage and/or waste disposal facilities, as authorized hereunder, the sum of seven hundred fifty-nine thousand dollars for the fiscal year ending June 30, 1970, and the sum of seven hundred forty thousand dollars for the fiscal year ending June 30, 1971. The sums hereby appropriated shall be administered by the water supply and pollution control commission and shall not lapse but shall be added to the appropriation of the commission for any succeeding fiscal year to be used for the purposes herein contained.

376:4 Bond Issue. For the purpose of providing funds for the appropriations made in section 3 hereof the state treasurer is hereby authorized, under the direction of the governor and council to borrow upon the credit of the state not exceeding the sum of one million, four hundred and ninety-nine thousand dollars, and to issue bonds and notes in the name and on behalf of the state of New Hampshire Said bonds and notes shall be issued under terms, and conditions as provided by RSA 6-A, as inserted by 1967, 88:1.

376:5 Effective Date. This act shall take effect July 1, 1969.

Approved July 2, 1969.

THE IZAAK WALTON LEAGUE
OF AMERICA, INC.

Washington, D C., September 30, 1969.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D C.

DEAR SENATOR TYDINGS: We have studied with keen interest your proposed amendment No. 178 to S. 7 to amend the Federal Water Pollution Control Act; also your remarks which provide the background and rationale for the amendment. We agree that the Federal Government has a moral obligation to reimburse the 7 states (and some municipalities) which prefinanced the Federal share of construction costs for water quality treatment plants—costs totalling about $300 million It would be unfair should the Federal Government default on this debt, and thus penalize states which have moved ahead aggressively to fulfill their responsibilities for clean water.

The problem which your amendment would resolve, as far as the 7 states are concerned, is part of the larger problem which affects all 50 states; the failure of Congress to meet the commitment made in the Clean Water Restoration Act of 1966 As you point out, the 1966 Act authorized $150 million for FY 1966, $150 million for FY 1967, $450 million for FY 1968 and $700 million for FY 1969. Appropriations through FY 1969 have totalled $731 million, about half the $1,450 million authorized for that period and upon which sum the 50 states had every reason to base their planning.

Failures to match appropriations with authorizations has seriously hurt the clean water program, slowed the momentum built up over the past two decades and shaken the faith of the public in the Federal commitment to clean water. This larger inequity af-

fects all 50 states, including the 7 which prefinanced the Federal share, and it will be compounded, if Congress fails to appropriate the full billion dollars for FY 1970 as authorized.

It must be noted that an appropriation of $600 million for FY 1970, which you consider to be likely, would be inadequate Earmarking the 2nd, 3rd and 4th $100 millions to reimburse the 7 states would leave a balance of $300 million for allocation among the 50 states, only $86 million above the budget request figure of $214 million. This is not enough to get the state programs back in high gear or make much of a dent in the 2¼ billion backlog of project applications.

In our judgment the direct way to resolve the problem and eliminate inequities is for Congress to appropriate the full 1 billion dollars for FY 1970 and the full $1,250 million as authorized for FY 1971 and, before the 91st Congress adjourns, extend the program authorizations beyond the end of FY 1971. It would be logical at that time to make such changes in the allocation formulae as are desirable.

Such actions will enable the states to catch up with existing backlogs, permit reimbursement to the seven states and restore the faith and confidence needed at all levels to push on aggressively toward the clean water goal.

Sincerely,

J. W. PENFOLD,
Conservation Director.

P S.—The attached paper developed by the National League of Cities dramatically points to the fact that the appropriation—direct grant method produces the greatest return on the dollar invested in sewage treatment facilities.

EXHIBIT 1.—ALLOCATIONS OF REIMBURSEMENT FUNDS UNDER PROPOSED TYDINGS' AMENDMENT

States	States funds advanced	Percentage of total prefinancing	Possible appropriations		
			$300,000,000	$200,000,000	$100,000,000
Connecticut	$ 60,900,000	20.79	$ 62,370,000	$ 41,580,000	$ 20,790,000
New York	150,315,000	51.31	153,930,000	102,620,000	51,310,000
Maine	3,500,000	1.19	3,570,000	2,380,000	1,190,000
Massachusetts	8,500,000	2.90	8,700,000	5,800,000	2,900,000
Vermont	677,000	.23	690,000	460,000	230,000
Pennsylvania	16,095,000	5.50	16,500,000	11,000,000	5,500,000
Maryland	52,957,000	18.08	54,240,000	36,160,000	18,080,000
Total prefinancing	292,944,000				

Mr. SPONG. Mr. President, I suggest the absence of a quorum.

Mr. JAVITS. Mr. President, will the Senator from Virginia kindly withhold his request. I understand that the Senator from Kansas (Mr. DOLE) wishes to speak generally to the bill, and then I will try to get into colloquy on the amendment.

Mr. SPONG. I am glad to withhold my request, and to yield to the Senator from Kansas, but I believe the Senator in charge of the bill has the floor.

Mr. TYDINGS. Mr. President, I ask [p. 28980] unanimous consent that I may yield to the Senator from Kansas without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I rise in support of S. 7, the Water Quality Improvement Act of 1969. For the past 9 months, the Subcommittee on Air and Water Pollution of the Senate Public Works Committee has worked industriously to draft appropriate legislation to prevent and control water pollution. Of course, the Santa Barbara incident had a dramatic effect on our deliberations. After that unfortunate incident, it became apparent there woud have to be legislative action. This fact is made even more apparent as we read of the increasing size of oil tankers and the potential threat of pollution.

Throughout our subcommittee hearings, there was a wide diversity of views presented on S. 7. All sides were heard and after all the testimony and all our deliberations a bill was offered that

will, in my opinion, protect the public interest and at the same time not inhibit the operation of the oil and maritime industries.

Mr. President, I wish to address myself to a specific section of the bill which is of particular interest to me. Each year more and more substances of great toxicity are transported by rail, pipeline, truck, and boat in greater and greater quantities. This, of course, increases the likelihood that substances will be accidentally discharged. The people of this Nation expect the Government to be prepared in advance to respond to such discharges.

During the course of its consideration of the provisions of S. 7, the committee became aware that hazardous substances simply could not be treated as an equivalent of oil and subject to the same provisions of liability for the cost of removal. Two important differences require that hazardous substances be treated separately: First, oil is a readily recognizable substance that is not miscible with water; hazardous substances, on the other hand, cover a tremendous range of chemical elements and compounds with various characteristics, and, second, oil is, at least in most circumstances, removable from water; hazardous substances, on the other hand may or may not be. Faced with this difficult situation, I offered an amendment to segregate hazardous substances out of the oil liability provisions for separate treatment to enable a response to the clear problem of the sudden discharge of hazardous substances into our navigable waterways.

The amendment I proposed, which with certain modifications has been adopted by the committee, provides essential authority to give this Nation the ability to respond. First, section 13 of the bill, S. 7, provides authority and establishes a procedure by which the President shall designate hazardous substances. The test established by this provision is whether the substance, when suddenly discharged into the waters of the United States in any quantity presents a threat to public health and welfare. It is necessary to avoid the use of a subjective test such as "substantial quantities" because the threat to health and welfare depends on many factors such as the characteristics of the water into which the substances are discharged; the concentrations of the substances discharged; and the nature of the substances discharged. The bill therefore provides that the President shall conduct an intensive study of each substance proposed to be designated as hazardous including provisions for a detailed procedure involving public participation and recourse to the courts to protect everyone's interest in the designation of a substance as hazardous for the purpose of this act.

The bill further provides that the President shall, along with designating hazardous substances, promulgate regulations, where applicable, for methods and means of removal of said substances. It is necessary that substantial expertise be brought to bear on the technological problems involved in cleanup and only the Federal Government can respond to this demand.

Once a substance has been designated as hazardous pursuant to section 13, the bill provides that for any discharge of such substance from either a vessel or an offshore facility any person in control of such facility must immediately notify the United States of such discharge. This provision is patterned after the notification requirement under the oil pollution provisions and is absolutely essential if we are to avoid damage to downstream water users that may result from the discharge of hazardous substances. It is also essential if remedial measures are to be applied in time.

Because information is simply lacking on what form of liability could be imposed upon a discharger of a hazardous substance, it is necessary to authorize the President to recommend to the Congress, after a detailed study, methods and means of assessing liability

against those who discharge hazardous substances. Consequently, section 13(n) of the bill provides that the President submit a report to the Congress on the need for and desirability of legislation imposing liability for the cost of removal of hazardous substances. After this study is made, it is expected that the Congress will be in a position to legislate in this area.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Commissioner of the Federal Water Pollution Control Administration in response to information I requested on the problem of legislating to control the discharge of hazardous substances. This letter includes a tabulation of spills of materials other than oil since June 1, 1967 to March 1, 1969. I think the Commissioner's letter clearly establishes the need for legislation dealing with hazardous substances.

There being no objection, the letter and table were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
FEDERAL WATER POLLUTION
CONTROL ADMINISTRATION,
Washington, D.C., July 10, 1969.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: You requested information on the need for regulatory, rather than study, authority in S. 7 to control hazardous substances which when discharged into waterways have adverse effect as serious or more serious than oil on the health and welfare, including fish and wildlife.

The joint Interior-Transportation report of February 1968, which was devoted to the oil pollution problem also recommended "Legislation should be developed making persons who discharge or deposit hazardous substances other than oil into the navigable waters of the United States responsible for removing these substances. The legislation should empower the Secretary of the Interior to act when such persons fail to act and to recover the costs. Such legislation would parallel the cleanup provisions of the Oil Pollution Act of 1924."

At that time, however, the public attention was aimed primarily at the oil problem as depicted by the Torrey Canyon. We had not developed sufficient information on the need for such control measures for other hazardous substances. Subsequently, in October of last year FWPCA's the North Atlantic Water Quality Management Center in New Jersey published a manual on emergency procedures to control hazardous substances in the water environment (copy enclosed).

In addition, a number of spills of hazardous substances other than oil have begun to catch the public's eye and concern. A list of some of these spills is enclosed. The most dramatic of these occurred only a few days ago. This was the massive fish kill in the lower Rhine River in Germany which has now been traced to an insecticide, endosulfan, used on vegetables, trees and other crops. It has been reported that fish placed in the affected water died within seven minutes. (A report on this spill is enclosed) We note this spill only as an example because if it had occurred in this country, we may not have been able to do much to cleanup the spill even with authority to do so. However, the polluter would have been required to report the spill and downstream users would have had early warning in order to shut down water supply systems and take other measures to protect public health.

1. BASED ON EXPERIENCE, IS CONTROL AUTHORITY NEEDED?

We believe that there is a need for authority to control these spills when they occur with the best means available to us. The Indiana chemical spill of January 1968 which caused a fish kill of 65 miles in Buck Creek serves to emphasize the point. A complete report of the incident is enclosed.

The most recent spill of hazardous material occurred on July 9, 1969, when the acid leaching material, about 450,000 gallons, was released into the San Francisco River where 51,000 dead fish have been counted so far in the first four miles of the River. Additional information on this spill is enclosed.

It should be noted that in 1968, the largest fish kill reported occurred on the Allegheny River, Bruin, Pennsylvania where 4,029,000 fish died A petroleum refinery lagoon overflowed releasing chemicals into the stream. Suds six feet high were created as the mixture flowed along the stream.

Phosphate mining operations were responsible for the second greatest fish kill in 1967. A settling basin dam broke moving a mass of phosphate slime into the Peach River, suffocating nearly one million fish along 76 miles of the River.

2. DEFINITION OF HAZARDOUS SUBSTANCES

At present, it is very difficult to develop a definition, except in the very broadest of terms, which leaves it open to attack for vagueness and which requires the exercise of judgment by someone on a case-by-case basis, that would cover presently known and

future hazardous substances. Thus, we believe that the best approach to this problem is to establish and publish procedures for identifying particular hazardous substances and for developing methods of control

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which could be applied by the discharger and Federal and State pollution control agencies. Once finally published they would be enforced in the same manner as oil discharges. This is the approach followed in the drafting service furnished for you to Mr. Jorling of the Committee staff.

The reasons for adopting this approach, rather than defining the term, are based on the fact that if discharged in water numerous factors may be responsible for the concentrations to be found in the critical zone and the degree of associated water pollution hazards. The most important factors include:

1. Quantity and type of material spilled.
2. Distance of spill from the use area.
3 Available dilution.
4. Type and nature of the water body.
5. Flow rate and tidal patterns.
6 Temperature.
7. Biodegradability and other properties of spilled material.
8. Effect of the material or reaction compounds on the water use.

The toxicity of a material may be immediately lethal or accumulative. There may also be synergism or antagonism with substances already in the water or a reaction with chemicals added during treatment. The toxic level for humans is ordinarily estimated from results of animal experimentation and normally expressed as LD_{50}, the single dose which will kill one-half of the animals in the test group. Chronic toxicity generally is not a problem with spills since the material will not remain in the vicinity sufficiently long The toxicological effect of materials on aquatic life may be direct, or indirect by precipitating changes in the environment, and is normally expressed as TLm, the concentration at which 50% of the aquatic animals can survive. In cases where protection against chronic toxicity is necessary, safety factors of 20 or more are applied to the TLm values.

Substances in water may produce odors directly or by reactions with other materials through oxidation, reduction, etc. The products of these reactions may be more or less odorous than the original substance. The threshold odors of pure compounds may also be modified by synergistic or antagonistic effects. Taste-producing substances in water can be absorbed by the flesh of fish, making them inedible or at least unpleasantly flavored.

The effect of acid and alkali spills will be strongly influenced by the nature of the substance, degree of ionization, natural alkalinity, dilution available in the water body, and particular construction materials comprising pipes, equipment and appurtenances coming in contact with the substance. Acids and alkalis may be toxic to the acquatic environment, harm crops, cause corrosion, impart taste to drinking water or irritate the skin of those using the water for recreational purposes.

3. ARE CONTROL TECHNIQUES AVAILABLE?

Full information is not presently known on effective treatment of all toxic substances, but we do have some knowledge on this problem as explained below.

Pollution control measures are intended as possible alternatives to denying a use until natural conditions dissipate the spilled material from the use area. Control measures would normally be applied when the concentration is low enough to permit effective and practical neutralization, removal or destruction of the pollutant. However, when the spill occurs relatively close to the use and the material is highly resistant to degradation or cannot be rapidly dispersed, the use may be denied until treatment measures can feasibly be employed.

Since the present procedures are only a guide, some judgment must be made in each case to assure the safest course of action. For example, it should be noted that many of the procedures for organic compounds are based on taste and odor controls because these threshold ranges apparently provide a large margin of safety compared to the toxic levels. However, toxic levels are generally derived from tests conducted with rats and other animals. As to taste and odor thresholds, there can be substantial variation among individuals tested, conditions of the test, and effects of other compounds present in the water. Thus, taste and odor measurements must be conducted simultaneously with analytical measurement. If taste or odor are not detected but the concentration is above the maximum of the threshold range reported, the water use should be shut down and reopened only after careful consideration of the actual concentration and toxicological data In order to estimate a safe limit of concentration for compounds in water supplies where no such limit was previously established, safety factors of 100 to 1000 were applied to the LD50 values. In certain cases, the water pollution control agency may decide to establish a concentration limit lower than the taste and odor thresholds shown herein.

Carbon treatment is the primary procedure recommended for removal of organic contaminants. Effectiveness of adsorption depends on the size and structure of the organic molecule and other factors. However, it appears that 12 to 24 inches of fresh

activated carbon placed on top of the sand filter beds would be the most satisfactory treatment method for the organic materials given in the following sheets. Exhausted carbon is removed by backwashing the filter and collecting the material in a screen container. An alternate method is to slurry powdered carbon in water and to effect removal in the settling basins. Organic pollutants may also be removed by oxidation with chlorine or other oxidizing agents. Although breakthrough chlorination may be appropriate with some of the organics, carbon adsorption appears more generally applicable, dependable and practical.

In summary, while the state of the knowledge in this area is far from perfect, we believe that enough is known to institute a control program with the procedures mentioned above. Most importantly, such a program must include requirements for notification of discharges of any substance so that action can be taken to prevent adverse effects. Early warning, even if we do not have adequate cleanup techniques in all cases, will significantly help to protect public health and avoid damage to water use facilities and in some cases protect the fish and wildlife environment.

If we may respond further, or additional information is required, please do not hesitate to let us know.

DAVID D. DOMINICK,
Commissioner.

SPILLS OF MATERIALS OTHER THAN OIL, JUNE 1, 1967, TO MAR. 1, 1969

Location	Material	Quantity/source	Damages	Waters affected	Company responsible	Remarks
Carbo, Va.	Alkaline fly ash slurry	400 acre-feet dike failure	216,000 fish killed. Seriously damaged 102 miles of stream.	Clinch River, Va. and Tenn.	Appalachian Power Co.	Study of methods for handling fly ash was initiated.
Dunreith, Ind.	Acetone cyanohydrin	1,200 gals. (2,800) lb. cyanide from railroad tank car.	Fish killed. Cattle died after drinking water.	Buck Creek, a tributary of the Big Blue River.	Pennsylvania RR. and Norfolk & Western RR.	Cyanide liberated when chemical got into alkaline waters. H. & H. added to stream water neutralize cyanide. Penn Central RR. reimbursed State for chemical costs. Residents of town evacuated.
Chambersburg, Pa.	Ethyl benzene	1,000 gals. from railroad tank car (railroad accident).	None reported	Conococheaque Creek, tributary of Potomac.		Material flowed over ice and evaporated.
Lampson, Ala.	Cyanide compound and muriatic acid.	Unknown quantity; 2 railroad cars.	Residents of town evacuated. No report of damage to water resource.	Goose Creek	Southern Railroad	Little, if any, cyanide escaped. Small quantity of muriatic acid escaped, but was contained by dike.
Morgan City, La.	Xylene	500 bbls.; ruptured barge	None reported	Atchafalaya River		Area cordoned due to fire hazard. Spilled material evaporated.
Detroit, Mich.	Suspected chemical waste and coal dust.	Unknown quantity; effluent from storm sewer.	do	Detroit River	Unknown	Slick dissipated overnight.
Belle, W. Va.	Methyl acrylate	1,000 gals.; industrial plant.	Fish killed, water intakes closed down.	Kanawha River, Winifield.	E. J. Dupont Chemical Co.	Riverflow diluted concentration.
Cheektowga, N.Y.	Styrene	10,000 gals.; railroad tank car ruptured.	None reported	Buffalo River	Union Carbide Co./ Penn Central RR.	Material flowed from railroad yard into sewer system draining to river.
Freeport, Tex.	Caustic soda	400 tons from barge	do		Dow Chemical Co.	Company removed remaining cargo from damaged barge and collected samples of water in area of spill. Material apparently diluted because no increase in pH was noted.
Everett, Mass.	Xylene	500 gals. from ruptured storage tank.	Potential fire hazard.	Island End River	Carpenter-Morton Paint Co.	Fire department flushed sewer due to fire hazard.

Bordentown, N.J.	Ethylated fatty synthetic alcohol.	8,000 gals. discharged from plant.	Unsightly accumulation along 2 miles of riverbank.	Delaware River	Stephan Chemical Co.	Material contained by tide. Removed from water and shore by the company.
Westbrook, Maine	Chemical wastes	Unknown quantity from papermill.	None reported	Presumpscot River	S. D. Warren Co.	Dissipated in less than 24 hours.
Livingston, Tex.	Analine	Railroad tank car ruptured	No information on	Trinity River	Santa Fe RR.	10 workmen employed by Santa Fe RR. to clean tracks were hospitalized by analine burns.

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Mr. DOLE. Mr. President, it has been suggested that the provisions of section 13 of S. 7 are contradictory to the 1965 Water Quality Act in that they provide for the establishment of a Federal effluent standard. Such an interpretation represents a misunderstanding of the provisions of section 13 which like the oil provisions of section 12 are aimed at the sudden and unintended release of hazardous substances into the waters of the United States. These provisions are not directed at the normal release of effluents from a manufacturing or other process. This is clearly the intent of the committee and to interpret otherwise is to misinterpret what the committee desires to achieve.

Mr. President, I urge the Senate to approve this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TYDINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TYDINGS. Mr. President, my amendment No. 178 is pending, and I would appreciate it if I could get the views of the distinguished chairman of the Subcommittee on Air and Water Pollution.

Mr. MUSKIE Mr. President, may I say, in response to the distinguished Senator from Maryland, in commenting on his amendment, that I have a great deal of sympathy for it, especially since, as he knows, my own State would benefit from its application.

May I say, in addition, that when the amendments of 1966 were approved, I felt one of the most important provisions in those amendments was the reimbursement provision, to which the Senator's amendment is addressed.

But let me make the third point, that that provision was, nevertheless, geared to the total authorizations of that bill, which, as the Senator in his comments has pointed out, have never been fully funded, or even reasonably funded, I think, since that time.

For that reason, the problem that the Senator's amendment poses for us is whether or not, on the basis of current funding, or even anticipated funding, the Senator's amendment would be a fair allocation of the funds as between the authorization provisions of the public law and this reimbursement provision.

Frankly, I do not consider myself to be in a fair position to pass on that point, so I would like to suggest to the Senator two things: First, that we will hold hearings next year, as we had planned, on the whole question of funding the program; second, we are hopeful, from conversation we have had on this side and from discussions with Members of the House, that the waste treatment program will be funded up to $600 million this fiscal year.

If it is, I think we will have a strong base in next year's hearings to adequately support the principle that the Senator is interested in. We will hold those hearings. We had planned to hold them, in any event. I think, if we can get the favorable action from the Appropriations Committees in both Houses that we expect, we will be in a good position to move next year on the reimbursement provision.

The distinguished Senator from New York is also interested in this problem, and it might be useful to engage in a colloquy at this point.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield to the Senator from New York.

Mr. JAVITS. As a Senator from a State which has half of the advance funding, and who has always expressed interest in such funds, naturally I would vote with the Senator from Maryland (Mr. TYDINGS), if it came to a vote.

We have faced this problem, and we

realize that we had a pretty slippery hill to climb in trying to allocate an appropriate amount with respect to expenditures. So I proposed an amendment, which I have had printed, which sought to allow the Secretary of the Interior to apply to reimbursable payments at least the difference between what was appropriated for the States and what was actually spent by the States; that is, what was actually left over. For example, if $600 million had been appropriated and $100 million had not been actually spent, the net $100 million would go to reimburse States which had been engaged in advanced funding, a total of 32 States actually involved.

I have conferred with the manager of the bill on this matter and with the Senator from Maryland (Mr. TYDINGS).

I hope very much the Senator from Maryland will consider this amendment I now propose as an interim effort intended to be of some help to the 32 States concerned, which include Maryland, my own State, and five other States to which the Senator from Maryland has referred. In addition—not in substitution for, but in addition—to provisions of existing law allowing the Secretary of the Interior to apply unobligated construction grant funds to projects approved under this act for which grants have not been made because of lack of funds, I am suggesting an alternative application of the funds; "or for the purpose of making reimbursements pursuant to the sixth and seventh sentences of this subsection, or both."

The sixth and seventh sentences provide for reallotment in the way I have described for money not actually expended, and now I am suggesting also giving accommodation to States where not only State funds but local funds may have been spent in lieu of Federal funds.

Really, it expands the options of the Secretary.

It may be that, subject to the study which the committee may make which may dictate a mandatory reallocation—which incidentally I think is very properly sought by the Senator from Maryland (Mr. TYDINGS)—this proposal would at least give the Secretary more latitude. Then we would hope, in making our presentation to the committee of the Senator from Maine (Mr. MUSKIE), that the committee would feel persuaded that we ought to have some provision along the lines of what the Senator from Maryland (Mr. TYDINGS) has suggested.

While I favor the amendment of the Senator from Maryland, in view of the position of the chairman of the committee; I doubt very much that it would get anywhere for either of us, so I would hope perhaps that the Senator from Maine (Mr. MUSKIE) could at least expand the options of the Secretary as an interim measure. I hope the Senator from Maryland would join me in such substitute and then that the committee would go ahead and study whether even more might be done for the States which engage in such extended forward operations.

Mr. TYDINGS. Mr. President, as the Senator mentioned, I conferred with him earlier. I think his amendment is a sound one. I would be happy to join with him in the substitution of his amendment for mine. I think one thing it does is put Congress clearly on record that, as funds become available, those States which provide an advanced funding under the Water Quality Standards Act of 1966 will be reimbursed.

Mr. JAVITS. Mr. President, if the Senator will yield for that purpose, I will submit, for the Senator from Maryland (Mr. TYDINGS) and myself, a substitute amendment.

The PRESIDING OFFICER. Does the Senator from Maryland wish to withdraw his amendment or modify his amendment?

Mr. JAVITS. Mr. President, I would suggest that he leave it. Let me offer my amendment. If it is adopted, at least he has not compromised his position.

Mr. TYDINGS. Mr. President, I will follow the suggestion of the Senator from New York.

The PRESIDING OFFICER. The substitute amendment offered by the Senator from New York and the Senator from Maryland will be stated.

The legislative clerk read the amendment, as follows:

On page 73, between lines 15 and 16, insert the following:

"SEC. 106. Section 8(c) of the Federal Water Pollution Control Act is amended in the fourth sentence by inserting after 'because of lack of funds' the following: 'or for the purpose of making reimbursements pursuant to the sixth and seventh sentences of this subsection, or both'."

On page 73, lines 16, 19, and 23, redesignate sections 106, 107, and 108 as sections 107, 108, and 109, respectively.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment.

Mr. MUSKIE. Mr. President, just a word to express my support of the amendment offered by the Senator from New York and the Senator from Maryland. Each of our States is involved in this problem, and I think it is a healthy thing to reemphasize that there has been, by this amendment, a restatement of the moral commitment which I think we have made. I am delighted to support the amendment at this time.

The PRESIDING OFFICER. The question is on agreeing to the Javits-Tydings substitute amendment for the original Tydings amendment.

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The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TYDINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. I thank my colleague.

Mr. TYDINGS. I thank the distinguished chairman of the committee.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Maryland as amended by the substitute amendment.

The amendment, as amended, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TYDINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

* * * * *

The Senate resumed the consideration of the bill (S. 7) to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

Mr. MUSKIE. Mr. President, I have sent a technical amendment to the desk, which I now call up.

The PRESIDING OFFICER. The amendment offered by the Senator from Maine will be stated.

The bill clerk read the amendment, as follows:

On page 44, line 4, after the period insert the following:

"In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.".

On page 57, line 4 strike out "and".

Mr. MUSKIE. Mr. President, since reporting S. 7 it has come to the attention of the committee, as a result of correspondence from the British maritime insurance underwriters, that the liabilities provided in this legislation will be uninsurable unless the insurer or person providing evidence of financial responsibility, as required by subsection(f)(2), is specifically guaranteed the same rights as available to the owner or operator of a discharging vessel. The amendment which I am now offering carries out that purpose and has the same defenses as would have been available in an action between the insurer and the vessel.

The committee intended that the insurer have the same rights and defenses as an owner or operator. This amendment is technical to the extent that it clarifies the committee intent. The

committee wants to make absolutely certain that the liabilities established in this legislation are not made uninsurable by a misunderstanding of the legislative intent.

I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Maine.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

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The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the distinguished Senator from Maryland.

AMENDMENT NO. 205

Mr. MATHIAS. I thank the Senator from Maine for yielding to me.

I call up my printed amendment No. 205, which is a very simple amendment. It merely provides for a further opportunity for the public to participate, where that is appropriate, in the process of the granting of a license or an application, or of some change in an application or a license, and that when proper demand is made, with proper notice, there shall be a right of public hearing.

That is really all that the amendment provides, and I think it is so simple and so consistent with what we have been trying to do in every area of government, which is to provide, for the public interest, that there be a valid explanation or defense, that I respectfully solicit the support of the Senate for this amendment.

The PRESIDING OFFICER. Does the Senator wish to call up his amendment at this time?

Mr. MATHIAS. I call up the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The Senator from Maryland (Mr. MATHIAS) proposes an amendment (No. 205) as follows:

On page 62, line 25, after "cation," insert "and after providing an opportunity to interested persons for a public hearing.".

Mr. MUSKIE. Mr. President, as I understand the amendment of the distinguished Senator from Maryland, it would apply to section 16(c), which requires that there be State certification of compliance with water quality standards on any application for a Federal license or permit. What the Senator from Maryland would propose is that a public hearing be held, or be required, in any State involving certification of such an application.

Mr. MATHIAS. If interested persons so request.

Mr. MUSKIE. That is right. I think it is a reasonable amendment, Mr. President; indeed, I compliment the Senator on offering it. It has been the general thrust of the committee's approach to this problem to require public hearings, so that interested members of the public as well as the parties directly involved could have an influence upon the public policy that is developed.

So I am happy to support the amendment in behalf of the committee.

Mr. GRIFFIN. Mr. President, I rise to voice my support to the amendment offered by the distinguished junior Senator from Maryland.

An important step forward in the prevention of water pollution would be taken in the Water Quality Improvement Act of 1969 by requiring federally licensed facilities to obtain State certification that water quality standards will be met before a construction or operating license is issued.

The amendment before us will

strengthen the certification process provided in the legislation by permitting a public hearing to be held at the request of an interested party before certification is granted. One of the primary purposes of this proposal is to deal with the unique problem of thermal pollution from nuclear reactors. Since the Atomic Energy Commission has no jurisdiction to consider environmental effects in its licensing function, the potential hazards of thermal discharges have not received adequate preinstallation consideration. Consequently, in order to provide the fullest opportunity for expert analysis of this problem, provision for a public hearing is absolutely necessary.

Although all of the States have adopted or are in the process of adopting temperature standards, there is still much to be learned in terms of the effect on the reproductive cycle of fish and the development of slime and aquatic weeds through the diminution of dissolved oxygen in the water. A report by a special committee on nuclear discharges appointed by Lake Michigan area States and the U.S. Department of the Interior states:

> Because of relatively limited attention to thermal pollution in the past, there are few experts in the disposal of waste heat and many gaps in knowledge of behavior of waste heat in receiving waters, of its effects on water quality and uses, and of the most efficient and economical methods of disposal without damage to the aquatic environment. For example, methods of calculating the patterns that will be assumed in lake waters by heated water discharges, and the rates of cooling that may be anticipated in the receiving waters are in the developmental stage. Much additional research will be necessary before it will be possible to predict with assurance what heated water will do when discharged to a lake.

Probably one of the most uncertain factors is the quantitative effect of many nuclear powerplants. By 1980, it is estimated that 30 percent of the Nation's generating capacity will come from nuclear power. At present, in Michigan, there are two operable nuclear plants with five more in the planning and construction stages. Also, within the next 10 to 15 years there may be as many as 10 nuclear plants discharging into Lake Michigan. Thus, the almost certain large increase in nuclear facilities is reason enough for close scrutiny of each proposed plant.

Mr. President, I believe that the proposed amendment will improve the provisions in S. 7 and, by not requiring a hearing in every instance, will not unduly hamper the certification process. I might point out that Michigan is one of several States which requires that proposed uses of State waters meet applicable water standards and which provides for public hearings before approval of the use is granted. The success and feasibility of Michigan's statutory scheme emphasizes the need to insure that all State pollution standards are adhered to before any damage has occurred.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 205) of the Senator from Maryland.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. What is the will of the Senate?

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which my amendment (No. 205) was agreed to.

Mr. MUSKIE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ELLENDER. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. I am happy to yield to the Senator from Louisiana.

Mr. ELLENDER. As chairman of the Subcommittee on Public Works of the Appropriations Committee of the Senate, I have under my jurisdiction the duty of providing funds for the Atomic Energy Commission. A question has lately arisen about pollution that may result from the construction of atomic

powerplants throughout the United States.

My question is whether or not this bill is broad enough to require that those who apply for a license to construct a nuclear plant will be regulated under the bill now before us.

Mr. MUSKIE. Yes; they will be subject to regulation under the bill, but I think I ought to go into a little bit of detail on that, so that the Senator may fully understand how it does so.

Under section 16(c)(1) there is a requirement, on page 62 of the bill, which reads as follows:

> Any applicant for a Federal license or permit to construct or operate any facility or to conduct any activity which may result in any discharge into the navigable waters of the United States shall provide certification from the State in which the discharge originates or, if appropriate, the interstate water pollution control agency to the licensing or permitting agency and notice thereof to the Secretary that there is reasonable assurance that such facility or activity will comply with applicable water quality standards.

In order to trigger that provision of the bill, may I say to the Senator, it is necessary that the States develop water quality standards applicable to this problem. The States have not, up to this point, done so, as they would need to do if we are really to come to grips with the problem which concerns the Senator. It seems to us that this is the machinery which we ought to get started on this problem.

Under the water quality setting standards of the 1965 act, the Secretary can apply pressure, especially following this mandate, upon the States to develop those standards, and once such standards are developed, they are subject to the Secretary's approval, and then subject to enforcement under the 1965 act, first by the States, but ultimately by the Secretary.

So there will be a little time involved,

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but this legislation will be effective so that, at some point in the not too distant future, it will begin to bite.

Mr. ELLENDER. But the states, as the Senator has stated, would first have to act?

Mr. MUSKIE. Yes.

Mr. ELLENDER. They would have to set State standards?

Mr. MUSKIE. Yes; most of the States may now have legislation adequate to such standards. I think they do, under the 1965 act.

Mr. ELLENDER. As the Senator may know, I understand that of the 17 or 18 plants that have been completed, some have been closed down because of the fact that there was in indication that water in the neighborhood, or even in the general environment of the place, was becoming polluted from the operation of such atomic-powered electric powerplants; and it would seem to me that we ought to place in this bill, if it is not already there, language which would permit the Federal Government to step in, in order to prevent the construction of powerplants from which there may result pollution, as a result of either their construction or their operation.

Mr. MUSKIE. Mr. President, it is my best judgment, and I so state to the Senator, that I think that we have written that kind of provision into the act, though there will be the inescapable time delay to which I have referred.

May I point out to the Senator that the provision of the bill I read applies to the construction or operation of plants that are subject to Federal license or Federal permit. There are other forms and other sources of thermal pollution, to which the Senator has addressed himself which are not subject to Federal permit or license.

Large industrial plants also discharge heated water into streams. There are coal- and oil-fired plants which do the same. Since those plants do not require Federal licenses or permits unless the construction is under the authority of the Corps of Army Engineers, there will be a great deal of thermal pollution in this country that will not be subject to

the provisions of the act.

Mr. ELLENDER. Mr. President, why would it not be advisable to cover that phase of the problem?

Mr. MUSKIE. Mr. President, the States could, under their water standard setting authority, act in the matter. It is our hope that under this example set by the Federal Government they will act to cover other forms of thermal pollution within their borders.

I think we will have to keep putting pressure on.

I point out to the Senator, whose dedication I have learned to respect, that, sitting as he does on the Appropriations Committee, he is in perhaps a more effective position than I am to watch the implementation of the policy upon the nuclear powerplants.

I urge him to do so. I welcome enthusiastically his interest in this matter as I know of his influence.

We are trying to do our job on the legislation, but I welcome the interest of the Senator in it.

Mr. ELLENDER. Mr. President, I have set hearings for next week. Members of the AEC will be present to testify as to the plants already in existence.

Unless we are certain of the environmental effects of these nuclear plants, some day we may find that we have created a monster. Before the matter goes too far, I am very hopeful that we will be able to do something about it. I understand that the discharge in some areas is very bad and that it contaminates not only the water but also the air.

Mr. MUSKIE. The Senator is correct. As I think I told the Senator in conversation the other day, we had testimony in a hearing before our committee that as much as 50 percent of the flow of a river might be necessary to cool the discharge from one of these nuclear powerplants.

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The Senate resumed the consideration of the bill (S. 7) to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

Mr. CURTIS. Mr. President, I have an amendment at the desk, and I ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 66, line 6, strike out the word "two" and insert "three"; and in line 7, strike out the word "two" and insert "three".

Mr. CURTIS. Mr. President, under section 16(c)(6) it is provided that for any facility being constructed under a Federal license on the date of enactment of S. 7, no certification under section 16(c)(1) is required for any Federal operating license necessary for such facilities, if such operating license is issued within 2 years following the date of enactment. The subsection further provides that after 2 years, the licensee must provide certification or see its operating license terminate.

This provision is directed principally at facilities licensed under the Atomic Energy Act and is designed to require those facilities to comply with applicable water quality standards particularly as they relate to thermal pollution. This objective is laudible and I support it. However, the 2-year period of time for facilities being constructed to revise their specifications is possibly too short. The installation of facilities necessary to achieve compliance with water quality standards involves millions of dollars and requires considerable time for design and construction. I, therefore, submit, and the basis of my amendment is, that the 2-year time period in order that facilities under the provisions of subsection 16(c)(6) be given added time to achieve necessary compliance.

I think this amendment is necessary to avoid undue hardship while at the same time achieving compliance with water quality standards. The amendment would merely extend the time 1 year.

I urge the adoption of the amendment. It is my hope that the distinguished chairman of the committee, who is in

charge of the bill, will see fit to accept it.

Mr. MUSKIE. Mr. President, I have discussed this amendment with the distinguished Senator from Nebraska and the distinguished Senator from Delaware (Mr. BOGGS). It does not in any way change the thrust of this provision of the bill or the principle underlying it. It is a question of allowing more time for plants that began their construction before the date of enactment of this bill to adjust to its requirements. I have no objection to the amendment.

Mr. CURTIS. I thank the distinguished Senator very much.

I ask for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

AMENDMENT NO. 132—
ADDITIONAL COSPONSORS

Mr. NELSON. Mr. President, I call up my amendment No. 132, and I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: Mr. MUSKIE, Mr. RANDOLPH, Mr. BAYH, Mr. BROOKE, Mr. BURDICK, Mr. CANNON, Mr. CASE, Mr. CHURCH, Mr. CRANSTON, Mr. DODD, Mr. EAGLETON, Mr. GOODELL, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HOLLINGS, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. MAGNUSON, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MONDALE, Mr. MOSS, Mr. PELL, Mr. PROXMIRE, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, and Mr. YOUNG of Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

AMENDMENT NO. 132

On page 69, line 7, in lieu of "(k)" insert "(l)".

On page 72, between lines 8 and 9, insert the following: "(j) (1) The Secretary shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than two years after the effective date of this subsection, develop and issue to the States for the purpose of adopting standards pursuant to section 10(c) criteria reflecting the latest scientific knowledge useful in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such criteria whenever necessary to reflect developing scientific knowledge.

"(2) For the purpose of assuring effective implementation of standards adopted pursuant to paragraph (1) the Secretary shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct a study and investigation of methods to control the release of pesticides into the environment, which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The Secretary shall submit a report on such investigation to Congress together with his recommendations for any necessary legislation within two years after the effective date of this subsection."

On page 72, line 9, in lieu of "(j)" insert "(k)".

Mr. NELSON. Mr. President, in a recent grim scenario, a noted ecologist, Dr. Paul Ehrlich, projects the end of the

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oceans as a significant source of life in 10 years. Mass starvation of mankind follows, then war.

Dr. Ehrlich says if present trends continue, such a disastrous end to life on earth could be perilously near.

Not surprisingly, pesticides were a key part of Dr. Ehrlich's setting for disaster. As the first dramatic danger signal of the threat to life in the sea, the ecologist cites the report in 1968 that DDT slows down photosynthesis in marine plant life.

In his article in Ramparts magazine, Dr. Ehrlich spells out the implications:

It was announced in a short paper in the technical journal, Science, but to ecologists it smacked of doomsday. They knew that all life in the sea depends on photosynthesis, the chemical process by which green plants bind the sun's energy and make it available to living things. And they knew that DDT and similar chlorinated hydrocarbons had polluted the entire surface of the earth, including the sea.

Events moved inexorably from that point on in the Ehrlich scenario, with pesticides continuing to play a major role. Through the present, all events he cites are fact. For the future, he bases his conjecture on current trends.

Implausible to project the end of the oceans and man in 10 years? There have been too many "implausibles" or "impossibles" in this century that have come true: World War I, World War II, the atomic bomb, the hydrogen bomb, the war in Vietnam, the riots in American cities and universities, the assassination of a President, a candidate for President, and an international civil rights leader. One can readily understand the perceptive comment of Nobel Prize Winning Biologist Dr. George Wald that today's youth are the first generation that believes, and with good reason, that there may be no future.

And as we move into the last third of the 20th century, it has become dramatically clear that the danger we face from the destruction of the habitat and life support systems of man by overpopulation and pollution is as great as that from nuclear holocaust.

Only a short time ago, anyone discussing our environmental problems could not have thought to include pesticides as a major threat. Like other technological innovations that have brought shocking byproducts, pesticides have come into being and then into mass use with stunning speed.

DDT DISCOVERED

For instance, DDT was first formulated in 1874. But its properties as an insecticide were not discovered and put into use until World War II. Almost immediately, DDT became known as the miracle insecticide that helped control tropical disease and win the war.

Since then, thousands of millions of pounds of DDT and other synthetic pesticides have been applied to millions of acres to regulate economic plant or animal populations, to protect food and fibre crops, reduce vectors of disease, and abate pest nuisances.

Their fame spread as did their use. Billions upon billions of pests have fallen victim to their dust, spray, or powder.

But new strains of pests developed with increased resistance to DDT and other common pesticides.

Too often, instead of seeking more effective, more selective means of pest control, the reaction of many users has been to apply more, perhaps two, three, 10 times as much, to overcome the pest's newly attained resistance.

Today, nearly 900 million pounds of pesticides, including insecticides, herbicides, fungicides, rodenticides, and fumigants, are sold annually in the United States alone, more than 4 pounds for every American. Last year, the sales of pesticides increased some 10 percent over the previous year, and by 1985, it is estimated that they will increase another sixfold.

Reports indicate that about 1 acre of every 10 in America is treated with an average of nearly 4 pounds of pesticides every year.

And in little over 25 years, DDT and other pesticides have been spread by the soil, wind, the tide, and the chain of life itself to the farthest reaches of the earth. This and other highly persistent, mobile pesticide compounds are now one of the most easily distinguishable marks of the presence of man.

GLOBAL CONTAMINATION

Six years ago, two U.S. scientists hypothesized that the entire globe may already have been contaminated by DDT. To find out, they went to Antarctica. If any area of the world were to be free of pesticide residues, it would be that isolated continent, where there are no pests, few animals or plants, and where the nearest pesticide use is thousands of miles away.

The scientists found pesticide residues in four of 16 Adelie penguin they tested, four of 16 Wedell seals, and 15 of 16 skuas—a sea bird. The evidence was inescapable. Worldwide pesticide con-

tamination was confirmed.

Another scientist, who measured residues in the Antarctic snow melt, estimated that over the last two and a half decades, about 2,600 tons of DDT could have accumulated in the Antarctic snow and ice.

Scientists have yet to discover exactly how DDT and other pesticides have spread so far, so fast. But some things are clear: DDT, with a half life of 10 years, is remarkably hard to break down, especially in the natural environment where nature has not developed the means to decompose the synthetic compound. And pesticides such as DDT and Dieldrin are highly mobile, able to travel through the environment by any number of means.

The pesticide residues tend to concentrate to progressively higher levels when they are picked up around the globe by tiny organisms, then passed up the food chain.

A well-researched example of this characteristic was documented in California. In order to control a troublesome flying insect that was hatching in a lake in that State, the water was treated with the insecticide DDD—similar to DDT—yielding a concentration of 0.02 parts per million. Plankton, which includes microscopic waterborne plants and animals, accumulated the DDD residues at five parts per million. Fish eating the plankton concentrated the pesticide in their fat to levels from several hundred to up to 2,000 parts per million. Grebes, diving birds similar to loons, fed on the fish and died. The highest concentration of DDD found in the tissues of the grebes was 1,600 parts per million.

If it were simply a case of another compound sprawling over the earth like dirt or air, there might be little cause for concern. But the implications of the pervasive pesticide accumulation are far more serious.

ACTIVE AGAINST LIFE

Dr. Charles Wurster, an organic chemist and nationally known pesticide expert assisting the Environmental Defense Fund, likens the pesticide spread to mass use of biocides, agents which are known by scientists as "active against life."

"In general, if an organism has nerves, DDT or Dieldrin can kill it," Wurster believes. He says the action of other hard, chlorinated hydrocarbon pesticides such as Aldrin, Endrin, Heptachlor and Toxaphene is similar. Thus, Wurster says these compounds "are toxic to almost the entire animal world."

During a recent conference on pesticides in Stockholm, evidence was presented that DDT, even in very small quantities, could affect human metabolism. One of the studies cited was Russian research that indicated that workers whose jobs bring them in contact with DDT and other organochlorine pesticides were found to suffer from changes in the liver which slowed down the elimination of wastes from the body.

A major study published this summer by the National Cancer Institute found that at least 11 pesticides out of 123 chemical compounds tested induced a significantly increased incidence of tumors in laboratory animals. The 11 tumorigenic compounds included five insecticides p.p' -DDT, Mirex, bis(2-chlorethyl)-ether, chlorobenzilate and strobane; five fungicides PCNB, Avadex, Ethyl selenac, ethylene thiourea, and bis (2-hydroxyethyl) dithiocarbamic acid potassium salt; and one herbicide N-(hydroexthyl) hydrazine.

While the researchers have reserved judgment on whether these pesticides should be considered as a potential cause of cancer, it appears very certain that growing concern about the threat of pesticides to human health is entirely warranted.

In 25 years, then, we have turned loose on the earth a massive dose of compounds that can cripple or kill, and which are tragically indiscriminate in their attacks. When DDT is applied to do one job, it lingers and accumulates in the environment as a toxic threat to fish,

wildlife, and possibly even to man.

Already, the petrel of Bermuda, the bald eagle and peregrine falcon of America and the blue shell crab of the sea are each being pushed to the brink of extinction by the spread of pesticides through our environment.

Like so many other environmental disasters, it is shocking that this has happened. But what is almost beyond belief is that, even from the beginning, the pesticide dangers were known.

The fact that DDT would kill wildlife was determined in 1945, the same year

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that the pesticide was released for civilian use. The discovery was made by wildlife biologists working in U.S. Department of Agriculture studies.

From that point on, scientific concern continued to mount worldwide, but, unfortunately, the debate simmered out of the public eye for almost two decades.

"SILENT SPRING"

Then, in 1962, came a dramatic turning point: The New Yorker magazine serialized a book by a lady biologist in the U.S. Department of Interior that brought home to the public for the first time the rapidly building dangers from pesticide misuse. The book was "Silent Spring," by Miss Rachel Carson.

Challenging the myth that pesticides were the panacea that they were being proclaimed, Miss Carson said:

> As crude a weapon as the cave man's club has been hurled against the fabric of life.

Translated into 30 languages, the book was read by millions in the United States and around the world. Almost singlehandedly, it bridged the gap between the scientist and the concerned citizen which so often exists in our complex society today.

In 1963, Miss Carson testified before the Senate Government Operations Committee, chaired by our colleague Senator ABRAHAM RIBICOFF.

Also in 1963, a report by the President's Science Advisory Committee, chaired by Jerome Wiesner, concluded that the goal of our national efforts should be "elimination of the use of persistent toxic insecticides."

In the following Congress, I initially introduced legislation to ban the interstate sale and shipment of DDT. I subsequently introduced the same legislation in the 90th and 91st Congresses, and similar measures have since been introduced in the House. During the past three Congresses, no committee hearings have been held on these proposals.

However, interest around the country in achieving effective pesticide controls continued to build, and there was growing citizen impatience with the failure of State and Federal agencies to act.

Yet, despite the urgent warnings and concern, our government agencies have failed miserably to respond responsibly to this massive problem. Not a single Federal office has taken any significant action that would lead to the goal of "eliminating" the use of persistent toxic pesticides that was established 6 years ago by the Presidential committee.

AGENCIES INEFFECTIVE

The fact is that the Federal Government has been perpetuating this grave environmental and health problem, rather than resolving it.

It was recently revealed that the U.S. Department of Agriculture, which is charged with regulating pesticide use, has been sponsoring a program with the Air Force and other Government agencies under which 250,000 pounds of dieldrin has been applied to 56 military and civilian airports across the country over the past 15 years.

This program, which has raised strenuous objections from scientists, was twice reviewed and approved by the interdepartmental Federal Committee on Pest Control.

The committee, which is billed as the regulator of Federal pesticide use, recently confirmed that the General Services Administration and the Office of the

Capitol Architect have not even submitted their pesticide programs to the committee for review.

Clearly, the Federal effort at regulating itself has been as ineffective as has the regulation of pesticide use at large.

Ironically, a number of States, as well as several foreign countries, have shown far greater willingness to act than the U.S. Government. DDT has been banned by the States of Michigan and Arizona, and overseas, by Denmark and Sweden. And countless cities and towns have stopped using DDT in their mosquito control and tree disease eradication programs. In addition, a number of States, including Wisconsin, and California, are considering steps to drastically restrict the use of DDT and other hard pesticides within their borders.

These recent State and local measures are a reflection of the citizen demand for action that has been building at a heartening pace.

For instance, the idea of creating an Environmental Defense Fund grew out of a suit filed in April 1966, against the Suffolk County Mosquito Control Commission, by Victor J. Yannacone, Jr., a young lawyer, on behalf of his wife, Carol, and all other people of Suffolk County, Long Island. The court challenge was based on a report that a DDT dumping by commission employees was the cause of a fish kill in a nearby lake.

The New York suit was successful in leading to a temporary ban on the use of DDT in Suffolk County by public agencies, and gained public recognition as one of the first attempts to argue that the citizen has the right under law to protect his environment.

Then in November of 1967, the Environmental Defense Fund brought its first court action in its own name, seeking to prevent the use of dieldrin in a Japanese-beetle control project in Michigan by the Michigan and U.S. Departments of Agriculture. Several Michigan Conservation Department affidavits, including one holding that the spraying would threaten Lake Michigan's new coho salmon fishery, were disallowed on a technicality when the State attorney general's office refused to let the department officially enter the case. The tragic results of pesticide misuse for the coho were to become evident 3 years later.

In the Michigan suit, Yannacone got a temporary order from the State court of appeals to stop the dieldrin spraying, but this injunction was dissolved after a 6-hour trial.

WISCONSIN DDT HEARINGS

One year later, the battleground shifted to the other side of Lake Michigan, to Madison, Wis., where citizen groups and the Environmental Defense Fund joined forces in a petition asking the State Department of Natural Resources to ban the use of DDT in the State under any circumstances where the pesticide can enter world circulation patterns and further contaminate the biosphere. With EDF, the petitions groups were the Citizens Natural Resources Association of Wisconsin and the Wisconsin division of the Izaak Walton League.

In the State hearing which began last December, the Alliance of Concerned Scientists and Lawyers presented extensive testimony outlining the growing pollution of the environment by persistent pesticides in the chlorinated hydrocarbon family.

Dr. Robert W. Risebrough, an environmental scientist at the University of California at Berkeley, stated that the effect of pesticides on man may be very serious. He said that man accumulates 12 parts per million of DDT in his fatty tissues before the body discharges it. He said that this is enough to stimulate enzyme production, which acts as a catalyst for bodily processes, such as digestion. Risebrough added that the death of some birds has been traced to enzyme induction by DDT, impairing their ability to reproduce.

Dr. Charles F. Wurster, Jr., an organic chemist at the State University of New York, Stonybrook, testified on the range

of the pesticide residues through the world.

Other witnesses have testified that DDT goes into the atmosphere along with evaporating water, builds up to extremely high levels in predator birds and animals, and has caused new insect problems by killing predators that once held those insects in check.

Dr. Joseph Hickey, a University of Wisconsin wildlife ecologist, said that DDT has been linked to reproduction failures of certain birds, including the eagle, the osprey, and the peregrine falcon. Dr. Hickey and other researchers have traced the presence of pesticide residues to a decrease in weight and thickness of the shells of eggs produced by these birds.

In related testimony, Lucille Stickel, the pesticide research coordinator of the Interior Department's Patuxent Wildlife Research Center, stated that the presence of small quantities of DDT and its derivative DDE in the diets of mallard ducks decreased eggshell thickness, increased egg breakage, and decreased overall reproductive success.

Although the second half of the hearings, held last spring, was billed as the time for the defense against the arguments of the environmentalists, the pesticide industry, which historically has promoted more pesticide use and fought new controls, made a weak defense.

Industry witnesses who were knowledgeable about the environmental impact of pesticides were few and far between. Instead, defense witnesses relied on shopworn repetitions of the past triumphs of DDT and trotted out research from a decade ago which purported to show that the health of pesticide workers was not impaired by constant exposure to the compounds.

In fact, witnesses for the defense often provided the environmentalists with valuable evidence to support their contentions. For example, a Shell Development Co. scientist confirmed the fact that DDT does not remain in the soil, but has a great deal of mobility and persistence which enables it to infiltrate the at-

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mosphere, the waters, and the total environment.

Another witness for the DDT defense, a U.S. Department of Agriculture pesticide official, admitted that his agency relies almost totally on industry claims regarding health and environmental effects.

An initial decision on the environmentalists' petition is expected before the end of this year.

COHO SALMON SEIZED

Midway through the Wisconsin hearings, a new and dramatic confirmation of pesticide dangers was announced to Wisconsin and the Nation: The U.S. Food and Drug Administration was seizing 28,150 pounds of frozen Lake Michigan Coho salmon because it said high DDT and dieldrin residues had made the fish unfit for human consumption.

According to the FDA, the concentration of DDT in the salmon was found to be up to 19 parts per million, while the accumulation of dieldrin was just short of 0 3 of a part per million, both levels considered hazardous by the FDA and the World Health Organization.

The contamination of the Coho challenges a basic foundation of the pesticide argument that has been sounded for a quarter of a century—that pesticide use is invariably an economic benefit, that is to say, an "economic" poison.

One might ask the commercial fisherman who sees the Coho salmon as a great new opportunity in a lamprey-ravaged Great Lakes fishery whether the current pesticide approach is "economic." One might also ask the same question of the resort owner in northern Michigan who saw his business skyrocket with the introduction of the salmon in Lake Michigan in 1965.

One might ask the economic benefit question of the Michigan Department of Natural Resources, which during the 1966 EDF suit attempted to warn of the dan-

ger to the Coho, and which has invested millions of dollars to plant Coho salmon fry in Lake Michigan only to see nearly a million of the fry killed by the pesticide contamination. And, finally, one might ask the economic effects if the national recreation resource of the Great Lakes, enhanced by millions of State and Federal tax dollars, is further damaged by the pesticide peril to the salmon and other lake resources, including the very quality of the water itself.

Ironically, the Lake Michigan Water Pollution Conference in 1968 was warned that the pesticide concentration in Lake Michigan was at the crisis point. W. F. Carbine, Great Lakes Regional Director for the Bureau of Commercial Fisheries, stated:

> Lake Michigan has the highest concentration of pesticides of any of the Great Lakes, which now are only slightly below levels that are known to be injurious to man or aquatic life. . . . A continuation at high levels or an upsurge in pesticide application in the Lake Michigan Basin could increase the pesticide concentration prevailing in the open lake from the present non-lethal level to a lethal value.

The evidence is already clear that for the United States, the Lake Michigan tragedy is only the beginning. On June 17 of this year, 52 cases of jack mackerel, caught on the west coast, were confiscated in New York by the Food and Drug Administration because of high DDT levels. The mackerel appeared to be the first ocean fish from American waters to be declared unfit for human food because of DDT.

In several central and northern New York lakes, lake trout have either been eliminated, or their reproduction seriously impaired, because of high pesticide levels. DDT concentrations in the lake trout of up to 3,000 parts per million in the fatty tissues have already been reported.

NATIONAL PESTICIDE SURVEY

A 2-year national pesticide study recently completed by the U.S. Bureau of Sport Fisheries and Wildlife found DDT in 584 —of 590 samples of fish taken from 45 rivers and lakes across the United States.

The study results showed DDT ranging up to 45 parts per million in the whole fish, a count more than nine times higher than the current FDA guideline level for DDT residues in fish.

Residues of DDT reached levels higher than the FDA's temporary limit of five parts per million in 12 of the rivers and lakes, including the Hudson in New York; the Delaware; the Cooper in South Carolina; St. Lucie Canal and the Apalachicola in Florida; the Tombigbee in Alabama; the Rio Grande in Texas; Lake Ontario; Lake Michigan; the Arkansas and the White in Arkansas; and the Sacramento in California.

Residues of dieldrin, a pesticide even more toxic to humans than DDT, were found in excess of the 0.3 parts per million FDA limit in 15 rivers and lakes including the Connecticut; the Hudson; the Delaware; the Savannah in Georgia; the Apalachicola; the Tombigbee; the Rio Grande; Lake Ontario; Lake Huron; the Illinois in Illinois; the Arkansas and the White; the Red River in Minnesota; the San Joaquin in California; and the Rogue in Oregon.

In summary, the comprehensive survey found DDT in almost 100 percent of the fish samples, dieldrin in 75 percent, heptachlor and/or heptachlor epoxide in 32 percent, and chlordane in 22 percent.

Related research over the 4-year period, ending in 1968, has determined that more than 1,640,000 fish were killed by pesticide pollution in the Nation's waters, the result of pesticide spills or runoff and concentration in our waters. Millions of more fish no doubt went unborn due to reproductive failures caused by pesticides.

Laboratory research has proven that pesticide levels in water, of even the low parts per million, can be toxic to adult fish. Levels in low parts per trillion have been found to affect reproduction.

Already, the pesticide levels in Lake Michigan, the most pesticide-polluted of

the Great Lakes, are in the low parts per trillion range.

And findings released just this month by the U.S. Public Health Service reported the detection of pesticides in 76 of 79 samples of drinking water supplies around the country. Although the PHS report noted that so far the pesticide levels have not exceeded recommended permissible limits, the health service was concerned. The PHS said:

> The high frequency of occurrence and our lack of knowledge of the long-term health effects of this class of compounds dictate the need for increased surveillance and research as well as for increased recognition of the potential of this problem by state and local health departments.

In summary, the already massive and still accumulating evidence on pesticides makes it clear that these toxic compounds have become one of the most serious problems of our environment, and are threatening even greater worldwide damage. Pesticides have concentrated to the far ends of the earth; they are killing fish and wildlife; they have inhibited fish and wildlife reproduction; high pesticide residues have pushed some fish-feeding birds and other animals to the edge of extinction, and now, there is increasing concern and evidence about the threats posed to man.

The problem of pesticides in the environment is showing up most dramatically and seriously in our rivers and lakes. Although the bulk of pesticide application is on land, the compounds, especially hard pesticides like DDT and dieldrin, are persisting long enough to be carried by agricultural and urban runoff into water bodies There, as I have pointed out, they enter and are concentrated through the food chain of marine life and fish-feeding birds.

There is little question that pesticides are a grave pollution threat, one which we have barely acknowledged, let alone dealt with. And if we continue to delay action to protect the environment and man from these compounds, I am gravely concerned for the probable consequences.

Fortunately, there is an excellent vehicle already available to us to deal with the pollution aspects of the pesticide problem—the Federal Water Pollution Control Act, and particularly the provisions added by the Water Quality Act of 1965.

PESTICIDE AMENDMENT

It is to this act which my amendment to Senate bill 7 is directed. Most simply stated, the amendment provides congressional direction to the Secretary of the Interior to take certain steps to deal with water pollution problems of pesticides under the authorities granted him by the pollution control statute.

I ask unanimous consent that an analysis of the amendment be printed in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS OF NELSON PESTICIDE POLLUTION AMENDMENT

Under this two-part amendment, the Secretary of the Interior would utilize the authorities granted him by the Federal Water Pollution Control Act to deal with water pollution caused by pesticides.

Part One directs the Secretary to develop and issue to the states within two years water quality criteria for all pesticides. The criteria would list safe pesticide levels in water for public water supplies, propagation of fish and wildlife, recreational purposes, and other legitimate uses.

The criteria would be issued for the purpose of setting pesticide standards as part of the interstate water quality standards already adopted by the 50 states for other pollutants under Federal and state laws.

For the purpose of setting the standards,

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Section 10C of the Federal Water Pollution Control Act provides that ". . . if the Secretary or the Governor of any State affected by water quality standards . . . desires a revision in such standards, the Secretary may . . . prepare regulations setting forth standards of water quality to be applicable to interstate waters. . . ."

Under this procedure, the Secretary would ask the states to revise their interstate water quality standards to include pesticide limits. If a state does not act, the Secretary is authorized to set the standards. Also, a state

may, on its own, request a revision of its standards.

In addition to serving as a basis for these interstate water quality standards, the pesticide criteria would also give the Secretary a useful tool in ongoing and any future federal-state pollution abatement conferences where pesticide pollution might be occurring

As in the case with present water quality standards, responsibility for enforcing the pesticide standards would rest primarily with the states under an implementation plan adopted by each state as part of the standards.

In the setting and implementing of the standards, Federal law provides that consideration must be given to their practicability and physical and economic feasibility.

Means of implementing the standards could include: state administrative or legislative action to restrict the use of a pesticide pollutant statewide or in the affected watershed; interstate action; integrated pest control; use of less persistent pesticides; development of agents to decompose pesticides; and biodegradability and toxicity standards on the pesticides themselves.

Part Two of the amendment directs the Secretary of the Interior, in consultation with appropriate Federal agencies and other concerned parties, to conduct a study on methods of controlling the release of pesticides into our nation's lakes and rivers and the environment. The study will include examination of the persistence of pesticides in the water and alternatives thereto. Within two years, the Secretary will submit a report on this study to Congress, together with his recommendations for any necessary legislation.

This study will assist the Secretary in perfecting existing means of dealing with pesticide pollution and in determining new ones.

Mr. NELSON. Mr. President, part 1 of the amendment requires the Secretary to develop within 2 years water quality criteria for all pesticides. The criteria would set forth the effects of various pesticide levels in water on fish and wildlife, man and the environment. Because they would outline maximum safe levels, they would represent the essential basis for action to deal with the pesticide pollution problem.

Under his existing authorities, the Secretary has already developed criteria for a wide range of pollutants, from municipal sewage to industrial waste, and these are serving as the basis for the interstate water quality standards which have been set by all 50 States as the key to the national pollution cleanup effort. Criteria have been developed for some pesticides, but they are general and incomplete, and technical personnel have advised that 2 years is a reasonable time to allow development of comprehensive pesticide criteria.

STATE STANDARDS INADEQUATE

After a review of the water quality standards already adopted by the States under the Federal act, it is very clear that pesticides are dealt with only in the most general way in the standards, and it is doubtful that this approach will lead to effective control.

For instance, only three States—Alaska, California, and South Dakota—have set specific numerical limits for pesticides in their water quality standards. Two other States—Idaho and Virginia—specifically mention pesticides in toxicity sections of their standards. Otherwise, the State standards deal with pesticides only as they would be covered in general narrative statements on toxicity or by public water supply or aquatic life criteria.

I requested the Federal Water Pollution Control Administration to do a State-by-State summary of pesticide provisions in the water quality standards, and I ask unanimous consent that it be printed in the RECORD at the end of this statement.

The PRESIDING OFFICER (Mr. CRANSTON in the chair). Without objection, it is so ordered.

(See exhibit 1.)

Mr. NELSON. Mr. President, based on the preliminary criteria already developed by the Interior Department, the comprehensive pesticide guidelines required by this amendment would no doubt indicate what level of a specific pesticide in water is hazardous to a specific species of fish. In addition, safe levels for pesticides would no doubt be determined for other water uses, including those of drinking, swimming, and boating.

The comprehensive pesticide criteria

would be issued by the Secretary to the States for the purpose of setting pesticide standards as part of the interstate water quality standards already adopted by the States under Federal and State laws.

For the purpose of setting the standards, section 10(c) of the Federal Water Pollution Control Act provides:

> If the Secretary or the Governor of any State affected by water quality standards . . . desires a revision of such standards, the Secretary may . . . prepare regulations setting forth standards of water quality to be applicable to interstate waters. . . .

Under this procedure, the Secretary would ask the States to revise their interstate water quality standards to include pesticide limits. If a State does not act, the Secretary is authorized to set the standards. Also, a State may on its own request a revision of its standards. The Federal law provides that consideration must be given in the standard setting to practicability and physical and economic feasibility.

In addition to serving as a basis for interstate water quality standards, the pesticide criteria would also give the Secretary a useful tool in ongoing and any future Federal-State pollution abatement conferences where pesticide pollution might be occurring.

The step-by-step procedure that would be followed under the Federal Water Pollution Control Act for standard setting and implementation follows:

First. The Secretary, after consultation with interested, concerned parties, would prepare and publish regulations setting forth water quality standards for pesticides, based on the criteria he had developed.

Second. The States would then adopt pesticide standards for their interstate waters, subject to the review and approval by the Secretary as meeting his comprehensive criteria. The States could adopt more stringent standards than provided by the criteria. If the States did not adopt pesticide standards and did not petition the Secretary for a public hearing on the question, the Secretary is authorized to promulgate the standards.

Third. Responsibility for enforcing the standards would rest primarily with the States, under an enforcement plan adopted as part of the standards. Implementation of the present water quality standards for other pollutants generally means the issuance by the States of orders to polluters to take remedial steps. If the orders are not followed, State court action could follow. Issuance of pollution cleanup orders must be preceded by further public hearings.

It is unlikely that action to implement pesticide standards under the water pollution control law would be by court action against pesticide users.

This is true principally because, unlike municipal sewage which is discharged from one point, pesticides usually enter the water in a generalized fashion from a wide range of sources. For instance, DDT may be coming to a river from 100 farms, or 15 towns, in one watershed.

IMPLEMENTATION OF STANDARDS

Fortunately, there are more equitable and efficient means available to implement and enforce pesticide standards, approaches which would be carried out by cooperative efforts between users, pollution control and other pesticide regulatory agencies, and pesticide manufacturers:

First, State administrative or legislative action to restrict or prohibit the use of a pesticide pollutant statewide or in the affected watershed. As pointed out earlier, a number of States, and cities and towns are already taking this approach.

Second, interstate action, through compacts, or the Federal-State pollution control conference provided in Federal law, to restrict or prohibit the use of certain pesticides. For instance, a committee to the Federal-State conference on Lake Michigan made specific recommendations for pesticide limits and other in-

terstate or uniform State actions.

Third, increased use of less persistent pesticides as substitutes for compounds such as dieldrin and DDT which remain in a toxic state for years. This would be coupled with more efficient means of pesticide application. The feasibility of this approach is demonstrated by the fact that for virtually all crops, the U.S. Department of Agriculture lists more than one pesticide as being able to control harmful pests; I ask unanimous consent that a list of readily degradable pesticides prepared by the U.S. Department of Agriculture be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

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READILY DEGRADABLE INSECTICIDES (INCLUDING MITICIDES)

Common name (or trade name*)	Chemical name (or source)	Type of compound
Abate*	O,O-dimethyl phosphorothioate O,O-diester with 4,4′-thiodiphenol	Organophosphorus.
Aldicarb	2-methyl-2-(methylthio) propionaldehyde O-(methylcarbamoyl)oxime	Carbamate.
Allethrin	2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one ester of 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylic acid	Pyrethroid.
Azinphosethyl	O,O-diethyl phosphorodithioate S-ester with 3-(mercaptomethyl)-1,2,3-benzotriazin-4(3*H*)-one	Organophosphorus.
Azinphosmethyl	O,O-dimethyl phosphorodithioate S-ester with 3-(mercaptomethyl)-1,2,3-benzotriazin-4(3*H*)-one	Do.
Azodrin*	3-hydroxy-N-methyl-*cis*-crotonamide dimethyl phosphate	Do.
Barthrin	6-chlorop peronyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropane-carboxylate	Pyrethroid.
Baygon*	o-isopropoxyphenyl methylcarbamate	Carbamate.
Bidrin*	3-dydroxy-*N*,*N*-dimethylcrotonamide dimethyl phosphate	Organophosphorus.
Binapacryl	2-sec-butyl-4,6-dinitrophenyl 3-methyl-2-butenoate	Aromatic ester.
Bux*	*m*-(1-methylbutyl)phenyl methylcarbamate and *m*-(1-ethylpropyl)-phenyl methylcarbamate (3:1 mixture)	Carbamate.
Carbaryl	1-naphthyl methylcarbamate	Do.
Carbofuran	2,3-dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate	Do.
Carbophenothion	S-[[(*p*-chlorophenyl)thio]methyl] O,O-diethyl phosphorodithioate	Organophosphorus.
Ciodrin*	*alpha*-methylbenzyl 3-hydroxycrotonate dimethyl phosphate	Do.
Coumaphos	O,O-diethyl O-3-chloro-4-methyl-2-oxo-2*H*-1-benzopyran-7-yl) phosphorothioate	Do.
Dasanit*	O,O-diethyl O-[*p*-(methylsulfinyl)phenyl] phosphorothioate	Do.
Demeton	O,O-diethyl S(and O)-[2-(ethylthio)ethyl] phosphorothioates (mixture)	Do.
Diazinon	O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate	Do.
Dichlorvos	2,2-dichlorovinyl dimethyl phosphate	Organophosphorus.
Dimethoate	O,O-dimethyl phosphorodithioate S-ester with 2-mercapto-*N*-methylacetamide	Do.
Dimethrin	2,4-dimethylbenzyl 2,2-dimethyl-3-(2-methylpropenyl) = cyclopropanecarboxylate	Pyrethroid.
Dimetilan	1-(dimethylcarbamoyl)-5-methyl-3-pyrazolyl dimethylcarbamate	Carbamate.
Dioxathion	S S′-*p*-dioxane-2,3-diyl O,O,O′,O′-tetraethyl phosphorodithioate diphenylamine	Organophosphorus.
Diphenylamine	Diphenylamine	Aromatic amine.
Disulfoton	O,O-diethyl S-[2-(ethylthio)ethyl] phosphorodithioate	Organophosphorus.
Dursban*	O,O-diethyl O-3,5,6-trichloro-2-pyridyl phosphorothioate	Do.
Dyfonate*	O-ethyl S-phenyl ethylphosphonodithioate	Do.
EPN	O-ethyl O-*p*,nitrophenyl phenylphosphonothioate	Do.
Ethion	S,S′-methylene O,O,O′,O′-tetraethyl phosphorodithioate	Do.
Formetanate	*m*-[[(dimethylamino)methylene] amino phenyl methylcarbamate	Carbamate.
Galecron*	*N*′-(4-chloro-o-tolyl)-*N*,*N*-dimethylformamidine	Aromatic amidine.
Gardona*	2-chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate	Organophosphorus.
Imidan*	O,O-dimethyl phosphorodithioate S-ester with *N*-(mercaptomethyl)-phthalimide	Do.
Landrin*	2,3,5-trimethylphenyl methylcarbamate and 3,4,5-trimethylphenyl methylcarbamate (mixture)	Carbamate.

Malathion	diethyl mercaptosuccinate *S*-ester with *O,O*-dimethyl phosphorodithioate	Organophosphorus.
Matacil*	4-(dimethylamino)-*m*-tolyl methylcarbamate	Carbamate.
Methomyl	*S*-methyl *N*-[(methylcarbamoyl)oxy]thioacetimidate	Do.
Methyl parathion	*O,O*-dimethyl *O*-*p*-nitrophenyl phosphorothioate	Organophosphorus.
Methyl Trithion*	*S*-[[(*p*-chlorophenyl)thio]methyl] *O,O*-dimethyl phosphorodithioate	Do.
Mevinphos	methyl 3-mydroxycrotonate dimethyl phosphate (*alpha*-isomer)	Do.
Mobam*	benzo[*b*]thien-4-yl methylcarbamate	Carbamate.
Mocap*	*O*-ethyl *S,S*-dipropyl phosphorodithioate	Organophosphorus.
Monitor*	*O,S*-dimethyl phosphoramidothioate	Do.
Naled	1,2-dibromo-2,2-dichlorethyl dimethyl phosphate	Do.
Neo-pynamin*	2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylic acid ester with *N*-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide.	Pyrethroid.
Nicotine	(principal active ingredient from *Nicotiana tabacum*)	Natural product.
Parathion	*O,O*-diethyl *O*-*p*-nitrophenyl phosphorothioate	Organophosphorus.
Phorate	*O,O*-diethyl *S*-[(ethylthio)methyl]' phosphorodithioate	Do.
Phosphamidon	dimethyl phosphate ester with 2-chloro-*N,N*-diethyl-3-hydroxycrotonamide	Do.
Pyrethrins	active insectcidal constituents or *Chrysanthemum cinerariaefolium*)	Natural product.
Rotenone	(principal active ingredient of derris and cube)	Do.
Ruelene*	4-*tert*-butyl-2-chlorophenyl methyl methylphosphoramidate	Organophosphorus.
Ryania	(powdered stemwood of *Ryania speciosa*)	Natural product.
Sabadilla	(alkaloid mixture isolated from seeds of *Schoenocaulon officinale*)	Do.
SBP-1382 (Penick)	(5 benzyl-3-furyl) methyl 2, 2-dimethyl-3-(2-methylpropenyl) = cyclopropanecarboxylate	Pyrethroid.
Schradan	octamethylpyrophosphoramide	Organophosphorus.
Sumithion*	*O*, *O*-dimethyl *O*-4-nitro-*m*-tolyl phosphorothioate	Do.
Trichlorfon	dimethyl (2, 2, 2-trichloro-1-hydroxyethyl) phosphonate	Do.

READILY DEGRADED, INACTIVATED, AND RELATIVELY NONPERSISTENT HERBICIDES [1]

Common name	Activity code	Chemical name	Type of compound
Acrolein	1	Acrolein	
Amitrole	1	3-amino-s-triazole	Triazole.
AMS	1	Ammonium sulfamate	Ammonium salt.
Atrazine	2	2-chloro-4(ethylamino)-6-(isopropylamino)-s-triazine	s-triazine.
Benefin	2	*N*-butyl-*N*-ethyl-*alpha,alpha,alpha,*-trifluoro-2,6-dinitro-*p*-toluidine	Aromatic amine.
Bromacil	3	5-bromo-3-sec-butyl-6-methyluracil	Uracil.
Ametryne	2	2-(ethylamino)-4-(isopropylamino)-6-(methylthio)-*s*-triazine	*s*-triazine.
Amiben	1	3-amino-2,5-dichlorobenzoic acid	Benzoic acid.
Atratone	2	2-(ethylamino)-4-(isopropylamino)-6-methoxy-s-triazine	s-triazine.
Barban	1	4-chloro-2-butynyl *m*-chlorocarbanilate	Carbamate.
CDAA	1	*N,N*-diallyl-2-chloroacetamide	Aliphatic amide.
CDEC	1	2-chloroallyl diethyldithiocarbamate	Carbamate.
Chloroxuron	2	3-[*p*-(*p*-chlorophenoxy)phenyl]-1,1-di-ethylurea	Urea.
Chlorpropham	1	isopropyl *m*-chlorocarbanilate	Carbamate.
2,4-D	1	(2,4-dichlorophenoxy)acetic acid	Phenoxy acid.
Dalapon	1	2,2-dichloropropionic acid	Aliphatic acid.
2,4-DB	1	4-(2,4-dichlorophenoxy)butyric acid	Phenoxy acid.
2,4-DEP	1	tris[2-(2,4-dichlorophenoxy)ethyl] phosphite	Phenoxy salt; organophosphorus.
Dicamba	2	3,6-dichloro-o-anisic acid	Benzoic acid.
Dichlobenil	3	2,6-dichlorobenzonitrile	Aromatic nitrile.
Dichlorprop	1	2-(2,4-dichlorophenoxy)propionic acid	Phenoxy acid.
Diphenamid	2	*N,N*-dimethyl-2,2-diphenylacetamide	Araikyl amide.
Diquat	1	6,7-dihydrodipyrido[1,2-*a*:2′,1′-c]pyrazinedilium salt	Heterocyclic quaternary salt.
EPTC	1	S-ethyl dipropylthiocarbamate	Carbamate.
Fenuron	2	1,1-dimethyl-3-phenylurea	Urea.
Fenuron TCA	2	1,1-dimethyl-3-phenylurea monotrichloroacetate	Do.
Ioxynil	1	4-hydroxy-3,5-diiodobenzonitrile	Aromatic nitrile.
Linuron	2	3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea	Urea.
MCPA	1	[(4-chloro-o-tolyl)oxy]acetic acid	Phenoxy acid.
Monuron	2	3-(*p*-chlorophenyl)-1,1-dimethylurea	Urea.
Norea	2	3-(hexahydro-4,7-methanoindan-5-yl)-1,1-dimethylurea	Do.
Paraquat	1	1,1′-dimethyl-4,4′-bipyridinium salt	Heterocyclic quaternary salt.
Prometone	2	2,4-bis(isopropylamino)-6-methoxy-s-triazine	s-triazine.
Prometryne	2	2,4-bis(isopropylamino)-6-(methylthio)-s-triazine	Do.
Propham	1	isopropyl carbanilate	Carbamate.

Pyrazon	1	5-amino-4-chloro-2-phenyl-3(2*H*)-pyridazinone	*Pyridazine.*
Sesone	1	2-(2,4-dichlorophenoxy)ethyl sodium sulfate	Phenoxy salt.

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Simetone	2	2,4-bis(ethylamino)-6-methoxy-s-triazine	s-triazine.
Simetryne	2	2,4-bis(ethylamino)-6-(methylthio)-s-triazine	Do.
2,4,5-T	1	(2,4,5-trichlorophenoxy)acetic acid	Phenoxy acid.
TCA	1	Trichloroacetic acid	Aliphatic acid.
Trifluralin	2	*a,a,a*-trifluoro-2,6-dinitro-*N,N*-dipropyl-*p*-toluidine	Aromatic amine.
Metobromuron	2	*3-(p-bromophenyl)-1-methoxy-1-methylurea*	Urea.
Molinate	1	S-ethyl hexahydro-1*H*-azepine-1-carbothioate	Carbothioate.
MSMA	2	Monosodium methanearsonate	Organoarsenical.
Naptalam	1	*N*-1-naphthylphthalamic acid	Phthalic acid.
Neburon	1	1-butyl-3-(3,4-dichlorophenyl)-1-methylurea	Urea.
Nitralin	2	4-(methylsulfony-2,6-dinitro-*N,N*-dipropylaniline	Aromatic amine.
Nitrofen	1	2,4-dichlorophenyl *p*-nitrophenyl ether	Diphenyl ether.
PCP	1	Pentachlorophenol	Phenol.
Pebulate	1	S-propyl butylethylthiocarbamate	Carbamate.
Propachlor	1	2-chloro-*N*-isopropylacetanilide	Anilide
Propanil	1	3'4'-dichloropropionanilide	Do.
Propazine	2	2-chloro-4,6-bis(isopropylamino)-s-triazine	s-triazine.
Siduron	2	1-(2-methylcyclohexyl)-3-phenylurea	Urea.
Silvex	1	2-(2,4,5-trichlorophenoxy)propionic acid	Phenoxy acid.
Simazine	2	2-chloro-4,6-bis(ethylamino)-s-triazine	s-triazine.
Swep	1	Methyl 3,4-dichlorocarbanilate	Carbamate.
TCA	1	Trichloroacetic acid	Aliphatic acid.
Terbacil	3	*3-tert-butyl-5-chloro-6-methyluracil*	*Uracil.*
Triallate	1	S-(2,3,3-trichloroallyl) diisopropylthiocarbamate	Caramate.
Trietazine	2	2-chloro-4-(diethylamino)-6-(ethylamino)-s-triazine	s-triazine.
2,4-D	1	(2,4-dichlorophenoxy)acetic acid	Phenoxy acid.
2,4-DB	1	4-(2,4-dichlorophenoxy)butyric acid	Do.
2,4-DEB	1	2-(2,4-dichlorophenoxy)ethyl benzoate	Do.
2,4,5-TES	1	sodium-2-(2,4,5-trichlorophenoxy)ethyl sulfate	Phenoxy acid, salt.
Vernolate	1	S-propyl dipropylthiocarbamate	Carbamate.
Bromoxynil	1	3,5-dibromo-4-hydroxybnezonitrile	Aromatic nitrile.
Butylate	1	S-ethyl diisobutylthiocarbamate	Carbamate.
CDEA	1	2-chloro-*N,N*-diethylacetamide	Aliphatic amide.

Footnotes at end of table.

READILY DEGRADED, INACTIVATED, AND RELATIVELY NONPERSISTENT HERBICIDES [1]—Continued

Common name	Activity code	Chemical name	Type of compound
Chlorazine	2	2-chloro-4,6-bis(diethylamino)-s-triazine	s-triazine.
Cycloate	1	S-ethyl N-ethyithiocyclohexanecarbamate	Carbamate.
Cycluron	2	3-cyclooctyl-1,1-dimethylurea	Urea.
DCPA	1	Dimethyl tetrachloroterephthalate	Phtholic acid.
Diallate	1	S-(2,3-dichloroallyl) diisopropylthiocarbamate	Carbamate.
Dinosam	1	2-(1-methylbutyl)-4,6-dinitrophenol	Nitrophenol.
Dinoseb	1	2-sec-butyl-4,6-dinitrophenol	Do.
Diuron	2	3-(3,4-dichlorophenyl)-1,1-dimethylurea	Urea.
DNOC	1	4,6-dinitro-o-cresol	Nitrophenol.
DSMA	2	Disodium methanearsonate	Organoarsenical.
Endothall	1	7-oxabicycle (2.2.1) heptane-2,3-dicarboxylic acid	Phtholic acid.
Erbon	1	2-(2, 4, 5-trichlorophenoxy)ethyl 2, 2-dichloropropionate	Phenoxy acid.
Fenac	3	(2, 3, 6-trichlorophenyl) acetic acid	Do.
Fluometuron	2	1, 1-dimethyl-3-(a, a, a,-trifluoro-m-tolyl) urea	Urea.
HCA	1	1, 1, 1, 3, 3, 3-hexachloro-2-propanome	Hexachloroacetane.
Ipazine	2	2-chloro-4-(diethylamino)-6-(isopropylamino)-s-trazine	s-triazine.
Isocil	3	5-bromo-3-isopropyl-6-methyluracil	Uracil.
KOGN	1	Potassium cyanate	Cyanate.
MCPB	1	4-[(4-chloro-o-tolyl)oxy]butyric acid	Phenoxy acid.
MCPES	1	2-[(4-chloro-o-tolyl)oxy]ethyl sodium sulfate	Do.
Metham	1	Sodium methyldithiocarbamate	Carbamate.

[1] Herbicides whose degradation, inactivation, and persistant characteristics are such that their use, in accordance with treatments registered for selective control of weeds on cropland, pose no significant problem with respect to registered tolerances for herbide residues or crop production in following seasons. This list is not all inclusive, particularly with respect to new materials. The herbicides listed are coded as to their degradability, persistence, and inactivation in soil. The legend for the code numbers is as follows:

1. Compounds normally degraded or inactivated, and usually do not persist more than 12 months.

2. Compounds that may persist for more than 12 months, but are normally degraded or inactivated in less than 24 months.

3. Compounds that may persist for more than 24 months, but are normally degraded or inactivated, and usually do not persist for more than 48 months.

READILY DEGRADED, RELATIVELY NONPERSISTENT FUNGICIDES

Common name (or trade name*)	Chemical name	Type of compound
Captan	N-[(trichloromethyl)thio]-4-cyclohexene-1,2-dicarboximide	Chlorothiocarboximide.
Chloranil	2,3,5,6-tetrachloro-*p*-benzoquinone	*Chlorinated quinone.*
Chloroneb	1,4-dichloro-2,5-dimethoxybenzene	Chlorinated aromatic ether.
Daconil 2787*	2,4,5,6-tetrachloroisophthalonitrile	Chlorinated aromatic nitrile.
DCNA	2,6-dichloro-4-nitroaniline	*Chlorinated aniline.*
Dichlone	2,3-dichloro-1,4-napthoquinone	Chlorinated quinone.
Difolatan*	*cis*-*N*-[(1,1,2,2-tetrachloroethyl)thio]-4-cyclohexene-1,2-dicarboximide	Chlorothiocarboximide.
dinocap	2-(1-methylheptyl)-4,6-dinitrophenyl crotonate	Dinitrophenyl ester.
dodine	Dodecylguanidine acetate	Alkyl guanidine salt.
Dyrene*	2,4-dichloro-6-(*o*-chloroanilino)-*s*-triazine	Chlorinated triazine.
ethoxyquin	6-ethoxy-1,2-dihydro-2,2,4-trimethylquinoline	Ethoxyquinoline.
ferbam	Ferric dimethyldithiocarbamate	Ferric thiocarbamate.
folpet	*N*-[(trichloromethyl)thio]phthalimide	Chlorothiocarboximide.
Glyodin	2-heptadecyl-2-imidazoline acetate	Alkyl imidazoline salt.
Lanstan*	1-chloro-2-nitropropane	Chloronitroalkane.
Lime sulfur	30% calcium polysulfide and various small amounts of calcium thiosulfate plus water and free sulfur	Calcium polysulfides.
Maneb	*Manganese ethylenebis [dithiocarbamate]*	Manganese thiocarbamate.
Morestan*	6-methyl-2,3-quinoxalinedithiol cyclic S,S-dithiocarbonate	Thioquinoxaline.
Nabam	Disodium ethylenebis [dithiocarbamate]	*Sodium thiocarbamate.*
*Niacide**	*Mixture of* manganese dimethyldithiocarbamate and 2-benzothiazolethiol	Manganese thiocarbamate.
Pipron*	3-(2-methylpiperidino) propyl 3,4-dichlorobenzoate	Chlorinated piperidyl *benzoate.*
8-*quinolinol*	8-quinolinol	Hydroxyquinoline.
Sulfur	Sulfur	Elemental sulfur.
Thioquinox	2,3-quinoxalinedithiol cyclic trithiocarbonate	*Thioquinoxaline.*
Thiram	Bis (dimethylthiocarbamoyl) disulfide	Thiocarbamate.
Tricamba	3, 5, 6-trichloro-o-anisic acid	Chlorinated benzoic acid.
Zineb	Zinc ethylenebis [dithiocarbamate]	Zinc thiocarbamate.
Ziram	Zinc dimethyldithiocarbamate	Do.
Mertect*	2-(4-thiazolyl) benzimidazole	Thiabendazole.
Polyram*	Mixture of 5.2 parts by weight of *ammoniate of [ethylenebis (dithiocarbamato)]* zinc with 1 part by weight ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides.	Dithiocarbamate.
Streptomycin	2, 4-diguanidino-3, 5, 6-trihydroxycyclohexyl 5-deoxy-2-*O*-(2-deoxy-2-methylamino-a-glucopyranosyl)-3-formyl pentofuranoside.	Antibiotic (produced by *Streptomyces griseus*).
Vitavax*	2, 3-dihydro-5-carboxanilido-6-methyl-1, 4-oxathiin	1, 4-oxathiin derivative.

READILY DEGRADABLE, RELATIVELY NONPERSISTENT NEMATICIDES

Common name (or trade name*)	Chemical name (or source)	Type of compound
EDB	1,2-dibromoethane	Hyrocarbon.
DBCP	1,2-dibromoethane	Do.
DD	1,3-dichloropropene and 1,2 dichloropropane	Do.
Methyl bromide	Monobromomethane	Do.
Chloropicrin	Trichloronitromethane	Do.
Penphene*	2,3,4,5-tetrachlorothiophene	Do.
Dazomet	3,5-dimethyltetrahydro-1,3,5,2H-	Carbamate.
Aldicarb	2-methyl-2-(methylthio) propionaldehyde O-(methylcarbamoyl) oxime	Do.
Methomyl	S-methyl N-(methylcarbamoyl)oxy)thioacetimidate	Do.
Metham-sodium	Sodium *N*-methyldithiocarbamate	Do.
Parathion	*O,O*-diethyl O-p-nitrophenyl phosphorothioate	Organophorus.
MENCS	methyl isothiocyanate	Do.
Mocap*	*O*-ethyl *S,S*-dipropyl phosphorodithioate	Do.
Dasanit*	*O,O*-diethyl *O*-*p*-(methylsulfinyl)phenyl phosphorothioate	Do.
Bay 68138	Ethyl 4-(methylthio)-m-toyl isopropylphoramidate	Do.
Thionazin	*O,O*-diethyl *O*-2-pyrazinyl phosphorothioate	Do.
Diazinon	*O,O*-diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate	Do.
Carbofuran	2,3-dihydro-2,2-dimethyl-7-benzofuranyl methyl-carbamate	Do.
V-C 13 Nemacide*	*O*-(2,4-dichlorophenyl)*O,O*-diethyl phosphorothioate	Do.

Mr. NELSON. Mr. President, fourth, is the increased use of systems of integrated pest control, combining biological and chemical controls, and additionally, developing pest-resistant crop strains. This approach is showing increased success as an effective economic means of pest control.

Fifth, further development of agents which cause the persistent pesticides to decompose more rapidly in the soil and water after they have been applied to a crop and accomplished their task; and,

Sixth, the development of standards on the biodegradability and toxicity of pesticide components.

COMPREHENSIVE STUDY

Part 2 of the amendment directs the Secretary of the Interior, in consultation with appropriate Federal agencies, and other concerned parties, to conduct a study on methods of controlling the release of pesticides in our Nation's lakes and rivers and the environment. The study will include examination of the persistency of pesticides in the water and alternatives thereto. Within the 2 years, the Secretary will submit a report on this study to Congress together with his recommendations for any necessary legislation.

This study should assist the Secretary in perfecting existing means of dealing with pesticide pollution and in determining new ones, to assure equitable and enforceable standards.

There is abundant evidence to show that the six approaches—State action, interstate action, integrated pest control, use of less persistent pesticides, development of agents to decompose pesticides, and biodegradability and toxicity standards—will prove effective in the nationwide program of pesticide water quality criteria and standards which this amendment would establish.

For instance, a report published this month by the American Chemical Society described in detail a number of means by which the massive pesticide contamination can be minimized. I believe it would be helpful to outline some of the information provided by this and other reports which we have studied.

First, since pesticides have been billed as a panacea for controlling all pests, heavy application has become a national habit, whether it is needed or not. For example, cotton is often sprayed with toxic, persistent pesticides every 5, 7, or 10 days.

BETTER PESTICIDE USE

Yet, with effective use of our improved knowledge of the life cycle and behavior of both the crop and the pest, pesticide application could be cut down to only that period of the time when a pest is in fact endangering a crop.

In addition, acceptance of the valid idea that 100-percent pest control need not be achieved would further cut pesticide use. Often, damage to crop production could be prevented with just a 75-percent control of the pests.

Another valid application method which would further cut pesticide use, expense, and pollution, is treating only the areas that are heavily infested with pests. As an example, mountain water in North Carolina was found to contain more than 0.3 part per billion of DDT when an entire oak-hickory forest was treated for a tree disease. Later, when only the region of the forest affected by the disease was treated, it was impossible to find any trace of DDT in the waters. And the disease was still controlled.

If improved application equipment were used, there would be another significant reduction in pesticide use.

A Mississippi study on the aerial application of the persistent pesticide heptachlor showed that only 17 percent of the compound was applied at the proper rate on the crop. The remainder either missed the crop, was applied at a rate much lower than necessary, or was applied at a rate much higher than necessary. In another study, only 10 to 20 percent of a pesticide dust reached the plant, with the remainder missing its target entirely.

Concentrated efforts to eradicate whole pests populations also offer great promise. For example, if just three pests, the boll weevil, the boll worm, and the codling moth, were eradicated, it would be possible to reduce the amount of insecticides applied each year in the United States by some 40 percent.

BIOLOGICAL CONTROL

Insect sterilization has become one of the most effective ways to eliminate a total insect population. This was the technique that was used to eradicate the screw-worm fly from the Southeast United States. The U.S. Department of Agriculture raised millions of screw-worm flies weekly, with radioactive cobalt used to make the flies reproductively sterile.

Massive numbers of sterilized flies were air dropped regularly over thousands of square miles infested by native screw-worm flies. The sterile flies mated with the native females, and the resulting eggs failed to hatch. Repeated releases of sterile flies reduced screw-worm numbers, until the pests finally disappeared.

Presently, the Agriculture Department is maintaining a barrier zone along the United States–Mexico border to keep out new screw-worms through continuously releasing sterile flies along that area.

The American Chemical Society says that the ideal pesticide should be as effective as possible against one or several pests and as safe as possible to all other forms of life, including beneficial insects and predators, fish and other wildlife, domestic animals, and man. As one of its main recommendations in its recent report, the Society urged:

> Persistent pesticides should only be used in minimal amounts and under conditions where they have been shown not to cause widespread contamination of the environment. Where possible, highly persistent materials should be replaced by rapidly degrading materials.

The feasibility of this approach is demonstrated by the fact that, as pointed out earlier, for virtually all crops, there are several pesticides, some very persistent and some not, which can effectively control harmful pests.

In several parts of the country, the cost of pesticide use has increased so drastically, that other systems of pest control with little or no reliance on chemical formulations have been adopted with great success.

INTEGRATED PEST CONTROL

Among these approaches is integrated pest control, which can be best defined as an insect population management system that depends primarily on the use of beneficial predator insects with limited reliance on the use of selective chemicals.

Presently there are successful integrated pest control programs in operation on the following crops: cotton, citrus fruits, apples and pears, tomatoes, potatoes, avocados, olives, grapes, corn, eggplant, lettuce, strawberries and others.

This means of pest control is based on the principles of applied ecology. In order for success to be achieved, the fields must be placed under periodic surveillance to determine when and where specific pest infestations occur. When a

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problem is discovered, predators, parasites, or disease organisms specifically related to that pest are released to bring the pests back into a favorable balance. Very limited amounts of pesticide may be used, but only when absolutely necessary, and only on the infested area of the crop.

While many farmers and other pesticide users resist giving up chemical means of pest control because they feel that other alternatives may be more costly, the opposite has been proven true with regard to integrated pest control.

LOWER COST

Prof. Robert VandenBosch of the College of Agricultural Sciences, University of California at Berkeley, cites this example: The cost of pest control using chemical pesticides for 4,000 acres of cotton in California was $185,000. When

integrated pest control replaced the use of chemical pesticides, the cost dropped to $20,000 a year. The statistics for spotted alfalfa in California are very similar, where in 1957, the cost of pest control with chemical pesticides was at least $12 million. Today, after the introduction of integrated pest control, the cost has been reduced to only $3 million, with little or no pest problems remaining.

A recent edition of the Western Fruit Grower cites additional cases of the successful and economical application of integrated pest control in place of the use of chemical pesticides. One expert in biological control has enabled a producer of Valencia oranges to reduce the cost of pest control from $200 per acre, using chemical control, to only $60 an acre with integrated pest control. Another orange grower has been able to reduce his cost per acre for pest control to just $35 per acre, using integrated pest control, and has had higher yields than ever in the history of the grove.

Another pest control approach showing major promise is the use of hormones. The principle is to give an insect its own hormone at the wrong stage of its life, so that it upsets the bug's growth processes and causes it to destroy itself.

Finally, the search is now underway for a catalyst which would cause DDT to self-destruct after it had accomplished its insect control tasks. If successful, this would be a major breakthrough in dealing with the tendency of hard pesticides to persist in the environment long after they are needed. Secretary of the Interior Walter Hickel recently announced the award of a contract to test this approach.

America and the world cannot afford to wait much longer to decide that hurling the crude weapon of hard pesticides against the fabric of life, the apt description by Rachel Carson, is not the answer to our pest control problems.

Our approach must be much more sophisticated than that, and as I have outlined above, there is an abundance of alternatives. And there is no reason why the job cannot be done more effectively and far more economically than the present massive, indiscriminate pesticide use. The savings would accrue to the farmer and all other pesticide users, to our environment, and most importantly, to future generations of life on earth.

I believe the pesticide amendment to S. 7 is a major step in the right direction. Criteria would be developed, standards would be set and implemented, and the means to meet these standards brought into use.

I urge the Senate's adoption of the amendment, and I am heartened and deeply appreciative of the cosponsorship of this proposal by 31 Senators, including the chairman of the Senate Public Works Committee, Senator RANDOLPH, and the chairman of the Subcommittee on Air and Water Pollution, Senator MUSKIE, who is the author of S. 7.

This board support is without question a confirmation of the growing insistence of Congress that the quality of the American environment and the quality of life for all Americans be given the protection that is so urgently needed.

EXHIBIT 1

U.S. DEPARTMENT OF THE INTERIOR,
FEDERAL WATER POLLUTION
CONTROL ADMINISTRATION,
Washington, D.C., August 25, 1969.

Hon. GAYLORD NELSON,
U.S. Senate
Washington, D.C.

DEAR SENATOR NELSON: In accordance with Mr. John Heritage's recent request by telephone to Mr. Bern Wright of our Water Quality Standards Branch, a review has been made of the States' water quality standards requirements on pesticides and the following information and enclosed summaries are being provided for your use.

Most of the State standards contain one or more requirements by which limits on specific toxic substances may be imposed on a case-by-case basis. These controls are found in the standards in the form of a general narrative statement on toxicity, or they may be included in the public water supply or aquatic life use criteria. Three of the States have specific numerical limits for pesticides and at least two others specifically mention pesticides in their toxicity standards.

SPECIFIC NUMERICAL STANDARDS ON PESTICIDES

Alaska

Standards of the State of Alaska contain a pesticide limit of 0.001 of the 96-hour LC_{50}. (96-hour LC_{50} means the lethal concentration of a substance that will result in a 50% kill of the test organism in a 96-hour period.)

California

Tidal Waters Inland from the Golden Gate within the San Francisco Bay Region—No individual pesticide or combination of pesticides shall reach concentrations found to be deleterious to fish or wildlife at any place.

Goose Lake—The total chlorinated hydrocarbon pesticide content shall not exceed 0.10 micrograms per liter as determined by the summation of the individual concentrations, and the individual pesticide content shall not reach those levels found to be detrimental to aquatic life and wildlife.

Idaho

Toxic or Other Deleterious Substances (pesticides, phenolics and related organic and inorganic materials)—Toxic chemicals of other than natural origin in concentrations found to be of public health significance or adversely affect the uses indicated. Guides such as the Water Quality Criteria published by the State of California Water Quality Control Board, Second Edition, 1963, will be used in evaluating the tolerances of the various toxic chemicals for the use indicated.

South Dakota

Pesticides, herbicides and related compounds shall be treated as toxic materials and taste and odor producing chemicals and controlled under the provisions of Chapter II, Section II, Subsection 2 and 4.

Chapter II, Section II, Subsection 2—*Toxic Materials* No materials shall be discharged to any surface water or watercourse in the State which produce concentrations of chemicals toxic to humans, animals or the most sensitive stage or form of aquatic life greater than 0 1 times the acute (96-hour) median lethal dose for short residual compounds or 0 01 times the acute median lethal dose for accumulative substances or substances exhibiting a residual life exceeding 30 days in the receiving waters.

Chapter II, Section II, Subsection 4—*Taste and Odor Producing Chemicals.* No materials shall be discharged which will result in concentrations in the receiving water sufficient to impart objectionable tastes and odors to edible aquatic life.

Virginia

Salt water (shellfish)—Area is not to be so contaminated with radionuclides, pesticides, herbicides or fecal material, that consumption of the shellfish might be hazardous.

PUBLIC WATER SUPPLY CRITERIA

Several States have included the Public Health Service (PHS) Drinking Water Standards as requirements for establishing the quality of water to be maintained as an acceptable source of public water supply. These standards establish a limit of 0.2 mg/1 for Carbon Chloroform Extract (CCE). This is intended to be a general safety control for the detection of "ill defined" chemicals which could include pesticides. The CCE control is not intended for replacement of specific limits on pesticides and other toxic substances

Those States which expressly include the PHS requirements for waters designated for public water supply use are as follows: Alabama, Alaska, California, Connecticut, Georgia, Maine, Michigan, Minnesota, Montana, Nebraska, North Carolina, Rhode Island, Vermont, West Virginia, Wyoming.

AQUATIC LIFE-TOXICITY STANDARDS

All of the States standards provide for the protection of aquatic life from toxic substances. Appendix A is a summary of these requirements as they relate to aquatic life.

A copy of the "Report of the Committee on Water Quality Criteria-Federal Water Pollution Control Administration" is also enclosed for your reference use. Pages 56, 58, 59 of this report provide discussions on "Toxic Substances" and "Bioassay" which may be helpful to you in interpreting the standards on toxic substances. You will also find on pages 62–65, 82–83, 116, 118, 131, 137, 156 of this report information on pesticides. Each of the State water pollution control agencies have been provided a copy of this report and it is being widely used by the States as a guide in the updating of their water quality standards

If you have any further questions concerning specific requirements in the standards, please let me know.

Sincerely yours,

DAVID D. DOMINICK,
Commissioner.

APPENDIX A—*TOXICITY STANDARDS For Surface Waters Used For FISH PROPAGATION AND WILDLIFE*

(Toxic substances—Maximum allowable (mg/1))

Alabama: Only amounts not injurious to fish and aquatic life, including shrimp and crabs, or the propagation thereof. 1/10 of 48-hour TL_m or other approved limits.

Alaska: Less than acute or chronic problem levels as revealed by bioassay. None which causes tainting of flesh of edible species.[b] Pesticides· 0.001 of 96-hour LC_{50}[b].

Arizona: Biocide concentrations shall be

Footnotes at end of article

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kept below levels which are deleterious to human, animal, plant, or aquatic life, or in amounts which interfere with this use.

Arkansas Shall not be present in quantities toxic to human, animal, plant, or aquatic life or which interfere with the normal propagation of aquatic life. 1/10 of 48-hour TL_m.

California: At all times less than the concentrations toxic or harmful to wild or domestic animals or to aquatic life.

Colorado: Free from biocides, toxic, or other deleterious wastes in concentrations or combinations sufficient to be harmful to aquatic life

Connecticut· Free from chemical constituents in concentrations or combinations which would be harmful to human, animal, or aquatic life Bioassays shall be performed as needed

Delaware: None in concentrations harmful (synergistically or otherwise) to humans, fish, wildlife, and aquatic life.

District of Columbia: None from waste sources in concentrations or combinations which are harmful to human, animal, plant, or aquatic life or which interfere with this use.

Florida: Free from waste substances toxic or harmful to human, animal, or aquatic life F: 10.0 Cu–0.5, Zn–1.0, Cr^6–0 05, Pb–0 05, Fe–0.3, As–0 05, Cn· none detectable.

Georgia: None in concentrations that would harm man, fish, and game, or other beneficial aquatic life.

Territory of Guam: Free from waste materials that will be toxic or irritating to humans, animals, plants, or aquatic life.

Hawaii. Free from biocides, toxic, or other deleterious substances in concentrations harmful to human, animal, or marine life, or which cause unpleasant taste in seafood

Idaho: No toxic chemicals of other than natural origin, in concentrations of public health significance or which adversely affect this use

Illinois· 1/10 of 48-hour TL_m. AS–1.0, Ba–5 0, Cd–0 05, Cr^6–0 05, Cr^3–1 00, Cu–0.04, Cn–0 025, Pb–0 1, Ag–0.05, An–1.00

Indiana· 1/10 of 96-hour TL_m from continuous-flow bioassays where the dilution water and toxicant are continuously renewed, or other factors when justified and approved

Iowa: NH_3–N–2.0, As–1.0, Ba–5.0, Cd–0 05, Cr^6–0 05, Cr^3–1.00, Cu–0 02, Cn–0 025, Pb–0.10, Zn–1 0 Maximum of 5 0 for entire heavy metal group.

Kansas: Pollutional substances will be maintained below maximum permissible concentrations which would be detrimental for recreational requirements.

Kentucky: 1/10 of 48-hour TL_m. Free from waste substances in concentrations or combinations which are toxic or harmful to human, animal, plant, or aquatic life.

Louisiana: 1/10 of 48-hour TL_m. None present in quantities that alone or in combination will be toxic to animal or plant life

Maine· No chemical constituents from waste sources, which are harmful to humans, animal, or aquatic life, or which adversely affect this use.

Maryland· Free from toxic wastes which interfere with this use or which are harmful to human, animal, plant, or aquatic life.

Massachusetts: None at levels harmful to human, animal, or aquatic life, or which make the waters unsuitable for fish or their propagation, or impair their palatability.

Michigan: 1/10 of 96-hour TL_m from continuous flow bioassays.

Minnesota· Cr–tr, Cu–tr, Cn–tr, $NH_3(N)$–tr[b], Cr–1 0, Cu–0.2, Cn–0 02, $NH_3(N)$–1.0[c], Cr–1.0, Cu–0 2, Cn–0.02, $NH_3(N)$–2.0[d]. None directly or indirectly harmful.[e]

Mississippi: 1/10 of 48-hour TL_m.

Missouri: None which have harmful effect on human or animal life

Montana: 1/10 of 96-hour TL_m for short residual materials and 1/100 of 96-hour TL_m for pesticides.

Nebraska: None in combinations or concentrations which render the water unsafe or unsuitable for this use.

Nevada None present in concentrations, from other than natural origin, which are deleterious to animal, plant, or aquatic life, or which exceed the 1962 PHS "Drinking Water Standards."

New Hampshire: None in toxic concentrations or combinations. Free from chemicals and conditions inimical to fish life or the maintenance thereof

New Jersey: None which would affect humans or be detrimental to the natural aquatic biota.

New Mexico· 1/10 of 48-hour TL_m. Shall not change the ecology to an extent detrimental to existing forms of life nor be toxic to humans, plants, fish, or animals.

New York: None alone or in combination with other substances or wastes in sufficient amounts to be injurious to fish life or impair the waters for this use.

North Carolina· 1/10 of 48-hour TL_m. Shall not change the ecology to an extent detrimental to existing forms of life nor be toxic to humans, plants, fish, animals.

North Dakota: No waste materials, either in concentrations or combinations, which result in the waters being toxic or harmful to human, animal, or aquatic life

Ohio: 1/10 of 48-hour TL_m Free from waste substances in concentrations or combinations which are toxic or harmful to human, animal, or aquatic life.

Oklahoma: 1/10 of 48-hour TL_m. Shall not be present in such quantities as to cause the waters to be toxic to human, animal, plant, or aquatic life.

Oregon: No conditions deleterious to fish or other aquatic life or which affect the palatability of fish.

Pennsylvania: None in amounts sufficient to be inimical or harmful to this use.

Commonwealth of Puerto Rico: None alone or in combination with other substances or wastes in amounts injurious to edible fish or their culture, taste, or propagation.

Rhode Island: Bioassays shall be performed as required by the appropriate agencies. None which would be harmful to human, animal, or aquatic life.

South Carolina· Free from waste materials which are toxic or harmful to human, animal, plant, or aquatic life, or which interfere directly or indirectly with this use.

South Dakota: 1/10 of 96-hour TL_m for short residual compounds 1/100 of 96-hour TL_m for substances of residual life exceeding 30 days. Cn-02[d1e1fg] 0.05[h].

Tennessee: There shall be no substances added that will produce toxic conditions that affect fish or aquatic life.

Texas: Shall not exhibit acute or chronic toxicity to human, animal, or aquatic life to such an extent as to interfere with this use.

Utah: No waste materials in concentrations or combinations which are toxic or which produce undesirable physiological responses in humans, fish, and other animal life, and plants.

Vermont: Bioassays shall be performed, including assessment of taste and odor Free from chemical constituents harmful to human, animal, or aquatic life

Virginia: Free from toxic substances attributable to waste, in concentrations or combinations which interfere directly or indirectly with this use.

Virgin Islands of the United States· Free from waste substances in concentrations or combinations which are toxic or harmful to human, animal, or aquatic life.

Washington. Below concentrations which may cause acute or chronic toxic conditions to the aquatic biota.

West Virginia· No concentrations of materials poisonous to man, animal, or fish life

Wisconsin: None present in amounts which by bioassay or other tests indicate acute or chronic levels harmful to animal, plant, or aquatic life.

Wyoming· Free from toxic substances of other than natural origin in concentrations or combinations which are toxic to human, animal, or aquatic life.

FOOTNOTES

[b] Standard reserved from approval by FWPCA.

[b1] Applies to propagation and maintenance of warm and coldwater sport or commercial fishes.

[b2] Standards apply only to coastal waters

[c] Applies to propagation and maintenance of sport or commercial fishes.

[d] Applies to propagation and maintenance of fish species common to the area waters.

[d1] Fish life propagation—coldwater permanent.

[e] Applies to use by wildlife.

[e1] Fish life propagation—coldwater marginal.

[f] Fish life propagation—warmwater permanent.

[g] Fish life propagation—warmwater semipermanent.

[h] Fish life propagation—warmwater marginal.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. NELSON. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the Senator from Wisconsin has often appeared before the Committee on Public Works and its subcommittees in reference to the matters of cleansing the air and purifying the water. I will not mention the long list of affirmative actions he has initiated in the Senate. I am not sure how many cosponsors on the amendment, but I do know there is a considerable list. I am delighted I could join him in the amendment.

In joining with him we recognize his leadership in this field. I think his explanation this afternoon of the presence of pesticides and the danger that can be wrought by this type pollution is a real one. I express my thanks for his constructive efforts.

Mr. NELSON. I thank the distinguished chairman of the Committee on Public Works for his gracious remarks. I might add, however, the reason I appeared before the Committee on Public Works, of which the Senator from West Virginia is chairman, is that that committee has been doing such extensive work in the field of enhancing the quality of air and water in this country. They have made it possible for conservationists and Members of Congress to appear in connection with legislation of

this nature to which his committee has devoted so much time.

Mr. MONDALE. Mr. President, I rise in support of the amendment (No. 132) introduced by the Senator from Wisconsin (Mr. NELSON) to S. 7.

I have already stated the many reasons that I support the Water Quality Improvement Act of 1969, and I appreciate this opportunity to direct specific remarks to the amendment now proposed by my distinguished colleague from Wisconsin.

Under the proposed amendment, the Secretary of the Interior is directed to take certain steps that would guarantee water quality criteria for all pesticides. The criteria would be based on the effects of various pesticide levels on fish and wildlife, as well as man and his environment. The criteria would outline maximum safe levels for the presence of pesticides in water, and these would represent

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the essential basis for State or Federal action to deal with the pesticide pollution problem.

It is clear that persistent pesticides are so polluting our rivers, lakes, streams, and oceans that fish can and have been killed; that fish reproduction can and has been inhibited; that high pesticide residues in water have affected birds and other animals; and, that now, even man is threatened.

Specifically, the amendment would permit the Secretary of the Interior, after consultation with all interested and concerned parties, to prepare and publish regulations setting forth water quality standards for pesticides that will clearly not have a deleterious effect on fish or man. Responsibility for enforcing the standards would rest primarily with the States. Standards could be implemented by issuing orders to polluters to take remedial measures.

A particularly significant aspect of this amendment is that it permits the establishment of a system for tabulating, monitoring, and recording precisely what pesticide residues should be permitted.

As chairman of the Senate Subcommittee on Migratory Labor, I have become particularly aware of the need to establish similar procedures insofar as farmworkers may be affected by pesticide use.

There is mounting evidence concerning the harmful effects of pesticides on our Nation's migrant and seasonal farmworkers. Experts from the Department of Health, Education, and Welfare concede that perhaps as many as 800 farmworkers are killed and 80,000 injured by pesticides each year. We know that the agricultural industry experiences one of the highest occupational disease rates in the United States. Just last week we learned that a substantial proportion of farmworkers experience symptoms of chemical poisoning which include dermatitis, rashes, eye irritation, nausea, vomiting, fatigue, excess sweating, headaches, double vision, dizziness, skin irritations, difficulty in breathing, loss of fingernails, nervousness, insomnia, bleeding noses, and diarrhea.

It is clear from our hearings that proper safeguards and protections for farmworkers do not exist in the use of pesticides. In fact, under present State and Federal regulations, information about how, when, and where chemicals are used is seldom available to the farmworker or to the public.

The hearing record is painfully lacking in any firm evidence that the pesticides to which farmworkers are daily exposed in fact have no deleterious short- or long-range effects on their health and well-being. Further, it was shocking to learn of the pitifully inadequate funding of programs devoted to research on occupational hazards to farmworkers; and to discover that programs aimed at protecting the farmworkers are neither adequately funded nor enforced.

We do know, however, from recent accounts in medical and scientific journals,

that the wrong kinds of chemicals, in the wrong amounts, and in the wrong places are sometimes used with inadequate regard of the health and safety of their workers. Furthermore, we know that recent scientific investigations have produced evidence that DDT causes cancer in animals and provides very strong indications that DDT may produce cancer in man.

Mr. President, I support this amendment, because it establishes a mechanism for the Secretary of the Interior to determine maximum safe levels of pesticides in water that would represent the essential basis for action to deal with the pesticide pollution problem in water. Additionally, enactment of this amendment may serve as a workable model for necessary legislation to protect farmworkers through establishment of a meaningful system for monitoring pesticide effects on man.

Mr. MUSKIE. Mr. President, the amendment offered by the Senator from Wisconsin (Mr. NELSON) is a constructive addition to the legislation which is pending before the Senate. I have discussed this proposal with the Senator from Wisconsin and agree with the need to provide the Secretary of the Interior with a specific directive to formulate criteria which indicate the effects of pesticides on the water environment.

There is a growing national concern regarding the use of pesticides. Conservationists, scientists, medical experts, and ecologists are speaking out against indiscriminate use of pesticides while other scientists, health officials, and agricultural experts oppose actions to limit their availability and use.

Existing information is sufficient to suggest that we have not exercised due care in either the amount or type of pesticides we use. Inadequate attention has been paid to developing less toxic more degradable pesticides and thus, today, we are confronted with the potential of banning entirely the use of some materials which have been extremely helpful in expanding the Nation's productivity and protecting the Nation's health.

I am not prepared, at this time, to suggest that all pesticides, herbicides, fungicides, and insecticides should be banned or even that some of them should be banned. I support Senator NELSON'S amendment because we need to know a great deal more about the health and welfare effects of these pollutants and because existing scientific information needs to be assembled and evaluated.

The criteria to be published by the Secretary should provide useful assistance to the States in determining the extent to which the use of pesticides and water quality requirements are in conflict.

In some States it may be necessary to establish limitations on the availability of certain types of pesticides and, in other cases, it may be necessary to limit use of specific pesticides in certain watersheds. Whatever course is taken in controlling use of persistent pesticides, care should be taken to assure that public health responsibilities such as malaria control are not hindered.

Enforcement procedures must consider the differences between point source control available to municipal and industrial wastes as opposed to the general diffusion of the pollutant in this case. The inability to effectively control this type of pollutant after application suggests the need to consider legislation which will establish uniform standards on the biogradability and toxicity of pesticides to assure environmental protection prior to the indiscriminate introduction of pesticides into the environment.

The Senator from Wisconsin (Mr. NELSON) has indicated an intent to introduce such legislation in the near future. I will cosponsor his proposal and the Subcommittee on Air and Water Pollution will hold hearings early next year.

I would like to ask the distinguished Senator this question. First of all I share the Senator's concern about the growing dilemma of pesticide pollution.

In many ways I think it is perhaps the most serious in its potential impact upon the environment, upon wildlife, and upon human life itself. It is the most persistent and most difficult to come to grips with once pesticides are released in the environment. In that sense, it is like air pollution. Once discharged, it cannot be controlled; so, as in the case of pesticides at the dispersal point.

Since the problem of control is, for that reason, somewhat different from that of other air pollutants, the enforcement problem is different in the same way. So we have to come to grips with that problem.

The amendment offered by the distinguished Senator from Wisconsin is a major advance, I think, toward restoring and preserving the quality of our waters that are now threatened by pesticides.

In addition to leading to specific standards for safe concentrations of pesticides in interstate rivers and lakes, I believe that the amendment serves an equally important purpose of establishing a comprehensive program for research in the Department of the Interior, to study the problems of persistent pesticides and alternatives that can eliminate this contamination of our environment.

That is the point which, I think, is at the heart of resistance to the control of pesticides.

I ask the Senator from Wisconsin whether he believes that the standards that would be developed as a result of his amendment can be met without hindering efforts to control insects, weeds, fungus, and other pests that can cause damage to farmers and can pose a potential hazard to human health.

Mr. NELSON. I do not think there is any question about that. No Member of Congress is more familiar with the Water Pollution Control Act than the Senator from Maine (Mr. MUSKIE) who conducted the hearings, drafted the bill, and engineered its passage in the Senate.

As the Senator knows, under section 10(c) the Secretary can establish criteria, but he must consider the practicability and the economic feasibility of any standards that are proposed to be used. He must take these factors into consideration.

I make one other point. The Department of Agriculture prescribes an alternative pesticide for every chlorinated hydrocarbon, so far as I can ascertain, this is listed for use on virtually every crop in this country. In other words, there is another, more readily degrading pesticide that is readily available. As I review the application rates recommended by the Department and the current prices of pesticides, the cost of hard pesticides compared with readily degradable pesticides is roughly the same.

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I believe that the Senator knows Michigan and Arizona have already banned the use of DDT. My own State of Wisconsin is moving to drastically improve the controls on it and has created a board to determine if it is necessary to use certain pesticides. There is integrated pest control which has been initiated successfully in California in which they do not indiscriminately spray the crop. They use whatever biological methods they can, including certain organisms which prey on insects. But whatever method they use, biological or chemical, it is limited to the area where the pest is.

In my earlier remarks, I outlined those programs and the cost per acre, which is dramatically less for a program of integrated pest control. Unfortunately, so many people just hire an airplane and go out and spray indiscriminately all over the place.

So in answer to the Senator, I believe that many practical, alternative means are available right now. But again I say, the Secretary must consider the practicability and the economic feasibility for any standards. So that is the protection against arbitrariness on anything he may propose.

Mr. MUSKIE. That is the value of the Senator's amendment. It increases the pressure to recognize the availability of other means of controlling pests than with hard pesticides. If we do not concentrate on that and enlarge the possibilities in this respect, we will be wasting, perhaps, the last chance we will have to avoid the massive dispersal of hard pesticides into the environment.

I am delighted to cosponsor the amendment. I compliment the Senator on becoming, in my judgment, the most knowledgeable expert in the Senate on this problem.

Mr. NELSON. Mr. President, incidentally, I might say to the Senate, that my staff and the staff of the Senator from Maine will get together and develop a legislative proposal establishing standards for the components of pesticides, taking into consideration their persistence, degradability, and toxicity. This is the next step that must follow so that we can determine if pesticides, like detergents, should be subject to certain standards in order to protect the environment.

Mr. MUSKIE. I thank the Senator.

Mr. TYDINGS. Mr. President, as a cosponsor of amendment No. 132, I congratulate the junior Senator from Wisconsin (Mr. NELSON) for his tireless efforts to call attention to the environmental danger stemming from the widespread and often indiscriminate use of persistent pesticides.

Toxic residues of these chemical compounds are showing up in our air and water, and, through the multiplying effect of the food chain, in human beings as well.

The effect of these poisons on fish and wildlife are well known. Our animal resources can be killed outright, as the Coho salmon were, or face gradual destruction, if not extinction, as are the brown pelican and the bald eagle.

The effect of pesticide residues on man are not yet fully known. Presently there is no evidence that the increasing amounts of pesticides in fact harm human beings. Yet common sense tells us that absorbing poisonous chemicals is not healthy.

The long-term health impact on man of persistent pesticides may well be most damaging.

Mr. President, in late July I introduced wide ranging pesticide protection legislation. The bill, S. 2747, directs the Secretary of Health, Education, and Welfare to make a complete study of the use and effects of pesticides. It transfers the pesticide regulatory functions from the Department of Agriculture to the Department of Health, Education, and Welfare. It removes the exemption from registration and labeling of those pesticides intended solely for export. Finally, the bill places a 4-year moratorium on four of the more persistent and powerful pesticides.

It is perhaps the most comprehensive legislation on pesticides yet introduced in the Senate. But it is unlikely to go anywhere and now will serve only as a point of discussion.

Yet what is required now is not just talk but action as well. Senator NELSON'S amendment is the first step toward protecting our environment from toxic pesticides. I fully support his amendment and again congratulate the Senator for alerting us to the threat.

Mr. HART. Mr. President, I am very pleased to cosponsor Senator NELSON'S amendment to S. 7 which would require the Secretary of the Interior to develop water quality criteria for pesticides. These criteria would then be used by the States as a basis for the adoption of standards to effectively control pesticide pollution of our lakes and rivers.

As with most of our clean water efforts, the need to develop standards which will help to reduce the quantity of persistent pesticides entering our water is long overdue. For many years scientists have been warning that the large-scale and indiscriminate introduction of these chemicals into our environment may be doing serious harm. But only today are people generally begin-

ning to realize that although agricultural production has increased and disease control has been improved through the use of persistent pesticides, these short-term gains may have been purchased at the price of irreversible disruption of many ecological systems.

The so-called magnification effect of pesticides on fish and wildlife has now been well documented. Fish, feeding on microscopic organisms which contain persistent pesticides, assimilate these chemicals into their own systems. In addition, through normal gill action, a fish appears to effectively filter pesticides directly from the water. In both cases, the pesticide is stored up in the body fat of the fish where it becomes increasingly more concentrated. Then, moving upward in the food chain, each successive predator assimilates greater and greater concentrations of these pesticides from the smaller fish on which it feeds. Fish at the end of the food chain, such as the Lake Michigan coho salmon, now contain DDT concentrations ranging up to 19 parts per million, and fish-eating birds, such as the osprey and eagle, contain even higher levels of this pesticide.

The effects of such concentrations of persistent pesticides on fish and wildlife are daily becoming better understood. For example, Prof. Howard Johnson of Michigan State University has reported upon the reproduction problems DDT has created for the Lake Michigan coho salmon. Apparently the female salmon passes some of the DDT on to her eggs in concentrations ranging between five and seven parts per million. After the fry hatches from these eggs, they begin to absorb the yolk sac, but, as they do, the DDT remaining in the yolk becomes more and more highly concentrated. At the last stages of absorption, DDT concentrations become six to 12 times higher than those in the actual body tissue of the fry and this high level of DDT has proven fatal to a high percentage of the fry.

Slightly different problems have occurred with fish-eating birds. Here the high concentrations of DDT apparently upset the bird's liver enzyme balance and as a result affect its calcium metabolism. The result has been that these birds have produced eggs which have exceptionally brittle shells. In most cases the mother is unable to hatch these eggs, because she accidentally breaks the shell. In one case reported by the Audubon Society, an embryo was born without a shell altogether: it was encased only in a membrane.

Last week the Commerce Committee's Subcommittee on Energy, Natural Resources, and the Environment, which I chair, held field hearings in Michigan to consider the effects of pesticides on sports and commercial fisheries. At these hearings Prof. Joseph Hickey of the University of Wisconsin commented on the serious disruption which DDT has caused to fish-eating bird populations. Branding DDT as the "compound of extinction," Professor Hickey stated:

> In a series of closely integrated studies, British, Canadian, and American scientists have proven that similar reproductive failures (1) occurred in 1947 in peregrine falcons; (2) involve fish-eating birds like bald eagles, ospreys, brown pelicans, double-crested cormorants, and herring gulls; (3) are producing regional extinction in some species and continentally wide extinctions in other; and (4) are due to DDT. There is simply no scientific doubt about these statements

He then went on to state:

> We have lost at least 95 per cent of our nesting peregrine falcons—perhaps the supreme example of avian evolution—in the United States south of Canada, and we may very well lose its entire subspecies in North America. We are going to lose our national bird, the bald eagle, as a nesting species on the shores of the Great Lakes, not necessarily on inland lakes We have lost the brown pelican on the west side of the Gulf of Mexico And we will lose it on the coast of California. These are pollution effects due to DDT The facts are solid and the result of careful, painstaking research.

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Much more speculative at the present time are questions about whether consumption of DDT or other persistent pesticides by man could seriously harm

his health or well-being. Nevertheless, the evidence of its harm to birds and fish is sufficient to cause grave concern. And recent research efforts are beginning to produce additional disturbing results. For example, earlier this year I released a report of a study which had been conducted for the National Cancer Institute. This study revealed that when a group of mice was fed a mixture containing 140 parts per million of DDT over a period of 81 weeks, 63 percent developed tumors. With a control group of mice, only 16 percent developed tumors, indicating that the mice exposed to DDT were approximately four times more likely to develop tumors than mice not so exposed. In describing the DDT-induced tumors, the report states:

> It seems more reasonable to conclude that the great majority had malignant potentiality.

In addition, at the Environmental Subcommittee hearings on pesticides which were held last May, we asked the Food and Drug Administration whether they could summarize some of their work on the mutagenic effects of pesticides. One of the investigations which they described involves a study of 40 volunteers who are heavy pesticide users and 20 control subjects who are examined monthly to determine what leukocyte chromosome damage can be associated with the exposure to pesticides. According to the FDA:

> Preliminary results indicate that during mid-summer the exposed group had something on the order of five times as many chromosome abberations as the control group. So far this study has not been able to make comparisons between the groups at other times of the year.

The Food and Drug Administration, concerned with the results of the expanding volume of research on pesticides, has moved to set pesticide tolerances on many food products. In the case of fish, an interim tolerance level of five parts per mission has been established. Although there is little question that the FDA is taking proper precautions in setting these tolerances, there is also little doubt that this action will seriously disrupt, if not destroy, the fishing industry on Lake Michigan. The coho salmon can no longer be marketed in interstate commerce because of its high DDT concentrations, and other commercially important fish which are lower down in the lake's food chain, such as the chub, now appear to be building up DDT concentrations in excess of the minimum FDA tolerances. Analyses by the Michigan field office of the Bureau of Commercial Fisheries indicate that the DDT concentration in some chubs now exceeds nine parts per million. Lake Michigan lake trout, too, also frequently contain concentrations in excess of the FDA's minimum tolerances.

To preserve many of our country's unique forms of life from extinction, to reverse the grave ecological damage which we are presently causing, and to restore the vitality of our freshwater fisheries, it is imperative that we begin now to upgrade the quality of our water. Establishing water tolerance levels for pesticides—and then rigidly enforcing these standards—is an essential step toward this goal. We should emphasize, however, that because very minute quantities of persistent pesticides within water—measured in terms of parts per trillion—cause severe harm to aquatic organisms which concentrate these pesticides within their systems, water quality standards should be based on the pesticide levels found in fish taken from the water, and not on the water itself. Only in this manner can we readily determine when the amount of pesticides in our waters is reaching dangerous levels.

Mr. President, I reiterate my great pleasure in supporting this amendment, and I earnestly hope that not only is it adopted, but that meaningful standards are forthcoming in the very near future.

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 132, of the Senator from Wisconsin.

The amendment was agreed to.

Mr. MUSKIE. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. BYRD of West Virginia. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I ask unanimous consent to have printed in the RECORD a series of technical studies taken from various scientific and conservation magazines.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Scientific American, March 1967]

TOXIC SUBSTANCES AND ECOLOGICAL CYCLES

(By George M. Woodwell)

The vastness of the earth has fostered a tradition of unconcern about the release of toxic wastes into the environment. Billowing clouds of smoke are diluted to apparent nothingness; discarded chemicals are flushed away in rivers; insecticides "disappear" after they have done their job; even the massive quantities of radioactive debris of nuclear explosives are diluted in the apparently infinite volume of the environment. Such pollutants are indeed diluted to traces—to levels infinitesimal by ordinary standards, measured as parts per billion or less in air, soil and water. Some pollutants do disappear; they are immobilized or decay to harmless substances Others last, sometimes in toxic form, for long periods. We have learned in recent years that dilution of persistent pollutants even to trace levels detectable only by refined techniques is no guarantee of safety. Nature has ways of concentrating substances that are frequently surprising and occasionally disastrous.

We have had dramatic examples of one of the hazards in the dense smogs that blanket our cities with increasing frequency. What is less widely realized is that there are global, long-term ecological processes that concentrate toxic substances, sometimes hundreds of thousands of times above levels in the environment. These processes include not only patterns of air and water circulation but also a complex series of biological mechanisms Over the past decade detailed studies of the distribution of both radioactive debris and pesticides have revealed patterns that have surprised even biologists long familiar with the unpredictability of nature.

Major contributions to knowledge of these patterns have come from studies of radioactive fallout The incident that triggered worldwide interest in large-scale radioactive pollution was the hydrogen-bomb test at Bikini in 1954 known as "Project Bravo." This was the test that inadvertently dropped radioactive fallout on several Pacific islands and on the Japanese fishing vessel *Lucky Dragon*. Several thousand square miles of the Pacific were contaminated with fallout radiation that would have been lethal to man Japanese and U.S. oceanographic vessels surveying the region found that the radioactive debris had been spread by wind and water, and, more disturbing, it was being passed rapidly along food chains from small plants to small marine organisms that ate them to large animals (including the tuna, a staple of the Japanese diet).

The U.S. Atomic Energy Commission and agencies of other nations, particularly Britain and the U.S.S R, mounted a large international research program, costing many millions of dollars, to learn the details of the movement of such debris over the earth and to explore its hazards. Although these studies have been focused primarily on radioactive materials, they have produced a great deal of basic information about pollutants in general. The radioactive substances serve as tracers to show the transport and concentration of materials by wind and water and the biological mechanisms that are characteristic of natural communities.

One series of investigations traced the worldwide movement of particles in the air. The tracer in this case was strontium 90, a fission product released into the earth's atmosphere in large quantities by nuclear-bomb tests. Two reports in 1962—one by S. Laurence Kulp and Arthur R. Schulert of Columbia University and the other by a United Nations committee—furnished a detailed picture of the travels of strontium 90. The isotope was concentrated on the ground between the latitudes of 30 and 60 degrees in both hemispheres, but concentrations were five to 10 times greater in the Northern Hemisphere, where most of the bomb tests were conducted.

It is apparently in the middle latitudes that exchanges occur between the air of upper elevations (the stratosphere) and that of lower elevations (the troposphere). The larger tests have injected debris into the stratosphere; there it remains for relatively long periods, being carried back into the troposphere and to the ground in the middle latitudes in late winter or spring. The mean "half-time" of the particles' residence in the stratosphere (that is, the time for half of a given injection to fall out) is from three months to five years, depending on many factors, including the height of the injection, the size of the particles, the latitude of injection and the time of year. Debris injected into the troposphere has a mean half-

time of residence ranging from a few days to about a month. Once airborne, the particles may travel rapidly and far. The time for one circuit around the earth in the middle latitudes varies from 25 days to less than 15 (Following two recent bomb tests in China fallout was detected at the Brookhaven National Laboratory on Long Island respectively nine and 14 days after the tests.)

Numerous studies have shown further that precipitation (rain and snowfall) plays an important role in determining where fallout will be deposited Lyle T. Alexander of the Soil Conservation Service and Edward P. Hardy, Jr., of the AEC found in an extensive study in Clallam County, Washington, that the amount of fallout was directly proportional to the total annual rainfall.

It is reasonable to assume that the findings about the movement and fallout of radioactive debris also apply to other particles of similar size in the air. This conclusion is supported by a recent report by Donald F. Gatz and A Nelson Dingle of the Uni-

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versity of Michigan, who showed that the concentration of pollen in precipitation follows the same pattern as that of radioactive fallout. This observation is particularly meaningful because pollen is not injected into the troposphere by a nuclear explosion; it is picked up in air currents from plants close to the ground There is little question that dust and other particles, including small crystals of pesticides also follow these patterns

From these and other studies it is clear that various substances released into the air are carried widely around the world and may be deposited in concentrated form far from the original source. Similarly, most bodies of water—especially the oceans—have surface currents that may move materials five to 10 miles a day. Much higher rates, of course, are found in such major oceanic currents as the Gulf Stream. These currents are one more physical mechanism that can distribute pollutants widely over the earth.

The research programs of the AEC and other organizations have explored not only the pathways of air and water transport but also the pathways along which pollutants are distributed in plant and animal communities. In this connection we must examine what we mean by a "community."

Biologists define communities broadly to include all species, not just man. A natural community is an aggregation of a great many different kinds of organisms, all mutually interdependent. The basic conditions for the integration of a community are determined by physical characteristics of the environment such as climate and soil. Thus a sand dune supports one kind of community, a freshwater lake another, a high mountain still another. Within each type of environment there develops a complex of organisms that in the course of evolution becomes a balanced, self-sustaining biological system.

Such a system has a structure of interrelations that endows the entire community with a predictable developmental pattern, called "succession," that leads toward stability and enables the community to make the best use of its physical environment. This entails the development of cycles through which the community as a whole shares certain resources, such as mineral nutrients and energy. For example, there are a number of different inputs of nutrient elements into such a system. The principal input is from the decay of primary minerals in the soil. There are also certain losses, mainly through the leaching of substances into the underlying water table. Ecologists view the cycles in the system as mechanisms that have evolved to conserve the elements, essential for the survival of the organisms making up the community.

One of the most important of these cycles is the movement of nutrients and energy from one organism to another along the pathways that are sometimes called food chains. Such chains start with plants, which use the sun's energy to synthesize organic matter; animals eat the plants; other animals eat these herbivores, and carnivores in turn may constitute additional levels feeding on the herbivores and on one another. If the lower orders in the chain are to survive and endure, there must be a feedback of nutrients. This is provided by decay organisms (mainly microorganisms) that break down organic debris into the substances used by plants. It is also obvious that the community will not survive if essential links in the chain are eliminated; therefore the preying of one level on another must be limited.

Ecologists estimate that such a food chain allows the transmission of roughly 10 percent of the energy entering one level to the next level above it, that is, each level can pass on 10 percent of the energy it receives from below without suffering a loss of population that would imperil it's survival. The simplest version of a system of this kind takes the form of a pyramid, each successively higher population receiving about a tenth of the energy received at the level below it.

Actually nature seldom builds communities with so simple a structure. Almost invariably the energy is not passed along in a neatly ordered chain but is spread about to a great variety of organisms through a sprawling, complex web of pathways. The more mature the community, the more diverse its makeup and the more complicated

its web. In a natural ecosystem the network may consist of thousands of pathways.

This complexity is one of the principal factors we must consider in investigating how toxic substances may be distributed and concentrated in living communities. Other important basic factors lie in the nature of the metabolic process. For example, of the energy a population of organisms receives as food, usually less than 50 percent goes into the construction of new tissue, the rest being spent for respiration. This circumstance acts as a concentrating mechanism: a substance not involved in respiration and not excreted efficiently may be concentrated in the tissues twofold or more when passed from one population to another.

Let us consider three types of pathway for toxic substances that involve man as the ultimate consumer. The three examples, based on studies of radioactive substances, illustrate the complexity and variety of pollution problems.

The first and simplest case is that of strontium 90. Similar to calcium in chemical behavior, this element is concentrated in bone. It is a long-lived radioactive isotope and is a hazard because its energetic beta radiation can damage the mechanisms involved in the manufacture of blood cells in the bone marrow In the long run the irradiation may produce certain types of cancer. The route of strontium 90 from air to man is rather direct: we ingest it in leafy vegetables, which absorbed it from the soil or received it as fallout from the air, or in milk and other dairy products from cows that have fed on contaminated vegetation Fortunately strontium is not usually concentrated in man's food by an extensive food chain Since it lodges chiefly in bone, it is not concentrated in passing from animal to animal in the same ways other radioactive substances may be (unless the predator eats bones!).

Quite different is the case of the radioactive isotope cesium 137. This isotope, also a fission product, has a longlived radioactivity (its half-life is about 30 years) and emits penetrating gamma rays. Because it behaves chemically like potassium, an essential constituent of all cells, it becomes widely distributed once it enters the body Consequently it is passed along to meat-eating animals, and under certain circumstances it can accumulate in a chain of carnivores.

A study in Alaska by Wayne C. Hanson, H. E Palmer and B. I Griffin of the AEC's Pacific-Northwest Laboratory showed that the concentration factor for cesium 137 may be two or three for one step in a food chain. The first link of the chain in this case was lichens growing in the Alaskan forest and tundra. The lichens collected cesium 137 from fallout in rain. Certain caribou in Alaska live mainly on lichens during the winter, and caribou meat in turn is the principal diet of Eskimos in the same areas. The investigators found that caribou had accumulated about 15 micromicrocuries of cesium radioactivity per gram of tissue in their bodies. The Eskimos who fed on these caribou had a concentration twice as high (about 30 micromicrocuries per gram of tissue) after eating many pounds of caribou meat in the course of a season. Wolves and foxes that ate caribou sometimes contained three times the concentration in the flesh of the caribou. It is easy to see that in a longer chain, involving not just two animals but several, the concentration of a substance that was not excreted or metabolized could be increased to high levels.

A third case is that of iodine 131, another gamma ray emitter. Again the chain to man is short and simple: The contaminant (from fallout) comes to man mainly through cows' milk, and thus the chain involves only grass, cattle, milk and man. The danger of iodine 131 lies in the fact that iodine is concentrated in the thyroid gland. Although iodine 131 is short-lived (its half-life is only about eight days), its quick and localized concentration in the thyroid can cause damage. For instance, a research team from the Brookhaven National Laboratory headed by Robert Conard has discovered that children on Rongelap Atoll who were exposed to fallout from the 1954 bomb test later developed thyroid nodules.

The investigations of the iodine 131 hazard yielded two lessons that have an important bearing on the problem of pesticides and other toxic substances released in the environment. In the first place we have had a demonstration that the hazard of the toxic substance itself often tends to be underestimated. This was shown to be true of the exposure of the thyroid to radiation. Thyroid tumors were found in children who had been treated years before for enlarged thymus glands with doses of X-rays that had been considered safe. As a result of this discovery and studies of the effects of iodine 131, the Federal Radiation Council in 1961 issued a new guide reducing the permissible limit of exposure to ionizing radiation to less than a tenth of what had previously been accepted. Not the least significant aspect of this lesson is the fact that the toxic effects of such a hazard may not appear until long after the exposure; on Rongelap Atoll 10 years passed before the thyroid abnormalities showed up in the children who had been exposed.

The second lesson is that, even when the pathways are well understood, it is almost impossible to predict just where toxic substances released into the environment will reach dangerous levels. Even in the case of the simple pathway followed by iodine 131 the eventual destination of the substance and

its effects on people are complicated by a great many variables; the area of the cow's pasture (the smaller the area, the less fallout the cow will pick up); the amount and timing of rains on the pasture (which on the one hand may bring down fallout but on the other may wash it off the forage); the extent to which the cow is given stored, uncontaminated feed; the amount of iodine the cow secretes in its milk; the amount of milk in the diet of the individual consumer, and so on.

It is difficult to estimate the nature and extent of the hazards from radioactive fallout, which have been investigated in great detail for more than a decade by an international research program, it must be said that we are in a poor position indeed to estimate the hazards from pesticides So far the amount of research effort given to the ecological effects of these poisons has been comparatively small, although it is increasing rapidly. Much has been learned, however, about the movement and distribution of pesticides in the environment, thanks in part to the clues supplied by the studies of radioactive fallout

Our chief tool in the pesticide inquiry is DDT There are many reasons for focusing on DDT: it is long-lasting, it is now comparatively easy to detect, it is by far the most widely used pesticide and it is toxic to a broad spectrum of animals, including man Introduced only a quarter-century ago

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and spectacularly successful during World War II in controlling body lice and therefore typhus, DDT quickly became a universal weapon in agriculture and in public health campaigns against disease-carriers. Not surprisingly, by this time DDT has thoroughly permeated our environment. It is found in the air of cities, in wildlife all over North America and in remote corners of the earth, even in Adélie penguins and skua gulls (both carnivores) in the Antarctic. It is also found the world over in the fatty tissue of man It is fair to say that there are probably few populations in the world that are not contaminated to some extent with DDT.

We now have a considerable amount of evidence that DDT is spread over the earth by wind and water in much the same patterns as radioactive fallout. This seems to be true in spite of the fact that DDT is not injected high into the atmosphere by an explosion When DDT is sprayed in the air, some fraction of it is picked up by air currents as pollen is, circulated through the lower troposphere and deposited on the ground by rainfall I found in tests in Maine and New Brunswick, where DDT has been sprayed from airplanes to control the spruce budworm in forests, that even in the open, away from trees, about 50 percent of the DDT does not fall to the ground. Instead it is probably dispersed as small crystals in the air. This is true even on days when the air is still and when the low-flying planes release the spray only 50 to 100 feet above treetop level. Other mechanisms besides air movement can carry DDT for great distances around the world. Migrating fish and birds can transport it thousands of miles. So also do oceanic currents. DDT has only a low solubility in water (the upper limit is about one part per billion), but as algae and other organisms in the water absorb the substance in fats, where it is highly soluble, they make room for more DDT to be dissolved into the water. Accordingly water that never contains more than a trace of DDT can continuously transfer it from deposits on the bottom to organisms

DDT is an extremely stable compound that breaks down very slowly in the environment. Hence with repeated spraying the residues in the soil or water basins accumulate. Working with Frederic T. Martin of the University of Maine, I found that in a New Brunswick forest where spraying had been discontinued in 1958 the DDT content of the soil increased from half a pound per acre to 1 8 pounds per acre in the three years between 1958 and 1961. Apparently the DDT residues were carried to the ground very slowly on foliage and decayed very little. The conclusion is that DDT has a long half-life in the trees and soil of a forest, certainly in the range of tens of years.

Doubtless there are many places in the world where reservoirs of DDT are accumulating. With my colleagues Charles F. Wurster, Jr , and Peter A. Isaacson of the State University of New York at Stony Brook, I recently sampled a marsh along the south shore of Long Island that had been sprayed with DDT for 20 years to control mosquitoes. We found that the DDT residues in the upper layer of mud in this marsh ranged up to 32 pounds per acre!

We learned further that plant and animal life in the area constituted a chain that concentrated the DDT in spectacular fashion. At the lowest level the plankton in the water contained .04 part per million of DDT; minnows contained one part per million, and a carnivorous scavenging bird (a ring-billed gull) contained about 75 parts per million in its tissues (on a whole-body, wetweight basis) Some of the carnivorous animals in this community had concentrated DDT by a factor of more than 1,000 over the organisms at the base of the ladder.

A further tenfold increase in the concentrations along this food web would in all likelihood result in the death of many of the organisms in it It would then be impossible to discover why they had disappeared. The

damage from DDT concentration is particularly serious in the higher carnivores. The mere fact that conspicuous mortality is not observed is no assurance of safety. Comparatively low concentrations may inhibit reproduction and thus cause the species to fade away.

That DDT is a serious ecological hazard was recognized from the beginning of its use. In 1946 Clarence Cottam and Elmer Higgins of the U.S. Fish and Wildlife Service warned in the *Journal of Economic Entomology* that the pesticide was a potential menace to mammals, birds, fishes and other wildlife and that special care should be taken to avoid its application to streams, lakes and coastal bays because of the sensitivity of fishes and crabs. Because of the wide distribution of DDT the effects of the substance on a species of animal can be more damaging than hunting or the elimination of a habitat (through an operation such as dredging marshes). DDT affects the entire species rather than a single population and may well wipe out the species by eliminating reproduction.

Within the past five years, with the development of improved techniques for detecting the presence of pesticide residues in animals and the environment, ecologists have been able to measure the extent of the hazards presented by DDT and other persistent general poisons. The picture that is emerging is not a comforting one. Pesticide residues have now accumulated to levels that are catastrophic for certain animal populations, particularly carnivorous birds. Furthermore, it has been clear for many years that because of their shotgun effect these weapons not only attack the pests but also destroy predators and competitors that normally tend to limit proliferation of the pests Under exposure to pesticides the pests tend to develop new strains that are resistant to the chemicals The result is an escalating chemical warfare that is self-defeating and has secondary effects whose costs are only beginning to be measured. One of the costs is wildlife notably carnivorous and scavening birds such as hawks and eagles. There are others' destruction of food webs aggravates pollution problems, particularly in bodies of water that receive mineral nutrients in sewage or in water draining from heavily fertilized agricultural lands. The plant populations, no longer consumed by animals, fall to the bottom to decay anaerobically, producing hydrogen sulfide and other noxious gases, further degrading the environment.

Location	Organism	Tissue	Concentration (parts per million)
United States (Average).			
	Man	Fat	11.0.
Alaska (Eskimo)			2.8.
England			2.2.
West Germany			2.3.
France			5.2.
Canada			5.3.
Hungary			12.4.
Israel			19.2.
India			12.8–31.0.
United States:			
California	Plankton		5.3.
Do	Bass	Edible Flesh	4–138.
Do	Grebes	Visceral Fat	Up to 1,600.
Montana	Robin	Whole Body	6.8–13.9.
Wisconsin	Crustacea		0 41.
Do	Chub	Whole Body	4 52.
Do	Gull	Brain	20.8.
Missouri	Bald Eagle.	Eggs	1.1–5.6.
Connecticut	Osprey	do	6.5.
Florida	Dolphin	Blubber	About 220.
Canada	Woodcock	Whole Body	1.7.
Antarctica	Penguin	Fat	0.015–0.18.
Antarctica	Seal	Fat	0.042–0.12.
Scotland	Eagle	Eggs	1.18.
New Zealand	Trout	Whole Body	0.6–0.8.

Note: DDT residues, which include the derivatives DDO and DDE as well as DDT itself, have apparently entered most food webs. These data were selected from hundreds of reports that show DDT has a worldwide distribution, with the highest concentrations in carnivorous birds.

The accumulation of persistent toxic substances in the ecological cycles of the earth is a problem to which mankind will have to pay increasing attention It affects many e'ements of society, not only in the necessity for concern about the disposal of wastes but also in the need for a revolution in pest control. We must learn to use pesticides that have a short half-life in the environment—better yet, to use pest-control techniques that do not require applications of general poisons. What has been learned about the dangers in polluting ecological cycles is ample proof that there is no longer safety in the vastness of the earth.

DDT RESIDUES AND DECLINING REPRODUCTION IN BERMUDA PETREL

(Abstract. Residues of DDT [1,1,1-trichloro-2,2-bis(p-chlorophenyl)ethane] averaging 6.44 parts per million in eggs and chicks of the carnivorous Bermuda petrel indicate widespread contamination of an oceanic food chain that is remote from applications of DDT. Reproduction by the petrel has declined during the last 10 years at the annual rate of 3.25 percent; if the decline continues, reproduction will fail completely by 1978. Concentrations of residues are similar to those in certain terrestrial carnivorous birds whose productivity is also declining. Various considerations implicate contamination by insecticides as a probable major cause of the decline.)

Many oceanic birds nested on Bermuda in 1609 when the first settlers arrived, the most abundant apparently being the Bermuda petrel, *Pterodroma cahow*. Within 20 years man and his imported mammals virtually exterminated those species; for nearly 300 years it was considered extinct. Several records of specimens since 1900 were followed in 1951 by discovery of a small breeding colony (1), and in 1967 22 pairs nested on a few rocky islets off Bermuda. With a total population of about 100 the petrel is among the world's rarest birds.

A wholly pelagic species, *P. cahow* visits land only to breed, breeds only on Bermuda, and arrives and departs only at night. The single egg is laid underground at the end of a long burrow. When not in the burrow the bird feeds far at sea, mainly on cephalopods, when not breeding it probably ranges over much of the North Atlantic (1).

Reproduction by *P. cahow* has declined recently. The data since 1958 (Table 1) show an annual rate of decline of 3.25 ± 1.05 percent; the negative slope of a weighted regression is significant (P, .015; F test). If this linear decline continues, reproduction will fail completely by 1978, with extinction of the species Many recent reports have correlated diminished reproduction by certain carnivorous birds with contamination by chlorinated hydrocarbon insecticides (2–7). As the terminal member of a pelagic food chain, presumably feeding over much of the North Atlantic, the petrel may be expected to concentrate by many orders of magnitude any stable, lipid soluble chemicals, such as chlorinated hydrocarbon insecticides, present in lower trophic levels (2, 3, 8). In fact it should serve as an ideal environmental monitor for detection of insecticide contamination as a general oceanic pollutant, rather than contamination resulting directly from treatment of a specific land area (9). When we analyzed several specimens of *P. cahow* for chlorinated hydrocarbon insecticides, all samples contained DDT residues (10).

During March 1967 five unhatched eggs and dead chicks were collected from unsuccessful petrel burrows and stored frozen. The small size of the population precluded the sampling of living birds. Samples were analyzed for DDT, *o,p*-DDT, DDE, DDD, dieldrin, and endrin by electron-capture gas chromatography; the results are summarized in Table 2. No *o,p*-DDT, dieldrin, or

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endrin was detected, but an independent laboratory detected a trace of dieldrin.

Certain identifications were confirmed by thin-layer chromatography (*11*) as follows: After Florisil cleanup (*12*), the unknown sample was spotted on a thin-layer plate with 1-μg authentic standard samples on both sides. After development, the unknown was masked by a strip of paper, and the standards were sprayed with chromogenic reagent (*11*). When spots were visible following exposure to ultraviolet light, the masking was removed, horizontal lines were drawn between the standard spots in order to locate corresponding compounds in the unknown, and these areas were scraped from the plate and extracted with a few drops of a mixture of hexane and acetone (9:1 by volume). Injection into the gas chromatograph confirmed the presence of DDT, DDE, and DDD by showing the appropriate single peaks for these compounds This confirmation procedure was employed because the electron-capture detector is more sensitive than the chromogenic spray reagent in detecting minute amounts of these materials.

Coincidental with diminishing reproduction by the Bermuda petrel is the presence of DDT residues averaging 6.44 parts per million (ppm) in its eggs and chicks. In itself this coincidence does not establish a causal relation, but these findings must be evaluated in the light of other studies. Whereas a healthy osprey (*Pandion haliaetus*) population produces 2.2 to 2 5 young per nest, a Maryland colony containing DDT residues of 3.0 ppm in its eggs yielded 1.1 young per nest, and a Connecticut colony containing 5.1 ppm produced only 0 5 young per nest; the Connecticut population has declined 30 percent annually for the last 9 years (4). In New Brunswick, breeding success of American woodcocks (*Philohela minor*) showed a statistically significant inverse correlation with the quantity of DDT applied to its habitat in a given year. Furthermore, during 1962 and 1963, birds from unsprayed Nova Scotia showed breeding success nearly twice as great as did those from sprayed New Brunswick, where woodcock eggs averaged 1.3 ppm of DDT residues during those years (5).

TABLE 1.—REPRODUCTIVE SUCCESS OF THE BERMUDA PETREL BETWEEN 1958 AND 1967 [1]

Year	Pairs	Chicks	Success (percent)
1958	6 (1)	4	66.7
1959	5 (2)	2	40.0
1960	13 (3)	6	46.2
1961	18 (1)	12	66.7
1962	19	9	47.4
1963	17 (1)	9	52.9
1964	17 (1)	8	47.1
1965	20	8	40.0
1966	21	6	28.6
1967	22	8	36.4

[1] Percentages of established adult pairs under observation whose chicks survived 2 weeks after hatching. Numbers of pairs of unknown success (not included in calculations) appear in parentheses. Data from 1961 to 1967 are believed to represent the total breeding population; earlier, not all burrows had been discovered. The decline in reproductive success follows the linear relation $y=a+bx$ (y, reproductive success, a, a constant; b, annual percentage decline in success, x, year). The regression weighted by numbers of pairs: $y=251.9-3.25x$.

In Britain five species of raptors, including the peregrine falcon (*Falco peregrinus*) and golden eagle (*Aquila chrysaetos*), carried residues of chlorinated hydrocarbon insecticides in their eggs, averaging 5 2 ppm; each of these species have shown a decline in reproduction and total population during recent years By comparison, residues in the eggs of five species of corvids averaged 0 9 ppm, and breeding success and numbers have been maintained (*6*). It is noteworthy that during the last decade the peregrine has become extinct as a breeding bird in the eastern United States (*13*). Residues in bald eagle (*Haliaetus leucocephalus*) eggs averaged 10 6 ppm, and this species also shows declining reproduction and population (*7*). Lake Michigan herring gulls (*Larus argentatus*), exhibiting very low reproductive success, averaged 120 to 227 ppm of DDT residues in the eggs (*3*), the suggestion being that susceptibility varies widely between species.

In most of the above instances, including *P. cahow*, reduced success in breeding resulted primarily from mortality of chicks before and shortly after hatching Bobwhites (*Colinus virginianus*) and pheasants (*Phasianus colchicus*), fed sublethal diets of DDT or dieldrin, gave similar results (*14*); a mechanism explaining chick mortality from dieldrin poisoning during the several days after hatching has been presented (*15*).

From studies of these birds and other avian carnivores a very widespread, perhaps worldwide, decline among many species of carnivorous birds is apparent The pattern of decline is characterized by reduced success in reproduction correlated with the presence of residues of chlorinated hydrocarbon insecticides—primarily DDT. Our data for the Bermuda petrel are entirely consistent with this pattern.

Observations of aggressive behavior, increased nervousness, chipped eggshells, increased egg-breakage, and egg-eating by parent birds of several of the above species (*3, 6, 13*) suggest symptoms of a hormonal disturbance or a calcium deficiency, or both. Moreover, DDT has been shown to delay ovulation and inhibit gonadal development in birds, probably by means of a hormonal mechanism, and low dosages of DDT or dieldrin in the diet of pigeons increased metabolism of steroid sex hormones by hepatic enzymes (*16*) A direct relation between DDT and calcium function has also been demonstrated, and these endocrine and calcium mechanisms could well be interrelated; DDT interferes with normal calcification of the arthropod nerve axon, causing hyperactivity of the nerve and producing symptoms similar to those resulting from calcium deficiency (*17*). Dogs treated with calcium gluconate are very resistant to DDT poisoning (*18*); female birds are more resistant than males (*19*), perhaps because of calcium-mobilizing action of estrogenic hormones

TABLE 2. RESIDUES OF DDT (10) IN PARTS PER MILLION (WET WEIGHT) IN EGGS AND CHICKS OF THE BERMUDA PETREL, COLLECTED IN BERMUDA IN MARCH 1967; PROPORTIONS OF DDT, DDE, AND DDD ARE EXPRESSED AS PERCENTAGES OF THE TOTAL

Sample	Residues parts per (million)	Percentages DDT	DDE	DDD
A, egg [1]	11.02	[2] 37	[2] 58	[2] 5
A, egg [1 3 4]	10.71	[2] 34	[2] 62	[2] 4
B, addled egg [1]	3.61	15	65	20
C, chick in egg [5]	4.52	33	64	3
D, chick in egg [5]	6.08	33	62	5
D, chick brain [4 5]	.57	30	54	16
E, chick, 1 to 2 days old	6 97	[2] 29	[2] 66	[2] 5
Average	6.44	31	62	7

[1] Egg showed no sign of development.

[2] Identity confirmed by thin-layer chromatography (11)

[3] Analysis 5 months later by Wisconsin Alumni Research Foundation, which also detected dieldrin at 0 02 p.p.m.

[4] Not included in averages.

[5] Fully developed chick died while hatching.

Of major importance, then, was the discovery that a significant ($P<.001$) and widespread decrease in calcium content of eggshells occurred between 1946 and 1950 in the peregrine falcon, golden eagle, and

sparrow-hawk, *Accipiter nisus* (*20*). This decrease correlates with the widespread introduction of DDT into the environment during those years, and further correlates with the onset of reduced reproduction and of the described symptoms of calcium deficiency. These multiple correlations indicate a high probability that the decline in reproduction of most or all of these birds, including *P. cahow*, is causally related to their contamination by DDT residues.

Other potential causes of the observed decline for the Bermuda petrel appear unlikely. The bird has been strictly protected and isolated since 1957, and it seems that human disturbance can be discounted. In such a small population, inbreeding could become important, but hatching failure is now consistent in pairs having earlier records of successful breeding, and deformed chicks are never observed. Furthermore, the effects of inbreeding would not be expected to increase at a time when the total population, and probably the gene pool, is still increasing. The population increase results from artificial protection since 1957 from other limiting factors, especially competition for nest sites with tropic birds (*21*).

It is very unlikely that the observed DDT residues in *P. cahow* were accumulated from Bermuda: the breeding grounds are confined to a few tiny, isolated, and uninhabited islets never treated with DDT, and the bird's feeding habits are wholly pelagic. Thus the presence of DDT residues in all samples can lead only to the conclusion that this oceanic food chain, presumably including the plankton, is contaminated This conclusion is supported by reported analyses showing residues in related seabirds including two species of shearwaters from the Pacific (*22*); seabird eggs (*9*, *22*); freshwater, estuarine, and coastal plankton (*2*, *8*, *23*); plankton-feeding organisms (*2*, *8*, *9*, *22*, *23*); and other marine animals from various parts of the world (*8*, *22*). These toxic chemicals are apparently very widespread within oceanic organisms (*8*, *22*), and the evidence suggests that their ecological effects are important.

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THE PEREGRINE SITUATION IN GREAT BRITAIN 1965–66

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INTRODUCTION

In order to follow latest trends in the breeding population of the British Peregrine (*Falco peregrinus*), a sample census was continued in 1965 and 1966 on a scale similar to that of 1963–64. This paper summarises the results, and gives data on chemical analysis of the small samples of eggs taken during these two years

CENSUS DATA

Observations on 200 territories in 1965 and 213 territories in 1966 (representing 240 different territories of the two-year period) are given in Table I, according to the six different regions of Great Britain recognised previously (Ratcliffe 1963) This sample is approximately one-third of the mean annual total of 650 territories estimated to be occupied regularly in Great Britain during the standard period 1930–39, or just under one-third of the total of 718 territories occupied at least once since 1930 Census data for 1961–64 are given for comparison However, because of a bias against visiting previously deserted territories and reporting negative observations during the period 1963–66, the figures for these years are not directly comparable with those for 1961–62, and a correction has to be made (see Table I).

It is evident that there has been no appreciable change in level of breeding population since 1964, for although only 41 successful eyries were known in 1966, against 45 in 1965, this is not a significant difference. The data certainly give no hint of overall improvement in the Peregrine situation during the last two years. Few records for the mainland of the North and West Highlands are available for 1965–66, and most of the data referring to this region are for Orkney and Shetland It is clear that parts of the South and East Highlands are still the stronghold of the Peregrine in Britain, and breeding success has remained good in this region; but even here, a quarter of the inspected territories held apparently nonbreeding birds in 1966. In England and Wales together, successful breeding was limited to ten pairs in 1965 and seven pairs in 1966, and at least four-fifths of the territories visited were unoccupied in both years.

When the figures for 1965–66 are compared with those for 1963–64, the proportion of deserted territories is seen to have been fairly constant throughout, i.e about 60 percent of the number of known territories visited, when correction for observation/recording bias has been made Regarding breeding success, it should be noted that in 1965 and 1966 there were, respectively, 17 and 12 eyries where eggs were probably or certainly laid, but which were not re-visited to determine the final outcome; whereas in 1963 and 1964 there were only 4 and 3 such eyries. As the other data suggest that at least half the 'outcome unknown' eyries would be successful, the figures for successful nesting in the 1965–66 census samples would almost certainly be higher than those given in Table I. Even so, it is doubtful if there is valid evidence for a significant change in breeding success during the whole four-year period 1963–66; this has fluctuated from about 13 to 16 per cent of the number of known territories visited. There may have been a slight recovery in 1964 after the low ebb of 1963, but the figures may indicate merely the normal fluctuation of a population which has become relatively stabilized at a much reduced level; while, in any case, there is likely to be a degree of sampling and observational error.

TABLE 1.—OCCUPATION OF PEREGRINE TERRITORIES, 1963–66

Year and region	Number of territories examined	Birds apparently absent	1 or both of the pair present but not proved to nest	Nesting, outcome unknown	Nested, but unsuccessfully (eggs or young lost)	Successful nesting (young reared)
1961: Total for Great Britain	431	173	118	17	41	91 (9)
1962: Total for Great Britain	488	247	119	22	35	77 (9)
1963: Total for Great Britain	200	110	34	4	13	39 (0)
1964: Total for Great Britain	203	109	28	3	15	48 (0)
1965:						
Southern England	42	40	.....	1	.....	1
Wales	34	26	6	.....	.....	2
Northern England	30	17	2	.....	4	7
Southern Scotland	31	12	3	3	5	8
South and East Highlands	47	4	8	7	4	24
North and West Highlands	36	18	6	6	3	3
Total for Great Britain	220	117	25	17	16	45 (1)
1966:						
Southern England	42	40	.....	.....	.....	2
Wales	40	34	3	1	.....	2
Northern England	24	13	4	1	3	3
Southern Scotland	32	11	6	2	4	9
South and East Highlands	44	7	11	1	2	23
North and West Highlands	31	12	5	7	5	2
Total for Great Britain	213	117	29	12	14	41 (3)

Notes: To make approximate correction for comparison with 1961–62, the figures for 1963–66 regarding "birds apparently absent" should be increased by 1/7, and those for "successful nesting" should be reduced by 1/3. These factors are derived as follows: The sample of eyries visited in each of the years 1963–66 is similarly biased (toward territories likely to give positive rather than negative records) by comparison with the much larger sample for 1961–62, and many eyries visited with negative results have evidently not been reported to me. If the 1962 data are subsampled to give a list of those eyries which were actually visited during 1963–66, simple calculation gives values of 44 percent for territory desertion and 24 percent for successful breeding pairs. The figures calculated from the full 1962 data are, however, 50 and 16 percent respectively, i.e. approximately 1/7 more for territory desertion and 1/3 less for successful pairs. As the samples for 1961 and 1962 were closely comparable, the above correction factors apply also to 1961.

Actual breeding success for 1961 and 1962 is 19 and 13 percent, respectively, when broods taken by falconers are regarded as failures (as in Ratcliffe 1963), but to show more accurately the proportion of healthy broods potentially able to fledge, those taken by falconers have been included and give breeding success as a theoretical 21 and 16 percent. Broods taken by falconers (illegally after 1961) are bracketed alongside the totals.

By comparison with the fuller data for 1961–62, it would seem that the rapid decline of those years continued into 1963, but that the population then leveled off, and, at most, has since shown marginal improvement in breeding success alone. On the other hand, when data for each region are examined separately, the population of Southern Scotland has shown evident improvement in breeding success since 1963; in 1963, only 3 out of 19 inland territories visited had successful pairs, whereas in 1966, 8 out of 24 reared young. M. Gilbertson (pers. comm.) also reports an apparent improvement in Northern Ireland, where a total of only 5 young was reared in 14 territories examined in 1964, compared with a total of 11 young in 16 territories in 1966. These are the regions closest to the Scottish Highlands, and therefore the ones in which any recovery of the Peregrine population might be expected to show first.

PESTICIDE RESIDUES

Although only 12 Peregrine eggs have been analysed (by gas-liquid chromatography) for organo-chlorine pesticide residues in 1965–66, the results (Table II) are revealing. Despite the higher levels, compared with 1963–64, the sample is too small for the data to be regarded as valid evidence of an increase in contamination. However, the figures suggest that the voluntary restrictions on use of aldrin, dieldrin and heptachlor, in 1964, have (up to the spring of 1966) had no effect in reducing the contamination of the British Peregrine by residues of these pesticides. The figures for heptachlor in particular indicate that, despite statements to the contrary,

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there was still a considerable local use of this chemical during 1965–66.

Whilst only 5 egg analyses are available yet for the central part of the South and East Highlands, they show an appreciably lower mean level of contamination than the 22 eggs from Northern England and Southern Scotland, though the difference lies largely in the DDE component of the residues. This matches the differences between the first region and the second two in regard to both state of the population and breeding success; and it supports the earlier contention (Ratcliffe 1963, 1965) that contamination risk to the Peregrine is lower in the South and East Highlands than in most other parts of the British Isles. Even within the 5 Highland eggs there are suggestive differences; the two from Angus (within Peregrine reach of rich arable farm land) contain appreciably higher residues of DDE, dieldrin and heptachlor expoxide than those from the three Inverness-shire eyries, which were all remote from agricultural land.

The egg analyses for 1963–64 showed no difference between those from eyries which failed and those which produced flying young from the remaining eggs (Ratcliffe 1965). Now that more data are available, a slight difference shows when all egg analyses are thus separated; the figures are (total organochlorine residues) 17.4 p.p.m. for eggs from failed eyries and 12.7 p.p.m. for eggs from successful eyries. The difference is not statistically significant but it is suggestive.

In 1966, two eggs were examined for residues of mercury; one was blank (Table IIB, 1966/1) but the other (Table IIB, 1966/3) contained 0.3 p.p.m.

BREEDING SUCCESS, BROOD SIZE AND REPLACEMENT OF LOSSES

Of the 30 eyries which failed in 1965–66, egg breakage or disappearance of eggs (usually one by one and apparently due to parental destruction) was the cause of failure in 26. Mean brood size in successful eyries has continued to be low in regions south of the Highlands (average of 1.8 young for 24 known broods) and normal in the South and East Highlands (average of 2.5 young for 28 known broods).

I have recently been provided with data collected by the late W. C. Lawrie at a regular Lakeland eyrie between 1910 and 1939. The history is incomplete, but the following records are available of all successful nestings in which the brood-size was definitely known:

1913, 3 young	1927, 4 young
1914, 3 young	1928, 1 young
1920, 3 young	1930, 4 young
1922, 3 young	1931, 3 young
1924, 4 young	1936, 4 young
1925, 2 young	1939, 4 young
1926, 4 young	

The mean of these 13 broods was 3.2 young, an appreciably higher figure than the national pre-war average of 2.5 young. Unspecified broods were also reared in several other years and there are in existence several clutches of eggs taken from this locality during the same period. The haunt was never known to be deserted between 1910 and 1939, and the only cause of breeding failure was egg collecting, apart from one year in which the birds deserted after being kept off the nest for many hours. At least two different females were involved during this period.

The recent history of occupation at this same haunt is as follows:—

1961 3 eggs; two were later broken, the third hatched but the chick died.

1962 3 eggs; all disappeared later, evidently through parental destruction.

1963 3 eggs; one taken fresh for chemical analysis (Table IIB, 1963, No. 3), the other two hatched; one chick died and the other fledged.

1964 3 eggs; only one chick hatched and it later died.
1965 3 eggs; one broken later, one bad (Table IIB, 1965, No. 4) and the third hatched; the single chick fledged.
1966 No trace of the birds.

TABLE II.—ORGANO-CHLORINE RESIDUES IN PEREGRINE EGGS

A. CENTRAL SCOTTISH HIGHLANDS

Year	No.	County	pp DDE	pp TDE	pp DDT	Dieldrin	Heptachlor epoxide	BHC isomers	Total o/c residues
1963	[1] 1	Inverness	6.9			0.5	0.2	(2)	7.6
	[1] 2	Angus	5.4	0.6	0.8	.6	1.9	0.2	9.5
1966	[1] 1	Inverness	3.6		(2)	.1	(2)		3.7
	[1] 1	.....do	2.8		.1	.3	(2)		3.2
	[1] 3	Angus	7.8	.1	(2)	1.6	1.2		10.7
Mean			5.3	.1	.2	.6	.7	[3].1	6.9

B. NORTHERN ENGLAND AND SOUTHERN SCOTLAND

1963	[4] 1	Westmorland	15.8		0.4	0.7	2.9	0.2	20.0
	[4] 2	Cumberland	10.0			.4	.7	.1	11.2
	[1] 3	.....do.[5]	30.8			1.1	4.1	.1	36.1
	[4] 4	Dumfries [5]	2.6		.1	.1	.1	(2)	2.9
	[1] 5	Peebles	4.4		.1	.4	.6	(2)	5.5
	[4] 6	.....do.[5]	21.2		.1	.5	.6	.2	22.6
	[4] 7	.....do.[5]	23.2			.3	.5	.1	24.1
	[4] 8	Kirkcudbright	14.1			.7	.4	.1	15.3
	[4] 9	.....do	9.0		.1	.1	.4	.2	9.8
Mean for 1963			14.6		.1	.5	1.1	.1	16.4
1964	[4] 1	Dumfries [5]	4.7	(2)	(2)	1.3	.2	.6	6.8
	[4] 2	.....do	7.3			1.8	.7	.8	10.6
	[4] 3	Kirkcudbright [5]	10.8	0.5	.5	.1	.1	.5	12.5
	[4] 4	Peebles	12.0			.8	.4	.1	13.3
Mean for 1964			8.7	.1	.1	1.0	.4	.5	10.8

TABLE II.—ORGANO-CHLORINE RESIDUES IN PEREGRINE EGGS—Continued

	No.	County	pp DDE	pp TDE	pp DDT	Dieldrin	Heptachlor epoxide	BHC isomers	Total o/c residues
	[4] 1	Kirkcudbright [5]	22.3	.2	.3	.5	4.3	.4	28.0
1965	[1] 2	Dumfries [5]	10.2	.2	.2	.5	.2	.2	11.5
	[4] 3	Peebles	18.1	.1	.7	.5	.2	.2	19.8
	[1] 4	Cumberland [5]	25.0			.6	.8	.1	26.5
	[4] 5	Westmorland	24.0			.8	1.0		25.8
Mean for 1965			19.9	.1	.2	.6	1.3	.2	22.3
1966	[4] 1	Kirkcudbright [5]	22.0	.2	.2	.3	1.0		23.7
	[4] 2	.....do	22.0			.6	1.0		23.6
	[4] 3	.....do	13.0		.1	.2	.1		13.4
	[4] 4	Westmorland	23.0	[2]		.6	.5	2.8	28.9
Mean for 1966			20.0	.1	.1	.9	.7	.7	22.5
Overall mean			15.7	.1	.1	.7	.9	.3	17.8

[1] Successful eyrie; at least 1 young reared from remaining eggs.
[2] Trace.
[3] Less than figure shown.
[4] Unsuccessful eyrie; remaining eggs broken or failed to hatch.
[5] Same female for the same locality.

While the two eggs containing total organo-chlorine residues of 36 and 27 p.p m. (dieldrin + heptachlor epoxide 5.2 and 1.4 p.p.m.) were from clutches from which single young were fledged, this level of contamination was associated with a marked reduction in brood size, compared with pre-war years. This haunt was one of only five (out of 30) once regularly occupied territories in Northern England which were continuously occupied throughout the period 1960–65; and 1966 was the first year since 1910 when Peregrines were absent. Probably the same female occupied the haunt from 1961 to 1965, but it was a different bird from that present in 1939.

The summarised figures in Table I conceal the details of change occurring within a population which as a whole remains stable. For instance, in Southern Scotland, 27 territories were visited in both 1965 and 1966, and 16 were found occupied in each year, but only 13 were occupied in *both* years. Since 1960, it is usual for this region and Northern England to show small gains and losses in any year, by comparison with the preceding and succeeding years, so that fresh gaps are still appearing as old ones are filled.

The output of young Peregrines annually from the whole of the Scottish Highlands would seem adequate to allow a slow recovery, at least in occupation of territories, and it is perhaps surprising that even in this region, about 47 per cent of territories visited remained deserted or held by non-breeders in 1966. However, the annual surplus has also to fill gaps caused by mortality amongst the established breeding population, and when birds move away from their birthplace to depleted areas, they are themselves increasingly exposed to pesticidal contamination, with the implication of increased risks of mortality and breeding failure. As not all Peregrines are likely to reach sexual maturity at one year old, many probably pass their juvenile stage in country away from breeding haunts and may then be more at risk, as regards pesticides, than if they were able to occupy a nesting place in their first year.

Walpole-Bond (1914) noted that a barren female Peregrine refused to mate or to allow a prospecting pair to settle on her breeding cliffs, but after she was shot, a new pair soon appeared and nested. It could be that many of the non-breeding Peregrines recently holding territories also defend them against potential breeders which arrive from other areas. Cade (1960) has suggested that the tenacity with which Peregrine eyries are

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usually held over a long period depends on the survival at all times of one bird of the occupying pair, and that when both of the pair die simultaneously, continuity is lost and the haunt may then be left deserted for a period Many Peregrine breeding haunts south of the Highlands seem to have been totally deserted for several years, and this loss of continuity may be an additional factor working against their re-occupation. Even so, rate of re-occupation of totally deserted haunts in Southern England was fairly rapid after intensive human 'control' ceased in 1945. The continued failure of the Peregrine to restore its previous breeding numbers is most likely to be explained by lack of improvement in the adverse factor which originally depleted the areas concerned.

CONCLUSIONS

The continued investigations of 1965–66 reinforce earlier conclusions (Ratcliffe 1963, 1965) that the persistent organo-chlorine pesticide residues have been a causal factor in the post-1955 decline of the Peregrine in Britain. In view of the evident maintenance of contamination levels in the environment, it is not surprising that the breeding population has shown no clear tendency towards recovery Moreover, there would seem to be no sign of general resistance to these chemicals developing in this species.

SUMMARY

A sample census of about one-third of the Peregrine breeding population of Great Britain in 1965 and 1966 indicates that there has been no significant change in proportion of occupied territories or breeding success of remaining birds during this period.

Comparison with earlier data suggests that the Peregrine decline ceased after 1963, and that the population has since remained relatively stable, with occupied territories at about 40 per cent of the pre-war level and breeding success (pairs rearing young) varying between about 13 and 16 per cent of the maximum possible level (former mean annual number of pairs). Breeding success may have improved marginally after 1963 on the national scale, and more significantly in Southern Scotland and Northern Ireland.

The geographical pattern is unchanged, with population level, breeding success and brood size lowest in England and Wales, and highest in the South and East Highlands of Scotland.

Analysis of Peregrine eggs gives no evidence of a decrease in contamination by any organo-chlorine residue since 1964. Eggs from Northern England and Southern Scotland were more heavily contaminated than those from the South and East Highlands during the period 1963–66, though the difference lies mainly in the DDE component.

Failure of young Peregrines from successful eyries to build up the breeding population of depleted areas is probably a reflection primarily on the lack of improvement in the adverse factor which initiated decline.

ADDENDUM

Since this account was written, preliminary data for 1967 have become available. They indicate a slight recovery of population, in both occupation of territories and breeding success, in the east and central Scottish Highlands, Northern England and Northern Ireland. In the southwest Highlands and Southern Scotland, breeding success was lower than in 1966, but there was no decrease in number of occupied territories Analysis of ten eggs in 1967 shows a decrease in organo-chlorine residue levels, especially of dieldrin and heptachlor epoxide, compared with 1956–66, and also confirms that residue levels are significantly lower in the Central Highlands than in other regions of the south. Slight recovery of the population in more northerly regions is thus consistent with a decrease in environmental contamination, at least in these more marginal arable farming districts, which were least affected by the original population decline.

It has recently been shown (Ratcliffe 1967) that the post-war prevalence of egg breaking in the British Peregrine correlates closely with a widespread decrease in eggshell weight/size ratio (i e. probably thickness) which appeared in 1947 and has persisted ever since, except in some parts of the Central Highlands The connections between these phenomena, and their possible relationships to contamination of the species by organo-chlorine residue, are being examined.

PROBLEMS WITH DDT IN FISH CULTURAL OPERATIONS

(J. P. Cuerrier, J. A. Keith, and E Stone)

ABSTRACT

Various concentrations of DDT and residues have been detected in eggs and fry of speckled, rainbow, and cutthroat trout obtained from local sources and from commercial suppliers and handled at the Maligne River Trout Hatchery, Jasper National Park, Alberta. Concentrations of DDT and metabolites exceeding 400 ppb in eggs resulted in a 30 to 90 per cent mortality among the fry 60 fingerlings during the days following the swim-up stage All commercial dry feeds analysed contained DDT. Among ingredients used in the manufacturing of trout feeds, only brewer yeast was found almost free of contamination.

INTRODUCTION

Because of the very wide distribution of DDT, it would seem that all forms of life are being exposed, directly or indirectly, to this chemical insecticide. Extensive research has been done on the toxicity of DDT to insects, the primary target, but comparatively little is known of the effects of secondary contamination of animals, particularly during the very early stages of development. The purpose of this paper is to present data on DDT contamination of trout in fish hatcheries.

Mack and co-workers (1964) found DDT concentrations in whole fish ranging from 0.2 to 7 ppm; certain tissues or organs contained up to 40 ppm. Burdick and co-workers (1964) found as much as 500 ppm of DDT by weight in ether-extracted oils from lake trout eggs taken from Lake George, New York State. They found that 90 per cent of lake trout eggs containing 2.95 ppm of DDT and above died at the fry stage. With landlocked salmon at Sebago Lake, Maine, Anderson and Everhart (1966) found that ovaries of three-year-old salmon contained 0 87 ppm of DDT, while

TABLE 1—DDT AND METABOLITES IN PARTS PER 10^9 (PPB) WET WEIGHT IN EGGS AND FRY OF VARIOUS SPECIES OF TROUT

Sample catalog	Description [1]	Concentration in parts per 10^9, ppb, wet weight					Losses [2] (percent)
		DDE	o,p'-DDT	DDD	p,p'-DDT	Total	
B–477	RT eggs, wild, Jasper	65	8	23	25	123	—15
B–479	RT eggs, commercial	57	19	28	44	148	
B–480	RT eggs, commercial	63	29	33	53	178	
B–726	RT eggs, commercial	79	(3)	(3)	(3)	79	—15
B–727	RT eggs, commercial	129	(3)	26	21	176	
B–728	RT eggs, commercial	46	(3)	11	7	64	
B–729	RT eggs, commercial	62	(3)	6	(4)	68	
B–730	Cutth. T. eggs, domestic	166	(4)	378	23	567	30
B–420	EBT domestic, fry	333	44	(3)	87	464	70
B–417	RT f.sp., yolk fry	1,022	54	294	52	1,422	90
B–418	RT f sp., yolk fry	971	(4)	178	(4)	1,149	90
B–478	EBT fry, domestic	217	16	51	201	485	90

[1] Abbreviations: RT equals rainbow trout; f.sp. equals fall spawning, EBT equals eastern brook or speckled trout, Cutth T. equal cutthroat trout.

[2] Losses during the 2-month period following the swim-up stage.

[3] Indicates undetected, the limit of detection being 1 ppb.

[4] Indicates traces in the range of 1 to 5 ppb.

ovaries of older salmon showed 6 0 ppm of DDT.

Mortality at the yolk-sac stage of lake trout in George Lake and other waters in the State of New York, and of the landlocked salmon in Sebago Lake, has been ascribed to DDT contamination.

For many years, gill diseases were thought to cause mortality at different stages of development of the various trout species raised at the Maligne River Trout Hatchery, Jasper National Park, Alberta Recent investigations by the Pathology Section of the Canadian Wildlife Service, with the cooperation of the U S. Bureau of Sport Fisheries and Wildlife, have revealed the occurrence of such diseases as "cold-water disease", infectious pancreatic necrosis, and "kidney disease", in addition to gill diseases. Mortality has also been caused by dissolved copper and zinc from pipes and valves in the hatchery. In spite of these hazards and the Damocles sword ever present in fish culture operations, in 1966 the Maligne River Hatchery produced more than one and one-half million trout of various species and sizes for plantings in the Mountain Park waters.

However, some mortality could not be explained by viral or bacterial infections and DDT contamination was suspected. Samples of eggs, alevins, and commercial dry feeds were analysed All analyses were performed under contract by Dr. D J. Ecobichon, Pharmacology Division, University of Guelph, using electron capture gas chromatography and the extraction procedure of Saschenbrecker and Ecobichon (1967).

TROUT EGGS AND ALEVINS

Trout eggs handled at the Maligne River Trout Hatchery come from various sources: (a) local collections from wild stocks originating from annual hatchery plantings; (b) local collections from domestic stocks held at the hatchery, (c) commercial suppliers located in the United States; and (d) provincial and federal fisheries agencies. Table 1 presents data on DDT and metabolite levels found in eggs and alevins of various species of trout.

In view of the preliminary and exploratory nature of this report, no attempt is being made to establish a relationship between the levels of each type of residue found in the various samples. However, in samples with levels of total DDT and residues below 200 ppb, residues of DDT and metabolites appear in the following order: the lowest levels are of *o,p'*-DDT, followed by DDD, *p,p,'*-DDT, and DDE. DDE was the major component, with about twice as much of it as of the other residues combined.

Eggs collected from wild rainbow trout in Lake Edith, Jasper National Park, where annual plantings are carried out, showed a total level of 123 ppb of DDT and metabolites. Losses during the 60 days following the swim-up stage were less than 15 per cent. Spring-spawning rainbow trout eggs from commercial sources contained levels ranging from 64 ppb to 178 ppb. Losses in alevins from these eggs were less than 15 per cent during the 60 days following the swim-up stage. Losses of this magnitude are considered normal for that stage. However, cutthroat trout fry resulting from eggs purchased from a commercial supplier showed a total concentration of 567 ppb of DDT and metabolites; losses were about 30 percent.

Eastern brook trout fry resulting from eggs

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extracted from a domestic brood stock held at the Jasper Hatchery had a mortality of 70 per cent. The total level of DDT and metabolites was 464 ppb.

Rainbow trout yolk-sac fry from an autumn-spawning strain obtained from a commercial supplier contained 996 ppb of DDT and 236 ppd of DDD for a total of 1,285 ppb of DDT and metabolites. Losses amounted to close to 90 per cent in the two-month period which followed the swim-up stage. Similar heavy losses were experienced with brook trout fry resulting from eggs obtained from a domestic brood stock held by a government agency. The concentration of total DDT and metabolites was 485 ppb, mostly DDE and *p,p'*-DDT.

The fish with high levels of mortality were not exposed to disease more than the others, but during the period of this study, mortality above 25 per cent seemed to be associated with comparatively high levels of DDT and its metabolites Therefore, we conclude that insecticide residues were responsible for this high mortality. In their paper on chronic effects of DDT on cutthroat trout, Allison and coworkers (1964) stated that "there was a critical period shortly after hatching when mortality was noticeably higher in offspring of the high-dosage lots".

The relationship between mortality, level of DDT contamination of the eggs, and temperature of the water during yolk-sac absorption is under experimental study. Incubation and hatching during the winter and spring seasons at the Maligne River Trout Hatchery take place at a water temperature of 40° F Brook trout fry and alevins which experienced a 90 per cent mortality at our Maligne River Trout Hatchery had less than 15 per cent mortality at the hatchery where the eggs came from. At that establishment, incubation of trout eggs is carried out at a water temperature ranging from 32° F. to 36° F.

COMMERCIAL TROUT DRY FEEDS

Fry are fed with commercial dry feeds after reaching the advanced swim-up stage. Samples of dry feeds were analyzed. Results are

presented in Table 2 but for obvious reasons, brand names and sources are not given. Analyses revealed the presence of DDT in all samples, with levels ranging from 2 ppb to 234 ppb. One sample also contained 17 ppb of dieldrin.

TABLE 2.—DDT AND METABOLITES IN PARTS PER 10^9 (ppb) WET WEIGHT IN MANUFACTURED DRY FEEDS FOR TROUT

Sample catalog number	Concentrations in parts per 10^9, ppb				
	DDE	o,p'-DDT	DDD	p,p'-DOT	Total
473–476	104	27	38	65	234
483–476	45	19	42	54	160
491–493	45	35	38	78	196
B–1348	71	(1)	33	46	150
B–1349 [2]	59	(1)	20	28	107
B–1351	75	(1)	67	54	196
B–1352	56	(1)	47	39	132
B–1456	44	(1)	96	74	214
B–407	2	(1)	(1)	2	4
B–408	2	(1)	(1)	2	4
B–490	16	(3)	(3)	(3)	16
B–723	19	(3)	26	9	54
B–724	33	50	67	238	388
B–1166	125	126	249	157	657
B–1456	44	(1)	96	74	214
B–146	60	(1)	67	24	151

[1] Indicates undetected, the limit of detection being 1 ppb.

[2] This feed also contained 17 ppb dieldrin.

[3] Indicates traces in the range of 1 to 5 ppb.

Presence of metabolites, from low to high levels, is as follows: *o,p'*-DDT, DDD, *p,p'*-DDT, and DDE. This same order was observed with the samples of rainbow trout eggs with low levels of DDT and metabolites. Some ingredients utilized in the manufacturing of dry feeds were analysed for DDT residues. Data obtained indicated that of all the ingredients examined, only brewers' yeast contained residues no higher than 5 ppb; soybean meal and fish meal contained less than 100 ppb.

CONCLUSION

Various levels of DDT and residues have been found in brook, rainbow, and cutthroat trout handled at the Maligne River Trout Hatchery in Jasper National Park. When levels of DDT and metabolites exceeded 400 ppb in eggs, mortality in the resulting fry ranged from 30 per cent to 90 per cent in the 60-day period following the swim-up stage. All commercial dry trout feeds analysed were found to contain chlorinated hydrocarbons. Of several ingredients used, only brewer's yeast was found to be almost free of contamination.

From operational observations, it would seem that DDT in manufactured trout food is detrimental to the growth of trout raised under hatchery conditions, when DDT and metabolites in the eggs and fry exceed certain levels.

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CHLORINATED HYDROCARBONS AND EGGSHELL CHANGES IN RAPTORIAL AND FISH-EATING BIRDS

(Abstract. Catastrophic declines of three raptorial species in the United States have been accompanied by decreases in eggshell thickness that began in 1947, have amounted to 19 percent or more, and were identical to phenomena reported in Britain. In 1967, shell thickness in herring gull eggs from five states decreased with increases in chlorinated hydrocarbon residues.)

New perspectives on the role of chlorinated hydrocarbon insecticides in our environment have come into focus in recent years. Successive discoveries have demonstrated that these compounds are systematically concentrated in the upper trophic layers of animal pyramids (1). Raptorial bird populations have simultaneously suffered severe population crashes in the United States and Western Europe (2, 3, 4). These involve reproductive failures which, at least in Britain, are characterized by changes in calcium metabolism and by a decrease in eggshell thickness resulting in the parent birds' breaking and eating their own eggs (4, 5, 6). Such a derangement of calcium metabolism or mobilization perhaps could result from breakdown of steroids by hepatic microsomal enzymes induced by exposure to low dietary levels of chlorinated hydrocarbons (7).

We have examined the possibility that the eggshell changes reported in Britain (6) have also occurred in the United States and that the raptor population crashes in Europe and North America may have had a common physiological mechanism. The population changes are without parallel in the recent history of bird populations (8). They include

the pending extirpation of the peregrine falcon (*Falco peregrinus*) in northwestern Europe, the complete extirpation of the nesting population of this species in the eastern half of the United States, and simultaneous declines among other bird- and fish-eating raptors on both sides of the Atlantic.

We examined 1729 blown eggs in 39 museum and private collections. Shells were weighed to the nearest hundredth of a gram. In 29 percent of these, we were able to insert a micrometer through the hole drilled by the collector at the girth of the shell and to take four measurements of thickness 7 mm from the edge of the blow hole; these were then averaged to the nearest 0.01 mm for each shell. Thickness in each case then represented the shell itself plus the dried egg membranes. Peregrine falcons, bald eagles (*Haliaeetus leucocephalus*), and ospreys (*Pandion haliaetus*) were selected as having one or more regionally declining populations; golden eagles (*Aquila chrysaeetos*), red-tailed hawks (*Buteo jamaicensis*), and great horned owls (*Bubo virginianus*) were selected as representative of reasonably stationary populations that may be slowly declining as their habitats are gradually destroyed by man, but for which widespread reproductive failures are currently unknown. In addition, 57 eggs of the herring gull (*Larus argentatus*) were collected from five colonies in 1967. The shells of these were dried at room temperature for 4 months before being measured, and residues of the entire egg contents were analyzed by the Wisconsin Alumni Research Foundation for chlorinated hydrocarbons but not for polychlorinated biphenyls. Analytical procedure followed that outlined by the U.S. Food and Drug Administration (*9*). Analyses were conducted on a gas chromatograph (Barber Coleman, model GC 5000, and Jarrell-Ash, model 28–700) with electron-capture detectors. The glass column (0 6 cm by 1.2 m) was packed with 5 percent DC 200 (12,500) on Cromport XXX. The column temperature was 210°C, and the nitrogen flow rate was 75 cm^3/min. Each portion of the ground and dried samples was extracted for 8 hours or more in a Soxhlet apparatus with a mixture of ether and petroleum ether (70:170). Portions of the extracts were further purified by putting them through a Florisil column.

In California, where the peregrine falcon population is in "a serious condition (*10*), a change of 18 8 percent in shell weight occurred from 1947 to 1952. Ratcliffe (*6*) found a corresponding decrease of 18.9 percent in Britain. The change in California involved a decrease in shell thickness and had no precedent in the previous 57-year recorded history of the peregrine in that state (Fig. 1). In the eastern United States, where the nesting population of peregrines has now been wiped out (*3*), fragmentary data indicate that the same change took place (Table 1). Broken eggshells in a North American peregrine eyrie were observed for the first time in 1947 by J. A. Hagar 60 miles (6.9 km) from the Massachusetts eyrie cited in this table (*11*). They were next inferred in Quebec in 1948 when egg-eating was observed at the same site in 1949 (*12*), and were observed in Pennsylvania in 1949 and 1950 (*13*). Chlorinated hydrocarbon data for this now-extinct regional population are completely absent. For nine surviving adult peregrines in Canada's Northwest Territories in 1966, the data are reported to have averaged 369 parts per million (ppm) (fresh weight) in fat (*14*). For four adults in another migratory population in northern Alaska, values were even higher (*15*).

For the five other raptorial species we have studied, the data do not permit a precise delineation of the onset of the change in calcium metabolism or mobilization, but the decrease (Table 1) in shell weight (and hence thickness) has involved only declining populations and not stationary ones Change in shell thickness occurs in poultry as a result of dietary deficiencies and age (*16, 17*). This phenomenon would probably

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not occur simultaneously on two continents 1 year after the chlorinated hydrocarbon insecticides came into general usage. Other chemicals affect shell thickness in poultry (17), but the finding of high concentrations of chlorinated hydrocarbons in the eggs of wild populations of raptors and the time correlation of shell changes with the introduction of DDT [1,1,1-trichloro-2,2-bis (*p*-chlorophenyl) ethane] tend strongly to suggest that chlorinated hydrocarbons are the major contributing cause, although it is not unlikely that other chemicals could be contributory.

TABLE 1.—WEIGHTS OF RAPTOR EGGSHELLS IN MUSEUM AND PRIVATE COLLECTIONS

Region	Period	Number	Weight (g) Mean ± S.E.[2]	Change (percent)	Population trend (or reproduction)
Red-tailed hawk: California (23)[1]	1885–1937	386	6.32 ± 0.032		
	1943–44	6	6.09 ± 0.237	−3.6	Stationary.
	1953–67	8	6.49 ± 0.214	+2.7	Do.
Golden eagle. California (23)	1889–1939	278	13.03 ± 0.083		
	1940–46	28	12.70 ± 0.161	−2.5	Do.
	1947–65	33	13.41 ± 0.232	+2.9	Do.
Bald eagle (24a):					
Brevard County, Fla.	1886–1939	56	12.15 ± 0.127		
	1947–62	12	9.96 ± 0.280	−18.0	Declining
Osceola County, Fla.	1901–44	25	12.32 ± 0.240		
	1959–62	8	9.88 ± 0.140	−19.8	Do.
Osprey (24b):					
Maryland-Virginia	1890–1938	152	7.05 ± 0.054		
	1940–46	21	6.91 ± 0.164	−2.0	Stationary.
	1955	3	6.85	−2.8	Do.
New Jersey	1880–1938	117	7.08 ± 0.069		Do.
	1957	6	5.30 ± 0.446	−25.1	Declining.
Peregrine (25):					
British Columbia	1915–37	29	4.24 ± 0.061		
	1947–53	15	4.18 ± 0.081	−1.4	Stationary.
California (23)	1895–1939	235	4.20 ± 0.031		
	1940–46	49	4.07 ± 0.038	−3.1	No data.
	1947–52	31	3.41 ± 0.084	−18.8	Declining.
New Hampshire to New Jersey[3]	1888–1932	56	4.38 ± 0.034		
Vermont	1946	3	4.30	−1.8	Stationary.
Massachusetts	1947	3	3.47	−20.8	Extirpated.
New Jersey	1950	3	3.24	−26.0	Do.
Great horned owl:					
California (23)	1886–1936	154	4.50 ± 0.033		
	1948–50	12	4.62 ± 0.119	+2.4	Stationary.

[1] Citations (23–25) refer to the data for the population trend.
[2] S.E., standard error of the mean.
[3] Including Vermont and Massachusetts.

In order to test the hypothesis that these recent changes of thickness in raptor eggshells were the result of differences in exposure to chlorinated hydrocarbons we analyzed 10 to 14 eggs taken in 1967 from each of five colonies of the herring gull (*Larus argentatus*) Mean shell weight and thickness in 55 eggs collected in the same five states prior to 1947 disclosed no geographic gradients or significant differences The 1967 mean thicknesses for each colony were therefore compared to mean levels of residual DDE [1,1-dichloro-2,2-bis (*p*-chlorophenyl) ethylene] on a fresh-weight basis, with the result shown in Fig. 2, the r value being significant, with $P = .001$. The residues of polychlorinated biphenyls (*18*) have not been studied in these ecosystems, but DDE has been consistently high in the Lake Michigan birds, averaging (fresh weight) 1925 ppm (S E 274) in the fat of 12 healthy adults collected in 1963–64 (*19*).

Reproduction in these gull colonies was generally normal in 1967 except perhaps in Wisconsin. At the latter colony where an 11 percent mean decrease in shell thickness occurred, some egg breakage and shell flaking was evident in 1967, although not at the frequency seen in previous years. Excessive reproductive failure occurred at this site in 1964 when about 18 percent of eggs lost about one-third of the shell due to flaking, when clutch size decreased and embryonic mortality was high, and when DDE residues averaged 202 ppm (S.E. 34) in nine eggs (*20*). (If linear extrapolation of the 1967 values is carried out to 202 ppm, the shell thickness in 1964 could be estimated as having decreased by about 32 percent) The effectiveness of DDE in the enzymatic metabolism of aminopyrine has been reported by Hart and Fouts (*21*), and our data suggest that this compound, because of its prevalence, has played a major role in inducing the hapatic microsomal metabolism of steroids that in turn resulted in the eggshell

changes we have encountered in museum collections. Without doubt DDE is the commonest insecticide or insecticide analog now being found in avian tissues (*22*). In 1966, it was found to average 284 ppm (S.E. 62) in the fat of nine arctic-breeding peregrine falcons (*14*) and about 414 ppm in four others on a wet-weight basis (*15*). Concentrations of this compound and other chlorinated hydrocarbons in the peregrine populations that crashed farther south can be assumed to have been as high—and they may have been much higher.

From the above evidence and that accumulated by others (*2, 4, 6, 8*), we have reached these conclusions: (i) many of the recent and spectacular raptor population crashes in both the United States and Western Europe have had a common physiological basis; (*ii*) eggshell breakage has been widespread but largely overlooked in North America; (iii) significant decreases in shell thickness and weight are characteristic of the unprecedented reproductive failures of raptor populations in certain parts of the United States; (iv) the onset of the calcium change 1 year after the introduction of chlorinated hydrocarbons into general usage was not a random circumstance; and (v) these persisting compounds are having a serious insidious effect on certain species of birds at the tops of contaminated ecosystems.

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26. Research carried out under contract with the Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, U.S. Dept. of Interior. W. H. Drury, J. T. Emlen and M. E. Slate provided gull eggs for analysis. E. N. Harrison, W. C. Hanna, and many other oologists greatly facilitated our measurements of eggshells. We thank D. A. Ratcliffe for advice throughout the entire study.

16 July 1968

Mr. PROXMIRE. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Wisconsin proposes an amendment, on page 73, line 24, insert the following new section:

SEC. 109. Section 1705(h) of Public Law

90–448 is amended by striking the word "or" where it appears before the word "domitory" and by inserting after the word "domitory" the following: ", water, or sewer".

Mr. PROXMIRE. Mr. President, the Water Quality Improvement Act of 1969 which the Senate is considering today is mainly concerned with the control of pollution whether by oil, sewage flow, acid mine drainage, or related pollutants into our rivers and harbors. This bill would authorize appropriations to alleviate pol-

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luted conditions and to provide for better coordination between Federal, State, and local water pollution control programs. I congratulate the distinguished Senator from Maine for the excellent leadership he has shown on environmental policy. His work on the Water Quality Improvement Act is but one example of his continuing efforts over the years to combat air and water pollution.

I understand that the Public Works Committee will later consider legislation on the very important subject of providing additional financing to State and local governments for the construction of needed water and sewer facilities. In 1968, State and local governments borrowed nearly $3 billion to provide capital for financing water, sewer, and conservation programs. The Water Quality Improvement Act of 1968 was passed by the Senate, but was not enacted into law because time ran out in the 90th Congress before differences in the House and Senate versions could be resolved This 1968 act would have enabled State and local government units to raise between $6 and $7 billion in capital by means of municipal bond issues in order to pay for needed construction.

The amendment I offer today would afford to the State and local government units access to the capital market now enjoyed by State and local governments when they issue bonds for housing, university, and dormitory purposes. Having access to a competitive capital market will enable the State and local governments throughout the country to borrow money for water and sewer construction at the lowest possible cost. It is my belief that in view of the astronomically high interest rates which are now being paid, it is more imperative that new water and sewer construction be paid for by raising capital under the most advantageous conditions. Furthermore, as I mentioned earlier, the fact that the Public Works Committee has not yet considered legislation relating to financial assistance by the Federal Government for the raising of such capital is an additional reason why it is important at this time that every advantage of a competitive market be given for State and local borrowing for water and sewer needs.

Mr. President, the Committee on Banking and Currency has considered this amendment in some detail and hearings have been held on it. The Senator from Maine (Mr. MUSKIE) is familiar with the action taken, as he serves as a member on that committee. It has also been discussed on the floor before, and I would hope, as it is discussed now with the distinguished Senator from Maine, that he will be able to accept the amendment.

Mr. MUSKIE. Mr. President, I support the adoption of the amendment offered by my distinguished colleague from Wisconsin. The Subcommittee on Air and Water Pollution has given considerable thought and study as to how capital is to be available to our hard-pressed States and cities for the construction of waste treatment facilities. I believe that every Member of Congress is aware of the acute need in every State and community for such facilities. Many different financing proposals have been considered by the subcommittee and by the full Public Works Committee. The Clean Water Restoration Act of 1966 authorized $3.5 billion for substantial Federal grants for this purpose. However, appropriations have fallen far short of the authorized amounts. This situation will be partially rectified this year if the Congress appropriates the amounts included by the House Appropriations

Committee in the Public Works appropriations bill.

In the meantime, State and local government units have continued to raise the capital for both their share and the Federal share of a project cost by the issuance of bonds. They will continue to raise needed State and local capital by this method in the future. The amendment now under consideration would enable the public issuers to have access to the same capital markets now available for Federal financing thereby insuring that they may borrow in a competitive market at the lowest cost.

Mr. President, for many reasons the amendment is thoroughly consistent with the objectives of the committee, struggling against budgetary restrictions over the past 3 or 4 years, to find alternative ways to make it possible for States and communities to find the capital to build these facilities.

I compliment the Senator for offering his proposal. It has been heard by committees. It is demonstrably sound on the basis of the hearings held, and I am delighted to take the amendment into the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wisconsin.

The amendment was agreed to.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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The Senate resumed the consideration of the bill (S. 7) to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

AMENDMENT NO. 217

Mr. STEVENS. Mr. President, I call up my amendment, No. 217, offered on behalf of myself and the Senator from Massachusetts (Mr. KENNEDY), and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The amendment offered by Mr. STEVENS is as follows:

At the end of the bill insert the following:

"TITLE IV—ALASKA VILLAGE SAFE WATER FACILITIES

"SEC. 401. The Federal Water Pollution Control Act is amended further by inserting at the end thereof a new section as follows:

"ALASKA VILLAGE SAFE WATER FACILITIES

"SHORT TITLE

"SEC. 23. (a) This section may be cited as the 'Alaska Safe Water Facilities Act'.

"FINDINGS OF FACT

"(b) The Congress hereby finds and declares that—

"(1) in numerous villages in the State of Alaska there are presently no facilities for the provision of safe water and hygienic sewage disposal;

"(2) because of the absence of such water and sewage facilities in such villages and the attendant insanitary conditions stemming from such absence, there is a widespread incidence of sickness and disease which is responsible for serious, and in some instances, permanent impairment or even death to the residents of such villages; and

"(3) it is the responsibility of the Federal Government, in providing for the health and general welfare of Indian and native Alaskan citizens of the United States, to take appropriate measures to protect the lives and health of residents of such villages by enabling them to enjoy the benefits of safe water and hygienic sewage disposal facilities.

"DECLARATION OF POLICY

"(c) It is therefore the policy of this section to establish a special emergency program designed to provide safe water and hygienic sewage disposal facilities in Alaskan villages which presently do not have such facilities.

"PROVISION OF FACILITIES

"(d) (1) In order to provide safe water and hygienic sewage disposal facilities in villages in Alaska which presently do not have such facilities, the Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') is authorized to institute and carry out a program designed to provide for the installation of such safe water and hygienic sewage disposal facilities in Alaskan villages as are necessary to assure that there will be at least one facility for safe water and hygienic sewage disposal in each village.

"(2) (A) Any facility constructed under this subsection shall be available for use by the general public and be housed in a suitable structure, designed to assure year-round use of such facility, and shall include, at a minimum, a source of clean water (such as a well with pumping facilities or utilization of surface water treated so it is safe and healthy for use), shower bath facilities, an adequate means of hygienic sewage disposal, and facilities for the washing of clothes. The building housing any such facility shall, if the Secretary determines it to be feasible and appropriate, also contain suitable quarters to be used as a community health service office.

"(B) The location of any facility constructed under this subsection shall be determined after consultation with the village council (or other comparable governing body) of the village in which such facility is located, as well as with appropriate public agencies (such as, but not limited to, the Alaska State Housing Authority and the Federal Field Committee for Development Planning in Alaska), in order to achieve maximum coordination in public development plans and activities affecting the community in which the facility is to serve.

"(3) (A) The Secretary shall provide for the construction of facilities under this subsection in the most expeditious manner feasible, and is authorized to provide for such construction by contract or through grants to public agencies or private nonprofit organizations, or otherwise. No contribution toward the cost of the construction of a facility will be required from the users thereof.

"(B) Payments of any grants made under this subsection may be made in advance or by way of reimbursement and subject to such conditions as the Secretary may impose to assure that the purposes of this section will be properly carried out.

"(C) In the construction of any facility under this subsection, there shall be utilized to the maximum extent feasible workmen from the village in which such facility is being constructed.

"(4) It shall be the responsibility of the village council (or other comparable village governing body) to maintain and operate the safe water and hygienic sewage disposal facility constructed therein under this subsection, and, upon completion of such facility, the Secretary shall execute such transfers of title as may be necessary to vest complete ownership of such facility in such council or body. The Secretary shall not construct under this subsection any facility in any village unless he first receives satisfactory assurances from the village council (or other comparable governing body) thereof that such council or body will, upon completion of such facility, accept ownership thereof and will accept responsibility for the operation and maintenance thereof.

"(5) For purposes of carrying out the provisions of this subsection, there is authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1970, and such sums as may be necessary for each of the next three fiscal years thereafter. Funds appropriated for any fiscal year under this paragraph shall remain available until expended and be utilized for both construction of the facilities and for the engineering and administrative costs necessary to design and plan such construction.

"(e) (1) The Secretary shall conduct through the health aide, in each community wherein there is located a safe water and hygienic sewage disposal facility provided under subsection (d), an appropriate educational and informational program designed to familiarize the residents of such community as to the health advantages to be achieved by their full utilization of such facility.

"(2) Whenever the Secretary determines that the village council (or comparable governing body), which has accepted ownership and responsibility for operation and maintenance of a facility provided under subsection (d), has financial resources which (when combined with the financial assistance available to it from the village, State, or other sources) are less than the amount necessary to enable such council or body properly to operate and maintain such facility, then the Secretary may make grants to such council or body in amounts which (when combined with the amounts available from other sources) will be sufficient to enable such council or body properly to operate and maintain such facility.

"(f) The Secretary of the department actually administering the provisions of this section shall for the fiscal year which ends June 30, 1970, and for each of the succeeding three fiscal years, submit to the Congress a full and complete report of the activities undertaken pursuant to the authority contained in this section, which report shall indicate each of the villages wherein safe water and hygienic sewage disposal facilities under subsection (d) have been established, the extent to which such facilities are being

utilized, and the contribution made toward such utilization by the educational and informational program established pursuant to subsection (e)(1). The report of such Secretary for the fiscal year ending June 30, 1970, shall be submitted not later than July 30, 1970, and the report for each of the three succeeding fiscal years shall be submitted not later than the July 30 which immediately follows the close of such fiscal year.

"(g) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year, such sums as may be necessary to carry out the provisions of subsections (e) and (f) of this section.

"(h) In order to prevent duplication of effort and to promote economy of administration, the Secretary shall to the maximum extent feasible utilize the facilities of the Department of Health, Education, and Welfare or the facilities of other appropriate

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public agencies in the administration of the provisions of this section."

Mr. STEVENS. Mr. President, we have offered this amendment to bring to the attention of the Senate the great problem of pollution in the rural areas of Alaska, particularly in the native and Indian areas.

I accompanied the Senator from Massachusetts (Mr. KENNEDY) on his hearings in our State during the early part of this year. As a result of that trip, our staffs collaborated and prepared this amendment to S. 7 as an approach that would be feasible, in our opinion, to deal with the pressing problems in these areas.

In 178 villages, only 8 percent of the homes, as I pointed out yesterday, have any kind of inside sewage or water facilities.

The purpose of the amendment would be to attempt to bring into each village a safe water facility as quickly as possible.

We realize, after our trip through these areas, that it would be impossible, from a financial point of view, to put water and sewage facilities into every one of these village homes, which are substandard, and which we are trying to replace. It would be uneconomical to attempt to put sewage and water facilities into each home, as we would envision replacing the homes under the remote housing program and the Bartlett housing program.

I am indebted to the Senator from Massachusetts for his support and also to the chairman of the committee for his consideration.

I have discussed this matter with the chairman and I understand the position he is prepared to explain in connection with the amendment.

Mr. KENNEDY. Mr. President, will the Senator from Alaska yield?

Mr. STEVENS. I yield.

Mr. KENNEDY. During the spring of this year, when the Subcommittee on Indian Education traveled through Alaska, our prime interest and responsibility was to try to review in some detail the educational opportunities, or, more accurately, the lack of educational opportunities, for the native population, Indian as well as Eskimo.

During the three and a half days of extremely comprehensive travel throughout the State of Alaska, in which we were joined by the distinguished Senator from Alaska (Mr. STEVENS), the subcommittee was constantly reminded not only of the inadequacy of education, but also of one of the greatest impediments in the pursuit of education; namely, the lack of basic and fundamental sanitary conditions.

This appeared to me as a condition which I never realized could exist in this country of ours, a country which has such extraordinary affluence and wealth. Upon visiting many smaller, and even moderate-sized villages, we found absolutely no kind of sanitary facilities at all. Children were drinking polluted water, and from this contracting a variety of diseases which prohibited their even attending school. Eighty-five percent of the native children there had ear infections, which directly affect their whole learning process. Nearly 15 percent of native children were hospitalized by serious sicknesses last year.

In our conversations with a number of schoolteachers, they pointed out that

many of the native children, Eskimo and Indian children, were not learning well because they suffered from hearing deficiences.

In talking with Public Health officials, we found that the principal reason for their suffering was lack of clean and adequate water supplies. As a result of using polluted water to bathe and wash in, and even drink, they were contracting diseases peculiar to Alaska, particularly the southwestern part of that State.

We could elaborate, and I know the Senator from Alaska (Mr. STEVENS) could elaborate, on the details of the conditions we found there, but they were some of the most desperate I have seen, including those in the barrios of Latin America and the hovels of Asia.

It seems to me that an important step which should be made—and could be made—is providing fundamental kinds of sanitary facilities to many of the smaller communities and villages. I think it would go a long way toward permitting these people to live in some kind of human dignity.

I want to say how much I appreciated working with the Senator from Alaska (Mr. STEVENS) on this problem. We realized full well we have not had the kinds of extensive hearings on this measure that perhaps a measure of this kind should have; but the reason why we are moving in this way is the emergency nature of the situation. It exists today.

We know that this measure, S. 7, provides us with knowledge from members of the committee who have a profound knowledge and understanding of this kind of legislation. If we do not get action at this time, another year will pass by, and any kind of progress will be interminably delayed. We feel that this is no time for delay.

So we are extremely hopeful that some benefit will come from what I think is an emergency measure. We have seen how the Senate can act in times of emergency, whether it be a hurricane in Louisiana or the tragedy of an earthquake in Alaska. We are talking about a human tragedy which deserves as much expeditious consideration as natural disasters do.

Mr. STEVENS. I thank the Senator from Massachusetts for his comments. One of my colleagues asked yesterday why Alaska, with its new-found wealth, did not finance this program. I would like to point out that this is Federal land. These are villages which are under the supervision of the Bureau of Indian Affairs, and our Public Health Service is responsible for their health. The measure contemplates a working relationship between the Secretary of Interior and the Secretary of Health, Education, and Welfare. There are less than 500 acres of land in private ownership in this area, which is twice the size of California.

The reason why the State cannot move in that area is that it does not own the land. It has no way to get security for the advancement of any funds. There is no way for the State of Alaska to deal with this problem today. The Federal Government has both the title to the land and supervision over the people. They are wards of the Government until there is action taken on the Alaska native land claims settlement bill. This is another reason for the urgency of the matter.

The State is now in a position where it can move ahead and try to improve the lot of the people through better housing conditions, schools, and roads, but until the State has some legal right to do it, we must rely upon the Federal Government. I feel we must move into this area now with a bold program to try to prevent the rapid increase in the death rate.

Yesterday I pointed out that one-fifth of the children in this area die in the first year of their life, and those who survive have a life expectancy of 34½ years. These are most appalling statistics.

Mr. KENNEDY. Mr. President, will the Senator yield on the point of the infant mortality rate?

Mr. STEVENS. I yield.

Mr. KENNEDY. The infant mortality rate for Alaskan native children is the highest of any group in this country.

Mr. STEVENS. It is 10 times higher than any other group.

Mr. KENNEDY. Once again, it can be directly related, I think, as was brought out in our conversations with the Public Health personnel there, to the question of basic and fundamental sanitary conditions. That is one of the prime reasons for that condition, as we heard from the Public Health personnel who were there dealing with this problem and have made many, many surveys of the health problems.

On another point, as the distinguished Senator from Alaska pointed out, these are Federal land areas. I think all of us realize we have additional kinds of responsibility, not only in the field of Indian education, for example, where the Federal Government has had an opportunity and unfortunately has reneged on that responsibility, but in trying to provide the kinds of facilities which are essential to a decent kind of existence.

The statistics given by the Senator from Alaska are most dramatic in terms of human misery. Once again, I think they reinforce the emergency nature of our proposal.

Mr. STEVENS. I thank the Senator. I pointed out that this is not something that is impossible. Each one of the villages has a school run by the Bureau of Indian Affairs, in which the children can use hot and cold running water and showers. The trouble is they go from their 20th century daytime schoolhouse into their stone age home at night. They go into homes which have one room, in which 10 to 20 people live, with no kind of water or sanitary facilities.

There is great difficulty in teaching

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these children who have no continuity in life. They have the highest school dropout rate. They have the lowest attainments in terms of educational levels. And one of the basic problems they face is polluted water. Safe water is one thing we can make available to them now.

I know the chairman of the subcommittee would like to comment on this matter, but first I ask unanimous consent that the amendment we have offered show that it is cosponsored by Senators McGOVERN, MONDALE, HUGHES, WILLIAMS of New Jersey, YOUNG of North Dakota, YOUNG of Ohio, and SMITH of Illinois, who have joined the Senator from Massachusetts and me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STEVENS. I yield first to the majority leader.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be included as a cosponsor of the proposal by the Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I have, as the Senator from Alaska has indicated, discussed this matter with him. May I say at the outset that I sympathize completely with the Senator's objectives, and I compliment the distinguished Senator from Alaska and the distinguished Senator from Massachusetts for developing the facts relative to this situation and bringing them to the attention of the Senate, first at the time this amendment was introduced last spring and then this morning. I think this part of the record is important.

I point out that when the amendment was submitted last spring, on May 20, the committee had already completed its hearings on S. 7, and, indeed, we had already embarked on executive sessions, which stretched from March until late June, undertaking to work out the provisions of the bill which are now pending before us.

We entertained the hope at that time that before this session was ended, we would get to additional hearings on the

problems of financing waste treatment plants. So last spring we indicated to the Senator from Alaska that, in connection with those hearings which we hoped to hold, we would have hearings on his amendment, with a view to developing a viable solution to the problem.

Unfortunately, other developments in connection with the funding of waste treatment plants have taken place or are underway in Congress this year. I have high hopes that, with the assistance of the able and distinguished Senator from Louisiana, the funding level can be raised through the appropriations process. For that reason, and in order to submit our efforts on the appropriations process this year, we did not get into the questions of alternative means of funding waste treatment plants; and as a consequence, we have not gotten to hearings on the Senator's proposal.

But because of the obvious merit and urgency of the problem, I have agreed with the Senator to take his amendment to conference, if the Senate approves, for the purpose of bringing it to the attention of the House of Representatives as well as the Senate. I would not predict what the conference result may be, but at the very least, I think, by this procedure we can alert the House of Representatives to the urgency of the problem and lay the basis for further and perhaps more effective consideration by our committee later on.

So I am willing to take this amendment on that basis.

Mr. STEVENS. I thank the Senator for his comments. I am sure that the Senator from Massachusetts and I understand the problem that is involved in the committee's consideration, and we are grateful to the chairman for his comments and his appreciation of the problem and his willingness to work with us to try to solve it.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the substitute committee amendment

The amendment was agreed to.

The PRESIDING OFFICER. The committee amendment in the nature of a substitute is open to further amendment.

Mr. MUSKIE. Mr. President, yesterday there was some discussion of the oil pollution liability section of S. 7; and in view of the comments made on the insurability of the liabilities set forth in the bill, I should like to briefly to discuss the considerations which led the committee to conclude that the reverse burden of proof—limited negligence concept would not adequately protect the U.S. Government in the event of a catastrophic oil spill.

These provisions in the legislation, Mr. President, sparked a great deal of controversy. A number of representations have been made to members of the Committee on Public Works and other Senators by representatives of the British insurance industry, the international merchant marine, and the American merchant marine, recommending the adoption of negligence liability, with limits of $100 per gross ton or $10 million, whichever is lesser.

I should like briefly to discuss why this concept, which was included in the House passed bill, was not accepted.

The Committee on Public Works did not ignore the need to protect the ability of the United States to transport oil by vessel. It was for precisely this reason that the committee established the limitation of liability at $125 per gross ton, or $14 million, whichever is lesser, for any oil spill which was not the result of negligence or a willful act. It was also for this reason that the committee provided certain exceptions suggested, I might say, by the industry, which, if proved by the owner or operator of the discharging vessel, would relieve the vessel from liability.

In other words, if the owner cleans up the spill and is later able to prove that the discharge was caused solely by one of the four exceptions which the committee included in the bill, the U.S. Government will reimburse the owner for

his costs up to $14 million.

Mr. President, I think it is important, at this point, to suggest some facts relative to the risks which are involved from this kind of spill and discuss the relationship of liability to those risks.

The House bill would limit the liability of a vessel owner or operator to $100 per gross ton or $10,000,000, whichever is lesser. That bill would provide that, regardless of how willful or how negligent the discharge happened to be, the innocent beach owner, the innocent boatowner, or the innocent commercial fisherman would have to pay those cleanup costs in excess of $100 per gross ton of the discharging vessel even though that beach owner, that fisherman, that boatowner had absolutely no responsibility for the spill.

Mr. President, this approach would greatly reduce the capacity of the United States to collect cleanup costs for the discharge of oil from a major supertanker. Today, $100 per gross ton would provide maximum liability coverage for a 100,000-gross-ton vessel. However, we are approaching the era of the supertanker. The recent success of the tanker *Manhattan* in breaching the Northwest Passage for commercial purposes will cause construction of immense supertankers which will transport oil from Alaska's north slope to the east coast of the United States. Already one oil company has ordered two supertankers to move oil from the north slope of Alaska to California.

If the committee's figures are accurate and they were almost all supplied by the oil companies and the insurance industry, a disaster on the order of the *Torrey Canyon*, in which the vessel was lost, cost approximately $118 per gross ton to clean up based on the settlement figures.

If a 200,000 gross ton tanker were to break up off the coast of the United States and if the cost of cleanup were to be only $118 per gross ton, the cost to the United States would be $23.6 million. Under H.R. 4148, the United States would be out of pocket $13.6 million even if negligence was proved. Under the legislation proposed by the committee the major oil company which will own that supertanker would be liable for the entire cost of cleanup if the U.S. Government were able to prove negligence. If that discharge occurred without fault on the part of the discharging vessel, the oil company would be liable for a maximum of $14 million. If the oil company owning the vessel could prove that the discharge was solely the result of an act of God, an act of war, an act of third party or an act of U.S. Government negligence there will be no liability whatsoever. In fact, if the oil company which owned the vessel cleaned up the spill and later proved that the discharge was a result of one of the exceptions that oil company could be reimbursed by the United States for the cost of cleanup.

Mr. President, in a matter of equity as between the discharging vessel and

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the American public, I have to choose for the American public. I firmly adhere to the position taken by the committee that the negligence on the part of anyone involved in the operation of the vessel should remove liability limits and the cost of cleanup should be borne by the vessel, not the innocent beach owner, fisherman or boatowner.

I ask unanimous consent that there be included in the RECORD at this point a letter commenting on the liability provisions of S. 7, from Allan I. Mendelsohn.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.
September 26, 1969.

Senator EDMUND S. MUSKIE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MUSKIE: In a recent New York Times article, George Horne described several of the current efforts by the British marine underwriters, joined by the American shipowners, to oppose your legislation revising and modernizing the archaic limitations of liability that have up to the present time

protected foreign and U.S. flag tanker owners in the event of oil spills causing extensive pollution damage to the beaches and sea coasts of this country.

As a former treaty negotiator for the United States Government on this and similar limitation subjects and as former Chairman of the joint United States Government-industry committee on international maritime law, I believe I might be of some help to you in presenting the other and public side of this controversy.

The British marine insurers, together with the American flag shipowners, have traditionally and consistently opposed every effort, domestic as well as international, to raise the archaic United States limitations of shipowner liability up to realistic amounts It is scandalous that, by reason of the limitations of liability enacted by the United States Congress in 1851, a Torrey Canyon disaster occurring off the coast of Miami or Cape Cod would result in *no* recoveries for the American citizens whose fishing, wildlife, hotel and beachfront interests are seriously damaged. It is even more scandalous that if the 1851 limitation law, as amended in 1936, is applied to the survivors of the 90 victims of the 1965 Yarmouth Castle disaster, no survivor would recover more than $2,700 per victim.

Yet, each time some effort is made to modernize these limits, the marine insurers and the shipowners join together in opposition. As is the case with your bill, one of their usual arguments is that the capacity of the insurance market is incapable of meeting the risks that could be involved if high limits are adopted. In short, the marine insurance market does not have enough money or enough avenues by which this money can be obtained.

But this argument is plainly inadequate. I do not believe it is necessary, in this respect, again to point your attention to the many inconsistencies that appeared in the testimony of the British insurers on the several occasions they testified before your Committee In an article to be published in next month's issue of the George Washington University Law Review, I describe and analyze these inconsistencies in some detail, pointing up how their testimony changed in each of the successive hearings held by the House Committees and your Subcommittee. Suffice it to say now, however, that each time they appeared, market capacity seemed to shrink and costs seemed to increase finally to the point even of doubling for halved limits.

For my part, I have no doubt whatever that if your bill were to pass with *no* limitations of liability much less the limitations now proposed in your bill, the marine insurance industry would find the necessary market capacity within at most a 6 month period—if only to be able to continue today's lucrative oil tanker trade. One need only mention, in this respect, that when limitations of liability for international airline crashes were raised in 1966 from $8,300 to $75,000, the international aviation insurance market discovered the capacity almost overnight even though prior to the event they too had argued, like the marine underwriters today, that the capacity was not there. In domestic aviation, where there are no limitations of liability the U.S. airlines are presently gearing up for potential liability, with the new 747 jumbo jets, of upwards of $100 million per aircraft per accident Yet the British marine underwriters can argue that their market cannot absorb even a limit as low as $15 million.

Moreover, one questions the role of the oil companies in this controversy. It is a fact that 7 major American oil companies own almost half of the total tanker tonnage operating under the American flag. It is also a fact that the 7 oil companies operating the largest amounts of American flag tanker tonnage also happens to be among the 9 oil companies enjoying the largest allocations under this country's oil import quota system. It is still further a fact that the oil companies and tanker owners have realized immense savings with the introduction of the giant tankers ranging anywhere from 200,000 to 500,000 dead weight tons. A 200,000 ton tanker alone can carry upwards of roughly 55,000,000 gallons of crude oil. Certainly, with the profits realized through these automated and, indeed, subsidized (by way of the import quota system) operations, oil should and must be expected to pay its way by assuring that the insurance market capacity is in fact adequate. For if the oil tanker and oil industry do not pay their way, that way will necessarily be paid through lower, inadequate recoveries by private American citizens who fall victim to future pollution disasters

To be sure, I am not enamored of all the provisions of your bill. For example, I fail to see why, if there is to be a limit at all, there should be any exceptions to liability. Under modern legal principles, such as exist in international air law today, a limitation may be accorded to the carrier but only in return for that carrier's accepting absolute liability. If a carrier can avoid liability by proving, for example, that the accident resulted not from his fault but rather from acts of God, war, or third parties (the present exceptions in your bill), then, failing such proof, he should be entitled to no limitations of liability and thus be liable for damages in full. This latter situation prevails today in domestic United States aviation. Yet, in your bill, the carrier enjoys the exceptions but still has a limited liability. Moreover, even if absolute liability is adopted, I fail to see any persuasive reason why an overall ceiling must be included.

It is enough to provide only a per ton limit and, indeed, I might add that this was the system that appeared in your Committee Print No 3. To change that system by incorporating an overall ceiling of $10 million or $14 million does no more than protect the largest tanker owners who presumably need this protection the least.

Moreover, the most significant failing of your bill is that it covers only clean-up costs of government and does not at all change the repressive 1851 limitations as they apply to suits by private citizens. I realize, of course, that this failing is not of your doing and that you, together with the members of your Committee, would have preferred to have broadened the bill but were unable to under the circumstances.

But with all these defects in the bill, it still remains the first major and long overdue breakthrough in this country's maritime limitation law. If the British insurers, the oil industry, and the American shipowners succeed, by imposing their groundless apprehensions on you, in blocking the passage of even this first step of progress, I fear for the consequences to the American public in all of the future steps of progress that are so necessary in our maritime limitation law.

It is for these reasons and despite its defects that I vigorously support your bill and offer you my assistance in any way towards its enactment. The only compromise that should be acceptable—and one that I would personally prefer—is an unbreakable limit (notwithstanding negligence or willful misconduct) of $150 per ton, no overall limit, and a system of absolute liability with only one exception, namely, the unique case where the Government itself causes or contributes to the causing of the accident. Adoption of such a system would be fully in accord with modern tort law principles which predicate liability not on grounds of fault or negligence but on ability to absorb and distribute risk.

Perhaps in view of the present circumstances, the various concerned industries might be more prone to accept this proposed compromise system than the one presently in your bill. If so, this system, with all of its legal and practical advantages in offering certainty and avoiding litigation, should be adopted. But if not, your bill is the next best alternative and, despite the objections traditionally heard from the insurers and shipowners, it should be enacted forthwith.

Sincerely yours,

ALLAN I. MENDELSOHN.

Mr. BAKER. Mr. President, I fully concur with the distinguished chairman of the subcommittee in his description of the liability provisions of S. 7; particularly the position that in the final analysis the provisions of S. 7 establish the principle that as between the public and an owner or operator, the owner or operator shall bear expenses associated with cleanup.

I would like to add only a few points.

A paramount concern of the committee is a desire to apply a uniform standard of liability. To do so it was necessary to adopt an approach that would enable the relevant courts to decide issues of liability with as little reference as possible to State law. Consequently, the committee adopted a standard of liability that would give complete and sufficient guidance to the Federal courts in deciding basic issues. The only deviation from this pattern is where an exception is made from limitation of liability where the United States can prove negligence. In considering an allegation by the United States of such negligence, the Federal court, of course, would refer to relevant State law.

The basic liability standard, however, avoids immediate reference to State law by adopting liability in the nature of absolute liability, then providing exceptions from this liability where an owner or operator can prove that a particular discharge was caused solely by an act of war, act of God, or negligent act of the Government or the act of a third party. It is hoped that the exceptions are sufficiently clear in the bill so that, along with the report language, a Federal court will be able to decide the issue of liability with a minimum reference to State

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law and thus achieve as close to a uniformly applied standard as is possible.

The bill defines an act of God to mean an act occasioned exclusively by violence of nature without the interference of human agency. This does not mean, therefore, a common law or statutory definition of act of God that exists under State law. This language provides a higher standard, and one that means a violent act of nature that could not have been avoided by the exercise of foresight

and prudence. In the words of the testimony of the American Petroleum Institute this would include an event such as an earthquake or tidal wave in an area without any prerecorded history of such event.

The remaining exceptions are clear on their face and should enable a Federal district or other court to determine all issues with little reference to State law.

S. 7 has been written to avoid a full range of controversy that is inherent in any reference in a statute to burden of proof or prima facie case. The record should show that there is no such thing as a simple reversal of the burden of proof and as responsible legislators we should avoid such a procedural trap.

If we used language of burden of proof we could not describe what burden we are talking about for such matters are properly matters of State law. To use such language, therefore, would raise the same problems we are attempting to avoid in refraining from using negligence as the basic test of liability.

Burden of proof is a variously defined concept. It can mean the burden of going forward with the proof, or the burden which disappears with any proof to the contrary or one that requires substantial proof to overcome the presumption, or even an irrebuttable presumption.

If we get into the procedural aspects of presumptions and reversal thereof, it seems to me we have sown the seeds of very extensive litigation.

That there is in fact the manner in which burden of proof language would be interpreted let me quote from a brief filed by the Maritime Law Association on this very point:

> Further, the liabilities imposed by the two bills are comparable neither in theory nor application The *prima facie* case established in Section 17(e) (2) of H R. 4148 would be satisfied by proving that one's acts or omissions did not proximately cause the damage. This initial *burden of evidence* being satisfied, the plaintiff Government, as other plaintiffs, would properly proceed with its *burden of proof* as to the proximate cause of a spill.

It is exactly this procedural quagmire we seek to avoid in S. 7.

Mr. President, a question has been raised concerning the applicability of cleanup liability provisions to facilities to receive supertankers currently being designed and constructed beyond 3 miles of the coast of the United States.

It is my understanding, and I think shared by members of the Committee on Public Works that to the extent liability is not established by other provisions of law the liability established by this act shall apply if any essential part of such facility, such as a pipeline, passes through the navigable waters of the United States. Under the definition of on or offshore facilities of section 12(a) (11) a facility includes "related appurtenances". As used in that definition "related appurtenances" should not be interpreted as meaning only those appurtenances occurring in the navigable waters but to include all essential parts of a particular facility no matter where located. Therefore, a terminal facility beyond 3 miles that has the pipeline or other necessary part passing through the navigable waters can be included in the liability provisions of S. 7.

Mr. MUSKIE. Mr. President, I send to the desk an amendment in the nature of a substitute to title II of S. 7.

The PRESIDING OFFICER. The amendment in the nature of a substitute will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered, and the amendment will be printed in the RECORD.

The amendment in the nature of a substitute for title II is as follows:

> On page 74, beginning with line 1, strike out all through line 21 on page 80, and insert in lieu thereof the following:
>
> "TITLE II—ENVIRONMENTAL QUALITY
>
> "SEC. 201. This title may be cited as the 'Environmental Quality Improvement Act of 1969'.

"FINDINGS, DECLARATIONS, AND PURPOSES

"SEC. 202. (a) The Congress finds—

"(1) that in the pursuit of social and economic advancement man has caused changes in the environment;

"(2) that the degree of such changes endangers a harmonious relationship between man and his environment;

"(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment, increasing the severity of the physical, social, psychological, and economic problems of our society; and

"(4) that changes in the environment should be restricted, insofar as possible, to avoid adverse effects on man, other species and the environment itself.

"(b) The Congress declares that there is a national policy for the environment ennunciated in laws relating to air, water and land pollution which—

"(1) provides for the enhancement of the quality of our air, water, and land environment;

"(2) recognizes the primary responsibility for implementation of this policy rests with State and local governments; and

"(3) encourages and supports implementation of this policy through appropriate regional organizations.

"(c) The purposes of this title are—

"(1) to assure that each Federal department or agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law and by the President pursuant to this title; and

"(2) to authorize and to provide staff for an Office of Environmental Quality.

"OFFICE OF ENVIRONMENTAL QUALITY

"SEC. 203. (a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (herein referred to as the "Office"). There shall be in the Office a Director and a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The compensation of the Director and the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Director and the Deputy Director of the Bureau of the Budget.

"(c) The Director is authorized to employ such officers and employees as may be necessary to enable the Office to carry out its functions under this title.

"(d) In carrying out the provisions of this section the Director shall—

"(1) provide assistance to the President on policies and programs of the Federal Government, including review of existing and proposed projects, facilities and activities, which affect environmental quality, and recommended priorities thereon;

"(2) provide staff and support for any board, council or committee established by the President or authorized by the Congress to coordinate Federal activities which affect policies and programs established to protect and enhance environmental quality;

"(3) review the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

"(4) promote advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

"(5) assure evaluation of new and changing technologies for their potential effects on the environment prior to their implementation;

"(6) review and comment on the coordination of the programs and activities of Federal departments and agencies which affect, protect, and improve environmental quality;

"(7) review and comment on the development and interrelationship of environmental quality criteria and standards established through the Federal Government; and

"(8) collect, collate, analyze, and interpret data and information on environmental quality and issue reports thereon, as he deems appropriate;

"(9) develop and maintain an inventory of existing and future natural resource development projects, engineering works, and other major projects and programs contemplated or planned by public or private agencies or organizations which make significant modifications in the natural environment;

"(10) establish a system of collecting and receiving information and data on ecological research and evaluations which are in progress or are planned by other public or private agencies or organizations, or individuals; and

"(11) perform such other duties and functions as directed by the President.

"(e) In carrying out the provisions of this section, the Director is authorized to contract with public or private agencies, institutions, and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U S C. 5) for research and surveys regarding any potential or existing problem of environmental quality.

"EFFECT ON EXISTING AUTHORIZATIONS

"SEC. 204. The policies and goals set forth in this title are supplementary to existing authorizations of Federal agencies.

"AUTHORIZATION

"SEC. 205. There are hereby authorized to

be appropriated for the fiscal year beginning July 1, 1969, and for each of five succeeding fiscal years, such amounts as may be necessary for the purposes of this title."

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Mr. MUSKIE. Mr. President, I will ask for the yeas and nays on the substitute both as an indicator of the Senate's interest in this proposal and as instructions to the Senate conferees to support the agreed-upon compromise language for S. 1075.

The statement I am about to make on title II involves title II of S. 7 and S. 1075, sponsored by the distinguished chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON). The Senator from Washington (Mr. JACKSON) will make a statement to the same effect, which is the essence of our agreement on these two bills.

The substitute amendment for title II of S. 7 is largely similar to the title as reported by the committee. The justifications as discussed in my remarks and the committee report still exist without modification. The language has been modified to assure minimum of overlap or conflict with the proposed version of S. 1075.

The substance of title II remains the same: all Federal and federally assisted public works projects would be directed to implement environmental policies established by the President and existing air, water, and land pollution laws; and there would be established in the Executive Office of the President, an Office of Environmental Quality to assist the President in review and development of environmental programs and policies.

As revised, title II of S. 7 no longer provides for establishment of advisory committees by the Director of the Office of Environmental Quality, nor is the Director authorized to conduct a biennial forum on environmental problems. Both of these functions would be transferred to S. 1075 as activities more properly conducted by the Board of Environmental Quality Advisers.

As revised, the Office of Environmental Quality would be available to provide staff support to the Board of Environmental Quality Advisers, the President's Council on Environmental Quality and to the President directly.

Also, the Office would carry on certain data collection and analysis functions previously included in S. 1075. This ongoing monitoring function would provide a means of developing needed information to determine potential environmental changes which are caused or could be caused by any activity in which the Federal Government is involved.

The report required under title III of S. 1075 would be transmitted in whole or in part to the committees which traditionally have exercised jurisdiction over the environmental subject matter contained therein. For example, if such a report discusses the problems of air quality, either that section of the report or the report in its entirety would be referred to the Committee on Public Works as well as other committees which might have interest in other portions of the report. This type of distribution to the appropriate congressional committees will provide maximum participation in the development of a meaningful legislative response to the problems posed by this report from the President.

The revisions included in this substitute essentially would clarify the staff role of the Office of Environmental Quality while leaving to Senator JACKSON'S proposed Board of Environmental Quality Advisers the function of independent oversight of Federal policies and programs which affect the environment. Because Senator JACKSON will discuss the board's function in some detail, I will confine my remarks to the compromise version of S. 1075 as it relates to title I, the so-called national policy statement.

Mr. President, at this point, I ask unanimous consent that the text of the revised version of S. 1075 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1075

A bill to authorize the Secretary of the Interior to conduct investigations, studies, surveys, and research relating to the Nation's ecological systems, natural resources, and environmental quality, and to establish a Council on Environmental Quality

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

SHORT TITLE

SECTION 1 That this Act may be cited as the "National Environmental Policy Act of 1969".

PURPOSE

SEC. 2. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Board of Environmental Quality Advisers

TITLE I

DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

SEC. 101. (a) The Congress, recognizing that man depends on his biological and physical surroundings for food, shelter, and other needs, and for cultural enrichment as well; and recognizing further the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances on our physical and biological surroundings and on the quality of life available to the American people; hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(b) The Congress recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment

SEC. 102. The Congress authorizes and directs that the policies, regulations, and public laws of the United States, to the fullest extent possible, be interpreted and administered in accordance with the policies set forth in this Act, and that all agencies of the Federal Government—

(a) utilize to the fullest extent possible a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(b) identify and develop methods and procedures, subject to review and approval of the Board of Environmental Quality Advisers established by Title III of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations;

(c) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action;

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) alternatives to the proposed action;

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any established agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, including those authorized to develop and enforce environmental standards, shall be made available to the President,

the Board of Environmental Advisers and to the public as provided by 5 U S C. 552 and shall accompany the proposal through the existing agency review processes.

(d) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(e) recognize the worldwide and long-range character of environmental problems and lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment; and

(f) review present statutory authority, administrative regulations, and current policies and procedures for conformity to the purposes and provisions of this Act and propose to the President such measures as may be necessary to make their authority consistent with this Act.

SEC. 103. Nothing in section 102 shall in any way affect the specific statutory obligations of any Federal agency (a) to comply with criteria or standards of environmental quality, (b) to coordinate or consult with any other Federal or State agency, or (c) to act, or refrain from acting contingent

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upon the recommendations or certification of any other Federal or State agency.

SEC. 104. The policies and goals set forth in this Act are supplementary to existing authorizations of Federal agencies.

TITLE II

SEC. 201. To carry out the purposes of this Act, the Board of Environmental Quality Advisers is hereby authorized—

(a) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality to the extent that such activities do not overlap or conflict with similar activities authorized by law and performed by established agencies;

(b) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes; and

(c) to evaluate and disseminate information of an ecological nature to public and private agencies or organizations, or individuals in the form of reports, publications, atlases, and maps.

SEC. 202. To carry out the purposes of this Act, all agencies of the Federal Government in conjunction with their existing programs and authorities, are hereby authorized—

(a) to make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(b) to initiate and utilize ecological information in the planning and development of resource-oriented projects;

(c) to conduct research and studies within natural areas under Federal ownership which are under the jurisdiction of the Federal agencies, and

(d) to assist the Board of Environmental Quality Advisers established under title III of this Act and any council or committee established by the President to deal with environmental problems.

SEC. 203. There is hereby established in the Office of Science and Technology an additional office with the title "Deputy Director of the Office of Science and Technology." The Deputy Director shall be appointed by the President by and with the advice and consent of the Senate, shall perform such duties as the Director of the Office of Science and Technology shall from time to time direct, and shall be compensated at the rate provided for level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

TITLE III

SEC. 301. (a) There is created in the Executive Office of the President a Board of Environmental Quality Advisers (hereinafter referred to as the "Board"). The Board shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. Each member shall, as a result of training, experience, or attainments, be professionally qualified to analyze and interpret environmental trends of all kinds and descriptions and shall be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interest of this Nation. The President shall designate the Chairman and Vice Chairman of the Board from such members.

(b) Members of the Board shall serve full time and the Chairman of the Board shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Board shall be compensated at the rate provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

SEC. 302. (a) The primary function of the Board shall be to study and analyze environmental trends and the factors that effect these trends, relating each area of study and analysis to the conservation, social, economic, and health goals of this Nation. In carrying out this function, the Board shall—

(1) report at least once each year to the President on the state and condition of the environment;

(2) provide advice, assistance, and support

to the President on the formulation of national policies to foster and promote the improvement of environmental quality; and

(3) obtain information using existing sources, to the greatest extent practicable, concerning the quality of the environment and make such information available to the public.

(b) The Board shall periodically review and appraise Federal programs, projects, activities, and policies which affect the quality of the environment and make recommendations thereon to the President.

(c) It shall be the duty and function of the Board to assist and advise the President in the preparation of the annual environmental quality report required under section 303.

(d) The Board shall carry out its duties under the provisions of this Act at the direction of the President and shall perform whatever additional duties he may from time to time direct.

SEC. 303. (a) The President shall transmit to the Congress, beginning June 30, 1970, an annual environmental quality report which shall set forth: (a) the status and condition of the major natural, manmade, or altered environmental classes of the Nation; and (b) current and foreseeable trends in quality, management, and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation

(b) Such report shall be referred in whole or in part to the committees of each house of the Congress which have exercised jurisdiction over the subject matter contained therein.

SEC 304 (a) In order to obtain assistance and independent advice in the development and implementation of the purposes of this title, the Board may from time to time establish advisory committees Committee members shall be selected from among representatives of various State, interstate, and local government agencies, of public or private interests concerned with population growth, environmental quality, and planning for the future, and of the other public and private agencies demonstrating an active interest, as well as other individuals in the fields of population, biology, medical sciences, psychology, social sciences, ecology, agriculture, economics, law, engineering, and political science, who have demonstrated competence with regard to problems of the environment.

(b) The members of the advisory committees appointed pursuant to this title shall be entitled to receive compensation at a rate to be fixed by the Board, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

(c) The Board shall organize and convene a biennial forum on current problems and issues concerning environmental quality, population, and the future, and publish the proceedings thereof, and participants in such forums shall be selected from among representatives of various State, interstate, and local government agencies, of public or private interests concerned with population growth, environmental quality, and planning for the future, and of other public and private agencies demonstrating an active interest, as well as other individuals in the fields of population, biology, psychology, medical sciences, social sciences, ecology, agriculture, economics, law, engineering, and political science who have demonstrated competence with regard to problems of the environment.

SEC. 304. The Board may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Board may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

SEC. 305. There are hereby authorized to be appropriated $1,000,000 annually to carry out the purposes of this title.

Amend the title so as to read: "A bill to establish a national policy for the environment; to authorize studies, surveys, and research relating to ecological systems, natural resources, and the quality of the human environment; and to establish a Board of Environmental Quality Advisers."

Mr. MUSKIE. Mr. President, as Senators are aware, the Subcommittee on Air and Water Pollution has been examining specific air, water, and solid waste pollution problems since its creation in 1963. It is worthy of note that the subcommittee has heard over 1,100 witnesses and accumulated 15,877 pages of testimony in the past 6 years on environmental matters. Prior to that time, and as far back as 1899, the Committee on Public Works and its predecessors have initiated or handled pollution control legislation.

The fact that the Nation has a capacity to deal with air pollution, water pollution, and to a lesser extent, solid

wastes, is due in a large part to the activities of this subcommittee and the continued, unanimous support of the Committee on Public Works.

The legislation which has been enacted on these subjects is indicative of two important trends in the Nation's concern for the quality of its environment; first, that we are willing to make a commitment of our financial resources to finding and applying solutions to difficult pollution problems; and second, that there is a need for orderly pollution control procedures, both in identifying the extent of control required and in establishing implementation programs.

The philosophy of air and water quality legislation has been first to develop the criteria which indicate the effects of pollutants on the various aspects of the public health and welfare and then to apply available, feasible control technology. This philosophy has been based on two elemental concepts—that only those measures which were designed to enhance air and water quality would be acceptable and that local and State government have the prime responsibility to implement those measures.

It was against this background of study, hearings, discussion and legislation that members of the subcommittee became concerned with the potential interpretation of title I of S. 1075, as passed by the Senate. Section 102(c) of the bill would require every Federal agency to include as a part of any legislative proposal, report on legislation or any major action, which has a significant effect on the quality of the environment, a finding of environmental impact, adverse

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environmental effects, commitments of resources, and other potential justifications for the legislation or activity.

The concept of self-policing by Federal agencies which pollute or license pollution is contrary to the philosophy and intent of existing environmental quality legislation. In hearing after hearing agencies of the Federal Government have argued that their primary authorization, whether it be maintenance of the navigable waters by the Corps of Engineers or licensing of nuclear powerplants by the Atomic Energy Commission, takes precedence over water quality requirements.

I repeat, these agencies have always emphasized their primary responsibility making environmental considerations secondary in their view.

It is for this reason that the legislation pending before the Senate includes a provision which would require water quality compliance by Federal agencies in both their own activities and the activities in which they are involved. Section 16 of S. 7 would require water quality compliance as a precondition of Federal activities; it would not leave the determination of water quality effects to the polluter. By requiring compliance certification from the water pollution control agency, section 16 would assign policing responsibility to those agencies most qualified to make an environmental decision and not to those committed to carrying out some other function at minimum cost.

The proposed compromise language developed for section 102(c) clearly indicates the extent to which the polluter is involved in determining environmental effects. This language eliminated the requirement that a "finding" be made but provides that environmental impact be discussed as a part of any report on legislation, or any decision to commence a major activity. The requirement that established environmental agencies be consulted and that their comments accompany any such report would place the environmental control responsibility where it should be.

Other provisions of the compromise on S. 1075 include elimination of the requirement that the President designate a lead agency to conduct data collection and make grants to carry out the purposes of the act. To a large extent these functions are either presently delegated to existing agencies or would be carried on by the office of environmental quality.

Mr. President, S. 1075 brings into focus the Senate's continuing concern for the quality of the Nation's environment. S. 1075 focuses attention on an environmental need which is not included in either bill pending before the Senate today and is only covered in part by existing legislation.

The Clean Air Act and the Federal Water Pollution Control Act provided for specific development of criteria which define the impact of water and air pollutants on health and welfare. Pending solid waste legislation would require the same type of systematic analysis of the relationship of pollutants to the land environment.

On the basis of these criteria, standards of environmental quality have been and are being developed. But obviously criteria and standards designed to protect and enhance the quality of our air and water and enhance our ability to deal with our solid wastes in an orderly, efficient, and healthful manner do not provide an effective or orderly manner to consider all forms of environmental degradation. For example, there are no criteria which indicate the various levels of noise which affect the health and welfare of people nor are there criteria on which local or even national esthetic judgments can be based.

We need to begin to focus our attention on developing legislation which will provide for the development of criteria which would indicate the effects of a nuclear test on a wildlife refuge or the effects of development of a permafrost region on the ecology of the area.

We cannot afford to fight out environmental battles on a crisis-by-crisis basis not can we afford to shut down tomorrow on the basis of today's fears. By development of meaningful methods of measurement of environmental impact, through development of standards-setting procedures at the local level, through careful analysis of existing and future land uses, we can begin to order our progress without environmental chaos.

Mr. President, it is in the spirit and with this approach in mind that the distinguished Senator from Washington (Mr. JACKSON), the ranking Republican, the distinguished Senator from Colorado (Mr. ALLOTT), the distinguished Senator from Delaware (Mr. BOGGS) and myself from the Public Works Committee, as well as the Senator from West Virginia (Mr. RANDOLPH), the chairman of the full committee, have undertaken to resolve our differences with respect to the relationship of S. 7 and S. 1075.

I think that we have succeeded in doing so in a way which does violence to neither and which advances the broad objectives which we both seek to serve.

Mr. JACKSON. Mr. President, I fully agree with the purposes of section 16(c) of S. 7. It is my understanding that there was never any conflict between this section and the provisions of S. 1075. If both bills were enacted in their present form, there would be a requirement for State certification, as well as a requirement that the licensing agency make environmental findings.

The compromise worked out between the bills provides that the licensing agency will not have to make a detailed statement on water quality if the State or other appropriate agency has made a certification pursuant to section 16(c).

Mr. AIKEN. Mr. President, I commend the Senator from Maine for bringing out this bill; it goes a long way toward cleaning up some forms of stream pollution with which we are afflicted. What I particularly wish to ask him is, am I correct in assuming that under the new section 16, all nuclear powerplants are covered, but only some of the conventional fuel powerplants are covered?

Mr. MUSKIE. That is correct. As conventionally fueled powerplants increase in size, they will be increasingly subject to certificate by reason of the need to obtain a permit from the Corps of Engineers for one reason or another.

I think the Senator from Vermont might like me to read into the RECORD at this point testimony by Mr. Ramey,

Commissioner of the Atomic Energy Commission, on this point.

Mr. AIKEN. Yes.

Mr. MUSKIE. This testimony reads as follows:

> We have been informed that a substantial percentage of conventionally fueled plants of the larger sizes—sizes comparable to the currently popular sizes of nuclear plants—need some sort of Federal permission.
>
> For example, we understand from an examination of data developed by the Corps of Engineers that during 1967, 12 conventionally fueled plants over 400 megawatts—electrical—in size went on the line.
>
> Of these 12 relatively large sized plants, eight or 66⅔ percent, required and had secured a Federal permit.
>
> Seven of the plants required a permit from the Corps of Engineers because their construction plans included structures on navigable waters; one plant had intake and outfall structures located on U.S.-owned land and required a permit.
>
> One additional plant was built by the Tennessee Valley Authority and did not require a permit.

This suggests, I think, some of the reasons why the proposed legislation might apply to some of the larger fossil fuel plants but might not apply to all of them.

Mr. AIKEN. I think that is a sound explanation. It is well to go as far as the bill goes in that direction. I am sorry it cannot cover all of the smaller fossil fuel plants.

The real reason I asked the question is that we hear various kinds of propaganda which is designed to alarm the people and cause them to believe that only atomic powerplants create thermal pollution. That, of course, is not true. According to information furnished by the Federal Water Pollution Control Administration there were 10 cases of fish kill caused by discharge from power generating plants during the years 1962 to 1968. Every one of them was from a conventional powerplant. To date, to my knowledge, there has been no case whatever of fish kill being caused by thermal discharges from a nuclear powerplant. I wanted to make that clear.

Yesterday I submitted two amendments in somewhat of a hurry, and they were printed. Upon further study of the situation, I realized that probably the bill which the Senator from Maine is now sponsoring would go as far as it is possible to go legislatively at this time and therefore I will not call up these amendments.

I have one other question. It is about a matter which disturbs me considerably, in that apparently the certification procedure in the bill does not cover all industrial plants. We have had experiences in my State with paper mills, tanneries, and other types of industrial plants which contribute heavily to the pollution of our lakes and rivers. To what extent, if any, will the bill cover that type of pollution?

Mr. MUSKIE. It will cover it in one possible respect and in another clear re-

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spect. To the extent that any large industrial plant might require a permit from the Corps of Engineers because of intrusion upon navigation, that permit will make the industry subject to section 16.

But beyond that, the procedures established by the Water Quality Act of 1965, the Secretary of the Interior is in a position to assume leadership by requiring the setting of standards by the States to deal with thermal pollution from all sources. That authority is on the books. The States are required, under that legislation, to set standards.

I think this RECORD might be a good place in which to urge the Secretary to use his mandate and begin tightening these standards.

As the Senator from Vermont probably knows, water quality standards have been set pursuant to the Water Quality Act of 1965. We have used the section 16 approach in order to put the Federal Government's house in order. This, we hope, will be followed by the States, in order to enforce their own water quality standards.

Mr AIKEN. I think some of the Fed-

eral agencies can stand some improvement in this respect. The reason why I have raised the question at this time is that there are so many different types of industrial plants which I do not believe are covered.

For a long time there has been a paper mill on the New York side of Lake Champlain. Vermont has, I think, pretty good water quality standard laws. New York has only recently tightened its standards. But before anything was done, probably the lower quarter of Lake Champlain had become so contaminated that the people who live on the Vermont side could not use the water for domestic purposes. Of course, for a long time the Vermont standards were much higher than they were across the lake, in New York.

Now the paper company on the New York side of Lake Champlain is building a very large mill, just up the lake from the old mill. Their representatives have told me that they will use about a thousand cords of hardwood a day. That is a very sizable mill. When the paper company representatives came to see me they told me that they can control, and plan to control the waste and contamination from the mill which would otherwise, as it did from the old mill, have emptied practically untreated into the lake. They now plan to recover the fiber, and possibly the chemicals, and other matter which contribute to pollution. I do not know how far they will go, and I hope they are right. I am watching the situation closely.

The new mill has been granted a license by the Corps of Engineers to construct an intake and outfall pipe into Lake Champlain.

One thing which caused me to be a little apprehensive was that in looking at the plans, I found that the discharge pipe from the paper mill empties on the Vermont side of the lake. I wanted to be sure that this bill could correct a situation like that, in the event that the mill does not control all the pollution which it will create.

Mr. MUSKIE. These discharges would be controlled by the Water Quality Act and the standards that have been set under that act by both States. If those standards are not adequate, I should think that the appropriate State agencies ought to review and revise them.

Mr. AIKEN. Assuming that the pollution is not controlled and that it is emptied on the Vermont side of the lake or the New York side for that matter, what recourse would Vermont have then? Of course, it is Federal water anyway, but how could the State control any possible pollution? Under the Senator's bill, would the Federal Government enter the picture and require the enforcement of the law?

Mr. MUSKIE. The enforcement provisions of the 1965 act would be applicable.

Mr. AIKEN. I hope the Senator is correct.

Mr. MUSKIE. The bill now before us would not be needed to deal with that situation.

Mr. AIKEN. The paper company officials insists that they will have the situation under control so that the amount of pollution will be almost zero. It will be a great step forward if that is done.

Mr. MUSKIE. The Senator from Vermont and I have had considerable experience with this kind of situation in the past. I think the best point in time at which to make sure is before the plant is built.

Mr. AIKEN. Many of the people of Vermont depend on the water of Lake Champlain for domestic purposes. We have large water systems which draw water from the lake for distribution to many farms and homes.

I shall not insist on offering my amendments because, frankly, I do not know how far the Senator's bill will go. But I hope it will go a long way toward correcting situations which never should be permitted to exist.

Mr. MUSKIE. The bill represents what we believe is a meaningful first step in dealing with thermal as well as

other pollution, and we intend to consider future amendments to cover situations included in the Senator's amendments, to the extent they may not now be covered.

Mr. AIKEN. Let me assure the Senator from Maine that I will be delighted to cooperate with him in securing effective legislation.

Mr. MUSKIE. I thank the Senator from Vermont.

Mr. JACKSON. Mr. President, first of all, I compliment the able and distinguished Senator from Maine (Mr. MUSKIE) for his very fine statement. He has indicated that we have been able to work out the differences—in which I concur—in a way which is satisfactory to both committees. More important, of course, is the fact that this agreement will be extremely helpful in seeing to it that appropriate legislation is enacted in this all-important area of environment administration.

I express my appreciation to the distinguished Senator from Maine, the chairman of the subcommittee, who has been handling these matters. I also want to express my appreciation to the chairman of the full committee, the Senator from West Virginia (Mr. RANDOLPH), who has taken a keen interest in this matter.

We have had a number of discussions on the minority side with the able and distinguished Senator from Colorado (Mr. ALLOTT), the ranking minority member, who has followed all this closely and has been extremely helpful, especially to the chairman of the Committee on Interior and Insular Affairs, in trying to work out an appropriate solution to this problem. I express to him my deep appreciation for his support.

Mr. President, a number of questions have been raised in recent days regarding the relationship between S. 1075, the National Environmental Policy Act of 1969, which was passed by the Senate on July 10 and by the House on September 23, and title II of S. 7, the Water Quality Improvement Act of 1969 now before the Senate.

All of these questions have been carefully considered by the respective chairmen and by other concerned members of the Public Works Committee and the Interior and Insular Affairs Committee.

As a result of a review and a comparison of the two measures it has been agreed that an effort will be made to modify the provisions of title II of S. 7 by offering an amendment in the nature of a substitute. In addition, it has been agreed that the Senate conferees of S. 1075 will seek to have certain changes incorporated into the provisions of S. 1075 when that measure is considered by the conference committee.

The agreement on this matter was made after it was discovered that the Interior Committee and the Senate had acted and that the Senate was about to act upon different, but, in some respects, parallel legislative proposals which involve the creation of new governmental institutions for the overview and administration of Federal programs related to the management of the Nation's environment. This duality of effort by the two committees does not, as I understand it, involve any direct conflict in purpose or intent. Both measures can, however, be improved in some respects by adoption of the agreed-upon changes. For the most part, these changes are designed to insure that duplication of effort does not occur and that congressional directives to the executive branch in the two proposals are consistent.

The proposed changes are reflected in the amendment in the nature of a substitute to title II of S. 7 which has been introduced, and in a copy of S. 1075 which will be printed in the RECORD when the motion is made later today to disagree to the amendments of the House to S. 1075 and to agree to the conference requested by the House.

Mr. President, this rather unusual procedure is, in part, the outgrowth of some basic and still unresolved questions relating to the jurisdiction of the standing committees of both Houses of the Congress on legislative matters relating to

Federal policies on preserving and main-

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taining the quality of man's environment. The historic committee jurisdiction on routine legislation—air and water pollution legislation, outdoor recreation proposals, minerals policy, rivers and harbors projects, and so forth—has been long established and, insofar as I am aware, is not challenged.

In new and emerging areas of legislative concern, however, the die has not been cast, and many different committees of the Congress have quite properly expressed interest. Examples here include weather modification, national land-use planning, the establishment of policies for the resources of the Outer Continental Shelf, some areas of water resource policy, and policies related to the management of man's environment.

In these areas, jurisdiction is either shared by committees or it has gravitated by the force of precedent to the committee or committees which have actively participated in hearings on the particular subject matter involved.

With respect to legislation related to "pollution control" it is clear that the Public Works Committee has exercised jurisdiction and will continue to have jurisdiction over future proposals related to air, water, and solid waste pollution. Legislative jurisdiction over "pollution control" does not, however, mean that the Public Works Committee—or any other committee—has jurisdiction over all matters which relate to maintaining and improving the quality of the human environment. Maintaining and improving the quality of the surroundings and the quality of life enjoyed by the American people is a basic and fundamental task of all the committees of Congress and of all of the agencies of the executive branch.

The Committee on Interior and Insular Affairs has historically played a very large and a very important role in this area. The legislation handled by the committee and enacted by the Congress over the past 10 years shows the scope of the Interior Committee's role and the diligence with which it has been pursued.

The committee has approved the following general legislation in recent years: the National Water Commission Act, the Water Resources Planning Act, the Water Resources Research Act, the Federal desalting program, the Federal Water Projects Recreation Act, the land and water conservation fund, the Public Land Law Review Commission Act, the reclamation program, the Wilderness Act, the Wild and Scenic Rivers Act, and many other general measures related to resource, environmental, and land use policies.

In addition, over the past few years, the committee has approved measures to set aside for future generations four new national parks, eight new national recreation areas, nine new national seashores and lakeshores, almost 100 new wilderness areas, national monuments and historic sites. All of these measures relate to the quality of the human environment.

The committee's legislative activities over the past 10 years in the area of new governmental institutions and policies for resource and environmental management are set out in the legislative history section of the committee's report on S. 1075.

The important role played by the Interior Committee in preserving, protecting, and improving the quality of the environment does not, however, give the Interior Committee predominant jurisdiction in this area.

The concept of "environment," like that of "economics" cuts across the jurisdiction of all congressional committees. Actions taken by the Finance Committee, for example, on depreciation, charitable contributions, foundations, and the taxation of trusts will have a major impact on the future role private enterprise and individual action will play in preserving our environment for future generations. The same may be said with respect to other committees: the Commerce Committee's action on the devel-

opment of an estuarine program, a transportation policy, and an alternative to the internal combustion engine; the Agriculture Committee's actions on pesticide control, soil erosion, and the development of new opportunity in rural America; the Banking and Currency Committee's activities in the development of urban programs; and the activities of many other committees of the Congress.

It is clear that all committees have an important role to play in this area. The Legislative Reference Service tabulated over 100 bills in the 90th Congress which were directly concerned with environmental issues. In the present Congress there are even more. Recent reports indicate that of the 16 standing committees of the Senate, eight have broad jurisdiction in this area. Of the 21 House standing committees, 11 are similarly involved.

On a subject so pervasive, broad, and important as "environment" and the "quality of life," no committee may exercise exclusive jurisdiction. It is also clear that there is a need to give specialized and regularized consideration to these subjects. Because of this need, I have proposed, and I plan to join with other Members of the Senate and, I hope, Members of the House of Representatives, to sponsor and to advance legislation to establish a nonlegislative joint committee on the environment.

The enactment of S. 1075 and S. 7 will give the Nation an environmental policy as well as appropriate governmental structures in the executive branch to implement the policy. The next logical step, in my view, is to insure that the legislative branch has an institution equally well adapted to provide continued oversight on environmental matters. A joint committee would provide such an institution.

During my service on the Interior Committee, I have found that the lack of an overall national policy on the environment often frustrates efforts to preserve, protect and to improve man's surroundings. A recent example may be seen in connection with the water supply and jet airport controversy which currently threatens the existence of the Everglades National Park. Under present law, the Corps of Engineers and the Department of Transportation apparently do not have a clear statutory mandate to see that the environmental and natural values found in the park are not damaged or endangered by their flood control and transportation activities.

It is my belief, based on extensive committee hearings, that the problems associated with the Everglades could have been avoided if there had existed a clear statement of goals and procedures designed to make clear that all Federal agencies have a responsibility for the preservation and protection of environmental values. S. 1075, as passed by the Senate, clearly states the Nation's goals and the responsibilities of all Federal agencies with respect to the maintenance of a safe, healthy, productive and esthetically pleasing environment. Enactment of S. 1075 will prevent many of the environmental problems caused by Federal agencies and their activities.

The Interior Committee has experienced similar problems in other contexts. The controversy over the construction of dams in the Grand Canyon, for example, could have been resolved at a much earlier date if the Department of the Interior had been required to present Congress with alternative proposals where, as in that case, there were unresolved major environmental conflicts. Section 102(d) of S. 1075 would go far toward resolving such problems by requiring the development and presentation of alternatives in all future legislative reports on measures involving major unresolved environmental conflicts.

Other basic provisions of S. 1075 are also designed to minimize the conflict between resource development and the maximization of environmental values. Subsection 102(a) requires all agencies to utilize the expertise and learning of all relevant disciplines in planning and

decisionmaking on actions which may have an adverse impact on man's environment. Subsection 102(b) requires the development of procedures designed to insure that all relevant environmental values and amenities are considered in the calculus of project development and decisionmaking. Subsection 102(c) establishes a procedure designed to insure that in instances where a proposed major Federal action would have a significant impact on the environment that the impact has in fact been considered, that any adverse effects which cannot be avoided are justified by some other stated consideration of national policy, that short-term uses are consistent with long-term productivity, and that any irreversible and irretrievable commitments of resources are warranted.

The agreed-upon changes mentioned previously would change the language of some of these requirements, but their substance would remain relatively unchanged.

The provisions of S. 1075 are designed to establish a policy and a set of planning procedures which will prevent instances of environmental abuse and degradation caused by Federal actions before they get off the planning board. It is my hope that the House will accept these provisions in conference committee on S. 1075.

If enacted, titles I and II of S. 1075

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will give all agencies a mandate, a responsibility, and a meaningful tool to insure that the quality of America's future environment is as good or better than today's. Departments such as the Departments of Defense, Transportation, Commerce, and Housing and Urban Development will then no longer have an excuse for ignoring environmental values in the pursuit of narrower, more immediate, mission-oriented goals. Agencies such as the Atomic Energy Commission which now contend they have no legislative authority to consider environmental values will be given the authority, the responsibility, and a directive to do so. In view of the recent public concern over AEC activities in connection with Project Bronco and the Amchitka test, it is time that AEC be given a larger mandate against which to weigh the environmental impact of its planned and proposed activities. The same is true of many other agencies.

Mr. President, I ask unanimous consent that a comparison of the present provisions of S. 1075 as passed by the Senate, S. 7 as reported by the Public Works Committee, and S. 1075 as amended by the House be printed in the RECORD at the conclusion of my remarks. I also ask unanimous consent that a memorandum discussing the agreed-upon changes in S. 1075 and title II be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibits 1 and 2.)

Mr. JACKSON. Mr. President, the purpose of the agreed-upon changes is to avoid duplication and to avoid any inconsistent directives to agencies in the executive branch. Some of the changes insure that there will be coordination between agencies and that appropriate agencies will be given an opportunity to comment upon activities of other agencies which may have adverse environmental consequences. A new proposed section 103 in S. 1075 would be added to make explicitly clear that section 102 does not in any way affect the specific statutory obligations of Federal agencies to comply with environmental standards, to coordinate their activities, or to condition their actions upon and State or Federal certifications now required by law or which may be required by law. The language of this section is designed to insure that the provisions of section 16, and particularly section 16(c) of S. 7 are consistent with the requirements of section 102 of S. 1075. Section 16(c) of S. 7 would have the effect of exempting the Corps of Engineers, the Atomic Energy Commission, and some other agencies from the requirement in

S. 1075 for a detailed statement on the environmental impact of proposed actions involving any discharge into the navigable waters of the United States. Under the terms of section 16(c) of S. 7 as now drafted, the State or other appropriate organization would be charged with certifying that any discharge in substantial compliance with appropriate water quality standards. This certification would be a condition precedent to obtaining any Federal license or permit required by law before making any discharges into the navigable waters of the United States.

Mr. President, the major precepts of an environmental policy are not controversial though, as we have found over the past few weeks, the specific language may be difficult to draft. What is involved is a declaration that we do not intend, as a government or as a people, to initiate actions which endanger the continued existence or the health of mankind. That we will not intentionally initiate actions which will do irreparable damage to the resources which support life on earth.

An environmental policy is a policy for people. Its primary concern is with man and his future. The basic principle of the policy is that we must strive, in all that we do, to achieve a standard of excellence in man's relationships to his physical surroundings. If there are to be departures from this standard they will be exceptions to the rule and the policy. And as exceptions they will have to be justified in the light of public scrutiny.

S. 1075 as passed by the Senate, and with the changes which have been agreed upon, will provide the American people with a policy that is in the best interests of present and future generations. I am hopeful that the major provisions of this policy will emerge from the conference committee.

EXHIBIT 1

COMPARISON OF ENVIRONMENTAL QUALITY MEASURES

S. 1075	S. 7	H.R. 12549 (S. 1075 AS AMENDED)
Title National Environmental Policy Act of 1969.	*Title* Environmental Quality Improvement Act of 1969 (Title II).	*Title* An Act to provide for the establishment of a Council on Environmental Quality.
Declaration of policy Six-part Congressional declaration of policy (sec. 101(a)).	*Declaration of policy* Statement of environmental problems and citation of existing statutes (section 202 (a) and (b)).	*Declaration of policy* Brief statement of policy.
Recognition of environmental rights Congress recognizes right of persons to healthful environment (sec. 101(b)).	*Recognition of environmental rights* No provisions.	*Recognition of environmental rights* No provision.
Directions to Federal agencies as follows: Congress authorizes and directs all Federal agencies to perform functions and make certain findings in support of the policy (sec. 102).	*Directions to Federal agencies as follows:* Public works agencies are directed to implement the policies established by the President pursuant to the Act (Sec. 203).	*Directions to Federal agencies as follows:* No provision. (Council to make recommendations.)
All agencies shall: *1. Interdisciplinary approach* 1. Utilize interdisciplinary approach to planning and decision-making (sec. 102(a)).	*1. Interdisciplinary approach* No provision.	*1. Interdisciplinary approach* No provision.
2. Environmental values 2. Develop methods to include presently unquantified values in decisions (sec. 102 (b)).	*2. Environmental values* No provision.	*2. Environmental values* No provision.
3. Make findings 3. Must make findings in connection with proposals and decisions that: *a. environmental impact* (a) Environmental impact has been considered. *b. adverse effects* (b) Adverse effects are justified.	*3. Make findings* No provision.	*3. Make findings* No provision.

S. 1075—Continued	S. 7—Continued	H.R. 12549—Continued (S. 1075 AS AMENDED)
c. short-term uses (c) Short-term uses are consistent with long-term productivity.		
d. irreversible commitments (d) Irreversible commitments are justified.		
4. Alternatives 4. Study and present alternatives where conflicts occur.	*4. Alternatives* No provision.	*4. Alternatives* No provision.
5. International effects 5. Support international programs for the environment.	*5. International effects* No provision.	*5. International effects* No provision.
6. Present authority 6. Review existing statutory authorities and recommend legislation to conform to this Act.	*6. Present authority* No provision.	*6. Present authority* No provision.
Supplement to existing enabling acts Act is made supplementary to existing mandates and authorizations of Federal agencies (sec. 103).	*Supplement to existing enabling acts* No provision.	*Supplement to existing enabling acts* Nothing in act shall change existing authorities (sec. 9).
Data collection and dissemination Federal agencies are authorized to collect and disseminate environmental and ecological data (sec. 201).	*Data collection and dissemination* No provision.	*Data collection and dissemination* No provision.
Grant program The President is authorized to designate agencies to: 1. Administer a grant program (sec. 202 (a) (1)).	*Grant program* Contract authority vested in office (sec. 204(e)).	*Grant program* No provision.
Project inventory 2. Inventory resource projects (sec. 202 (a) (2)).	*Project inventory* No provision.	*Project inventory* No provision.

Ecological research

3. Collect ecological research data (sec. 202 (a) (3)).

Assistance to States

4. Assist State (sec. 202(a) (4)).

Deputy Director for Office of Science and Technology

Establishes new Deputy Director in OST (sec. 203).

Board of Environmental Quality Advisors (Council, Office)

Creates a 3-man Board in the Executive Office of the President. Appointed by President with advice and consent of Senate (sec. 301).

1. Annual report to President

1. Make annual report to the President (302 (a) (1)).

2. Assist President

2. Advise, assist, and support President (302(a) (2)).

3. Collect data

3. Collect and disseminate information on environmental quality (sec. 302(a) (3)).

4. Review Federal activities

4. Review, appraise and make recommendations concerning Federal programs, projects, activities, and policies (302(b)).

Ecological research

No provision.

Assistance to States

No provisions.
(Office will consult, sec. 204(c) (11).)

Deputy Director for Office of Science and Technology

No provision.

Board of Environmental Quality Advisors (Council, Office)

Creates an Office of Environmental Quality in Executive Office of President. Director and Deputy appointed by President with advice and consent of Senate. Compensation keyed to salary of Director and Deputy Director of Bureau of the Budget (sec. 204 (a) and (b)).

1. Annual report to President

No provision.

2. Assist President

2. Advise and Assist President (sec. 204 (c) (1)).

3. Collect data

No provision.

4. Review Federal activities

4. Review, appraise, and make recommendations on proposed projects, facilities, programs, policies and activities of certain agencies (sec. 204(c) (3)).

Ecological research

No provision.

Assistance to States

No provisions.
(Council will consult, sec. 7(a)).

Deputy Director for Office of Science and Technology

No provision.

Board of Environmental Quality Advisors (Council, Office)

Creates a Council of Environmental Quality in Executive Office of President. Composed of 5 members appointed by President (sec. 3).

1. Annual report to President

Make annual report to President (sec. 6).

2. Assist President

2. Prepare reports as President directs (sec. 5(e)).

3. Collect data

3. Gather data and prepare reports (sec. 5(b)).

4. Review Federal activities

4. Appraise programs and activities (sec. 5(c)).

s. 1075—Continued

5. Assist in President's report to Congress

5. Assist President in preparation of annual report on the environment (sec. 302(c)).

6. Other assignments

6. Other duties directed by President (sec. 302(d)).

7. Support Cabinet Council

7. All Federal agencies (sec. 201(g)).

8. Review monitoring system

8. President designates agency (sec. 202(a)(3)).

9. Promote knowledge

9. All Federal agencies (sec. 201(a)).

10. Develop policies

10. Board to assist President (sec. 302(a)(2)).

11. Recommend priorities

11. No provision.

12. Evaluate techniques

12. All agencies (sec. 102(b)).

13. Coordinate programs

13. Board reviews programs (sec. 302(b)).

14. Review criteria

14. Board reviews policies (sec. 302(b)).

s. 7—Continued

5. Assist in President's report to Congress

No provision.

6. Other assignments

No provision.

7. Support Cabinet Council

7. Provide staff and support for Cabinet Council (sec. 204(c)(2)).

8. Review monitoring system

8. Review existing environmental monitoring system (sec. 204(c)(4)).

9. Promote knowledge

9. Promote advancement of scientific knowledge and methods (204(c)(5)).

10. Develop policies

10. Develop policies and programs (sec. 204(c)(6)).

11. Recommend priorities

11. Recommend priorities (sec. 204(c)(7)).

12. Evaluate techniques

12. Assure evaluation of new technologies (sec. 204(c)(8)).

13. Coordinate programs

13. Review and comment on coordination of programs (sec. 204(c)(9)).

14. Review criteria

14. Review and comment on environmental standards (sec. 204(c)(10)).

H R. 12549—Continued

5. Assist in President's report to Congress

5. Assist and advise President in preparing annual report (sec. 5(a)).

6. Other assignments

6. Make such studies as requested (sec. 5(e)).

7. Support Cabinet Council

7. No provision.

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(S. 1075 AS AMENDED)

8. Review monitoring system

8. No provision.

9. Promote knowledge

9. No provision.

10. Develop policies

10. Develop and recommend policies (sec. 5(d)).

11. Recommend priorities

11. No provision.

12. Evaluate techniques

12. No provision.

13. Coordinate programs

13. No provision.

14. Review criteria

14. No provision.

15. Consult with state and local government

15. All agencies advise states, counties, etc. (sec. 201(d)).

Annual report to Congress

President shall submit report to Congress (sec. 303).

Employment of officers

Board may employ (sec. 304).

Appropriations

For grant programs, $500,000 first year, $1 million each successive year (sec. 202(b)).
For Board—$1 million annually (sec. 305).

Biennial forum

No provision.

Advisory committees

No provision.

15. Consult with state and local government

15 Consult with and advise state and local governments (sec. 204(c)(11)).

Annual report to Congress

Director reports to Congress annually on progress (sec. 204(f)(1)). Other reports as he deems necessary (sec. 204(f)(2)).

Employment of officers

Director may employ (sec. 204(c)).

Appropriations

Open ended (sec. 206).

Biennial forum

Director to convene a biennial forum on current environmental problems and issues (sec. 204(f)(3)).

Advisory committees

Director shall establish committees of part-time advisers as he deems appropriate (sec. 205).

15. Consult with state and local government

15. Consult with state, local and private groups (sec. 7(a)).

Annual report to Congress

President shall transmit to the Congress (sec. 2).

Employment of officers

Council may employ (sec. 4).

Appropriations

$300,000 for first year.
$500,000 for second year.
$1 million annually thereafter (sec. 10).

Biennial forum

No provision.

Advisory committees

No provision.

EXHIBIT 2

AGREED-UPON CHANGES IN S. 7 AND S 1075 TITLE II OF S. 7 AND THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The amendment in the nature of a substitute would make the following changes in Title II of S. 7 as reported by the Public Works Committee.

1. Section 202(b) would be stricken and new language inserted. This section had declared that is a national policy for the environment found in certain Acts previously considered by the Public Works Committee. The amendment in the nature of a substitute states that there is a policy and states this policy in general terms as being "the enhancement of the quality of our air, water and land environment."

2. Section 202(c) is rewritten to state that the purposes of this title are to assure that each Federal agency supporting public works activities which affect the environment implement existing policies and policies established by the President pursuant to this title.

3. Section 203 is stricken and its substance is incorporated into section 202(c).

4. Section 204 is changed to Section 203. This section establishes an Office of Environmental Quality.

Subsection (d) of section 203 which sets forth the duties of the Director of the Office has been substantially revised. The purpose of these revisions is to insure that the duties and functions performed by the Office and the Board of Advisers established by title III of S. 1075 are consistent and do not result in duplication, over-lap or conflict.

Subsections 203(d) (3), (6), (7), and (11) have been deleted because these duties are more appropriately functions to be performed by the Board of Environmental Advisers established by S 1075. Subsections 203(d) (1) and (2) have been rewritten to clarify the type of assistance, staff and support the Office would give the President and other councils or committees charged with environmental responsibilities. Subsections 203(d)(2) recognizes that Congress may soon establish a Board of Environmental Advisors as proposed in title III of S. 1075.

The new subsection 203(d)(8) was drawn from subsection 203(f) which would be stricken.

Subsections 203(d) (9) and (10) were taken from subsections 202(a) (2) and (3) of S. 1075 These functions of data collection and inventory systems are more appropriately duties of an Office than of a semi-independent Board of Environmental Advisers.

5. Subsection 204(f) and Section 205 of Title II of S 7 are deleted and the authority to convene a biennial forum on environmental problems and to establish advisory committees is vested with the Board of Advisers established by Title III of S 1075.

6. A new section 204 making the provisions of this Act supplementary to existing authorizations of Federal agencies is inserted. This language parallels language found in title I of S. 1075.

PROVISIONS SENATE CONFEREES WILL SUPPORT IN CONFERENCE ON S. 1075

The Senate Conferees will support in Conference Committee certain agreed-upon changes in S. 1075 which are designed to avoid any inconsistency or duplication with provisions of Title I and with Title II of S. 7. The major agreed-upon changes are briefly described below.

1 The directive to the agencies set out in Section 102(b) is made subject to the review and approval of the Board of Environmental Advisers.

2. The requirement for a "finding" by the responsible official in Section 102(c) is changed to a requirement for a "detailed statement."

The directives to the responsible official which are set out as subsection 102(c) (i) through (iv) of S. 1075 are revised.

New language is added to Section 102(c) which will require the responsible official to consult with and obtain the views of other agencies having jurisdiction or special expertise with respect to the particular environmental impact involved in the proposed action. Language is also added requiring that copies of the responsible official's statement and the comments of other agencies be made available to the President, the Board and the public.

3. A new Section 103 is added to make explicitly clear that section 102 does not in any way effect the specific statutory obligations of Federal agencies to comply with environmental standards, to coordinate their activities, or to condition their actions upon any State or Federal certifications now required by law or which may be required by law. The language of this section is designed to insure that the provisions of law such as Section 16(c) of S. 7 not affected by the requirements of Section 102 of S 1075. Sec-

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tion 16(c) of S. 7 would have the effect of exempting the Corps of Engineers and the Atomic Energy Commission and some other agencies from the requirement for a detailed statement on the environmental impact of proposed actions involving any discharge into the navigable waters of the United States. Under the terms of Section 16(c) of S 7 as now drafted, the State or other appropriate organization would be charged with certifying that any discharge is in compliance with water quality standards. This certification would be a condition precedent to obtaining any Federal license or permit required

by law before any discharges into the navigable waters of the United States.

4. Title II of S. 1075 would be revised to make clear that the functions set out in subsections 201 (a), (b), and (c) are functions to be performed by the Board of Environmental Advisers.

5. The remaining functions set out in Section 201 would continue to be functions all Federal agencies are authorized to undertake under a new section 202.

6. Section 202 would be deleted and part of the authority would be transferred to the Office of Environmental Quality established by Title II of S. 7.

7. Portions of Section 203 would be deleted in recognition that under title II of S. 7 the Office of Environmental Quality would provide staff and support for the President's interdepartmental Council on the Environment.

8. Section 303 would be revised to explicitly provide that the annual environmental quality report would be referred in whole or part to any or all of the Committees of each House of the Congress having jurisdiction over the subject matter of the report.

9. New language would be added to Title III authorizing the Board of Environmental Advisers to establish advisory Committees and to organize and convene a biennial forum on environmental problems. This language was taken from Title II of S. 7.

Mr. CHURCH. Mr. President, today the decisions reached by the Senate on legislation pertaining to the quality of our environment, in my judgment, marks an important milestone in the life of every American. I want to especially commend the junior Senators from Washington and Maine, Mr. JACKSON and Mr. MUSKIE, for their leadership and great personal contribution in the efforts of Congress toward improving the quality of the life of all of our citizens. I believe that the amendments to title II of S. 7 and the proposed revision of S. 1075, now ready for conference, display the skill and creative leadership of these two Senators in resolving what is admittedly a very special problem of overlapping committee jurisdiction. But rather than seeking to delay and argue over jurisdiction, both Senators have commendably, and I might add, characteristically, reasoned and resolved any differences by the time-honored method of legislative compromise.

It is especially crucial that all levels of government move as quickly as possible toward wiser management of our environment. The public interest demands that we act wisely and with all deliberate speed. Time is growing short. It is no longer safe to substitute words in lieu of action to implement the needed remedies to this growing national problem. I think that the efforts today on the pending bill and the forthcoming consideration of S. 1075 will have the overwhelming support of the American people. I believe our citizens are more aware than ever before that we of this generation are trustees of our Nation's resources and of our total environment. We must assume our duty to preserve and enhance our habitat as we prepare to pass it along to future generations. As a member of the Senate Interior Committee, I will be honored to serve as a conferee on S. 1075. In my judgment, this far-reaching legislation is one of the most important conservation-environmental measures that has been considered by the Congress of the United States in many years. It marks an effort for the first time to impress and implant on the Federal agencies an awareness and concern for the total environmental impact of their actions and proposed programs. This awareness will be built into the agencies' planning processes at the lowest levels, where, as we all know, most decisions are formulated and even finalized. In the future it may be possible to avoid conflicts of one program objective with others through the mechanisms provided in this bill.

It is good and necessary legislation which should be written into law as quickly as possible.

Mr. BOGGS. Mr. President, I wish to associate myself with the remarks of the Senator from Maine (Mr. MUSKIE) in his discussion on the amended language of title II, the Environmental Quality Improvement Act of 1969. These changes, together with the changes to S. 1075, create a necessary resolution of a very real controversy. This is a controversy that goes beyond the jurisdic-

tional interests of various committees in this vital field of environmental enhancement and extends to the very definition of the words "environment" and "pollution."

A policy of environmental quality cannot be segregated from a policy for pollution control, for they are inevitably linked. We would not today consider important issues of pollution if pollution did not damage our environment. We would not be considering environmental quality policy today if our environment were not endangered by pollution.

It is my position, and I believe the position of the membership of the Public Works Committee, that a national policy for the environment has been laid down in legislation already in existence. This policy dates to nearly the creation of the Public Works Committee in 1946.

A number of water pollution control bills have been reported by the Public Works Committee, and enacted into law. In 1948, the Congress passed the Water Pollution Control Act, Public Law 80–845. Four years later it adopted an extension of the Water Pollution Control Act, Public Law 82–579. In 1956, the Congress adopted the Federal Water Pollution Control Act, Public Law 84–660. Congress amended the Water Pollution Control Act in 1961 with Public Law 87–88. Each of these bills, as well as the water pollution legislation passed in 1965 and 1966, was reported to the Senate floor by the Public Works Committee.

The Public Works Committee's concern for the field of air pollution and its impact on the environment, has been as strong. In 1955, the Congress passed a bill to provide research and technical assistance relating to air pollution control, Public Law 84–159. This legislation was reported to the Senate floor by the Public Works Committee. In 1959, with the signing of Public Law 86–365, Congress extended the life of the air pollution legislation, and 2 years later adopted legislation that was to become Public Law 87–761. In 1963, at the urging of the Public Works Committee, the Congress adopted the Clean Air Act, Public Law 88–206, and since then has amended the law twice and in 1967 passed the Air Quality Act.

Another pervasive form of pollution is the solid wastes that clutter our cities and landscapes. The Public Works Committee pioneered in this field with the Solid Waste Disposal Act of 1965. The committee as recently as last week held 4 days of hearings in the consideration of a bill, S. 2005, to extend and augment the Solid Waste Disposal Act.

Clearly, a national policy already exists to create a quality environment in America. The new language of title II reiterates and reinforces this policy, and augments its implementation through the creation of an Office of Environmental Quality. This office will serve as an important adjunct to the President's Environmental Quality Council.

I do not wish to detain the Senate any longer in its deliberations. However, I would like to state my personal thanks to the committee chairman (Mr. RANDOLPH), the chairman of the subcommittee (Mr. MUSKIE), the Senator from Washington (Mr. JACKSON) and the other members of the Public Works and Interior Committees for their efforts toward achieving an America with a quality environment. I commend this amended language to my colleagues.

Mr. ALLOTT. Mr. President, I appreciate the remarks of both the distinguished junior Senator from Maine and the distinguished chairman of the Committee on Interior and Insular Affairs on this matter. I have not actually been a participant in any of the discussions that have gone on between the two Senators, but the chairman of the Committee on Interior and Insular Affairs, I believe, has kept me informed of the progress of these matters for some time.

Before commencing a short statement, I note that on page 36 of the report No. 91–351, the Air and Water Pollution Subcommittee of the Committee on Public Works held extensive hearings on title I

of S. 7. These hearings included statements from various agencies of the Federal Government. The administration testified through the Department of the Interior, the Department of Transportation, and the Atomic Energy Commission. However, my review of the report fails to disclose any information concerning hearings on title II. Since title II creates a new office within the Executive Office of the President, I would be most interested in learning what the administration's reactions and comments were with respect to this title.

Therefore, I would direct this question to the distinguished chairman of the subcommittee, if he would direct me to

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the appropriate reference in the report concerning the administration's views on title II of S. 7.

Mr. MUSKIE. May I say to the distinguished Senator that we did not have specific hearings on title II. May I point out that the 1-day hearing on S. 1075 was on a different version of S. 1075 than was reported. I do not recall that there were hearings on title I of S. 1075. I am not sure about title II, but I have now reviewed S. 1075 with that in mind.

S. 1075 in its present form was introduced in the Senate on May 29 of this year. The 1 day of hearing on April 16 was on a bill that was introduced in February. So both the provisions of title II of S. 7 and S. 1075 might be faulted in their provisions, in their floor version in that they were not subject to hearings.

But may I say that title II of S. 7 was extracted from S. 2391, which I introduced in July of this year with 42 Senate cosponsors. Title II is taken from that bill.

That bill was the product of some 6 or 7 years of hearings we held on such environmental matters as air quality and water quality and solid waste.

Title II was developed as representing subjects, problems, points of view that had been discussed in those hearings over that period. Those hearings included some 1,100 witnesses, some 16,000 pages of testimony, much of which is relevant to title II.

The accurate answer to the Senator's question is that there is no specific testimony in the hearings this year on title II. I repeat that the same point can be made with respect to many of the provisions of S. 1075.

Mr. ALLOTT. I cannot agree with the last statement. I would like to ask the Senator—

Mr. MUSKIE. May I suggest that there be included on this point the text of the bill (S. 1075), as it existed at the time of the hearing on April 16 this year?

Mr. ALLOTT. I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1075

A bill to authorize the Secretary of the Interior to conduct investigations, studies, surveys, and research relating to the Nation's ecological systems, natural resources, and environmental quality, and to establish a Council on Environmental Quality

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to promote and foster means and measures which will prevent or effectively reduce any adverse effects on the quality of the environment in the management and development of the Nation's natural resources, to produce an understanding of the Nation's natural resources and the environmental forces affecting them and responsible for their development and future well-being, and to create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations of Americans, through a comprehensive and continuing program of study, review, and research.

TITLE I

SEC. 101. The Secretary of the Interior (hereinafter referred to as the "Secretary"), in order to carry out the purposes of this title, is authorized—

(a) to conduct investigations, studies, sur-

veys, research, and analyses relating to ecological systems and environmental quality;

(b) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(c) to develop and maintain an inventory of existing and future natural resource development projects, engineering works, and other major projects and programs contemplated or planned by public or private agencies or organizations which make significant modifications in the natural environment;

(d) to establish a system of collecting and receiving information and data on ecological research and evaluations which are in progress or are planned by other public or private agencies or organizations, or individuals;

(e) to evaluate and disseminate information of an ecological nature to public and private agencies or organizations, or individuals in the form of reports, publications, atlases, and maps;

(f) to make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(g) to initiate and utilize ecological information in the planning and development of resource-oriented projects;

(h) to encourage other public or private agencies planning development projects to consult with the Secretary on the impact of the proposed projects on the natural environment;

(i) to conduct research and studies within natural areas under Federal ownership which are under the jurisdiction of the Secretary and which are under the jurisdiction of other Federal agencies; and

(j) to assist the Council on Environmental Quality established under title II of this Act.

SEC. 102 In carrying out the provisions of this title, the Secretary is authorized to make grants, including training grants, and enter into contracts or cooperative agreements with public or private agencies or organizations, or individuals, and to accept and use donations of funds, property, personal services, or facilities to carry out the purposes of this Act.

SEC. 103. The Secretary shall consult with and provide technical assistance to other Federal agencies, and he is authorized to obtain from such departments and agencies such information, data, reports, advice, and assistance as he deems necessary or appropriate and which can reasonably be furnished by such departments and agencies in carrying out the purposes of this Act. Any Federal agency furnishing advice or assistance hereunder may expend its own funds for such purposes, with or without reimbursement by the Secretary.

SEC. 104. The Secretary is authorized to participate in environmental research in surrounding oceans and in other countries in cooperation with appropriate departments or agencies of such countries or with coordinating international organizations if he determines that such activities will contribute to the objectives and purposes of this Act.

SEC. 105. Nothing in this Act is intended to give, or shall be construed as giving, the Secretary any authority over any of the authorized programs of any other department or agency of the Government, or as repealing, modifying, restricting, or amending existing authorities or responsibilities that any department or agency may have with respect to the natural environment. The Secretary shall consult with the heads of such departments and agencies for the purpose of identifying and eliminating any unnecessary duplication of effort.

SEC. 106. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II

SEC. 201. There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. Each member shall, as a result of training, experience, or attainments, be professionally qualified to analyze and interpret environmental trends of all kinds and descriptions and shall be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of this Nation The President shall designate the Chairman and Vice Chairman of the Council from such members.

SEC. 202. (a) The primary function of the Council shall be to study and analyze environmental trends and the factors that effect these trends, relating each area of study and analysis to the conservation, social, economic, and health goals of this Nation. In carrying out this function, the Council shall—

(1) report at least once each year to the President on the state and condition of the environment;

(2) provide advice and assistance to the President on the formulation of national policies to foster and promote the improvement of environmental quality;

(3) obtain information using existing sources, to the greatest extent practicable, concerning the quality of the environment and make such information available to the public.

(b) The Council shall periodically review

and appraise new and existing programs and activities carried out directly by Federal agencies or through financial assistance and make recommendations thereon to the President.

(c) It shall be the duty and function of the Council and the Secretary of the Interior to assist and advise the President in the preparation of the biennial environment quality report required under section 203.

SEC. 203. The President shall transmit to the Congress annually beginning June 30, 1970, an environmental quality report which shall set forth (a) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment; and (b) current and foreseeable trends in quality, management, and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation.

SEC. 204. The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

SEC. 205. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this title

Mr. ALLOTT. Of course, it was changed from the time it was introduced.

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Mr. MUSKIE. And so was S. 7.

Mr. ALLOTT. But we had hearings on S. 1075.

Mr. MUSKIE. I would be glad to put in the RECORD an analysis of the points in the present bill, S. 1075, that were not covered in the hearings of April 16.

Mr. ALLOTT. Then, I understand the Senator's reply to be that there is nothing in the record from the administration commenting upon title II of S. 7.

Mr. MUSKIE. I thought I had already answered the Senator's question. There is no comment.

Mr. ALLOTT. I thank the Senator.

Mr. President, the last thing I would want to do would be to try, even if I could, to reflect on the work that any Senator has done in any given field or area; and the Senator from Maine is well known for his work in this area, particularly in the field of water and air pollution, and he has been acting in this field for many years now.

I think I should make it clear that while the distinguished Senator from Maine, chairman of the subcommittee, and the chairman of the Committee on Interior and Insular Affairs do have a clear understanding about how they want to handle the matter, I personally am not a party to that agreement. I think the Senator will agree with that.

Mr. MUSKIE. I was not aware of that fact, but I accept the Senator's statement. The Senator has participated in the discussions, and I just assumed he was a party to it, but if he wishes to disassociate himself from it, I have no objection, and it will make no difference in my attitude.

Mr. ALLOTT. I shall disassociate myself from it in a moment. The only discussion I have ever participated in with the Senator from Maine was for about 10 minutes in the Democratic cloakroom yesterday afternoon. I think he will agree to that.

Mr. MUSKIE. I was present for that time. It was my impression that the Senator from Colorado was present for longer than that time. But I am interested in the fact that we have undertaken to achieve an agreement and now I understand the Senator does not support it.

Mr. ALLOTT. Mr. President, I just want to make my position clear. The Senator from Washington, our chairman, has always known that I had some reservations about this particular matter.

Mr. MUSKIE. Will the Senator yield for a question?

Mr. ALLOTT. I yield.

Mr. MUSKIE. It is a very important question. It relates to what the Senator has just said. As I say, I am not trying to impose a position on the Senator. That is not my responsibility; it is his.

But an important part of this compromise was the assurance I had from the distinguished Senator from Washington, the Senate conferees on S. 1075, who will include the Senator from Washington and the Senator from Colorado, will do their best to see that the compromise provisions of S. 1075 are accepted by the conference. I take it, from what the Senator from Colorado is saying, that this may not be correct with respect to him. If it is not, then I hope he will make it clear, because that might change my view of this compromise.

Mr. ALLOTT. If the Senator will permit me to continue, I will make my position clear.

I have stated before, and I should not have to state this again, that the chairman of the Committee on Interior and Insular Affairs has kept me faithfully informed of all of the discussions that have gone on about this matter, so I cannot say that I am uninformed in any respect about the discussions, and I do not pretend to be, nor am I trying to insinuate in any sense that the Senator from Colorado was not made fully aware of the discussions that have led to this point.

I do not know why this should be necessary, but I will say that whatever the Senate does here today with respect to the appointment of conferees, the Senator from Colorado will fulfill his obligation to the Senate just as much as the Senator from Maine or any other Senator would. I want to make that very clear. I do not think any Senator will accuse the Senator from Colorado of ever having done less.

The thing that I wish to discuss—and I am sorry that we got the discussion off on this basis—is the situation in which we find ourselves here today.

Both houses of Congress have passed S. 1075, which is intended to halt the rapid degradation of our environment; and believe me, there is no one on this floor, and no one in the United States, for that matter, who has an exclusive concern with our environment. Today we are considering S. 7, a bill which, according to its title, is also intended to halt this degradation of the environment.

I should like to take just a moment to explore the consequences of the impending vote, as I see them.

The adoption of title II of S. 7, together with the enactment of S. 1075, in my opinion, will create an administrative two-headed monster. It is two-headed because of the duplication of functions of both the proposed new high level environmental organizations, and a monster because of the problems which that duplicity will create.

The President created a Council on Environmental Quality earlier this year. The Senate's version of S. 1075 adds an *Environmental Quality Board* of three persons, and title II of the pending bill, S. 7, creates an Office of Environmental Quality within the Executive Office of the President.

As I look at it, Mr. President—and I have analyzed these bills very carefully, and have had my staff working on them for a long time—these organizations are both new and separate creations within the Executive Office of the President. Both organizations are high level creations in the President's Office and let me explain what I mean when I say high level.

The three board members created by S. 1075 are all subject to Senate confirmation, and the chairman is to be remunerated at level 2 of the executive pay schedule. The Director of the Office of Environmental Quality is also subject to Senate confirmation, and his salary may be set at the same level as that of the Director of the Bureau of the Budget, which means that these two officers are at a very high level of governmental employment.

Both organizations have as their main goal and purpose to advise and assist the President on problems of environment.

Both organizations are to prepare reports and make recommendations to the President on the problems of environment.

Both organizations are authorized to employ experts and consultants.

Both organizations will deal with the same subject matter, that is, the environment, and both will be reviewing Federal and other public programs which affect the environment.

Mr. President, I think there is a little too much of a tendency, probably not in the committees involved here, but on the part of the public, to regard environment as involving only air pollution and water pollution. That is probably because these two problems have become so prevalent, and therefore are on the minds of the people of this country today perhaps more than some of the other environmental problems which may come to the fore in the future.

In our studies of this matter, I believe we determined that there are some 20 or 21 agencies of the Government which are directly involved with problems which affect the environment. For example, it is impossible to think about future environments without thinking about the Department of Housing and Urban Development of our Government. It is impossible to think of them without thinking of HEW, because the environment does not involve only water and air as suggested by the distinguished Senator from Maine, it involves noise—and we are all becoming acutely conscious of this factor. More and more as time goes on—environmental questions will also involve land distribution, land planning for the future, what kind of future cities we will plan, and what we will do about the ghettos—for the ghettos are a part of the environmental picture, and, as a responsibility of HUD, are also a part of this question.

We could go on endlessly, bringing in the various departments and agencies of Government which, sooner or later if not now, will be actively engaged in problems and fields which do involve the environment.

To sum up, I simply wish to repeat that the environmental situation is not one which is confined merely to air, water, and noise. The degradation of our environment can occur in all these ways. It can even occur from the improper farming methods of those who erode and waste our soil. So the Department of Agriculture could be a part of this movement. It also plays a part in preserving the environment through its supervision of our forest lands. As I have said, I could continue almost endlessly to discuss the environmental problems which the great pressure of population in this country has brought on us and will continue to bring on us. I am, therefore, no less concerned than the Senator from

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Maine and have given the population and food problems considerable study as they affect the future environment of our country.

Although I have never spent much time in the State of the Senator from Maine, I am aware that it is a great and beautiful State. I am certainly aware of the beauty of my own State and of the State of Washington and of other States. I think that some of us who are fortunate enough to come from such beautiful places are aware of the threats from environmental impairment—and I use the words "environmental impairment" in the whole context of which I am speaking. I am aware of the threats that come from environmental degradation. We who are fortunate enough to live in places that are relatively free from such degradation appreciate what the dangers to our environment are probably as much as those who are now directly afflicted with, for example, acute water pollution, acute air pollution, or acute noise pollution.

So it seems to me that with respect to the matter that we are discussing today, instead of the application of Parkinson's law and the natural propensities of bureaucracy to create agencies and to advise and assist the President, when the President has not been asked to comment on the provisions of title II of S. 7 we have placed the President in the

position of being an arbitrator between the two agencies. In addition, the President has already created the Environmental Quality Council, which he considers to be of such great importance that he retains the chairmanship of it himself.

I wish to say one concluding word on this subject. Since the understanding has been reached between the distinguished chairmen of the two committees, the chairman of the Committee on Interior and Insular Affairs and the chairman of the subcommittee, I have not indicated to any Senator how he should vote on this question; but I feel so strongly that our population pressures and the changes in our country in the next few years will create environmental problems, some of which we are not even aware of now, and some of which we can only surmise in our minds, that we should create a clean-cut type of organization to handle it.

The President's council now exists; and now, title II of S. 7 will authorize the Office of Environmental Quality; and S. 1075 will create the Board of Environmental Quality Advisers. I am afraid we are creating something that is administratively unsound. Therefore, I shall be compelled to vote against the motion, which I believe is the parliamentary situation, to agree to the amended version of title II. I should think, as I look at the situation, that I would be fulfilling less than my duty as a Senator, having analyzed and studied the proposal in the manner that I have, if I did not cast my vote against it.

I am sure that the motion to adopt the amendment will be agreed to overwhelmingly. Nevertheless, I shall support the bill even if the amendment is included, because I feel that the subject of title I is of such importance to the Nation that Congress must deal with it quickly and effectively. Whatever other Senators may do is for them to decide, and I have made no effort to proselytize other Senators. But I feel strongly that we are going to have to face up to the problem and provide administrative structure that is really workable. I should much prefer, for my own part, however, to have a single office created in the executive branch—as the focal point—to deal with the problem.

I yield the floor.

Mr. MUSKIE. Mr. President, a great deal of labor has gone into developing a resolution of the relationship between S. 1075 and S. 7. I have no desire to indulge in provocative or argumentative statements and upset that settlement. Nevertheless, I think, in the light of the comments made by the Senator from Colorado, that in order to assure as complete a record as I can make, I should make some points.

First, with respect to title II of S. 7, in common with all of S. 2391, of which it was part: it is the product, in a real, evolutionary sense of some 7 years of hearings held by the Subcommittee on Air and Water Pollution, involving some 16,000 pages of testimony and 1,100 witnesses.

Second, title II is extracted almost bodily, as it was reported to the Senate, from S. 2391, which was cosponsored by 42 Senators. The bill was introduced on June 12, 1969, and all the executive agencies were solicited for comments. We have received none as of this point.

The next point I would like to make is that with respect to the Board of Environmental Quality Advisers, provided by S. 1075, on which a 1-day hearing was held on April 16, Secretary of the Interior Hickel said this:

> It is our belief that the proposed new Environmental Quality Council makes unnecessary the kind of council proposed in S. 1075.

The Secretary further said:

> It is our recommendation that legislation such as that contained in Title I of S. 1075 not be enacted until the new council has had a full opportunity to address itself to this need.

I may say this in addition: I have been involved in environmental pollution control legislation for many years.

We have always listened responsively and constructively to recommendations of the executive branch under President Kennedy, under President Johnson, and under President Nixon. We have undertaken to support such recommendations as stood up after hearings. But we have never been reluctant, and we are not reluctant now, to initiate legislative proposals ourselves. We regard this as a part of the prerogatives of the legislative body.

Every piece of legislation in the air and water quality field that we have reported to the Senate has the unmistakable mark of the Committee on Public Works and the Subcommittee on Air and Water Pollution, standing independently of presidential recommendations. This was true of the Clean Waters Restoration Act of 1966. It was true of the Air Quality Act of 1967. It was true of the automobile exhaust legislation in 1965, which the administration opposed totally when we held our hearings. But we formed our own judgment, reported it to the Senate, and the Senate approved.

I think that record of approval suggests the confidence in which the Senate came to hold our recommendations.

S. 7 is a similar piece of legislation. We have responded to executive testimony whenever it was available, but we did not hesitate to incorporate in legislation ideas that our judgment indicated were sound, and everything in S. 7 bears that stamp.

I am not holding against S. 1075 Secretary Hickel's adverse comment on the Board of Environmental Quality Advisers. Whatever reservation I may have had about the process under which S. 1075 was considered, I took it to be the considered judgment of Senator JACKSON and his committee that they thought this to be a sound proposal.

So when we got down to the task of meshing these two bills, I did not reprove them and have not reproved them on the Senate floor because they did not do what Secretary Hickel asked them to do, and I do not reprove them now. He opposed it. They disagreed with him and reported it to the Senate.

What I have undertaken to do, with Senator JACKSON, is to marry the two into a viable organizational structure. I think we have done that, and I have no apologies for the result.

The Senator from Colorado is privileged to vote as he pleases on this matter, and I do not consider him bound to any other vote than that dictated by his own convictions; but I thought that these additions to the record were essential if the record is to have some semblance of balance on these points.

I am ready to vote.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. RANDOLPH. Mr. President, this discussion permits me the privilege of indicating that I believe that the Members of the Senate—yes, of the House of Representatives, as well—have often failed in their responsibility to write legislation on Capitol Hill rather than just to pass measures which have been forwarded from the agencies of the executive branch of the Government.

I think we have failed ofttimes in our responsibilities to do what we should do—that is, to write legislation as well as to pass it.

In broad concept, any administration has the responsibility to forward to Congress the outlines and the policies of the administration, and the proposed legislation is then referred to the respective committees.

I call attention to our failure to act effectively and responsibly in such situations as that referred to by Senator MUSKIE—when we determine, on the basis of testimony and considered study and judgment, that committee action must depart from the legislative recommendations of the executive branch.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

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Mr. MUSKIE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. RANDOLPH. I return to my basic belief that if the Committee on Public Works, or the Committee on the Interior, or any other committee, is in disagreement with the administration, then we in good conscience have the responsibility to work our will as elected Members of Congress. There can be comity between the legislative and executive branches of our Federal Government. However, there must not be capitulation.

Mr. President, with respect to the specific matter of the agreed upon language modifying S. 1075 and title II of S. 7, I ask unanimous consent to include in the RECORD at this point a telegram I recently received from the major conservation organization.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

Senator JENNINGS RANDOLPH,
Senate Committee on Public Works,
Washington, D.C.

The undersigned commend you for your continuing leadership in the field of environmental quality that brings us close to an early major policy and legislative enactment. We trust there will be full discussion on the floor of the Senate in conjunction with S. 1075 to the end that the strongest and best measure will be agreed to and reported promptly by the Senate-House conference committee. This is a unique opportunity for the country to take a major step forward in protection of environmental values.

Joseph W. Penfold, Izaak Walton League of America; Dr. Ira Gabrielson, Wildlife Management Institute; Stewart M. Brandborg, Wilderness Society; Thomas L. Kimball, National Wildlife Federation; William E. Towell, American Forestry Association; Dr. Elvis Stahr, National Audubon Society; Dr. Spencer Smith, Citizens Committee on Natural Resources; and Lloyd Tupling, Sierra Club.

Mr. RANDOLPH. Mr. President, the proposed modifications of S. 1075 and the committee substitute language for title II of S. 7 are the product of many hours of conferences between the staffs as well as the members of the Committee on Public Works and the Committee on Interior and Insular Affairs. These conferences resulted in, I believe, a strengthened version of S. 1075 and a further clarification of title II of S. 7.

Taken together these two measures represent a major step forward in coordination and strengthening of our efforts to improve the quality of the environment. Taken together these two measures represent the accord between the two principal committees in the Senate dealing with environmental problems. The conferences and the language agreed on have resolved difficult problems between the two committees stemming from differing viewpoints on the substance of this legislation and from the jurisdictional ambiguities inherent in a field as broad as the environment.

Members and the staff of the two committees are to be commended for reaching a constructive resolution of these problems. Especially to be commended are the able chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON), and the knowledgeable chairman of the Subcommittee on Air and Water Pollution (Mr. MUSKIE), for their reasonable and cooperative approach toward a difficult and complex situation.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). The question is on agreeing to the amendment of the Senator from Maine.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

* * * * *

The result was announced—yeas 77, nays 6, as follows:

* * * * *

So Mr. MUSKIE's amendment to the substitute committee amendment was agreed to.

Mr. MUSKIE. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. MANSFIELD. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, I commend the distinguished Senator from Maine for the fine work that he and his Subcommittee on Air and Water Pollution have done in reporting this bill. I was in communication with him while the bill was still in committee and voiced some reservations about certain provisions that were contained in an earlier version of the bill. As revised and reported, I believe the sections of the bill of particular interest and concern to me—dealing with water pollution control by Federal agencies—have been substantially improved. They are not 100 percent what I would like them to be, but they are sufficiently close to the mark to permit me to support their passage.

Among the bill's new requirements is one that any applicant for a Federal license or permit to conduct any activity which may result in any discharge into the navigable waters of the United States must provide to the Federal licensing agency involved certification from the State in which the discharge will originate that there is reasonable assurance the activity will comply with applicable water quality standards. Without the required certification such Federal agency cannot issue the license or permit.

Moreover, if the certification is obtained and the license or permit is issued, it must contain any conditions which the Secretary of the Interior finds necessary to insure compliance with the water quality standards of any downstream States which might be adversely affected by discharges from the licensed facility.

The Atomic Energy Commission and the Corps of Engineers are prime examples of the Federal agencies affected by this legislation. In the case of the AEC, while the legislation does not impinge upon or in any way interfere with the AEC's comprehensive regulatory controls over the radiological effects of source, byproduct, and special nuclear material, except as certain of these authorities may be transferred to qualified States, it does have the effect of assuring that, in addition to the AEC's exhaustive radiological health and safety review, the design of nuclear powerplants will be reviewed by appropriate State and Federal authorities from the standpoint of their thermal effects upon adjoining waters.

Nuclear plants are, of course, already subject to water quality standards adopted by the States and approved by

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the Secretary of the Interior pursuant to the Water Quality Act of 1965. Now, however, we will have the added protection of a prelicensing review to assure that the plants have been designed in such a way as to assure compliance with applicable water quality standards.

At least as to those activities subject to Federal approvals, this will add an important ounce of preventive medicine to the curative measures already available. My chief regret is that not all nonnuclear powerplants will be subject to these new controls. As I understand the bill, only coal, oil, and gas-fired powerplants that occasionally require a Federal license or permit will be covered by the bill. Unfortunately, even this limited coverage was opposed by representatives of the coal industry during the subcommittee's hearings on the legislation.

Another principal regret relates to proposed new section 16(a) of the Federal Water Pollution Control Act. As a member of the Appropriations Committee, I find this section somewhat disturbing. I would require that each Federal agency take whatever measures were needed to insure that property and activities under its jurisdiction shall comply with applicable water quality standards and the purposes of the act.

The subsection would also authorize appropriations of "such sums as may be necessary to carry out the provisions of this section."

I notice that S. 7, as reported by the committee, is silent with relation to an exception being made in connection with Federal agencies in the case where the interests of the United States might be involved either as to national defense or other important national activities, whereas the House passed bill, H.R. 4148, explicitly makes such an exception.

I prefer the House version for reasons that are obviously understandable in the national interest.

I do not propose an amendment at this time to insert such an exception in S. 7 but would strongly suggest and recommend to the conferees that this matter be exhaustively discussed in conference and that the House version be given all possible weight in the national interest.

On this point, I should like to ask my distinguished colleague what his off-the-cuff reaction is to the statement I have just made with regard to the national interest, in making an exception in cases of that kind.

Let us assume, for example, that we are in a state of war. I am wondering how much the Government will be obligated to comply with some of these provisions if the national interest is paramount to the prevailing subject or issue at hand. Take the Hanford production reactor, for example, which produces material for the national defense.

Mr. MUSKIE. Is the Senator addressing himself to the impact of section 16?

Mr. PASTORE. Yes. Section 16(a), and in large measure section 16(b) as well.

I do not want to press the Senator too much, but the House committee went into this matter to quite some extent. It is going to be in conference, and I hope the Senator, as usual, will lend a very attentive ear to the arguments made in that regard.

Mr. MUSKIE. I will do so.

In other portions of the bill, dealing with other questions, we have recognized the point the Senator has raised.

For example, in the application of the vessel pollution requirements as to ships of war, we have recognized this point and have made provision for it; and I assure the Senator that we will look into this point as well.

Mr. PASTORE. Under the pending bill considerable autonomy is given to the States in regard to operation of Federal facilities. In effect activities being carried on for Federal purposes will be subject to water quality standards adopted by the States in which they are located. The grassroots public opinion, more or less, is given a say in the matter of thermal effects, and I think that is proper, because, after all, they are the people who have to bear the brunt. And, insofar as thermal effects are concerned, I believe the States are fully and well qualified to set such standards.

But sometimes a State could be obstinate in the case of an emergency, and there ought to be an overriding consideration in the case of an emergency. I am not saying a willy-nilly situation; but in one in which the national interest is involved, I think we ought to make some provision. The House has done it, and the Senator from Maine has not said one way or the other whether we should or should not, but I would hope that he would consider that very seriously in conference.

Mr. MUSKIE. I assure the Senator of my interest, and we will do that.

Mr. BROOKE. Mr. President, over the last several months the coastline and estuaries of Massachusetts has been ravaged by one oil spill after another. From January through mid-July, the shoreline of the Bay State has been hit on six different occasions by oil slicks that have killed fish and birdlife, closed beaches and caused property damage to docks and pleasure craft. Three weeks ago, a seventh spill dumped more than 134,000 gallons of home heating oil into the waters and shoreline of eastern Buzzards Bay. From this disaster, the Smithso-

nian's Center for Shortlived Phenomenon has documented the destruction of more than 25 different varieties of the areas of marine life. This oil spill has denuded one of Cape Cod's finest striped bass fishing grounds. Not even the Cape Cod National Seashore, a national landmark and tourist attraction offering some of this Nation's most beautiful beaches, has been immune to the desecration of negligent and thoughtless tanker captains, who use the first opportunity of open water to eliminate residue oil from their ballast tanks and bilges. This oil covers the beach like asphalt, leaving it unusable by anyone.

In the final analysis, I doubt that we can ever eliminate the threat of oil pollution entirely. The opportunity for accident is simply too great. Of the ships involved in trade along the Atlantic coast, one vessel in every five carries oil as its principal cargo. As long as tankers and barges ply our coastal and inland waterways there will be navigational errors, faulty towlines, and untrained captains. New England, because she has no pipeline for the transportation of her oil products from the refineries located to the south, must rely on ships and barges to supply a large percentage of these petroleum products.

It might even be said that the threat of oil pollution is a byproduct of our own advancing industrial development. Nowhere is the demand for oil of every grade and variety greater than in the industrial areas which depend on our great port cities such as Boston, New York, Baltimore, Norfolk, Charleston, and many others. The ever-expanding demand for oil in these areas has increased the chance of accident and the possibility of disastrous oil spillage. The cost of cleaning up one barrel of the type of oil used to run a power turbine might run as high as $75. Most coastal tankers carry hundreds of thousands of barrels of oil. If we are to protect our environment against this undesirable side effect of industrial development, we must have strong oil pollution control provisions to handle the cleanup of this menace.

We surely cannot forbid the use of tankers and barges in the transportation of oil. However, we can regulate oil transportation in such a way as to make the constant threat of oil pollution a more manageable one. The provisions in S. 7 which provide for liability on vessels and onshore and offshore facilities to be based on a test of negligence with the burden of proof on the owner is a badly needed provision. By utilizing a concept of absolute liability, the possibility of damage and loss that would result from an oil spill is now as great a risk to the vessel owner as to the public.

With the enactment of title I of this bill, the Federal Government will have significant new authorization to step in and clean up oil spills after they have occurred. However, the Federal Government should simultaneously be considering other programs stressing prevention as much as S. 7 stresses cure. It is accepted that ships are equipped to move with adequate accuracy and general safety across the remote reaches of the high seas. The immediate concern is with the heavily traveled areas nearshore such as bays, channels and harbors of the Nation's convoluted coastline. There should be a drastic updating of effective standards and certification systems that govern licensing of officers and rating of crewmembers to assure that those responsible for the operating of vessels are properly trained for their work. Such standards and certification should be expanded to require special training for all personnel responsible for handling of oil and other hazardous materials, including the off-landing of vessels. Particular attention should be given to uniform standards, training, and certification of personnel on towboats not presently subject by law to Coast Guard licensing. It is presently possible to tow an oil barge through the narrow and sinuous Cape Cod Canal—an Army Corps of Engineers facility—without ever having been through be-

fore, even in daylight. A rigid system of certification should be a minimum for the use of any Government owned or operated facility such as the Cape Cod Canal.

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The use of sea lanes for traffic routing is a major step toward reducing the risks of collisions in congested areas. Such lanes are already in use around most of our major ports. Particular efforts should be made to extend traffic patterns to all ports receiving appreciable amounts of oil.

Furthermore, substantial research is needed to determine the feasibility of some form of shorebased guidance system to promote safe movement of shipping. Such a "sea traffic control system" could be similar to our present air traffic control system which is operated by the Federal Aviation Administration. This system could reserve special lanes for use by ships or barges transporting hazardous substances such as oil.

Work is already underway on some of the provisions I have mentioned. For instance, the House is today holding hearings on the licensing of towboat captains. The fight against oil pollution will not and should not stop with the passage of S. 7. All aspects of this problem must be given the closest scrutiny.

S. 7 is a vital step in the direction of reducing the threat of oil pollution. It effectively underscores that responsibility for clean water does not reside solely with the Federal Water Pollution Control Water Administration, but rather it belongs with every agency of the Federal Government. Mr. President, I am pleased to support S. 7.

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The Senate resumed the consideration of the bill (S. 7) to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

Mr. MUSKIE. Mr. President, there are other matters involving the water pollution control provisions of the bill which will be discussed later in the afternoon, but at this moment I understand we will turn to the consideration of an amendment to be offered by the distinguished Senator from Delaware (Mr. WILLIAMS) involving a matter in which the distinguished Senator from North Carolina (Mr. JORDAN) is interested.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

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Mr. WILLIAMS of Delaware. I would like to ask a question relating to title III, which begins at the bottom of page 80 of the bill and is entitled "Property Acquisitions."

I am not raising any question of germaneness; but would the Senator explain what the construction of a new Senate Office Building has to do with water and air pollution? I know our procedures are sometimes strange, but what is the relationship between the two subjects? Why are they tied together?

Mr. MUSKIE. May I say that substantively there is none. I think the Senator from North Carolina (Mr. JORDAN) is in a better position to explain how it happens to be here.

May I add that the problem of space for Senators is a pressing one. I know the Senator from North Carolina is more aware of it than I. When he posed to me and to the committee the proposal to include this provision in the bill, I told him I would agree to it, provided it was made clear to the Senate that it was here, that no one would be taken by surprise, that the Senate would have a full opportunity to consider it, and that there would be no effort to try to give it a quiet ride through the Senate. The Senator from North Carolina agreed to that.

Mr. WILLIAMS of Delaware. The reason I raised the question is that there are many who are in favor of the air and water pollution bill itself, but we question the wisdom of attaching a rider to it that we would oppose. I am wondering if this is not a method of getting a

free ride on a bill for a measure that could not pass on its own merits.

As to the argument being made on the need for more space, there are two ways of approaching that problem. One is by the more expensive way of constructing another building. Another way, which would be more constructive, would be to cut back on some of the overstaffed subcommittees. A Senator can hardly get in and out of his office because of the number of subcommittees. The idea that the Senate should have enough subcommittees so that every Member can be a chairman results in Members almost being run by the staffs.

I remember when I came here 23 years ago our committees, subcommittees, and Senators were all in one building. Since that time we have had another building. Now it is proposed to have a third. Let us face it, the Senate committees are overstaffed. I doubt if any Senator can name the subcommittees even on his own committee, there are so many of them.

The subcommittees are so overstaffed and overcrowded that they crowd the Senate floor. Ofttimes we can hardly get in the Senate because it is so overcrowded with staff members.

In order to check this inflationary spiral we are proposing the repeal of the 7 percent investment credit to encourage private industry to cut back on plant expansion, and the President of the United States, by Executive order, has called on State and local governments and all Government agencies to roll back construction of new projects by 75 percent in order to relieve some of the inflationary pressure. I just wonder if we in the Senate are setting the proper example. In the light of all the requests to private industry and all agencies of Government can we say to them, "We meant for all of you to cooperate; but ourselves—we want a new building."

Would it not be better to postpone and consider this matter at a later time?

Mr. MUSKIE. I think the Senator has served a useful purpose by giving the Members of the Senate an opportunity to make that decision.

Mr. WILLIAMS of Delaware. I will just make this innocent observation. Perhaps there is some relationship between the proposal for a new Senate Office Building and air pollution, so I will not raise a point its not being germane to the pollution problem. I await with interest to hear the explanation.

Mr. MUSKIE. I do not know of any relation, I will say to the Senator.

Mr. WILLIAMS of Delaware. I would not suggest there is—not for the moment.

Mr. SCOTT. Mr. President, I am extremely delighted that the Public Works Committee in reporting this most vital Water Quality Improvement Act of 1969 has seen fit to incorporate a most important amendment which would provide for the training of waste treatment plant operators.

I suggested this amendment, Mr. President, because of the magnitude of need and the critical shortage of trained operators in water pollution control plants throughout the Nation. I was particularly pleased that the distinguished Air and Water Pollution Control Subcommittee chairman, Senator MUSKIE, and the ranking Republican member, Senator BOGGS, incorporated my amendment. I would also like to thank the distinguished chairman of the Public Works Committee, Senator RANDOLPH, and Senator COOPER, the ranking member, as well as the other Senators on the Public Works Committee.

As I have stated before, it is estimated that Federal, State, and local governments will spend $8 billion by 1974 for new and improved water pollution control facilities. However, no adequate provision has been made to train personnel to run these plants once they are constructed.

There is a critical shortage of approximately 23,000 trained operators in water pollution control plants throughout the Nation. Many of our existing waste treatment plants are operating well below their reasonable potential, thereby

causing unnecessary pollution of our streams and rivers. If the struggle for clean water is to be won, we must improve the skills of existing operators and add substantially to their numbers.

The magnitude of the need can be seen by looking at the situation in Pennsylvania. Pennsylvania has 307 square miles of inland waters. It has a total of 460 water treatment facilities and 1,142 communities with sewer systems. If each of these 1,142 communities, and each of the 460 treatment plants employed one operator—and obviously some employ many more—you can quickly estimate the number of operators who are involved in one way or another with pollution control. Many of the existing operators will need additional training as plants are modernized and new treatment procedures initiated. When you add to this number the 665 communities in Pennsylvania that have no treatment facilities, but will be acquiring plants in the near future, you can see the amount of training which is needed for efficient operation of pollution control facilities. That is only one State.

It was to meet this need that I offered this amendment to the water quality improvement bill—S. 7—which would establish a 2-year pilot program for the training of plant operators. It would provide $5 million the first year, and $7½ million the second, to train about 9,000 men.

If my pilot program is successful, I foresee that training will be an integral part of all future pollution control planning. I quote from the Public Works Committee report:

> The committee was pleased to receive and include in the bill a proposal by Senator Hugh Scott to authorize pilot programs for training plant operators and technicians The committee recognizes that a great deal more than a pilot program will be required if Federal funds for sewage treatment plant construction are to be invested wisely, but believes operating experience with a pilot program would provide a sound base for expanded legislation in the near future.

The pilot program which I have introduced is the first step in ensuring that our Nation's antipollution efforts are backed up by well-trained personnel. I will study closely the operation of this training program, and I will be ready with followup legislation to expand it so that clean streams will become a reality, not a wish.

Again, I thank the committee for the favorable consideration of this amendment.

Mr. MUSKIE. In response to the distinguished Senator from Pennsylvania, I would like to express to him the appreciation of the subcommittee for his valuable contribution to the Water Quality Improvement Act. The amendment to provide for a pilot program of manpower training for waste treatment plant operators is an excellent example of how one program can accomplish two vital objectives.

First, this provision recognizes that the operation and maintenance of the Nation's waste treatment facilities will be only as good as the competence of the operators. Initial findings of the General Accounting Office have revealed that this competence has not been of the level necessary for the program's success. I hope that this pilot program, properly administered, will help correct this situation.

Second, this program will provide valuable job opportunities for many of the disadvantaged citizens in our Nation's metropolitan areas. By training the disadvantaged in a field which requires great technical expertise, this program should be a source of vital upward mobility for many Americans in the Nation's workforce.

I thank the Senator from Pennsylvania.

Mr. JORDAN of North Carolina. Mr. President, at the very outset, with re-

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spect to title III of the bill, I want to make it perfectly clear that this proposal was passed last year and sent to the

House. It was not acted on, and it died in the House.

I want to make it perfectly clear that the bill before us does not contemplate building anything. I want to get that straight. I want to get it straight on the record. The Committee on Public Works does not contemplate building anything. So that part of the colloquy which we have had so far does not belong in this debate whatsoever.

The bill proposes to buy the land adjoining the New Senate Office Building, where the Capitol Hill apartment house is and where the Schotts Court apartment is now located. The purpose of the bill is to provide room, without building anything.

The Capitol Hill apartment building is approximately 30 feet, on C Street, from the New Senate Office Building, and completely in line. The Architect of the Capitol has stated, after exhaustive surveys, that a ramp could very easily and very inexpensively be built from the New Senate Office Building into that building. There are 58 apartments in the building. It has elevators, it has air conditioning, and it meets the fire standards of the District of Columbia. We could almost immediately get possession of the building after it is acquired, and move several of these subcommittees that the Senator has spoken of over into that building.

So we are not contemplating building anything. The Schotts Court apartments, which are there, we would contemplate still be rented, to the same renters if they want to rent them, and the Government would collect the rent. The sole purpose of this provision is to get some more room.

Last year, before I authored S. 2484, I sent out a letter to every Senator and to the chairman of every committee and every subcommittee, asking how much space, if any, they needed, because it is my unpleasant duty, as the chairman of the Senate Rules Committee, to allot space.

You cannot allot space you do not have. I do not think there is a day that some Senator does not come to me needing space. I know they do need it. Right now, we have one Senator who has part of his offices in the Old Office Building and part of them in the New Building. There is no place to put him otherwise. That is not very convenient. I know he is crowded, and so are the rest of us.

Mr. President, I made a little note here this morning, or had it made for me, to say why, in my opinion and in the opinion of a great many others, it is necessary for Senators to have bigger staffs today than they had when I came here something over 11 years ago. I had a survey made in my own office some time ago to see what had happened to the correspondence in my office. I found, to my amazement, that my correspondence had increased about tenfold in the last 10 years.

This morning I have had four people come to see me—some of them I saw out here, and some of them in the office—about the tax bill which we have before us right now. I am sure the same thing is happening to every other Senator. People are interested in it; they have problems, they write us about them, and we have to try to get the answers and write to them. Mr. President, it takes help to do that.

Thirty-eight new agencies have been created in the last 10 years, which have generated mail, I do not know how many times over what it had been. On the gun bill, for example, my own office handled more than 50,000 letters on that one issue.

It takes people to do that. Every day something new comes along which creates a lot of new correspondence. I do not know how much mail the Elementary-Secondary School Act has created, but it has been substantial. There is no use for me to list all these 38 agencies; other Senators know them as well as I do. Incidentally, a great many of those agencies have had big buildings built for them downtown, with a hun-

dred times more room than we anticipate getting out of this old apartment building.

This building and the land should have been bought at the time we acquired the land to build the New Senate Office Building. Senators at that time who are acquainted with the situation said we should have bought it all at that time, because we could have gotten it much cheaper than we can today. I emphasize, Mr. President, that we are not contemplating building anything. But we want to get this building, because we need it now. It is an economical way to provide space for Senators who badly need the space.

In response to my inquiry, 72 Senators wrote me that they needed space, and 25 chairmen of full committees and subcommittees are asking for space. I held hearings, and they came before the committee and testified. Some Senators now present on the floor testified before that committee.

One Senator came to me just the other day and asked, "When are you going to get me some more room?"

I said, "Vote for this bill, and maybe we can get it for you."

Mr. President, that is why we should buy it now.

Mr. WILLIAMS of Delaware. Mr. President, the Senator says that if the space is not needed now it soon will be. If the Senate does as it has in the past, we would no doubt create more subcommittees to fill the offices in short order.

My point is that the Senate already has more subcommittees now then Senators can supervise. The late Senator from Tennessee, Mr. Kefauver, 20 years ago created a committee which was to extend for 2 years, to investigate juvenile delinquency.

That committee is still in existence. The Senator has passed on, but the committee is still living as a monument. I do not know of a single subcommittee that once having been started, no matter what its function, has ever been terminated. Some Senator the other day suggested that we ought to have a subcommittee to determine how many subcommittees we have. It may be a good idea; I am sure no one knows.

But really, at a time when we are repealing the 7 percent investment tax credit, when we are suggesting to all the rest of the country that this is not a time to construct new buildings, we ought to be setting the example. The argument that we are not going to build a new building now does not impress me; if I know the Senate, once we buy the land there will be a building started on it in short order. The same argument was made a few years ago when the Senate decided to get the land for the second office building. It was said then, "Oh, all we are going to do is buy the land, and the building will take care of itself later." It did; the building is there.

Frankly, Mr. President, I do not think the Senate needs the space at this time. I think the functioning of the Senate would be much more efficient if we trim it down to size by eliminating many of the present subcommittees. I do not see why every Member of the Senate has to be a subcommittee chairman. If that is the only way he can enhance his prestige perhaps he does not deserve recognition.

Why not get rid of some of these subcommittees? Then Senators would have more time to spend on the floor of the Senate and handle the Senate's business.

Moreover, this proposal should not be a part of the air and water pollution bill. If it cannot ride on its own merits it should be rejected.

Mr. President, I send to the desk an amendment to delete that section from the bill, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Delaware (Mr. WILLIAMS) proposes an amendment, as follows:

On page 80, beginning with line 22, strike out all down to and including line 3 on page 83.

The language proposed to be stricken is as follows:

TITLE III—PROPERTY ACQUISITION

SEC. 301. (a) (1) The Architect of the Capitol, under the direction of the Senate Office Building Commission, is hereby authorized to acquire on behalf of the United States, in addition to the real property heretofore acquired as a site for an additional office building for the United States Senate under the provisions of the Second Deficiency Appropriations Act, 1948, approved June 25, 1948 (62 Stat. 1028) and Public Law 85-591, approved August 6, 1958 (72 Stat. 495-496), by purchase, condemnation, transfer, or otherwise, for purposes of extension of such site, all publicly, or privately owned property contained in lots 863, 864, 892, 893, 894, and 905 in said square 725 in the District of Columbia, and all alleys or parts of alleys and streets contained within the curblines surrounding such square, as such square appears on the records in the Office of the Surveyor of the District of Columbia as of the date of enactment of this Act.

(2) Any proceeding for condemnation brought under paragraph (1) shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351-1368).

(3) Notwithstanding any other provision of law, any real property owned by the United States and any alleys or parts of alleys and streets contained within the curblines surrounding square 725 shall, upon request of the Architect of the Capitol, made with the approval of the Senate Office Building Commission, be transferred to the jurisdiction and control of the Architect of the Capitol, and any alleys or parts of alleys or streets contained within the curblines of said square

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shall be closed and vacated by the Commissioner of the District of Columbia in accordance with any request therefor made by the Architect of the Capitol with the approval of such Commission.

(4) Upon acquisition of any real property pursuant to this section, the Architect of the Capitol, when directed by the Senate Office Building Commission to so act, is authorized to provide for the demolition and/or removal of any buildings or other structures on, or constituting a part of, such property and, pending demolition, to use the property for Government purposes or to lease any or all of such property for such periods and under such terms and conditions as he may deem most advantageous to the United States and to incur any necessary expenses in connection therewith.

(5) The jurisdiction of the Capitol Police shall extend over any real property acquired under this section and such property shall become a part of the United States Capitol Grounds.

(b) For carrying out the purposes of this section, there is hereby authorized to be appropriated $1,250,000. The Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized to enter into contracts and to make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the purposes of this section.

Mr. WILLIAMS of Delaware. Mr. President, there is no need to debate this issue for any length of time. Senators are well aware of what is involved. It is, to state the matter simply, Does the Senate wish to exclude itself from the rules we have laid down in calling on industry to postpone its expansion plans at this time in order to combat inflation? The Senate has called upon all State agencies to delay new public works construction. The question is, does the Senate wish to exempt itself from this rule? As one Member of the Senate my answer is, "No."

I will ask for a yea-and-nay vote on this amendment, but I shall have to suggest the absence of a quorum to obtain a sufficient second to ask for the yeas and nays. I am willing to withhold that request now if the Senator from North Carolina wishes to speak further at this time.

Mr. JORDAN of North Carolina. Mr. President, I only wish to say, for the benefit of the Senator from Delaware and everyone else who is present, that I have nothing to do with the creating of subcommittees. I did not create a single one of them, so I have no power to say we are going to get rid of them. That is something I have nothing to do with.

All I know is that they come to the Committee on Rules and ask for space. I try to provide it for them, because they are here, and I do not know what else to do. This is the only way we can do it. We do not want to build a building at all; there is nothing in the bill about building a building. All we want is more space.

Mr. WILLIAMS of Delaware. Mr.

President, the Senator from North Carolina is correct; he is only one Member of the Senate. He says he has no authority to get rid of subcommittees, but I might point out that he underestimates his position. It is his committee that approves the money for these subcommittees, and without the money the subcommittees would quickly vanish. As long as the Senator's committee makes the funds available, I am sure the subcommittees will flourish and proliferate.

I know that every year the Senator from Louisiana, myself, and a few other Senators have pointed out how much it is costing just to staff these subcommittees. That debate has been carried on by some of us over a period of years, but we have always been in the minority. Saving money is not too popular on the Potomac front.

It will be renewed again, and even to a greater extent, I suppose, next year, if the bill passes, because there is no doubt in my mind that, if it passes, the space will soon be staffed with more and more subcommittees. I think they might be designated numerically—1, 2, 3, and 4, because they will have run out of letters of the alphabet and also out of names. I still say that this is not the time to take such action.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the amendment of the Senator from Delaware (Mr. WILLIAMS).

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the distinguished Senator from Delaware. The yeas and nays have been ordered.

Mr. JORDAN of North Carolina. I am ready to proceed to the vote.

Mr. WILLIAMS of Delaware. Mr. President, I understand that the yeas and nays have been ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. WILLIAMS of Delaware. Mr. President, I am perfectly willing to proceed to vote. The issue is very clear. This is an air and water pollution bill, supposedly, and I fail to see any connection as to why one section should be set aside to build a third Senate Office Building. The argument that it does not provide the building is immaterial. I know that if the Senate buys the land, the building will be built; and if it is not going to be built, why proceed with the procurement of the land?

At a time when we are asking private industry to cut back their expansion plans, at a time when all other public works projects are being cut back, I do not think the Senate ought to exempt itself from the rules laid down for all the people.

I hope the amendment will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. KENNEDY. I announce that the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), and the Senator from New Jersey (Mr. WILLIAMS) are absent on official business.

I further announce that, if present and voting the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New Mexico (Mr. MONTOYA) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBEE) is necessarily absent and, if present and voting, would vote "nay."

The result was announced—yeas 25, nays 62, as follows:

* * * * *

So the amendment of Mr. WILLIAMS of Delaware was rejected.

Mr. MUSKIE. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. JORDAN of North Carolina. Mr. President, I move to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order—

Mr. MANSFIELD. Mr. President, I ask unanimous consent that in view of an arrangement which has been made between the Senator in charge of the bill and the Senator from Idaho (Mr. CHURCH), the order of business be delayed until final passage of the pending bill.

Mr. CHURCH. And that it be expedited as much as possible.

Mr. MANSFIELD. Of course.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I think we have worked out all the amendments and the colloquies so that we may be able to proceed to final passage within 10 minutes.

At this time, I ask for the yeas and nays on final passage.

Mr. President, I withdraw that.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The amendment offered by Mr. KENNEDY is as follows:

On page 72 strike out lines one through eight and insert in lieu thereof the following:

"(1) the Secretary shall

"(A) engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to the removal of oil from any waters and to the prevention and control of oil pollution,

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

"(C) by June 30, 1970, develop and publish standardized specifications and other technical information on the various chemical compounds used as dispersants or emulsifiers in the control of oil spills.

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

Mr. KENNEDY. Mr. President, this amendment to S. 7 has as its purpose the strengthening of the research program authorized by section 104 of this bill.

My reason for offering this amendment is to reemphasize the intent of the Congress in offering all possible assistance to our State and local governments faced with major oil-spill disasters.

Section 104 of this bill amends section 5 of the Federal Water Pollution Control Act. Section 5, which authorizes the various research programs in water pollution control, would be amended to include a similar authorization for research into the prevention and control of oil pollution. In its most thorough report on S. 7, the Committee on Public Works clearly states its intention that research in this field, "be expedited and should receive priority in planning future budget requests." The report further states:

The Committee believes that developing effective techniques to deal with oil spills and making those techniques readily available at appropriate locations throughout the country is of the highest priority.

The complexity of the technical problems involved in the cleanup of accidental oil spills requires us to launch a major research effort into the technical aspects of cleanup operations. There are, today, over 2,400 chemicals—dispersants, emulsifiers, gelling agents, floating absorbents—whose properties

suggest their potential use in oil spill cleanup efforts. However, the hard lesson of experience—learned during the *Torrey Canyon*, *Ocean Eagle*, Santa Barbara, and other serious spills—is that the injudicious application of chemicals can bring greater damage to our fish, and other natural resources than the oil itself. We need guidelines and standards for the use of these chemicals. We need to have immediate access to information about these chemicals We need to insist that anyone involved in the cleanup of an oil spill be aware of the hazards and crucial disadvantages of the casual application of some types of chemicals.

Subsection (1) of section 104 grants general authority to the Department of the Interior to conduct the research into oil spill cleanups. However, it does not require the Secretary to set specific standards. My amendment would require the Secretary to develop and publish standardized specifications and other technical information on these chemicals by June 30, 1970. This would give our State and local officials the information they need to bring the full arsenal of chemical agents to bear on oil spills of various types, with minimum damage to fish and wildlife.

There is ample evidence that we are not moving fast enough in this area. Certainly, the interval between the San Juan spill and the Santa Barbara spill was significant enough to permit the completion of substantial research. But, when we were faced with the Santa Barbara incident, the Interior Department had no further knowledge about chemicals at its disposal than it did 11 months earlier and had to delay cleanup efforts until determination on chemicals could be made.

By setting a deadline of June 30, 1970, we guarantee our coastal communities that the necessary research will be undertaken immediately, and that it will be available to them in the case of future, potentially disastrous, spills. We also insure that the intent of the Congress in this matter will be carried out by the Department of the Interior without delay.

Let me take this opportunity to commend, again, the committee for its fine and responsible work, and let me urge the adoption of this amendment.

Mr. President, in conclusion, I think the amendment is needed. We have seen that for too long the Department has failed to issue specifications and regulations. I think it is a reasonable time for the Secretary to establish those standards and specifications. I am hopeful the amendment will be agreed to.

Mr. MUSKIE. Mr. President, may I say, in response, that I have discussed the amendment with the distinguished Senator from Massachusetts; that the request for the mandate included in the amendment is within the general authority of the Secretary at the present time; and I think this specific mandate is wholly appropriate. I am willing to accept the amendment. I urge the adoption of the amendment by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The committee amendment is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment, in the form of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Committee on Public Works be discharged from further consideration of H.R. 4148.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4148.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for

other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MUSKIE. Mr. President, I move to strike out all after the enacting clause in H.R. 4148 and insert in lieu thereof the language of S. 7 as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. JAVITS. The bill will now contain the same manpower provisions as the Senate bill did. Is that correct?

Mr. MUSKIE. The Senator is correct.

Mr. JAVITS. I had understood from the Senator and he had given me assurances that in the implementation of these new manpower provisions every consideration would be given to the unemployables and those who are disadvantaged in terms of employment. I trust that the Secretary, in prescribing the terms and conditions of his agreements with public and private agencies would ensure that every effort would be made to provide opportunities for such persons.

Mr. MUSKIE. That is right. We discussed it with the distinguished minority leader. I agree that this is a very appropriate program to be guided by those considerations.

Mr. SCOTT. Mr. President, if the Senator will yield further, I appreciate the courtesy of the distinguished Senator from Maine. This was an amendment of mine, in which I had a great interest. I am most appreciative that it is being given consideration.

Mr. MUSKIE. I thank my colleague.

Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, our American society has finally come to recognize and to deal with an emerging national crisis: survival in the midst of a polluted environment. The clamor for survival has spread from a handful of conservationists to an ever-increasing number of Americans. We so often seem preoccupied with the problems which are exclusively urban in their effect. But environmental quality concerns us all because it affects—indeed it threatens—us all. Mr. President, we have reached the point, I believe, where the enhancement of environmental quality must be a major national goal.

Now that we have reached this point, we must look ahead to our needs for future legislation, as well as the direction and speed of Government administration of existing laws. The sacrifices, the

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plans, the strategy that we are to pursue to reach the goal of cleaning up this country's waterways must be clearly defined. I submit that the bill which we are considering today makes significant advances in providing some of these much-needed and long-awaited answers. But, as encouraged as I am with this current effort, let me stress that it is only a beginning in our fight against the pollution of our environment.

The bill before us has numerous advantages in preparing us to fight the pollution battles. It lays down rules for dealing with oil spill catastrophes; it establishes standards for marine sewage discharges from vessels; it requires Federal licensees and permittees to comply with water quality standards; it provides for the identification, designation, and cleanup of hazardous substances other than oil; and it permits extended research authorizations, official encourage-

ment, and development of an overall labor force trained to assist in the elimination of problems of operation and maintenance of pollution abatement equipment.

Of equal importance, the bill creates the Office of Environmental Quality. The Office will be primarily concerned with providing for representation of environmental interests in the numerous and varied policymaking forums across this country, both public and private. It is heartening that in the last few years there has occurred a new emphasis on ecology in the management of our natural resources. Failure in the past to give warranted attention to the interrelations between living organisms and their environment in the development and use of resources has had unfortunate, often disastrous, consequences. The creation of this Office of Environmental Quality will acknowledge Congress' new pledge to a "national policy of enhancement of environmental quality, a policy based on the concept that man and his environment are interrelated and that a quality environment is necessary to the improvement of living standards for all men."

Mr. President, I would suggest that this new Office is not an attempt to skirt the real issues but is rather an important, necessary means of filling a void, and providing a voice that too long has gone either inadequately represented or not represented at all.

In addition to the establishment of the Office of Environmental Quality, I am very enthusiastic that this bill gives recognition to some of the critical problems we are encountering in the Great Lakes. Nearly 30 million persons—15 percent of the Nation's inhabitants—live in the Great Lakes basin. These lakes supply this great population in America's heartland with water, food, transportation of raw materials, and manufactured goods, and outdoor recreation. But the pollution problems with which the citizens of this region must now contend are notorious. DDT is destroying the marine life in Lake Michigan, pollution is choking Lake Erie, industrial wastes threaten Lake Superior, algae and pesticides assault Lake Ontario, and the pollution of Lake Michigan and the industrial wastes of Saginaw Bay spill into Lake Huron. The $20 million authorized by this bill to study the pollution problems of the Great Lakes is a good beginning, though, obviously, it, too, is only a beginning. But it is a step we must take now in the war against pollution.

Mr. President, our thousands of rivers and lakes are suffering from the grave threat of pollution. The question is no longer whether we should abate pollution; rather, the question is how much time remains for us to save our environment. The bill now under consideration provides a beginning to our water cleanup effort. I commend the committee on its fine work and urge my colleagues to vote in favor of this bill.

Mr. BIBLE. Mr. President, I rise in support of the bill.

The Water Quality Improvement Act and the Environmental Quality Improvement Act embodied in this legislation are vitally needed. It has been well said that of the many threats facing this Nation and all of civilization today none is more alarming than the deteriorating quality of the natural environment in which we must live and work.

Our Nation has reached unsurpassed heights of technological and material progress. We have achieved a standard of living undreamed of at the turn of the century, and unmatched anywhere else on the planet In our search for economic advancement and the comforts and convenience of a good life for all our people we have marshaled our natural resources and technological know-how with unparalleled sophistication. We stand as the economic wonder of the world.

I would not have it otherwise. But I am concerned—and all thinking Americans are concerned—over the impact our growth has had on our irreplaceable water resources, the air we breathe, our

forests, and our grasslands. We have imposed too harshly on nature's bounty. We have taken our rivers and lakes for granted. We have ignored or overestimated their limited capacity to dilute and assimilate waste. Factories and powerplants belch their smoke and the life-giving air in our cities is dangerously smog laden. Industrial wastes and raw or poorly treated sewage has fouled our rivers, and endangered the very existence of many of our major fresh water lakes.

Lake Tahoe, which is shared by my own State of Nevada and by California, is without question one of America's most highly prized natural assets. It is renowned for its scenic beauty and pristine clarity and purity.

This beautiful lake was able to resist pollution when human activity began accelerating as a result of settlement and early logging operations, but it is no match for the demands of modern man.

Recent years have seen explosive growth and development throughout the Tahoe Basin and along the lake shore. New highways and the postwar boom in tourism and outdoor recreation have changed Lake Tahoe from a quiet summer resort to a year-round major recreation area.

Rapid population and commercial growth has posed a serious threat to the Tahoe Basin. Ominous signs of water pollution are becoming all too evident. Not only the scenic beauty of the region but the very quality of its natural environment is now at stake.

In southern Nevada, the Lake Mead National Recreation Area is another of our endangered resources. Lake Mead is one of the most attractive, heavily used recreational areas in the United States. Its location near Las Vegas places it in one of the fastest growing metropolitan areas in the Nation, and this invaluable resource is feeling the pressures that come with increasing population and industrial densities. Sewage effluent and industrial wastes from the Las Vegas Valley are a contributing cause. They introduce high concentrations of plant nutrients into the lake and tributary waters. The result has been a gradual proliferation of aquatic algae, which consumes the oxygen in the water and is the prelude to stagnation and the ultimate death of irreplaceable water resources.

Fortunately, we in Nevada are only too well aware of these threats to our natural resources. We are not satisfied with the progress that is being made. In 1967, I offered a four-point program designed to coordinate the efforts of the Federal, State, and local governments to combat the Lake Mead problem. As a result, a local level interagency task force was established to go into the matter in depth and propose effective measures. The Federal Water Pollution Control Administration has provided valuable support. Some—but not enough—progress has been made. The pollution has not been abated, and I will not be satisfied until the deterioration of Lake Mead's water quality has ended.

Regarding Lake Tahoe, both Nevada and California have taken major steps to bring order and good planning to the development of the Tahoe Basin. Both have approved a regional planning compact that will establish ground rules for future development—standards that will see to the protection of the public interest in preserving the beauty and purity of the lake and basin for generations of Americans to come.

Early this session I introduced legislation to grant Congress' consent to this regional compact. I have pressed for action, but delays have been encountered due to the failure of the administration until recently to submit its report to the Judiciary Committee. This is essential legislation. The States are ready and anxious to get on with the business of protecting this unique resource. The Federal Government's interest would be fully protected under the compact, and I have high hopes the committee's schedule will permit the measure to be re-

ported favorably to the Senate very soon.

Mr. President, I have referred to Nevada's water pollution problems. They typify problems faced by virtually every State in the Union—problems that demand the utmost in effort at all levels of government if we are to leave other than a legacy of waste for the future.

I know of nothing that should be of more fundamental concern to the Congress than the perils of pollution of our environment. What we do in this area

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we do to assure our children and grandchildren the quality of life our forebears enjoyed, but which now stands impaired.

The legislation now before the Senate is another in a line of measures enacted over recent years bespeaking the Nation's concern. I refer to the Water Pollution Control Act Amendments of 1963 and 1965, the Solid Waste Disposal Act of 1965, the Clean Water Restoration Act of 1966, and the Air Quality Act of 1967. I have supported these and every meaningful effort to provide for the preservation, protection, and restoration of our endangered resources.

Title I is a further step in the right direction. It will provide authority to establish Federal standards for the performance of marine sanitation devices to control sewage discharges from vessels. Waste from watercraft has a serious impact on the water quality of our bays, lakes, harbors, and marinas where vessels are concentrated. Both Lake Tahoe and Lake Mead will benefit from this.

Oil pollution is a major source of concern—particularly in light of the Santa Barbara Channel problem and the spectacular spills from the *Torrey Canyon* and the *Ocean Eagle*. The bill properly provides centralized authority to clean up oil spills regardless of the source, and for recovery of costs when the cleanup is done by the Federal Government.

Very importantly, title I of S. 7 seeks to ensure compliance with water quality standards by Federal agencies, and by activities conducted under licenses and permits granted by the Federal Government. It requires that the Government itself, and those it licenses begin to consider the environmental aspects of their programs as a matter of first priority. The bill would require preconstruction water quality planning, and seeks to eliminate Federal participation in activities that are at odds with our national water quality programs.

I think this aspect of the bill is long overdue. We can hardly tolerate Federal oversight of water quality standards we have urged on the States, cities, and communities all across the Nation.

The bill also provides for the identification, designation, and cleanup of discharges of hazardous substances other than oil that foul and pollute our water resources.

I particularly applaud the bill's special attention to the problems confronting our fresh water lakes. As the committee has pointed out in its report, at the present time there is no research facility anywhere exclusively devoted to basic and applied research in the causes and cures of lake pollution. Individual research is being conducted on various facets of the problem, but we lack a concentrated, coordinated attack.

Such an all-out campaign to overcome and put a stop to the degradation of our lake resources—in Nevada, in the Great Lakes, and throughout the Nation—is sorely needed.

Lake eutrophication research—so important if we are to overcome the problems facing the Great Lakes and others such as Lake Mead and Lake Tahoe would be pressed forward. I cannot overstress the importance of this kind of work.

New emphasis would also be placed on finding more effective means of removing oil pollution and combatting the acid-mine drainage that has so long impaired waterways in mining regions throughout the country. I think the report on the bill does an excellent job of reviewing the problems we face in each

of these areas. It goes almost without saying that we must bend every effort toward overcoming these critical problems.

Mr. President, I also applaud the objective of title II of the present bill to provide the President with the management capability needed to bring coherence and consistency into the environmental activities of the Federal Government. Certainly Federal activities and federally assisted activities have a major impact on the environment.

Title II very properly requires that all federally supported public works projects and programs be planned and implemented in full recognition of their ecological impact.

The establishment of a full-time council or office on environmental affairs to review and analyze the administration of all environmental policies, programs, and activities of the Federal Government is long overdue. These problems cannot be handled effectively on an ad hoc or part-time basis. They require the kind of independent continuous high-level attention envisaged by title II of this legislation. An office of environmental quality—independent of other Federal agencies—is needed to make available to the President the substantive review and analysis of all matters relating to the environment.

Mr. President, I commend the committee for bringing forward an excellent bill, and urge its approval by the Senate

Mr. HART. Mr. President, as we prepare to vote I wish to applaud the inclusion in this bill of the Great Lakes demonstration section, section 15, which authorizes $20 million for a concentrated attack on pollution in the Great Lakes. This is an absolutely critical item for our region, and indeed for the health and well-being of the whole country. For the sake of this section alone, S. 7 is deserving of our favorable action.

Mr. KENNEDY. Mr. President, one of the hard lessons of this decade has been the realization that the unchecked application of technology has resulted in the gradual and continuing destruction of our natural resources. And, although the Congress and the Nation have gone on record time and again as opposed to further despoilation of our environment, it continues today. For we continue to allow the pollution of our air and water resources at a rate not significantly less than that tolerated 5 or 10 years ago.

The only hope we have for the restoration of the resources we have denied to future generations of Americans is a true commitment to that restoration—a commitment of action, not of rhetoric; of funds, not of promises. We must launch an attack on every front—on air pollution; on water pollution; on solid waste disposal; and on thermal pollution. And we must do it now.

Since 1960, we in the Congress have taken steps to insure that such a commitment is made. We have enacted legislation to set standards, inaugurate programs, conduct research, and establish a good Federal-State partnership in a national pollution control effort. Since 1963, we have enacted the Clean Air Act, the Air Quality Act, the Water Quality Act, and the Clean Waters Restoration Act—to cite but a few of the major pieces of legislation designed to deal with the various aspects of this national disgrace. But we have not adequately funded any of the programs authorized in this legislation. To illustrate the current funding gap in this area, I ask unanimous consent that a chart, entitled "The Water Pollution Control Funding Gap," taken from the September issue of Nation's Cities, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, our failure to provide these necessary funds is a failure to respond to the demands of our citizens. A recent survey conducted by Newsweek magazine indicated that 56 percent of working Americans—taxpaying Americans—feel that we should allocate more funds to rid their

communities of air and water pollution. It is my hope that this Congress, as the last of this decade, will make a commitment of funds that will allow us to progress toward our goal of total elimination of existing pollution and control of the causes of future pollution.

Today the Senate considers S. 7, a bill to amend the Federal Water Pollution Control Act. This legislation is important and necessary. Its passage will go far to indicate our congressional intent to maintain and expand our program to erase the stigma of pollution from our national and coastal waters.

S. 7 is based, in large part, on similar legislation considered by the Congress last year—S. 3206. I share in the disappointment that S. 3206 was part of that session's unfinished business. But I commend the committee, its distinguished chairman, Mr. RANDOLPH, and the subcommittee and its honored chairman, Mr. MUSKIE, for not allowing its measures to remain as unfinished business. The bill they have reported to the Senate today is both comprehensive and farsighted.

It embodies the significant proposals of S. 3206 and introduces new language to deal with a problem of major national concern. The problem, brought to light this year at an all too alarming rate, is the increased incidence and the continual threat of accidental oil spills in our coastal waters.

It is this section of S. 7, Mr. President, section 12, on which I would like to comment. In recent years, and at an increased rate this past year, accidental oil spills have brought untold damage to our coastal waters and beaches and to the biological, marine, and bird life which inhabit these areas. Considerable and sometimes irreparable damage has also been done to the ecological balance of these waters. Only last month, in my own State of Massachusetts, another potentially tragic oil spill occurred. Dam-

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ages are still being investigated, but there is no question that they will be the most substantial inflicted to date in this area in terms of marine life. At the time of this most recent spill, I took the floor of the Senate to indicate my distress and to suggest possible measures and amendments to existing legislation to establish national policy and Federal responsibility in such matters. At that time, I most strongly urged further development of an interagency contingency plan; the requirement of a bonding mechanism for all vessels engaged in the ocean transport of oil cargoes; a liability requirement which would place the burden of proof of absence of negligence on the vessel owner or operator; and, finally, the development of a comprehensive research effort in the use of chemicals and other technology in spill cleanup efforts.

The work of the committee is again worthy of commendation in this regard. The comprehensive report on S. 7 indicates that, as a result of extensive hearings, section 12 was drafted to incorporate many of these measures.

This section, and other sections of S. 7, specifically direct the President to delegate responsibility for the administration of the provisions of this and all sections to the Federal agencies which have jurisdiction over the areas and waters involved. I would like to suggest, however, that the President direct these agencies to establish from among their personnel a board of advisers who are both technical and logistical experts in such matters to be ready to fly to the scene of a major spill as soon as possible after notification of occurrence. The Civil Aeronautics Board employs such a team to fly to the site of aircraft disasters to determine cause and to aid in the removal of debris from the site. This is a good program and one which I feel easily evidences its transferability to oil spill disasters.

Section 12 requires that owners of vessels engaged in the transport of oil establish and maintain evidence of financial responsibility. Although this meas-

ure is not as broad as one I intended to introduce, it is my determination that it is adequate and will be effective.

Liability standards as outlined in section 12 also satisfy my intention. Under the terms of this section, the burden of proof is placed directly on the vessel operator to prove absence of negligence on his part.

Section 104 of S. 7 amends section 5 of the Federal Water Pollution Control Act to authorize the Secretary of the Interior to broaden the research program authorized by the act to include the conduct of research into the removal of oil from our waters. It is my feeling that directives to the Secretary in this matter should be more specific. He should be directed to conduct specific research on the use of dispersants, floating absorbents, gelling agents, and other chemicals. He should also be directed to establish standards for such chemicals. Therefore, I will introduce an amendment to strengthen the research authorization of S. 7.

EXHIBIT 1

WATER POLLUTION CONTROL FUNDING GAP—AUTHORIZATIONS VERSUS ALLOCATIONS UNDER THE 1966 CLEAN WATERS RESTORATION ACT

[In millions]

States	1968		1969		1970		1968–70 funding gap total [1]			
	Authorized	Allocated	Authorized	Allocated	Authorized	Allocated	Total dollars authorized	Total dollars allocated	Total dollar gap	Percent not funded
Total	$450.0	$203.0	$700.0	$214.0	$1,000.0	$214.0	$2,150.0	$631.0	$1,519.0	70.7
Alabama	8.4	4.1	12.9	4.1	18.3	4.1	39.6	12.3	27.3	68.9
Alaska	1.2	.9	1.5	.9	1.9	.9	4.6	2.7	1.9	41.3
Arizona	3.8	2.0	5.6	2.1	7.8	2.1	17.2	6.2	11.0	64.0
Arkansas	5.2	2.9	7.6	2.8	10.6	2.8	23.4	8.5	14.9	63.7
California	35.3	14.6	56.9	14.9	82.8	14.0	175.0	44.4	130.6	74.6
Colorado	4.7	2.4	7.1	2.4	10.0	2.4	21.8	7.2	14.6	67.0
Connecticut	6.2	2.9	9.7	2.9	13.9	2.9	29.8	8.7	21.1	70.8
Delaware	1.6	1.1	2.3	1.1	3.0	1.1	6.9	3.3	3.6	52.2
District of Columbia	2.3	1.3	3.3	1.3	4.6	1.3	10.2	3.9	6.3	61.8
Florida	11.8	5.3	18.6	5.4	26.8	5.4	57.2	10.1	41.1	71.9
Georgia	9.8	4.6	15.1	4.6	21.6	4.6	46.5	13.8	32.7	70.3
Hawaii	2.2	1.4	3.0	1.3	4.1	1.4	9.3	4.1	5.2	55.9
Idaho	2.5	[2] .5	3.4	1.6	4.5	1.6	10.4	3.7	6.7	64.4
Illinois	22.9	9.6	36.7	9.8	53.4	9.8	113.0	29.2	83.8	74.2
Indiana	11.1	4.9	17.5	5.0	25.2	5.0	53.8	14.9	38.9	72.3
Iowa	6.9	3.3	10.7	3.3	15.3	3.3	32.9	9.9	23.0	69.9
Kansas	5.7	2.8	8.6	2.8	12.2	2.8	26.5	8.4	18.1	68.3
Kentucky	7.8	3.7	12.0	3.8	17.0	3.8	36.8	11.3	25.5	69.3
Louisiana	8.3	4.0	12.7	4.0	18.1	4.0	39.1	12.0	27.1	69.3
Maine	3.1	1.9	4.5	1.9	6.1	1.9	13.7	5.7	8.0	58.4
Maryland	7.5	3.5	11.8	3.6	17.0	3.6	36.3	10.7	25.6	70.5
Massachusetts	12.0	5.3	19.1	5.4	27.6	5.4	58.7	16.1	42.6	72.6
Michigan	18.0	7.7	28.7	7.8	41.6	7.8	88.3	23.3	65.0	73.6
Minnesota	8.4	3.9	13.1	3.9	18.7	3.9	40.2	11.7	28.5	70.9
Mississippi	6.2	3.4	9.2	3.4	12.8	3.4	28.2	10.2	18.0	63.8
Missouri	10.3	4.7	16.3	4.8	23.4	4.8	50.0	14.3	35.7	71.4
Montana	2.4	[2] .7	3.3	1.5	4.5	1.5	10.2	3.7	6.5	63.7
Nebraska	4.0	2.2	5.9	2.1	8.2	2.1	18.1	6.4	11.7	64.6
Nevada	1.2	.9	1.7	.9	2.2	1.0	5.1	2.8	2.3	45.1

EXHIBIT 1—Continued

WATER POLLUTION CONTROL FUNDING GAP—AUTHORIZATIONS VERSUS ALLOCATIONS UNDER THE 1966 CLEAN WATERS RESTORATION ACT

[in millions]

States	1968		1969		1970		1968–70 funding gap total [1]			
	Authorized	Allocated	Authorized	Allocated	Authorized	Allocated	Total dollars authorized	Total dollars allocated	Total dollar gap	Percent not funded
Total	$450.0	$203.0	$700.0	$214.0	$1,000.0	$214.0	$2,150.0	$631.0	$1,519.0	70.7
New Hampshire	2.2	1.4	3.0	1.4	4.0	1.4	9.2	4.2	5.0	54.3
New Jersey	14.0	6.1	22.4	6.2	32.4	6.2	68.8	18.5	50.3	73.1
New Mexico	3.1	[2] .7	4.4	1.9	6.0	2.1	13.5	4.7	8.8	65.2
New York	37.6	15.5	60.7	15.8	88.4	15.8	186.7	47.1	139.6	74.8
North Carolina	11.1	.52	17.4	5.2	24.9	5.1	53.4	15.5	37.9	71.0
North Dakota	2.3	[2] .3	3.3	1.6	4.3	1.6	9.9	3.5	6.4	64.6
Ohio	22.1	9.4	35.5	9.6	51.5	9.6	109.1	28.6	80.5	73.8
Oklahoma	6.1	3.1	9.3	3.1	13.2	3.1	28.6	9.3	19.3	67.5
Oregon	4.7	2.4	7.1	2.4	10.1	2.4	21.9	7.2	14.7	67.1
Pennsylvania	25.7	10.8	41.3	11.0	60.0	11.0	127.0	32.8	94.2	74.2
Rhode Island	2.7	1.6	3.9	1.6	5.3	1.6	11.9	4.8	7.1	59.7
South Carolina	6.5	3.4	9.7	3.4	13.7	3.3	29.9	10.1	19.8	66.2
South Dakota	2.5	[2] .3	3.5	1.7	4.6	1.8	10.6	3.8	6.8	64.2
Tennessee	9.0	4.3	13.9	4.3	19.8	4.3	42.7	12.9	29.8	69.8
Texas	22.0	9.4	35.2	9.6	51.0	9.6	108.2	28.6	79.6	73.6
Utah	2.9	[2] .7	4.1	1.8	5.6	1.8	12.6	4.3	8.3	65.9
Vermont	1.8	1.4	2.4	1.3	3.0	1.3	7.2	4.0	3.2	44.4
Virginia	9.7	4.5	15.1	4.5	21.7	4.5	46.5	13.5	33.0	71.0
Washington	7.0	3.3	11.0	3.3	15.7	3.3	33.7	9.9	23.8	70.6
West Virginia	5.2	2.7	7.8	2.8	10.8	2.8	23.8	8.3	15.5	65.1
Wisconsin	9.5	4.4	15.0	4.4	21.5	4.4	46.0	13.2	32.8	71.3
Wyoming	1.5	[2] .005	2.1	1.2	2.6	1.2	6.2	2.4	3.8	61.3
Guam	1.6	[2] .8	1.6	1.5	1.7	1.4	4.9	3.7	1.2	24.5
Puerto Rico	6.6	3.5	9.8	3.5	13.7	3.5	30.1	10.5	19.6	65.1
Virgin Islands	1.5	1.5	1.5	1.4	1.6	1.4	4.6	4.3	.3	6.5

[1] 1970 appropriations still pending.

[2] Actual amounts used by these 8 states although they were entitled to use more. Unused amount totaling $8,300,000 from these 8 reallocated to other States.

Source: Federal Water Pollution Control Administration.

Mr. YARBOROUGH. Mr. President, the United States is probably the most affluent Nation in history. Our citizens enjoy a higher standard of living than any other country in the world. Our technology is increasing at a fantastic rate. We take for granted today things which our forefathers would have found unbelievable. Man has walked on the moon. And this is only the beginning.

However, while man has been marveling at his accomplishments, he has been blind to the quiet, insidious decay of his environment. Many of us live in environments dominated by polluted air, filthy water, ugliness, and noise, and are almost completely unaware of the subtle changes which have worsened our situation over the years. A person may not realize what has happened until a certain threshold is reached and his eyes water, his water stinks, his plants die, and the paint peels from his house.

Mr. President, we have reached this threshold. We must act decisively now if we are to stop this deadly degradation of our environment. We must begin now to analyze the full cause-and-effect linkage of all of our actions, not just the immediate results of a few. We can no longer afford to have our environment contaminated by persistent pesticides. We can no longer tolerate the pollution of our air and water by the refuse of our affluent society.

S. 7, of which I am a cosponsor, is a positive step toward the preservation of the quality of our environment. As reported by the Committee on Public Works, this bill would among other things control the discharge of sewage from vessels into the navigable waters of the United States; provide for the control and cleanup of oil discharges into inland waters of the United States, of the territorial seas, and of the 9-mile zone contiguous to the territorial sea; provide for the identification, control and cleanup of hazardous substances other than oil; authorize a demonstration program on areawide control of acid and other mine water pollution resulting from active or abandoned mines; authorize a demonstration program to eliminate or control pollution within the watersheds of the Great Lakes; require Federal agencies to insure compliance with applicable water quality standards in the administration of their property, facility, or activity; provide for the training of personnel to operate and maintain existing and future water treatment works; and establish in the Executive Office of the President an Office of Environmental Quality and provide for the establishment of an advisory committee having a broad range of concern including population growth, environmental quality, and planning for the future.

Of particular significance to States such as Texas that border on the sea, are the provisions in title I of S. 7 which provide centralized authority to clean up oil spills. The recent disastrous oil spill off the coast of California at Santa Barbara has taught us a tragic lesson in what can happen to people and property when large quantities of oil are discharged into our coastal waters. Oil spills, such as that one, pose an extremely grave threat to Texas because of the tremendous number of offshore oil operations and heavy ship traffic that is found along the gulf coast. For example, if a large quantity of oil was discharged into the waters of the Houston Ship Channel, not only would the waters and beaches around Houston and Galveston be polluted but also the intercoastal canals thus causing heavy damage to the large rice crop that is produced in this area. In light of the danger to the people of the coastal areas and their property, it is only right that the expense of cleaning up oil spills be charged to the owners and operators of vessels transporting oil and oil products and the offshore and onshore facilities that discharge this dangerous oil.

Mr. President, just this week I offered the Joint Resolution 156 to establish an interagency commission for planning this country's participation in the 1972

United Nations Conference on the Human Environment. In offering that legislation, I pointed out that pollution is a problem of worldwide dimensions and there is no doubt that this is true. Since, according to Dr. Edward D. Goldberg of Scripps Institute of Oceanography, La Jolla, Calif., the United States is "responsible for around one-half to one-third of many of the contaminates introduced into the atmosphere or ocean," this Nation is obligated to take the lead in dealing with the pollution of our environment.

The United States must undertake a crash program to deal with pollution within our boundaries and along our shores. This bill will constitute a great step forward in such a program.

By adoption of this bill we can set an example for the rest of the nations of the world to follow and demonstrate that we are willing to embark upon an all-out attack upon the problem of pollution before it is too late.

We cannot afford to underestimate the gravity of the problem, for as David M. Gates, director of the Missouri Botanical Gardens and an expert ecologist, in an article placed in the CONGRESSIONAL RECORD this week by Senator TYDINGS, warns us, our continuing assault on the natural environment "could produce an earth populated by 'half-starved, depressed billions gasping in air depleted of oxygen and laden with pollutants, thirsting for thickened, blighted water.'"

This is the reason why, Mr. President, I am proud to be a cosponsor of this bill and why I urge, with all the candor at my command, my colleagues to support this legislation.

Mr. MONDALE. Mr. President, water is a precious commodity.

The U.S. Senate has again, today, recognized the need to preserve and protect our existing supply of water by passage of S. 7, legislation which contains the Water Quality Improvement Act of 1969 and the Environmental Quality Improvement Act.

I am doubly pleased by today's action since S. 7 contains the Clean Lakes provision first introduced by myself and Senator Burdick in 1966. This provision will allow basic research into the cause, cure, and prevention of lake pollution. It will provide funds for the construction and operation of research facilities for these purposes. The outcome of such research should give us a greater understanding about the effects of treated sewage, fertilizers, pesticides, siltation and other substances which ultimately drain into our fresh water community lakes.

Now that we have taken this basic and long-needed first step, I will shortly introduce legislation to authorize the next step. The National Clean Lakes Act of 1969 would provide grants for operational programs to counter and eliminate pollution of fresh water community lakes.

Mr. President, our lakes are so much a part of our life in Minnesota and across this country. Yet there are thousands of lakes in this country which are decaying and in danger of becoming extinct because of pollution and siltation. My State of Minnesota is known as "The Land of 10,000 Lakes." We do not want to subtract from this slogan.

Like Minnesota's other natural resources, lakes are not impervious to man's vandalism and natural decay. Throughout Minnesota and the Nation, lakes are suffering from the pollution epidemic—they are smothering to death in organic waste and untreated poisons.

Now, building on the vehicle provided by the Senate today—and the legislation I will introduce—I am convinced we can expand the life cycle of many of this Nation's tens of thousands of lakes.

Thoreau wrote:

> Nothing so fair, so pure . . . as a lake, perchance, lies on the surface of the earth . . . Nations come and go without defiling it . . . It is a mirror . . . whose gilding Nature continually repairs . . . which retains no breath that is breathed on it.

I am afraid that there is more poetry than truth in those beautiful words.

Nations have defiled their lakes. The restorative powers of nature do not work on the still waters of a lake to the same effect that they work on the flowing waters of a stream.

Our fast-flowing rivers are equipped with unbelievably recuperative powers. This built-in natural recovery process has enabled many of our rivers to take the worst that man has been able to throw at them in the way of pollution punishment. Rivers have a faculty of rolling with the pollution punch that the more placid lake waters lack. At one and the same time—if we are to save our lakes—we must develop ways of keeping pollutants out of lakes; remove, insofar as possible, those pollutants already in our lakes; and, finally, to neutralize the effects of those pollutants which cannot otherwise be eliminated.

When the natural aging process of a lake is speeded up, we find a condition called accelerated eutrophication. The scientist may define it as "the state of a body of water resulting from intentional or unintentional, natural or manmade modifications to the aquatic environment to the extent that the ecological system supports an imbalance in the biological production and creates a nuisance or interference with a water use."

The layman may not be concerned with definitions, but he knows that a polluted lake is ugly to look at, unfit to swim

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in, unpleasant to boat on, devoid of prize sport fish. His livelihood may suffer from lost property values, deserted resorts, reduced value of the commercial fishery, and impeded navigation. The public water supply of his community may be impaired. The citizen has a large stake in clean lake waters.

We do not fully understand eutrophication. We do know that manmade wastes contain nitrates, phosphates, and other nutrients which stimulate biological production and promote the premature aging of a lake. The algal bloom is a sign of advancing eutrophication. Profusion of algae and other vegetation and siltation make the lake waters more shallow and hasten the process. When sunlight penetrates the shallow waters, vegetation climbs to their surface and chokes the lake. The vegetation decays, disagreeable odors result, and fish often die from the loss of oxygen. Industrial wastes, municipal wastes, individual waste disposal systems, agricultural runoff, and siltation from soil erosion all contribute to the influx of manmade pollution into the Nation's lakes.

The impairment of water quality of our lakes is a problem complex in its causes, widespread in scope, and difficult in solution. We do not have the final answers to these problems. We may never—but a nation which can reach the moon in a decade certainly should be able to—come up with practical solutions to some if not all of the problems of aging lakes.

But we are confident that through an expanded research, development, and demonstration effort, we will be able to do a far better job than we now are doing to control the eutrophication process in fresh water community lakes.

Mr. President, there are a number of reasons for proceeding now with full scale demonstrations and operational programs even though we are just beginning research and development programs. These reasons include a substantial knowledge base upon which to act; the need for action programs to interact with development programs; and the demand to immediately counterbalance periods of seemingly irreversible pollution where eutrophication is taking place.

Briefly, the National Clean Lakes Act of 1969 would provide funds for a variety of programs including dredging and cleansing already polluted lakes including disposal costs, removal of effluents and nutrients from sewage treatment plants, and soil conservation programs to retard the drainage of siltation,

nutrients, and other pollutants.

The measure will seek authorizations over a 3-year period: $200 million for the first year, doubling to $400 million in the second, and increasing to $500 million for the third.

This funding will permit the Interior Department to finance feasibility studies, preliminary research, full-scale demonstrations, and operating facilities. It would also provide assistance to resort owners, farmers, and construction workers to permit various programs to halt siltation and the passing of nutrients into fresh water community lakes.

Moneys shall be on a matching provision with funds put up by State municipalities and by businesses and industries contributing to pollution and having a stake in the cleansing of the lakes. This funding should be at a rate of 90 percent for those projects which are purely of a demonstration nature, and 75 percent Federal funds for the more operational grants where the success of the facility is more certain.

The National Clean Lakes Act will be tied directly to total land management plans for individual States and areas. The States will be given a leading role in the establishment and enforcement of standards.

Mr. President, it is my hope that with the perfection of the tools and technology of restoring fresh water community lakes, our municipalities all across the Nation will be encouraged to begin the task of cleaning their lakes and to take immediate steps to prevent further pollution.

There is no lack of interest in such projects in the States. Rather, there is frustration at the enormous size of the job and the realization that, without Federal assistance, most such projects are impossible.

The Minnesota Department of Conservation estimates that dredging and cleaning a lake costs a minimum of 25 to 50 cents a yard. To deepen an acre of water by only 1 foot costs about $4,000. In Minnesota, there are 17 lakes that are over 10,000 acres in size. To deepen one of these lakes by 5 feet would cost about $4 million. It is obvious that such an expense cannot possibly be borne by a lake community, and even for a major metropolitan area, the cost is virtually prohibitive.

Thus, in the National Clean Lakes Act of 1969 which I will introduce, I am proposing that lakes be given treatment comparable to other bodies of water in the protection against pollution.

I urge my colleagues to join with me in support of this bill to rejuvenate and beautify our lakes.

Mr. MUSKIE. Mr. President, Senator MONDALE is to be congratulated for his excellent contribution to the work of Subcommittee on Air and Water Pollution. The Senator has provided significant leadership in providing legislative recommendations to deal with the difficult problem of lake eutrophication.

As the Senator has so eloquently pointed out, many of the Nation's lakes are dying at an accelerated rate. We must retard this process.

We will not be successful in this effort unless we can develop the necessary technical capacity to halt lake pollution. And we will not be successful unless we make a meaningful national commitment now.

The Senator from Minnesota has led this effort and on behalf of the members of the committee, I want to express our appreciation. I look forward to reviewing the additional proposals which the Senator intends to offer.

Mr. MURPHY. Mr. President, as a cosponsor of S. 7, I rise in support of the measure. Last year, as a member of the Subcommittee on Air and Water Pollution, I supported a similar measure that passed the Senate. Although no longer a member of that subcommittee, I have continued my great interest in the subject of pollution, both air and water. I regard the increasing pollution of our environment as one of the paramount problems facing our Nation and, indeed, the world community of nations.

S. 7, when its provisions are fully implemented, will constitute a giant step forward in the water pollution fight. It should be a particularly effective deterrent against the despoliation of our lakes, rivers, bays and, significantly too, in my State, California, our magnificent coastlines.

No piece of legislation can be a complete defense against the type of catastrophe that ravaged Santa Barbara beaches earlier this year, or that ravaged the beaches of Southern England as a result of the *Torrey Canyon* grounding several years ago. However, the provisions of S. 7 ensure that immediate cleanup operations can be commenced and ultimate financial liability fixed.

In this regard the bill before the Senate contains the provisions I urged in testimony before the House Committee on Public Works on February 13, 1969. I said:

> Present water pollution control legislation dealing with the spillage of oil . . . is clearly inadequate. Financial responsibility must be placed on the owners and operators of both ships and shore facilities Present law limits liability to dischargers who are 'grossly negligent or willful' I supported legislation which passed the Senate establishing the responsibility of the party to either clean up or authorize the government to do it and later recover the costs from the party responsible.

Thus, S. 7 contains provisions declaring the discharge of oil to be unlawful; authorizes the establishment of regulations relative to discharge and removal of oil; establishes penalties for violation of these regulations; provides authority for the operator to immediately remove any oil discharge or spill or, in the event he either refuses to clean up or does not adequately clean up the discharge, the Government may remove the oil to prevent damage and decrease the cost; establishes liability on vessel owners of $125 per gross ton of his vessel or $14 million whichever is lesser for such spills and requires evidence of the ability of vessel owners and operators to cover up to $100 per gross ton of liability in the event of discharge; and establishes a $50 million revolving fund for operation of the entire cleanup program.

In addition, I have long felt the need for contingency plans in the event of a disaster such as the Santa Barbara incident and as stated in my testimony before the House Committee on Public Works:

> The Santa Barbara incident has underscored once again the need to accelerate a research development and testing program to increase and improve our capabilities for preventing, controlling, and cleaning up of oil spills and other hazardous substances. I recommend an amendment to the research section of the Federal Water Pollution Control Act to authorize an additional $5 million for the acceleration of research on marine pollution problems, such as that posed by oil spillages. This was one of the recommendations of the Commission on Marine Science, Engineering, and Resources, the Commission
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> [p. 29098]
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> which earlier this year issued a report charting the future direction of the nation's ocean exploration efforts.
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> I urge that contingency plans be developed at the local, state and regional levels to provide for a quick response to oil spills and similar disasters. I understand that no such plans presently exist today. This is a serious deficiency in our pollution control arsenal and should be remedied immediately In my judgment, such contingent plans should be an integral part of the state and federal water pollution control programs.

Under S. 7, the President has broad authority to issue regulations for preventing oil discharges and for developing and coordination between the various levels of Government oil removal contingency plans.

I long have been concerned about the increasing level of pollution in the San Francisco Bay-Delta area. Since the Navy is the chief polluter of the bay, I recently urged the Secretary of the Navy to stop this polluting. As a member of the Senate Armed Services Committee, I intend to do whatever I can to see that this pollution is stopped and to make certain that the Federal Government cleans up rather than pollutes. I ask unanimous consent that a copy of the telegram I sent to the Secretary of the

Navy be printed at this point in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

When I was in San Francisco with Secretary of the Interior Hickel recently, it was reported that a principal part of the pollution in the San Francisco Bay was caused by Navy ships and installations. As one who believes that the Federal Government should set an example for the nation in our battle against pollution, both air and water, I request the Navy to stop this pollution of the Bay. As a member of the Senate Armed Services Committee and a former member of the Senate Public Works Subcommittee on Air and Water Pollution, I stand ready to urge the Armed Services Committee and the Congress to help the Department of the Navy in its efforts to stop this pollution.

Mr. MURPHY. In testimony prepared for the House Subcommittee on Conservation and Natural Resources, the Federal Water Pollution Control Administration, in its report, stated:

It is estimated that 250 million gallons of shipboard and sanitary sewage are discharged into the San Francisco Bay-Delta area each year from vessels using the twelve deep water ports, numerous port and docking facilities, and 250 small craft harbors It has also been estimated that the 60 assigned military vessels operating in the Bay-Delta waters contribute approximately ninety per cent of the annual wastes discharged from all vessels. Other vessels operating in these waters include 96,000 small craft, 800 fishing vessels, and 5,000 commercial vessels entering through the Golden Gate each year.

When the provisions of S. 7 concerning shipboard discharge of sewage become effective, Federal standards will be established for marine sanitation devices and the means by which sewage may be discharged from vessels. These regulations are applicable to military as well as private vessels unless there are clear overriding defense considerations.

I urge the Secretary of the Navy not to wait until the provisions of this section are applicable but that he commence forthwith to develop and test appropriate marine sanitary devices for use in the San Francisco Bay.

Mr. President, since coming to the Congress I have supported every single piece of legislation that has advanced our Nation's battle against air and water pollution. Some years ago a great American, Teddy Roosevelt, saw what we were doing to our natural resources and led a movement to stop the senseless destruction. Today our environment and natural resources are again being threatened by pollution. I sincerely believe that one of the most serious if not the most serious problem facing our Nation is this question of pollution. I am happy that we are taking this most significant and positive approach toward its control. However, the citizens of our Nation must become aware and must make the commitment once again if we are to save America, the beautiful.

Mr. MUSKIE. Mr. President, I would like to express my personal appreciation and that of the members of the Committee on Public Works to the staff of the committee and the Members who have worked on this legislation. The continual cooperation of majority and minority committee staff and effective consultation with the staffs of members of the committee has expedited the Senate consideration of the comprehensive environmental quality legislation.

Specifically, Mr. President, I would like to acknowledge the efforts of Mr. Richard Royce, chief clerk and staff director of the committee; Mr. Bailey Guard, minority clerk; Mr. Barry Meyer and Mr. Tom Jorling for his majority and minority counsel; Mr. Leon Billings, Mr. Richard Grundy, and Miss Adrien Waller, professional staff members; Mr. Donald Nicoll and Mr. Eliot Cutler of my staff, and Mr. Hal Brayman of Senator Boggs' staff.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Oklahoma (Mr. HARRIS),

the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), and the Senator from New Jersey (Mr. WILLIAMS) are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Georgia (Mr. RUSSELL), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is necessarily absent.

The Senator from Utah (Mr. BENNETT) and the Senator from New York (Mr. GOODELL) are detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. GOODELL), and the Senator from Ohio (Mr. SAXBE) would each vote "yea."

The result was announced—yeas 86, nays 0, as follows:

* * * * *

So the bill (H.R. 4148) was passed.

The title was amended, so as to read: A bill to amend the Federal Water Pollution Control Act, to establish an Office of Environmental Quality, to provide for certain property acquisition, and for other purposes.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE: Mr. President, I ask unanimous consent that S. 7 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the Senate amendment to H.R. 4148, and that the bill be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I move that the Senate insist on its amendment and ask for a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair

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be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MUSKIE, Mr. RANDOLPH, Mr. BAYH, Mr. MONTOYA, Mr. BOGGS, Mr. COOPER, and Mr. BAKER conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, there is no doubt that this singular success—the unanimous approval of the Water Pollution Control Act amendments—is attributable to the expertise and legislative skills of the floor manager of the bill, the distinguished chairman of the Air and Water Pollution Subcommittee of the Public Works Committee, the Senator from Maine (Mr. MUSKIE). His tireless efforts in committee and on the floor have gained for him the deepest gratitude of the Senate and the Nation. His efforts, may I say, will serve to provide a better environment for all of us. We are grateful. He has added a magnificent achievement to his already abundant record of public service.

We are grateful also to the Senator from West Virginia (Mr. RANDOLPH) and to the Senator from Delaware (Mr. BOGGS), the chairman and ranking minority member, respectively, of the Public Works Committee. They joined to assure the efficient and swift disposal of this measure. They added their always thoughtful, always perceptive views to the discussion.

Especially, our thanks must go also to the distinguished Senator from Washington (Mr. JACKSON). The cooperation he exhibited was characteristic. His support was outstanding, and we are grateful.

The Senate may be proud of another fine achievement.

Mr. MUSKIE. Mr. President, during the last 24 hours, both Washington newspapers, the Post and the Evening Star, have published editorials in support of full funding of the $1 billion authorization for Federal grants for the construction of municipal waste treatment facilities.

Regardless of the outcome of the vote on this question in the House today, I intend to press for full funding in the Senate, as we have in the past.

The chairman of the Subcommittee on Public Works of the Appropriations Committee, the distinguished Senator from Louisiana (Mr. ELLENDER) has committed his support to increased funding for the program, and I hope that the committee will find it possible to recommend full funding.

Although the administration has requested only $214 million for fiscal 1970, recent reports have indicated that the administration may be seeing the light of overwhelming public support for the program.

I hope they do change their mind, but in any case, I pledge my support for full funding, and I promise a vigorous effort in behalf of it.

I ask unanimous consent that the editorials to which I have referred be included in the RECORD at this point.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington (D C.) Post, Oct. 8, 1969]

$1 BILLION FOR CLEAN WATER

A major test of whether this country is sincere in trying to clean up its polluted rivers and lakes will come in the House of Representatives today. In principle, the Congress, the administration and the country are thoroughly committed to the cause of clean water. It is one of the most popular crusades of the day. But lip service and even authorizing legislation do not remove filth from our streams. Sewage-treatment plants must be actually constructed, and Congress has to date provided only meager funds for this purpose.

New hopes were raised in 1966 when Congress approved a sharp rise in federal assistance to states and cities for the construction of clean-water facilities. The program was to expand from $150 million in fiscal 1967 to $1 billion in fiscal 1970 But out of the $2 3 billion authorized for the last four years, including this one, Congress has appropriated only $567 million for the three past years, and the current budget request is for only $214 million for fiscal 1970. In other words, the real cleanup program, as distinguished from the reassuring words and good intentions, has not yet gotten off the ground

Fortunately, the great gap between promise and performance has not gone unnoticed on Capitol Hill or among the millions who are now demanding restoration of a healthful environment A large number of oganizations representing conservation groups, organized labor, professional societies, civic associations and city and county officials have united their efforts in a Citizens Crusade for Clean Water, and more than 220 members of the House have pledged themselves to vote a billion dollars for clean water when the big test comes.

One vital element in the situation is the plight in which many cities find themselves Under the prodding of Congress, state legislatures have been raising standards of sewage treatment which the cities will have to meet But if they are denied the federal aid that was contemplated when the higher standards were set they will have to choose between failure to comply and the diversion of funds from education, housing, law enforcement and so forth to meet the new demands for clean water. It is reported that more than 4,600 applications for aid to cities in the construction of sewage-treatment facilities are awaiting action, largely for want of funds

The plain fact is that Congress has reneged on its clean-water pledge to the country. The technical know-how for restoration of the Nation's streams and lakes to a tolerable con-

dition is readily at hand. Much of the needed legislation is already on the books, although Secretary Hickel is seeking authority to help pay for treatment facilities on an installment basis through contracts with cities and states, which would greatly ease the demand for current appropriations. The missing element is immediate funds to change the clean-water drive from a remote hope to a current reality.

We agree with the National League of Cities, the League of Women Voters and the many other groups and individual leaders who are calling for the immediate appropriation of a billion dollars for the 1970 cleanup effort. On the eve of the test vote there are indications that the administration will accept substantial expansion of the clean-water budget item it carried over from the Johnson budget. But compromise at this point is not enough. The judgment of Congress as expressed in the Clean Water Restoration Act that $1 billion would be needed this year for grants in this area was sound. It should be adhered to today. In a matter of such vital concern to the country. Congress simply cannot afford to put itself into the position of withdrawing from an obligation it has assumed and sought to impose on the states and cities.

[From the Evening Star, Oct. 7, 1969]

KEEPING PROMISES

Several months ago, we were critical of Congress for retreating from its commitment to the states and localities to provide $1 billion in matching grants for water pollution control. What bothered us at the time was not so much the enforced slowdown in this important program but rather the immorality involved in mousetrapping local governments into commitments they can ill afford, and then not coming across.

In this context, it is especially gratifying to note that over 220 congressmen have gone on record as favoring the full $1 billion appropriation for waste treatment plants. At present, the House money bill contains $600 million for this program—itself a considerable improvement over the $214 million originally earmarked. Interested lawmakers will offer an amendment on the House floor this week to up that to $1 billion. If they all vote the way they have talked, this amendment should sail through easily.

The next move would then be up to the Senate. To date there has not been a comparable show of support in the other chamber for a full-funding of the water pollution program But this is perhaps because the quite remarkable ground-swell of concerned public opinion on this subject has so far been focused on the House.

It should be understood, of course, that this is definitely a time when budgetary restraint is indicated. Accordingly, a number of important government programs are in imminent danger of severe cutbacks. Even so, there are two good reasons for not stinting on water pollution control, quite apart from its merit as a program. First, local governments have already been induced to commit their own limited resources for this purpose. And second, there appears to be broad public support for the program. In this case at least, there is reason to give the public what it wants.

COMMISSIONER DOMINICK CONFIRMS FWPCA'S COMMITMENT TO ENHANCEMENT PRINCIPLE

Mr. COOPER. Mr. President, I would like at this time to bring to the Senate's attention an excellent and most appropriate addition to the discussion of S. 7. It is a speech given on September 23 in Kansas City by Commissioner David D. Dominick before the Association of State and Interstate Water Pollution Control Administrators.

In this speech, which I would ask unanimous consent to include at the end of my statement, Commissioner Dominick spells out the goals of the Federal Water Pollution Control Administration and its activities. He affirms the necessity of strong Federal, State, and local partnerships and cooperation for the success of pollution control programs of all kinds.

One of the most significant statements of the speech is the confirmation of the administration's commitment to the principle of enhancement of water quality articulated as follows:

The keystone of the Water Quality Act of 1965 was enhancement of water quality, and this has become the keystone of State and Federal water quality standards. I do not believe that we can afford to go any other way. In most parts of the country, the day has long since passed that we could rely on the "as-

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similative capacity" to protect us from water quality degradation and, eventually, curtailment of such water uses as swimming and propagation of high quality fisheries associated with clean waters. The traditional assimilative capacity concepts have ignored the more subtle water pollution control parameters that they become so important to the protection of legitimate water use.

I commend the entire text of Mr. DOMINICK's speech to my Senate colleagues.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY DAVID D DOMINICK, COMMISSIONER FEDERAL WATER POLLUTION CONTROL ADMINISTRATION, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL ADMINISTRATORS, KANSAS CITY, MO., SEPTEMBER 23, 1969

Good morning, Gentlemen. It is a privilege to be meeting here with you in Kansas City and to lead off on what promises to be an important annual meeting of the Association of State and Interstate Water Pollution Control Administrators.

You have asked me to comment on the Federal Water Pollution Control Administration goals and directions for the future This is an excellent forum to give you such comments because I would hope that our goals would be essentially your goals. And I know that in many instances our problems are your problems as well. In a simple sense the goals of FWPCA are to come to grips with and find solutions for the issues which are presently impeding progress in the fight for pollution abatement and environmental quality

There is an urgency to our mutual efforts which has never existed before. I am sure that I don't have to remind you of the public demand for cleaner water because it is you, as State administrators, who are on the front line in the action which is being demanded. But I did want to assure you that we in Washington are well aware of this urgency, this public demand and this unique awareness on the part of our American citizenry of environmental problems on a global scale You and I are certainly tied to one of the highest visibility programs in the United States today.

To get down to specifics, I would like to discuss with you three areas of mutual concern in which we are actively developing and promulgating new policies. These would be the areas of enforcement, financing, and the question of a requirement for secondary treatment of municipal wastes.

In addition, there are a number of issues which we can explore in somewhat less depth but which we will identify as questions or problems facing FWPCA and problems for which we are seeking policy solutions.

So first let me turn to the question of enforcement. As you know, Secretary of the Interior Walter J. Hickel has just recently announced a new, tough enforcement policy. Acting on information available to FWPCA, the Secretary has set in motion the first stages of informal proceedings against a city, four steel companies, and a mining firm allegedly polluting interstate waters and being in noncompliance with water quality standards If our upcoming meetings with these various entities does not lead to satisfactory action on their part, the next step which could be taken by the Secretary of the Interior would be formal court proceedings following a 180 day notice.

The Secretary has said, "the people of America have made it abundantly clear that they will no longer tolerate pollution of their environment." He said that "the Administration believes this to be a reasonable demand, and we have a mandate to satisfy it quickly and thoroughly. We will do this through court action, if necessary, and through tough, new legislation which we will seek from the Congress."

And the Secretary made it quite clear that his actions in these areas were not a one shot burst for a short haul. Rather, he emphasized that "this is just a beginning. We intend to continue the identification of polluters all over the Nation, followed by the enforcement of schedules for prompt cleanup and pollution elimination."

The water quality standards, in effect, set compliance schedules all over the Nation. We intend to see that these compliance schedules are met. To do otherwise would be to fail to make full use of the water quality standards tool that has been mandated to us by the Congress. The standards must be seen as a means to an end. We are taking steps immediately at FWPCA to insure that fair and consistent mechanisms are developed for the full implementation and enforcement of water quality standards

Let me turn briefly to the question of financing. We are all keenly aware that the existing program which was established in 1966 has not served to keep current with identified needs The need for treatment plant construction is most urgent and this need is clearly recognized in Washington. State approved applications for matching grant funds totaling $2.3 billion from States and local governments are now on file with the Federal Water Pollution Control Administration.

I acknowledge that the question of financing is the most difficult issue facing all of us right now A resolution of this issue is directly tied to the issue of how and when we meet our water pollution control goals in the municipal sector. I cannot give you an answer to these pressing needs at this time but can only assure you that work is going forward at the highest levels of the Administration to seek some equitable resolution. The one thing which I can tell you at this time is that the new Clean Water Team in Washington is keenly aware of the need

for long-term planning when we come to the question of construction of municipal waste treatment works. Piecemeal financing, and year-to-year uncertainties occasioned by the appropriation process envisoned by the previous legislation, clearly does not allow for the lead time and planning which is required at the State and local level. So one of four top priorities in seeking any resolution to the financing issue is to come up with a program which will give firm assurances as to the future availability of funds and upon which firm planning for construction needs can be based.

Let me turn to the last of the major issues which I will be able to cover with you this morning. I hope by now that all of you State and Interstate Water Pollution Control Administrators have received our proposals to revise the construction grants policies. We are considering revisions to the existing rules and regulations for construction grants which would upgrade the minimum treatment which any project applying for Federal funds would have to provide.

The present rules specify that the minimum treatment that a system must provide to be eligible for Federal grant assistance is primary treatment or its equivalent, unless water quality standards or other recommendations require a higher level In view of our present water pollution control needs and policies, we believe that a more stringent minimum treatment requirement is now clearly appropriate. From reading the water quality standards established by the States, I also note that with very few exceptions the States themselves now recognize the appropriateness of secondary treatment as a minimum.

For these reasons, we are proposing that the minimum treatment level for federally supported projects discharging to interstate or intrastate fresh waters should be complete removal of all floatable and settleable materials, disinfection, and at least 85 percent removal of five-day biochemical oxygen demand and suspended solids based on design flow. We have avoided using the term, "secondary treatment" in the proposal in order to provide a performance type of definition, without implying necessarily specific processes associated with secondary treatment. However, as "secondary treatment" is a good shorthand term, I will use it in my later discussion of this policy with the disclaimer that it is just this—only a shorthand term.

Because of the critical need to protect estuarine aquatic life and uses, we believe that the minimum treatment for projects discharging to estuaries should be set at the same level as for fresh water discharges. For discharges to the open ocean through ocean outfalls, a lesser degree of treatment might be justified. Thus, we are proposing a minimum level of complete removal of all floatable and settleable materials for discharges to open ocean waters at this time The proposed revisions to the rules and regulations would define "open ocean waters."

There are some specific aspects of the revised construction grants policy which I would like to clarify briefly. For instance, this policy would be intended to apply not only to applicants for projects providing a complete treatment system, but also to applicants for a Federal grant for portions of a system, such as interceptor sewers, pumping stations, outfalls and other appurtenances. To qualify for a Federal grant, projects to construct interceptor sewers and other portions of a treatment system would have to comply with the adequate levels of treatment as determined under this new policy. As another point, discharge to the ocean will be evaluated on a case-by-case basis to determine the appropriate level of treatment to insure compliance with water quality objectives.

In addition, we examine all plans for construction very carefully to be assured that in the design and engineering stages adequate consideration has been given to projected population growth demands. The recent experience of the new Administration on the Potomac River indicates that insufficient thought has been devoted in the past to population increase factors. The design of new treatment plants must be flexible enough to provide for increased capacity as well as providing for the possibility of process changes leading to higher levels of waste treatment.

Finally, we will not give any Federal funds to communities that bypass their sewage treatment plants and drop raw sewage into the streams. The Federal government will not be a party to any such practice leading to gross pollution of our water-ways. Our streams will be kept clean.

We are seeking your comments on these revisions prior to publication of revised rules in the *Federal Register*. I hope to obtain your support for these proposed regulations, and to proceed to publication within the near future. The revisions will be open to further comment, of course, in a more formal fashion after they are published in the *Federal Register*, but I did want to solicit your views at the earliest possible stage in the development of this new policy.

I would like to discuss our reasoning for seeking such a change in policy at this time. The present rules and regulations, of course, provide that a proposed construction grant project seeking Federal funds meet the water quality standards. And, as I noted earlier, these accepted standards, with a few limited

exceptions, provide for a minimum of secondary treatment.

I think we are all looking forward to the day when the minimum treatment that will be provided anywhere in the country will be the equivalent to secondary treatment.

We all know that some areas of the country are at this very moment preparing to meet or have already met much higher treatment requirements.

For many years, primary treatment was recognized as a basic treatment requirement for municipal wastes. However, even before the establishment of water quality standards, secondary treatment has increasingly become the new basic requirement for municipal and industrial wastes In the face of population and industrial growth, treatment requirements have had to be steadily upgraded; waste loads have grown as prodigiously as populations and industries. History has shown that slow but steady deterioration of many waters has been the inevitable accompaniment of "progress" because treatment goals in the past were set too low. After many years of inadequate waste treatment, serious water quality degradation is a fact in most developed parts of the country.

If we are to make water pollution control programs and the water quality standards approach effective, a substantial reduction of pollution from all municipal and industrial waste sources will be necessary. Secondary treatment, and in selected areas treatment levels beyond that, should be considered a necessary goal to allow us to get ahead of the pollution problems—to prevent pollution rather than wait to abate it after damage has occurred.

The keystone of the Water Quality Act of 1965 was enhancement of water quality, and this has become the keystone of the State and Federal water quality standards. I do not believe that we can afford to go any other way. In most parts of the country, the day has long since passed that we could rely on "assimilative capacity" to protect us from water quality degradation and, eventually, curtailment of such water uses as swimming and propagation of high quality fisheries associated with clean waters. The traditional assimilative capacity concepts have ignored the more subtle water pollution control parameters that have become so important to the protection of legitimate water uses.

For the present, secondary treatment is an economically feasible technique and a reasonable means of assuring that assimilation of wastes will no longer be the sole or primary use of any of our waters. In some areas, where installation of high levels of treatment may occasion economic hardships, I think we are prepared to be realistic and flexible about the timing—and I emphasize the word *timing*—for necessary waste treatment improvements However, I do not believe that we can afford to be shortsighted about our ultimate goals and that these goals must be high enough to meet the needs of the future.

The secondary treatment issue is but one of a number of areas in which the Federal Water Pollution Control Administration will be setting forth clear policy positions. We hope to continue to develop policy guidelines for a number of our programs, including such things as the disposal of wastes into the open ocean, the thermal pollution question, the operation and maintenance of sewage treatment plants, and the establishment of additional water quality standards criteria for radiological discharges and for pesticides. We are now in the midst of intensive inhouse efforts to develop programs or policy statements in many of these areas. We in the Department of the Interior solicit your input and guidance as additional policies are developed. To this end, as you now are all aware, Assistant Secretary Carl Klein and myself have initiated a number of meetings with State Administrators throughout the country. We intend to continue these meetings until we have had an opportunity to sit down and discuss major program and policy questions with all of you. In addition, please feel free to pick up the phone or to write to Assistant Secretary Klein and myself on any matter which is of concern to you or your State or interstate agency.

We, at the Federal level, may not always find ourselves in agreement with you at the State, interstate or local levels. But both Mr. Klein and myself are of the very firm opinion that disagreement should not be a bar to communication. One thing is abundantly clear when we discuss environmental programs—all levels of government are in the fight together. And if we are to make progress, progress which is now urgently needed and urgently demanded, it is clear that we must eventually agree that we have a single mutual goal. We must agree together that our job is to stop pollution today, and to bend every effort to guaranteeing clean water for America tomorrow.

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1.2k(4)(c) Vol. 116 (1970), March 24: Senate agreed to conference report, pp. 8975, 8983–8984, 9003–9008

AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report, as follows:

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The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MUSKIE. Mr. President, this conference report is the culmination of efforts begun in 1966 to strengthen and expand the Nation's capability to deal with oil pollution disasters.

Mr. President, this legislation would probably not be before the Senate today had there not been in recent weeks several disastrous oil spills. I think that the grounding of the tanker off Nova Scotia, the spill from the tanker in Tampa Bay, and the ongoing disaster off New Orleans have convinced all of us in both bodies of the need to attach a different concept of liability to the extremely hazardous business of oil transportation, production, and use.

The very nature of these incidents and the cloudy question of fault assisted in bringing about the compromise which was finally achieved between the House and Senate conferees on this issue.

The attached discussion of the conference substitute describes in detail what this bill does and what the conferees intended. While I do not intend to present all the provisions in detail in this statement, I would like to point out several important features of the oil pollution section and emphasize the other more important features of the legislation itself.

Under the conference compromise, unless the owner or operator of a vessel, an offshore facility, or an onshore facility can prove that the discharge resulted solely from an act of God, an act of war, an act of U.S. Government negligence, or an act or omission of a third party such owner or operator will be absolutely liable to the United States for the costs of cleanup in an amount not to exceed $14 million for a vessel and $8 million for an onshore or offshore facility.

In the case of a vessel the liability is further limited to $100 per gross ton, an amount suggested by insurers as the in-

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surable limit for this particular type of liability.

I am not satisfied that these figures completely reflect the potential liability of vessels in oil discharges. I am not satisfied that the insurers gave us the best available information. However, I am satisfied that we could get no better information and that the amounts set forth in this law would have been sufficient to clean up any oil spill on record.

I anticipate this figure will have to be revised, as will the outside limits, as the size of tankers increases and as the danger of oil spills increases. Nevertheless, at this time the gross tonnage and dollar limits should be adequate to cover a tanker twice as large as any vessel capable of using any port of the United States today.

More importantly, Mr. President, a review of these figures should be the

kind of public policy consideration which precedes any increases in shipment of oil by sea either from foreign or domestic sources.

The hearings on this legislation have indicated that there is great room for improvement in the handling of oil in transport. There is still too much room for accidents.

I will introduce legislation to tighten the regulations governing the design and construction of vessels, the transportation of oil and other hazardous cargo, the training of crews, and the location of onshore and offshore facilities.

I also hope that we can develop a system of providing compensation for private damages resulting from oil spills.

For onshore and offshore facilities, the figure of $8 million was included in both the House and the Senate bills. Although there is no indication as to the accuracy of this figure, it is much more than the clean-up costs of any oil spills on record from onshore or offshore facilities. It too may have to be revised in the future.

This legislation does not affect the authority of the Secretary of the Interior regarding activities on the Outer Continental Shelf. It does not affect the regulations which provide absolute and unlimited liability oil operations on the OCS.

The penalties for failure to notify, for knowing discharge of oil, and for violation of regulations are as strict as either the House or Senate bill would permit.

Broad authority is given the President to determine by regulation what harmful quantities of oil cannot be discharged without violating the provisions of this act. The responsibility placed on the President is great. The urgency for his early action is evident.

Until the President develops at least preliminary regulations defining harmful quantities, parts of the law will be inoperative. At a minimum the President can and should immediately, by regulation, prohibit the discharge of oil which exceeds the amount normally anticipated in operation of a vessel, or onshore, or offshore facility.

Such regulations with appropriate definitions should be promulgated as soon after enactment of this legislation as possible.

The President should then set into motion the procedures necessary to determine in as exact a manner as possible the amounts and quantities of oil that can be discharged, under what circumstances, and what times, and what locations as required in this section. Further he should indicate, to the extent that it is possible, those areas of the coastal United States and the navigable waters of the United States where the discharge of oil is absolutely prohibited or partially prohibited.

Another important measure to assure tough enforcement of this act will be to provide adequate funds for improved Coast Guard surveillance activities along the coast of the United States. Tanker captains who deliberately disregard regulations and pump their bilges at will must be arrested and brought to trial for criminal discharges of oil. The Coast Guard also must be given funds to develop local and regional contingency plans and a strike force capacity to move against any oil pollution disaster strategically located in the United States.

Effective implementation of this legislation will require that adequate funds be devoted to developing new clean-up technology, to developing the specifications for chemicals which can be used to disperse oil as called by the Kennedy amendment retained by the conferees, and to providing funds for the Federal Water Pollution Control Administration to study the effects of oil and dispersants on the aquatic environment.

I wish to emphasize for the Senate a provision of this legislation which has not received a great deal of attention. This provision may be the most important section of this legislation. I call the Senate's attention to section 21. This section requires that any applicant for a Federal license or permit obtain cer-

tification of reasonable assurance of compliance with water quality standards from a State before that applicant can receive any license or permit.

Any new industry that intends to locate on the navigable waters of the United States; that needs a permit to build a dock, a discharge pipe, a water-intake pipe, a bridge, or a road across Federal lands; that requires a license from the Atomic Energy Commission for a nuclear power plant or a license from the Federal Power Commission to build a dam will be required to obtain this certification of compliance with water quality standards.

No polluter will be able to hide behind a Federal license or permit as an excuse for a violation of water quality standard. No polluter will be able to make major investments in facilities under a Federal license or permit without providing assurance that the facility will comply with water quality standards. No State water pollution control agency will be confronted with a fait accompli by an industry that has built a plant without consideration of water quality requirements.

Mr. President, a question has been raised regarding the relationship between section 21(b) of the conference agreement and the provisions of sections 102 and 103 of the National Environmental Policy Act, Public Law 91-190, particularly with regard to the duties of Federal licensing and permittting agencies under the respective authorizations.

It should b clear that nothing in subsection 21(b) should be interpreted as discharging Federal licensing or permitting agencies from complying with the provisions of Public Law 90-190 as far as they relate to any environmental impact not associated with water quality standards.

Mr. President, the conference agreement includes a number of other major provisions which are discussed in the summary of conference action which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

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Mr. RANDOLPH. Mr. President, this conference measure is the result of almost 2½ years of legislative effort and 5 months of extensive and arduous conferences with the other body.

Many members of the committee as well as the staff have labored earnestly. The oil liability provisions were among the most complex and controversial features which have been considered in the Public Works Committee in the 11 years

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I have served on that committee, and for the almost 4 years as its chairman.

Though, as I stated, all members of the committee have contributed to this landmark legislation, the Senator deserving special credit for bringing it to fruition is the able chairman of our Subcommittee on Air and Water Pollution, EDMUND S. MUSKIE.

The conference measure is an equitable and effective and enforceable piece of legislation. In the oil spill provisions, it adheres to the basic philosophy of the Senate bill S. 7, which declared that the oil industry and oil shippers will bear the risk of cleanup of oil spills rather than the public. The conference measure, I believe, on the basis of our present information, makes a proper assignment of liabilities and responsibilities with effective protection of the public interest.

I also add that during our consideration of this vital subject, it has been my experience that the oil industry has shown an active desire to cooperate with the committee in its effort to develop effective and equitable legislation. This attitude has also been evident among other industrial and commercial interests.

I commend not only Senator MUSKIE for his leadership in the legislation but also Senator COOPER, ranking minority member of the Committee on Public Works, but also Senator BOGGS, Senator

BAKER, and other Members of both the majority and minority for their constructive contributions to this significant legislation.

Mr. COOPER. Mr. President, today the Senate Members of the conference bring back to the Senate and ask approval of a very comprehensive and excellent water pollution control bill, H.R. 4148. It was a difficult conference, because of the complex nature of the legislation. Simple remedies are not sufficient in environmental legislation. The issues involve intergovernmental relationships, the economic system, technology and appropriate legal measures for enforcement. This bill attempts to chart a course to achieve water quality in the complex of factors I have described.

The House- and Senate-passed bills contained many differences. Resolving these differences in the context of the factors I have described required careful consideration and drafting. It was a time-consuming conference lasting from November 1969 until March 1970, but it has resulted in fair and necessary legislation. I pay my tribute to the chairman of the subcommittee, Senator MUSKIE, for his creativity and leadership, to Senator BOGGS, the ranking Republican members, Senator RANDOLPH, the chairman of the Committee on Public Works, Senators BAKER, BAYH, and MONTOYA, for their great contribution to the conference and their participation in it. A similar commendation is due the Members of the House who also participated actively in this conference, and to the staff of both committees. I would like to say that Senator BOGGS and Senator RANDOLPH, with their large experience, and Senator BAKER whose leadership on the knotty legal problems involved was so helpful, deserve especial credit.

There are many important provisions in this bill, but I will touch on only two or three at this time.

OIL POLLUTION REMOVAL LIABILITY

Due in very large part to Senator BAKER'S clear articulation of the necessity of protecting the public interest through the concept of absolute liability, the Senate, and now the conference, agreed upon a basic formula imposing such liability upon owners and operators of vessels and onshore and offshore facilities for cleanup costs incurred by the United States. Consistent with the philosophy of absolute liability, limits of liability are provided. This is an important provision, which I consider draws a proper balance between the public interest and the ability of private enterprise to respond. I think it should be pointed out that the provision was adopted only after the most careful consideration and thorough study.

In the bill that passed the Senate any discharge of oil in violation of levels set by regulation was subject to fines and removal penalties. The Conference bill adopts the Senate approach, with additional guidance to the President in establishing, by regulation, such amounts.

Subsection 11(b) (3) provides that the President shall by regulation establish those quantities of oil which will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches. The subsection goes on to provide with regard to the contiguous zone that the President shall establish as harmful quantities only those discharges that threaten the fishery resources of the contiguous zone or quantities which would threaten to promote or contribute to the pollution of the territorial sea.

It should be clear that the judgment of harmful, in the case of the contiguous zone, as in the case of navigable waters of the United States and adjoining shorelines, is to be made at the time of the establishment of the regulation and not at the time of the discharge of oil.

HAZARDOUS SUBSTANCES

During the course of executive sessions in the Committee on Public Works, Senator DOLE offered an amendment,

subsequently adopted by the committee, included in the Senate bill and now in the conference bill, separating from the oil pollution liability provisions the legislative treatment of hazardous substances discharged into the waters of the United States. The committee recognized that hazardous substances present different problems than oil, and the solution of these problems requires additional knowledge and technology not yet available. The conference bill maintains the provision of the Senate bill, establishing a new designation procedure for hazardous substances, and requiring notice when such designated substances are discharged. The conference bill further authorizes an accelerated study of the removal methods and enforcement measures appropriate to deal with releases of hazardous substances into the waters of the United States.

FEDERAL ACTIVITIES COMPLIANCE

It is possible that the most significant provision in this bill is the section, section 21, requiring compliance with water quality standards by Federal facilities and activities and by federally licensed or permitted facilities and activities. The conference bill maintains the position of the Senate bill that the Federal Government shall comply with water quality standards in the conduct of all of its activities. The President has already taken a significant step in this direction in the Executive order issued in February, Executive order No. 11507. Section 21(a) provides clear authority for the President to achieve this compliance.

Following the same concept, section 21(b) of the conference bill will require those activities which the Federal Government licenses or permits to comply with water quality standards. At the time the bill passed the Senate, it included an amendment offered by Senator MATHIAS requiring public hearings in State procedures leading to issuance of a certification of compliance with water quality. The conference bill adds a requirement that the State must give notice of all applications received by such State for certification pursuant to subsection 21(b). Maintaining the intention of the Mathias amendment, it provides that the State will provide an opportunity for public hearings as it deems appropriate, I believe it correct to say it was the intent of the conference that a State may, without a public hearing, pass upon certification requests of a routine nature which do not involve risks to water quality. However, the committee expects the opportunity for public hearings to be provided upon projects that involve significant risks to water quality for which certification is being sought. This should certainly include most licenses issued by the Atomic Energy Commission, the Federal Power Commission, and dredge and fill permits of the Corps of Engineers.

TITLE II

The last specific provision I would like to touch upon is that establishing in the Executive Office of the President an Office of Environmental Quality. This provision is very closely related to the National Environmental Policy Act, Public Law 91–190, which established the Council on Environmental Quality. It will be recalled that the relationship of these two acts was described prior to the adoption of S. 7 by the Senate on October 8, 1969. The conference bill further supports the Office of Environmental Quality, with particular emphasis on its function of providing a competent professional staff to the Council on Environmental Quality.

The statutory responsibilities placed upon the Council on Environmental Quality and the Office of Environmental Quality are large and broad; without competent staff these responsibilities will not be met. The public's concern over environmental quality is well known; the President's commitment to achieve it is also well known. Therefore, it was incumbent on us to provide adequate

staff authority and I believe the conference will do so. The conference bill also designates that the chairman of the Council on Environmental Quality established by Public Law 91–190 shall serve as the Director of the Office of Environmental Quality. We look forward to the implementation of the authority to establish the office, and believe that together with Public Law 91–190 the authority is at hand to begin the task of responding to the demand for and interest in environmental quality.

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Mr. President, my colleague, the distinguished Senator from Delaware (Mr. BOGGS), had hoped to be on the floor when this important conference report was discussed. It is his belief that this is one of the most important pieces of legislation that will be considered by the 91st Congress, and he had very much hoped to be here today when the conference report is to be acted upon by the Senate. However, he is necessarily absent. In his absence, he has asked me to place in the RECORD the statement he intended to make on the Senate floor. I would like to say that Senator BOGGS, as ranking minority member of the subcommittee, and of the Senate conferees, worked indefatigably upon the bill and the conference report. His knowledge, experience and leadership contributed in very large degree to this important legislation now before the Senate for final action.

I ask unanimous consent that Senator BOGGS' statement be printed at this point in the RECORD.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

Mr. BOGGS. Mr President, approximately one year has passed since the Senate Subcommittee on Air and Water Pollution began executive sessions to mark up the Water Quality Improvement Act of 1969. During that period of time the Subcommittee, the full Committee on Public Works, the Senate, and finally the Committee on Conference investigated and discussed the knotty issues that run throughout this legislation.

This bill, as the distinguished Senator from Kentucky (Mr. Cooper) and others have pointed out, seeks to deal with many aspects of water pollution, each a difficult and time-consuming issue. This bill deals with the pollution of our waters with petroleum, sewage from vessels, acid mine drainage, licensing of facilities discharging into interstate waters, and several other water pollution problems.

Senator Cooper has discussed several of these aspects of this legislation. He has pointed out the very helpful and constructive role played by Senator Baker in developing language that deals with liability for an oil spill. I support Senator Cooper's comments.

There are two other aspects of this legislation that I believe merit comment. One concerns sewage discharges from vessels The Conference Report contains language that is very similar to the bill approved by the Senate. This is true in relation to the certification of devices for installation aboard pleasure and commercial craft

The major alteration from the Senate version appears in Subsection (f) of Section 13 of the new bill. The original Senate version left to the States the determination on whether sewage discharges should be barred completely in specific areas within that State if the "implementation of applicable water quality standards requires such prohibition."

The House version gave the States a right to bar sewage discharge only in waters where all other discharges of sewage were prohibited

The new proposed version wisely inserts the Secretary of the Interior into this procedure. Under the compromise version, a State may apply to the Secretary for the right to prohibit discharges in a specified area. The Secretary may then prohibit such discharges in that area if he finds that compliance with applicable water quality standards requires such a prohibition

This new language, I believe, preserves the intent of the Senate version, leaving with the States the right to achieve as full protection as possible in the areas of shellfish beds, marinas, drinking water intakes, bathing beaches, and other areas that could be adversely affected by a discharge from even the most highly treated vessel sewage

Another portion of the bill to which I would like to address myself is Sections 16, 17, and 18 of H.R. 4148, submitted by the Committee on Conference. These sections provide for a very essential program for the education and training of personnel to plan, develop, operate, and maintain existing and future water quality programs

The Senate version, which appeared in Subsection (g) of Section 104 had provided

for a pilot program under which the Federal Water Pollution Control Administration would train several thousand technicians to make certain that the costly pollution control facilities we are building throughout the nation will be operated in the most effective and efficient manner possible. This section had been proposed by the distinguished Republican Leader (Mr. Scott).

This training program is retained in the proposed bill offered by the Committee on Conference. The new version also includes a House proposal for scholarship programs and "innovative and experimental programs" for the training of persons in the operation and maintenance of sewage treatment work.

Together, these proposals offer a balanced approach toward alleviating any shortages now existing in the water treatment field.

In addition, I want to express my gratitude to the distinguished ranking Republican Member of the Committee on Public Works (Mr. Cooper), the distinguished Chairman of the Committee (Mr. Randolph), the distinguished Chairman of the Subcommittee (Mr. Muskie), as well as the other distinguished members of the Conference on the part of the Senate and the House of Representatives. Each devoted a great deal of time in an effort to resolve numerous differences in approach and language in the Senate and House bills.

The resulting bill has my full support. It is legislation that will go far in coming months and years to enhance the quality of our nation's water resources.

A NEW ADVANCE IN THE STRUGGLE AGAINST POLLUTION

Mr. YARBOROUGH. Mr. President, the bill to which we are giving final approval today, and which I am proud to cosponsor, is another landmark in our effort to curb water polllution.

Specifically, the bill will hopefully encourage the oil companies who drill for oil off the U.S. coastline to exercise greater care. We have seen too many examples of what oil leaks can do to a stretch of beach, to marine and animal life, and to the ecology of any region where they occur. This bill fixes absolute liability for oil leaks on those from whose wells they occur. Hopefully, these companies will now be far more careful in their work.

The other part of the bill which I feel will greatly assist in the Nation's effort to curb water pollution is the one which provides for research into oil removal and lake pollution. In spite of the fact that we have seen the damage which oil can do, we know very little about rapid, effective ways to remove it from beaches and from the water's surface. Also, although we have watched the slow "death" of Lake Erie, we know too little, I think, about the processes which caused this problem or about how to remedy it. Hopefully, the bill will help us in our search for ways to handle these problems.

Mr. President, this is the sixth major piece of water pollution control legislation I have either cosponsored or supported since I came to the Senate in 1957. I think its passage will give further evidence of our determination to stop the slow destruction of the earth. I urge the adoption of the conference report.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on agreeing to the conference report.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BELLMON). The question is on agreeing to the conference report.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

* * * * *

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The result was announced—yeas 80, nays 0, as follows:

So the conference report was agreed to.

Mr. SPONG. Mr. President, the conference report just adopted establishes a foundation for improving our capability to control oil pollution, vessel pollution, and thermal pollution.

It is gratifying that the Senate concept of absolute liability for the cleanup of oil spills has prevailed in the conference. About 6 billion gallons of petroleum products pass through the Port of Hampton Roads each year, and there have been several spills which damaged the harbor.

The concept of absolute liability places the risk of the responsible party, not innocent third parties and the general public. Provision for criminal penalties for failure to give notice of a spill should expedite cleanup action.

Other desirable features of the oil pollution section of the bill authorize expanded research for the development of new cleanup methods, and contingency planning against oil pollution disasters.

The report takes a preventive approach toward activities over which the Federal Government already exercises a degree of control. Applicants for a Federal license or permit to build or operate any facility which might discharge pollutants into navigable waters would be required to comply with applicable water quality standards. In most instances, the certification would come from the State in which the discharge occurs. These provisions would assure that thermal discharges from such facilities as nuclear powerplants would conform to water quality standards.

The vessel pollution section provides for Federal preemption of authority to set performance standards for marine sanitation devices. I hope the Department of Defense will expedite its program to equip naval vessels with sewage treatment equipment, and will request the funds necessary to carry out the intention of the legislation.

Mr. President, the Senate conferees are to be commended for their perseverance in reconciling the differences in the Senate and House versions of this legislation. They have been meeting on a regular basis since last October 8. In particular as a member of the Subcommittee on Air and Water Pollution, I wish to thank the Senator from Maine (Mr. MUSKIE), our distinguished chairman, and the ranking minority member the Senator from Delaware (Mr. BOGGS).

Mr. DOLE. Mr. President, I am gratified that the House-Senate conference has agreed on the provisions of H.R. 4148, to prevent and control water pollution.

After the Santa Barabra incident and the more immediate oil spillage in Louisiana, the Congress has moved rapidly to take appropriate legislative action. As statements on the increasing size and use of oil tankers are made available, the threat of greater pollution to our navigable waterways is becoming even more apparent.

Throughout our committee hearings and in the House-Senate conference, it became apparent that there was a wide diversity of views on this legislation. Questions raised on liability and other sections of the legislation have now been resolved. I was particularly pleased to see that the conference accepted a section of S. 7, which dealt with the problem of the discharge of hazardous substances. The Senate Public Works Committee became aware of the fact that hazardous substances could not be treated as an equivalent of oil and subject to the same provisions of liability for the cost of removal.

Two important differences required that hazardous substances be treated separately: First, oil is a readily recognizable substance that is not miscible with water; hazardous substances, on the other hand, cover a tremendous range of chemical elements and compounds with various characteristics, and, second, oil is, at least in most circumstances, removable from water; hazardous substances, on the other hand, may or may not be.

Faced with this difficult situation, I offered an amendment to separate hazardous substances from the oil liability provisions to enable a response to the clear problem of the sudden discharge of hazardous substances into our navigable waterways.

The amendment I proposed which, with certain modifications, was adopted by the committee and the House-Senate conference, provides essential authority to give this Nation the ability to respond.

I commend the Senate conferees for their dedication during the months of discussion and urge acceptance of this report.

Mr. ALLOTT. Mr. President, the grim details of water pollution in America are a cause of grave national concern. A few facts reveal why.

Last year an estimated 15 million fish were killed by oil spills and heat and chemical pollution.

The Cuyahoga River in Ohio is so noxious that even the leeches and sludge worms that thrive on the bottom of normally polluted waters cannot survive. And the surface of this river is so saturated with flammable substances that the river has actually been declared a fire hazard. There is good reason for this: last year the river caught fire and nearly destroyed two railroad trestles.

Representative LOWELL WEICKER, of Connecticut, has come up with these facts:

> Of 62 beaches along Lake Erie's U.S. shores, only three are rated completely safe for swimming. Even wading is unpleasant because 30,000 sludge worms may be found in each square yard of lake bottom. . . . When you dive into Long Island Sound, you are diving into 196 million gallons of waste that comes from 46 municipal plants, 59 industrial plants and seven Federal installations every day.

The Hudson River is so thoroughly polluted that the streambed is laden with excess pollutants. These pollutants are excess in the sense that they are not carried by the water. But they are still a threat.

Experts estimate that if, starting tomorrow, not a single drop or grain or pollution were ever again put into the Hudson, water washing over pollution on the streambed would repollute the river constantly for as long as 15 years. Or, to put the matter differently, if we cleansed the Hudson at point "A," riverbed pollution would make it necessary to cleanse it again at point "B" 15 miles downstream. That is, there is enough settled pollution in the Hudson to repollute it every 15 miles.

The Ohio River serves a 10 State drainage area with a population of 24 million persons and 38,000 industrial plants. Nearly a billion dollars has been spent in the past 20 years to clean it up. Meanwhile the Army Corps of Engineers has been laboring on the same stretch of water, improving it for navigation. But the engineers have been creating, in effect, a series of reservoirs along the river route. These do not drain well. Pollution accumulates, including the thermal pollution that raises the temperature of various pools in the river. Both of these programs—the antipollution efforts and the Corps of Engineers efforts—are worthwhile. But the net effect may be to take away with one hand what is given with the other.

Today efforts are being made to improve coordination between the Engineers Corps and the Interior Department's Water Pollution Control Administration.

There is a form of water pollution—and it is extremely destructive—that need not involve putting any chemical impurities into the water. This is the thermal pollution mentioned above. It involves raising the water temperature. It occurs when a plant uses water in cooling processes and returns heated water to a river or lake. Any significant change

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in the temperature of a body of water can destroy the animal and plant life that nature uses to keep the water balanced and continually renewed.

For example, warm water may cause fish eggs to hatch prematurely and, because warm water absorbs less oxygen, it slows the decomposition of organic wastes.

Most of the water used by American industry is used for cooling. And the amount used for cooling purposes in nuclear powerplants generating electricity is astonishing. For example, a 500-million-watt nuclear plant that is cooled by a lake or river must pump approximately 7,650 gallons of cooling water every second. That is approximately 660 million gallons per day.

> Present and future demands indicate that industrial cooling water, when viewed on the

national scale, is a first order source of waste heat. The electric power generating industry alone accounts for about 80% of the cooling water used Therefore, the best single index of the thermal pollution potential lies in projecting future electric power production. Power generation has approximately doubled each 10 years during this century, and estimated future demands indicate a shortening of the time span for similar increases. Waste heat output has not multiplied as fast as power generation because of continued improvements in thermal plant efficiency and development of hydropower. However, fossil-fueled plants are reaching a limit of efficiency because of metallurgical restrictions, and nuclear plants, planned or built, necessarily waste an even higher proportion of heat than fossil-fueled plants. Waste heat increase can be expected to more closely parallel power production increase in the foreseeable future.

With these considerations in mind, heat rejection from the predicted mixture of nuclear and fossil power plants is expected to increase almost ninefold by the year 2000. Waste heat output from the manufacturing industries will also increase. However, the demand for electricity is expected to continue to increase at a more pronounced rate than the demand for manufactured goods. This indicates a somewhat smaller rate of increase in heat rejection from manufacturing as compared with the power industry.

Numerous cooling devices—for example, cooling ponds and towers—and cooling techniques—for example, methods of dispersing and diluting warm water discharges—are already being used. Considerable research is being devoted to perfecting these and developing new devices and techniques. Concern for America's energy needs and for our water resources should motivate active Government support for such research.

This seems especially imperative when we consider the facts about America's huge appetite for clean water.

It takes 200 gallons to make a dollar's worth of paper. It takes 100,000 gallons to make one car. It takes 320,000 gallons to produce one ton of aluminum. It takes 750,000 gallons to irrigate an acre of farmland. National water usage is 350 billion gallons a day. Three hundred and fifty billion gallons would form a puddle 1 foot deep over an area one and a half times the size of the State of Rhode Island.

By the year 2000 we may be using a trillion gallons of water a day.

Domestic sewers alone account for 5.3 trillion gallons of waste water per year. One scientist has estimated that by 1980 sewage and related waterborne waste will be so voluminous that in dry seasons they will consume all the oxygen in our river systems. That would severely damage our fresh water resources, especially when we consider that by 1980 we will be using fresh water at twice the current rate.

Much can be done to end pollution by vigorously enforcing existing laws, including some laws that have been around for a very long time.

The Justice Department has recently filed criminal charges against a number of firms—and some individuals—accused of polluting waterways. The charges involve an attempt to use an 1899 law in the modern fight on water pollution. The Refuse Act of 1899 (33 U.S.C. 407) makes the deposit of pollutants into navigable waters a misdemeanor punishable by a maximum fine of $2,500 and a year in prison for each offense.

The punishment provision contains an informer clause which could generate an interesting kind of citizen participation in the antipollution fight. This clause stipulates that half the fines collected are to be given to any citizen whose information leads to a conviction.

But there is another aspect of this law that deserves attention. This is the $2,500 limit on the fine that can be collected for each offense.

Assume for the moment that a jail sentence is not applicable in a particular case. But also assume that the case involves a firm that discharges pollutants once a day, thereby making itself liable to being recharged under the statute each day.

If this firm were charged—every day of the year, and fined the maximum amount each day, the total 1-year cost to the firm would be $912,000.

This looks like an awesome total—until one considers the huge cost, in

capital outlay and maintenance, of some pollution abatement systems. It is not inconceivable that a firm might wish to be fined the maximum amount, 365 days a year, rather than go to the expense of ending pollution.

In such a case, the fine would, in effect, cease to be a fine and would become a kind of tax. The trouble with this is twofold. First, it would not do what the law intended—it would not diminish pollution. Second, behavior we tax is behavior we think is permissible. If firms are allowed to treat a fine as a tax, they will be allowed to treat pollution as permissible. This cannot be allowed.

Thus, there must be a constant review of the punishment provision of such statutes, to make sure the fines are effective inducements to pollution control by industries.

However, the administration recognizes that the task of ending water pollution demands more than vigorous police action. It also requires new knowledge and new equipment. This is especially urgent in attacking pollution caused by inadequate municipal sewage treatment facilities. Here massive capital investment is needed.

Since 1952 the Nation has spent $15 billion to construct 7,500 municipal sewage-treatment plants and related facilities. But much more needs to be done and it needs to be done in large cities. In the 12 years between 1956 and 1968, about half the new waste treatment facilities were built in towns with populations of less than 2,500 and 92 percent were built in towns with populations under 50,000.

In his message to Congress on the environment the President notes:

> In the four years since the Clean Waters Restoration Act of 1966 was passed, we have failed to keep our promises to ourselves: Federal appropriations for constructing municipal treatment plants have totaled only about one-third of authorizations.

It is estimaed that a 5-year program involving a $10 billion investment in treatment plants and interceptor lines will be needed to meet national water quality standards.

Accordingly, the President proposes a Clean Waters Act involving an immediate $4 billion for fiscal 1971 to cover the full Federal share of the $10 billion total on a matching fund basis.

But another program is needed to insure that non-Federal bodies will be able to meet their obligations.

The municipal bond market is so saturated that in 1969 509 issues totaling $2.9 billion proved unsalable. Thus the President proposes "a new Environmental Financial Authority to insure that every municipality in the country has an opportunity to sell its waste treatment plant construction bonds."

The EFA will buy unsalable bonds and sell its own bonds on the taxable market. In this way the President seeks to ensure that "construction of pollution control facilities will depend not on a community's credit rating, but on its waste disposal needs."

The President has also urged that Federal assistance carry some conditions.

First, federally assisted treatment plants must comply with Federal design, operation, and maintenance standards. Second, municipalities receiving Federal assistance in constructing plants will be required to impose user's fees on industrial users. These fees must be sufficient to meet the costs of treating industrial wastes. This is a fair response to existing conditions.

In 1968, public sewers handled 15 percent of the industry's waste water. Forty percent of all the wastes handled by municipalities came from industry.

Three hundred thousand industrial plants discharge used water into municipal sewage treatment plants that are not equipped to process complex industrial pollutants.

As the President says in his environment message:

> Industry itself has recognized the problem, and many industrial firms are making vigorous efforts to control their water-borne wastes. But strict standards and strict en-

forcement are nevertheless necessary—not only to ensure compliance, but also in fairness to those who have voluntarily assumed the often costly burden while their competitors have not. Good neighbors should not be placed at a competitive disadvantage because of their good neighborliness.

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The President also proposes to attack industrial pollution by consolidating governmental jurisdictions, imposing more precise and stringent effluent requirements, and strengthening police powers and sanctions.

His program calls for granting the Secretary of the Interior authority to seek immediate injunctive relief in emergency water pollution situations. Under the proposed program, failure to meet Federal standards or implementation schedules could result in court-imposed fines of up to $10,000 per day. Further, the President wants to increase three-fold Federal operating grants to State pollution control enforcement agencies in the next 5 years. This would involve an increase from $10 million to $30 million by 1976.

In addition, we need to consider sharply curbing our use of certain kinds of common products that are especially damaging to water. The household detergent is a good example.

No one wants to choose between clean water and clean laundry, but something must be done about phosphates in detergents. Phosphates pollute all water and hasten the aging of lakes.

Five billion pounds of detergent were sold last year. Some of these consisted of as much as 44 percent phosphate. Canada is planning to ban phosphate detergents. It might be well worth our while to have strict standards governing permissible phosphate content of detergents.

Further, we must become more alert to the many ways in which normal activities, and unspectacular developments in business conditions, can combine to create a threat to our environment. Consider one example of this combination. We do not normally think that changing our car's oil threatens the environment. But America's 210,000 service stations must dispose of 350 million gallons of used oil every year. For many years much of this used oil was re-refined and put to work in railroad journals, to freeze-proof coal, as dust control for rural roads and as industrial lubricants.

But for a variety of reasons, re-refining has become a marginal business. In the last 7 years at least half the re-refiners have gone out of business and too much used and unsalable oil is being dumped into city sewer systems.

Research should be directed toward finding ways of collecting and reusing this used oil.

Finally, one crucial fact we sometimes overlook is this: Even in our booming industrial society, siltation is the largest single pollutant of water. Thus all reclamation programs, and all programs aimed at fighting erosion, are important parts of a comprehensive attack on water pollution.

Mr. President, one of Benjamin Franklin's timely sayings is this:

When the well's dry, we know the worth of water

Today we can revise that to read: When the water is polluted, we will know the worth of water.

Hopefully we already know the worth of water. Certainly we in the West know how much of America's bountiful life depends on adequate supplies of fresh water.

We have no intention of waiting until America's waters are ruined before we become alert to the value of water. We know it is time to act.

Mr. President, we are not asking for miracles. We are not expecting anyone to turn water into wine. We just want to preserve clean water, and to find ways of restoring polluted waters.

Most of the earth is coverd with water. No water is immune from pollution. Thus the fight for clean water is a fight of global proportions, with immense stakes.

But a livable environment—like charity—must begin at home. Let us all work together to save our waters which give such lasting benefits to us all.

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1.2k(4)(d) Vol. 116 (1970), March 25: House agreed to conference report, pp. 9325–9334

CONFERENCE REPORT ON H.R. 4148, WATER QUALITY IMPROVEMENT ACT OF 1970

Mr. FALLON. Mr. Speaker, I call up the conference report on the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER (Mr. EDMONDSON). Is there objection to the request of the gentleman from Maryland?

Mr. HALL. Mr. Speaker, reserving the right to object, are we going to have an explanation of the Senate action on this joint conference?

Mr. FALLON. Yes.

Mr. HALL. I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The clerk read the statement.

(For conference report and statement, see proceeding of the House of March 24, 1970.)

Mr. FALLON. I yield to the gentleman from Minnesota (Mr. BLATNIK).

Mr. BLATNIK. Mr. Speaker, for many years I have risen in the well of this House to urge support of a meaningful water pollution program and over the years this House has consistently supported an ever-increasing and more far-reaching legislation to cover the means to guarantee pure water for all Americans.

I appear here on this floor today to urge adoption of the conference report on H.R. 4148. This is legislation which is another great step forward in our continuing battle to maintain the purity of our Nation's waters.

There are not many pieces of legislation which one can call "landmark" legislation. H.R. 4148 is in that category. It comes to this body for final approval today after some 2½ years of arduous work by both bodies of the Congress.

This conference report has been hammered out after long weeks and months of discussions in conference. It breaks into many new fields in our effort to curb the ever-growing threat of the pollution of our Nation's waters whether they be along our coast or inland waters.

It contains such features as control of pollution by oil. It establishes for the first time in this category a clean-up authority; it also places strict features of liabilty on those who would ship oil. In the matter of vessels it establishes a category of $100 per gross ton or $14 million liability whichever is the lesser and in the field of on-shore and off-shore installations the figure is $8 million.

It moves into the area of operation of the small boat owners who move across our Nation's waterways in ever increasing thousands. It provides the basis for a meaningful control of pollution discharge from these vessels under the rules and regulations to be worked out jointly by the U.S. Coast Guard and the Secretary of the Interior.

For the first time it establishes a requirement that when those who seek a license or permit from a Federal agency for the use of our Nation's waters whether it be to build nuclear power plants, steam power plants, or any other uses of our navigable waters they must give reasonable assurances that the operation of whatever they seek to require a permit for will not lower the water pollution standards of the waters of a particular State. It goes into the field of acid mine drainage research, pollution control in the Great Lakes, land acquisition for field laboratories for the studying of various forms of pollution; oil pollution removal research; extension of the basic research authorization pro-

gram now in existing law; a clean lakes research section; language to require development of scientific knowledge on the effects of pesticides in the environment, a pilot training program and an additional program to give those who would operate our Nation's sanitary facilities the best background and experience to carry out the job for staffing for our all important Council on Environmental Quality. These, among many, are the highlights of this legislation. I could go on at length about its many features. Time does not permit. Suffice to say that today this is vital, necessary and important legislation. I am proud to have been a part of its development both in the Committtee on Public Works and on the conference with the other body. I am particularly proud of my fellow conferees, the gentleman for Alabama (Mr. JONES); the gentleman from Texas (Mr. WRIGHT); the gentleman from Maryland (Mr. FALLON); our distinguished chairman of the Committee on Public Works; the ranking member of the committee, the gentleman from Florida (Mr. CRAMER); the gentleman from Ohio (Mr. HARSHA); and the gentleman from New York (Mr. GROVER).

I strongly support adoption of the conference report.

We had splendid cooperation from all the Members and especially splendid cooperation from the gentleman from Ohio (Mr. HARSHA). He is a tireless, persistent worker who wants to know about every dot and comma.

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

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

Mr. HALL. Mr Speaker, I appreciate the gentleman's statement, and I agree with him that this is landmark legislation, and certainly it is needed. I join with the gentleman in complimenting the Members who have brought this conference report into being and certainly compliment the members of the committee.

Mr. Speaker, would the gentleman please tell us wherein the Senate amendments differ from the House-passed legislation and the differences in cost authorized in this bill?

Mr. BLATNIK. Mr. Speaker, I do not have the figures here, but we have a detailed analysis of the figures and it will appear in the RECORD at this point.

H.R. 4148 (AS PASSED THE HOUSE)—AUTHORIZED APPROPRIATIONS

Item	Section identification	1970	1971	1972	Total amount
Cleanup revolving fund	17(h)(1)	$20,000,000			$20,000,000
Acid mine drainage reserve	19(d)(1)	15,000,000			15,000,000
Training grants and contracts	23(c)(3)	12,000,000	$25,000,000	$25,000,000	62,000,000
Estuary research extension	5(k)4)	1,000,000			1,000,000
General research investigation and training extention.	5(1)	65,000,000	62,000,000		130,000,000
Project research extension	6(e)	60,000,000	60,000,000		120,000,000
Pollution control Great Lakes					20,000,000
Total		173,000,000	150,000,000	25,000,000	368,000,000

S. 7 (as passed the Senate) authorized the following appropriations

Clean up revolving fund	$ 50,000,000
Acid mine drainage reserve	15,000,000
Pollution Control in the Great Lakes	20,000,000
Estuarine Study	1,000,000
General research ($65 million for 2 years)	130,000,000
Manpower (2 years)	71,000,000
Project research extension ($60 million for 2 years)	120,000,000
	407,500,000
Alaska Village Water Supply and Sanitation	5,000,000
Total	412,500,000

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AUTHORIZATIONS CONTAINED IN CONFERENCE REPORT ON H.R. 4148

	Authorized			
	No fiscal year specified	For specified fiscal years: Amount	Fiscal year	Section totals
Oil pollution revolving fund, sec. 11(k)	$35,000,000			$35,000,000
Area acid, sec. 14(d)	15,000,000			15,000,000
Great Lakes, sec. 15(c)	20,000,000			20,000,000
Training, sec. 19(3)		$12,000,000	1970	
		25,000,000	1971	
		25,000,000	1972	62,000,000
Alaska demonstrations, sec. 20(a)	1,000,000			1,000,000
Research etc., sec. 105(1) (existing sec. 5):				
Sec. (g)(4) redesignated (m)(4)		1,000,000	1970	
		1,000,000	1971	2,000,000
Sec. (h) redesignated (n)		72,500,000	1970	
		$75,000,000	1971	$147,500,000
R. & D. grants, sec. 106 amending—				
Sec. 6(e)(1)		20,000,000	1970	
		20,000,000	1971	40,000,000
Sec. 6(e)(2)		20,000,000	1970	
		20,000,000	1971	40,000,000
Sec. 6(e)(3)		20,000,000	1970	
		20,000,000	1971	40,000,000
Title II, sec. 205		750,000	1971	
		1,250,000	1972	
		1,500,000	1973	3,500,000
Total				406,000,000

Mr. Speaker, the total cost for the provisions of this conference report amount to $406 million. That compares to the House version which asked for a total of $368 million, so it is about $58 million more than the House version. The Senate version, as I recall, was higher and we will get the exact figures. I think we worked out a pretty good compromise figure.

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

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

Mr. HARSHA. Mr. Speaker, I would point out in reply to the gentleman from Missouri that in the House bill the revolving fund on oil pollution authorized the expenditure of $20 million, and the Senate asked for $50 million, and we compromised there on $35 million. In addition to that, the Alaska demonstration projects were not included in the House version. The Senate bill called for $5 million for 1970 and unlimited sums for the next 3 years. In addition to that, we agreed to a Senate training amendment adding an additional $17.5 million to that area.

But, in title II, which deals with the Environmental Quality Council and establishment of the Director of Environmental Quality, once more the House bill had no comparable provisions, and we compromised the House version with the Senate version and came up with title II in the conference report which has an authorized expenditure of $3.5 million. There was one other item of research of an additional $1 million. This makes a total increase over the House-passed version of $38 million.

The House-passed version, if I am not mistaken, totaled $368 million.

Mr. HALL. Mr. Speaker, I thank the gentleman.

If the gentleman will yield further, may I be reassured that all the conferees agreed and that the changes to the House version would be considered germane within the rules of the House?

Mr. BLATNIK. Yes. As far as I know, they are germane within the rules of the House.

Mr. Speaker, I thank the gentleman for the very thoughtful and generous expression regarding the work on this report.

(Mr. CRAMER (at the request of Mr. HARSHA) was granted permission to extend his remarks at this point in the RECORD).

Mr. CRAMER. Mr. Speaker, the great American Poet John Greenleaf Whittier wrote:

> For of all sad words of tongue or pen, the saddest are these: It might have been!

The conference report we have before us is a good illustration of both the truth of these words on the one hand and the opposite of them on the other hand; for part of what "might have been" would in this case indeed have been very, very sad, but what will be is, as a result of much hard work, much happier.

The Water Quality Improvement Act of 1970 was able, as a result of diligent study and as a result of sad experience, to improve many areas of the Water Quality Improvement Act of 1968, which this House twice passed in that year and which died awaiting Senate action when the 90th Congress came to a close.

An illustration of this, Mr. Speaker, may be found in section 102 of the conference substitute. This section deals with the control of oil pollution. In 1968 the House of Representatives refused to acquiesce to a Senate amendment that would have placed a $5 million limitation of liability on discharges from offshore facilities. Members of this body, and I am proud to say that I was among the leaders of them, refused to give such an obvious bonanza to oil companies operating under leases with the U.S. Government for the purpose of utilizing U.S. submerged lands on the Outer Continental Shelf to produce oil. We pointed out that there was no reason to limit the liability of those facilities. That the Secretary of Interior had the power to impose any limitations that he sees fit, including, but not limited to, absolute

liability and responsibility for the full payment of clean-up costs in case of a spill. With the change from the Johnson administration to the Nixon administration the change in regulations took place so that oil companies engaged in offshore drilling under lease by the U.S. government were made so liable and so responsible.

If we had accepted the Senate version then these wells including that responsible for the spill in Louisiana would have been liable for not more than $5 million worth of damage. I do not know but I believe that the instances of Santa Barbara and the recent spill on the gulf off Louisiana may have resulted in a change of position upon the part of the other body. Insofar as onshore facilities or offshore facilities, which are within State jurisdiction, our investigation showed that $8 million was a reasonable limitation of liability. But it should be borne in mind that this limitation of liability is solely for cleanup costs by the United States and does not proport to limit liability that might be imposed by State law or that exists under common law. Comparing then our position of today with the position that would have resulted if this body agreed in 1968 to the arbitrary limits inserted in the Senate bill, the wisdom or action at that time is magnified and confirmed. Similarly, in the area of vessel pollution, we have been able to derive a formula that is better than the 1968 bill, that is better than the Senate version of H.R. 4148, and indeed is better than the House version of H.R. 4148. In this, I feel particularly proud that as a member of the conference committee, I was able to bring directly to the attention of the conferees the benefits of lessons learned from the deplorable incident that took place in Tampa Bay when the Greek tanker, the *Delian Appolon,* spilled oil into our waters and upon our beaches. Directly as a result of this spill, I proposed several amendments, most of which were accepted—one of which was not.

The *Delian Appolon* spill demonstrated that our resources have not been gathered together for the prevention of damage when a spill does occur. It highlighted the lack of an effective contingency plan and led me to believe that whatever plan did exist was nothing more than a paper exercise, now outdated and of little practical use. As a result, my amendment which was adopted requires the President to develop a national contingency plan within 60 days. This plan provides for a complete guide to what should be done in case of oil spills and what should be on hand to minimize damage from oil spills, contain them and clean up the oil from

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our waters, our shorelines, and our beaches. It provides for a designation of a strike force to go in immediately and stop the damage wherever it can. It provides for designation for equipment that should be kept on hand recognizing that this equipment will vary from location to location. Further, it requires a schedule of the waters of this country to indicate which of them can safely be subjected to chemical treatment of oil spills for the purpose of disbursing or making more sinkable the oil and which cannot. The schedule will also make quite clear what limits and which disbursants may be used. In case of doubt, the schedule, of course, may need to provide that the wisdom of an on-the-scene expert to be designated by the President must be drawn upon before which such chemicals can be used. The important thing is that the on-the-scene people will know which chemicals can be used, which cannot, and which waters would be so deleteriously affected by chemical treatment that the protection of the ecology demanded that such treatment would not be used.

Strange as it may seem, Mr. Speaker, after all our experience with oil spills very little is known about the theory of containment of oil spills and very few really effective devices have been devel-

oped. I am happy to see that there is some private research being conducted in this area and I think those that are doing it should be complimented for it. However, I feel that this is an area in which leadership should be exercised by the United States and, consequently, have offered an amendment which the conferees accepted. It would require research by the United States or its designee for the development of containment devices and procedures.

The Tampa Bay oil spill, caused by a vessel which just a few days earlier had polluted the waters of Port Everglades, Fla., and which may indeed have been involved in another spill just a few days after the Tampa incident, illustrated the need for inspection of vessels as a means of prevention of oil spills. The conferees accepted my amendment which provided for this inspection of vessels and cargo. I regret to say that they did not accept the portion of this amendment—which, incidently, as were the other amendments offered in this regard approved by the administration—was not accepted. This would have permitted samples to be taken from oil cargos so that in case of spills identification could be made from the spill material as to its source. I feel that it is unfortunate that this provision was stricken and hope that perhaps in the future we can revise the statute to include such a provision provided, of course, that the Secretary of Interior or the Secretary of the Department in which the Coast Guard is operating does not have that authority under some other law.

There are three examples as just stated whereby what came to pass was better than what might have been if the United States had accepted the Senate's amendments in 1968.

In the area of pollution by oil spills from vessels, I might say that the conference substitute is better than either the House bill or the Senate bill. As the Members of this body will recall, the position of this body was that limitations of liability and imposition of liability should not be such as to preclude the possibility of recovery of clean-up costs from the discharger. We felt that the gauge of this liability should be whether or not insurance could be obtained to cover these events. Consequently, the House bill provided for limitations of liability for vessels based upon an evaluation of the world insurance market for this new type of risk. The Senate position was based upon figures for which we could find no substantiation in their hearings and which we were assured were completely uninsurable.

Both Houses recognized the difficulty of proving fault as the basis of recovery. The House solved this problem by providing for reversal of burden of proof while the Senate came to the same result by defining liability not based upon fault.

The conference was able to work out a compromise accepting the best features of both the House and the Senate positions. We arrived at a limitation of liability based on what we call strict liability. That is, regardless of fault and with certain very limited exceptions the discharger of oil will be liable. His limitation of liability would be $100 per gross ton or $14 million, whichever is higher. This figure incidentally is twice the amount paid in the *Torrey Canyon* case. In the case of cleanup necessitated as a result of a willful spill or of a negligent spill, the benefits of limitations of liability would be removed and where the privity and knowledge of the owner of the vessel was involved he would be required to pay the full costs for cleanup.

This position is stronger than the original Senate position, because it is workable and is insurable. It is stronger than the original House position because it covers more situations where spills do damage. Indeed, it is even stronger than the proposed convention drafted by the International Maritime Consultive Organization—IMCO—which was drafted last November and signed by the United States. That convention, replete with

legal devices by which the discharger could forestall payment, provides a total liability to third parties as well as for cleanup costs of $124 per ton. Our position limits liability only in the matter of cleanup costs to be returned to the U.S. Government at $100. If there are charges that another government would wish to make, say in the case of a spill that involved both the United States and Canada, or if there are charges or damages due to third parties under admiralty law or common law, these would be in addition and would not be subject to our limitation of liability.

Now, Mr. Speaker, one point I wish to emphasize to this body is that the American public has been deceived, perhaps unwittingly, primarily by press reports which have appeared purporting to describe the effects of this bill. They say that it would charge the oil companies for cleanup. In the case of discharges from vessels other than those owned by oil companies—and this, I understand, is usually the case—there would be no charge to the oil company at all. The entire charge would be against the ship or the owner of the vessel.

This appeared to me to be inequitable. After all, if the cargo is such as to require higher cleanup costs because of its nature—for example a bunker "C" oil which is thick and sticky—it would seem reasonable that the oil company should pay the cost. I, therefore, offered an amendment to the conference which would have made the cargo of oil as well as the ship liable for oil spills. It is unfortunate that the conferees saw fit not to accept my proposal. I think it would have had a salutary effect upon the choice of vessels made by oil companies choosing to ship their cargoes by waters.

It seems that oil cargoes despite the hazard they pose to our beaches and waters were very difficult to touch. The conferees refused to agree to make the oil cargo liable for the damage they caused, they refused to permit samples of the cargo to be taken, and removed a provision in the House bill which would make the expense of removing a vessel which poses a substantial threat of a pollution hazard chargeable against the cargo of the vessel as well as the vessel itself even though this has been done against a dangerous chlorine cargo when it threatened the Mississippi area. So that in three instances where it would have been possible to charge the oil companies rather than the vessels the conference refused to do it. I wish to make it clear, however, that my personal view was not in agreement with the result of the conference report in that area. I wish to make it equally clear, however, that aside from those provisions I believe that the conference has come up with the best possible solution at this time to the oil pollution question. I feel gratified that the conferees so readily accepted the amendments I proposed following the Tampa Bay incident.

Another amendment the conferees accepted, which came to pass as a result of the Tampa Bay spill, dealt with that of notice. Both Houses required that immediate notice be given in case of a spill by the person in charge of a vessel or of an onshore or offshore facility as soon as he has knowledge of any discharge of oil. Both Houses considered it proper that this should be a criminal penalty for we could imagine no more vile conduct than that of a person knowingly refusing to report an oil spill which could cause so much damage if left unattended, but which hopefully, if notice were given in time, would result in mitigation and containment of that damage. So I emphasize that this is a criminal penalty. Such a person, if arrested, will be put through the same procedures that any other person suspected of committing a Federal crime would be put through. As a result of the Tampa Bay experience, the con-

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ferees concluded that a stiff penalty of a $10,000 fine or a year in jail or both would be imposed. This is twice the fine heretofore considered.

In all these regards relating to oil

spill control and prevention, Mr. Speaker, I am convinced that we have benefited by the experiences that have befallen us. It is unfortunate that we did not have those provisions of the 1968 legislation in effect that would have provided for Federal cleanup in the case of the oil spills we have suffered, but this provision as well as many other beneficial provisions died when the other body refused then to see the wisdom or point of view at that time—a point of view which they now accept and have adopted.

However, illustrating the wisdom of the poet's words, I would like to invite the attention of this body to the sad "it might have been" if the 1968 bill had not been permitted by the Senate to die without final action. That bill would have provided an alternate means of financing the construction costs of sewage treatment plants. If it had passed, I doubt whether it would have been necessary now for the President to request legislation which is essentially similar to that which passed both Houses of Congress in 1968. Indeed, the contract authority that it would have provided for the construction of sewage treatment plants would have been in use and would have resulted in construction of sewage treatment facilities based upon a Federal participation of $1 billion for this fiscal year. Mr. Speaker, "it might have been."

Whether the 1968 act passed or not at least one portion of the new legislation would have been necessary. I point to this with particular pride because I introduced it into the House. The Committee on Public Works adopted it without change and the conference committee also accepted this provision as I have written it and that is the training provisions. Recognizing that water treatment and waste water treatment whether from human or industrial or agricultural or any other source of waste cannot be accomplished unless we have a trained cadre of qualified personnel from the operating and maintenance level on up through the postgraduate levels, I introduced a bill that would make it possible for many people who cannot now afford to undertake the studies necessary for training themselves in the water quality control field to do so. Without this training, no matter how much money we authorize, no matter how much money we appropriate, we will not—and I repeat this for emphasis—we will not be able to clean up the waters. We must have trained personnel, and this provision of the new bill does this. As I say, Mr. Speaker, I am very proud of it.

There are many other areas of this bill which are an improvement over the 1968 version. We have the provision resulting from the floor amendment of my good friend from Ohio providing for pollution control in the Great Lakes. We have taken into account as a result of a Senate floor amendment the unhappy and insanitary conditions resulting from the lack of proper water supply and sewage disposal facilities among the native villages of Alaska. We have what I believe to be a workable version of the certification provisions which would require an applicant for a Federal license to receive a certification from the States that the activity for which the application is made would not violate water quality standards.

As the Members will recall, this certification provision originally appeared very late in 1968 before there was any real chance of studying it.

There has been opportunity to study this matter and I believe that the provisions now contained are reasonable, workable, and will result in protection to our water environment without crippling our progress.

In short, Mr. Speaker, I believe that Congress has made good use of the time necessitated by the delay brought about when S. 3206 was left high and dry at the end of the 90th Congress. There are some things that we would have benefited by if the other body had been as perceptive as the Members of this body. Nevertheless, there is little use crying

over spilled milk and I believe rather than doing so we are in a position to be proud of the work that has resulted in H.R. 4148, the Water Quality Improvement Act of 1970.

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

Mr. BLATNIK. I yield to the very distinguished member of the conference, the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Speaker, the conference report before us on the Water Quality Improvement Act of 1970 is the result of many months of effort upon the part of the Members of both Houses and their staffs. It deals with a wide variety of subjects, each of which is intensely complicated in its own right.

In each case, the area was explored to the fullest. Experts on all sides were consulted and their views given the weight they merit. The position of the conferees on each subject indeed on each sentence and on every word was carefully considered in the light of the evidence that we had before us.

For example, the oil pollution provisions were extremely difficult to resolve because they affected directly our merchant marine, concepts of admiralty law, the American insurance market, the overseas insurance market, the balance of payments, our international relations, the economy, small business, onshore and offshore oil facilities, research provisions, vessel inspection requirements, requirements that vessels will carry oil spill containment equipment as well as the predominant consideration of the protection of our ecology. It was only after diligent effort that these difficulties were resolved and that agreement to the conference report by the conferees was reached. Incidentally, I should like to invite the attention of the House to an error that appears on page 31 of the conference report. The first word of the second line as printed is "submarginal." That word should be "submerged" so that the phrase reads "Submerged Lands Act of 1953."

This report has been in conference since October. Some believe that the length of time spent on it was due to lack of agreement among the conferees. This view could only be supported by those unfamiliar with the wide range of the bill's content.

In the area of vessel pollution, we provided the first Federal water quality legislation to affect vessel owners directly and which will result eventually in Federal standards applicable to all vessels to control the discharge of human wastes from them. It also will preempt State laws and regulations in the future and create uniformity between the States so that vessels will be able to pass from one State to another unhindered while at the same time preventing any discharge of untreated or inadequately treated sewage into those waters. In this area, Mr. Speaker, the questions of vessel construction, of small boat use of availability of shore base facilities for servicing of all vessels, availability of marine sanitation equipment, the condition of the waterways of the Nation, and specialized State laws and requirements had to be studied and considered with care.

Another area of great complexity is that covered by section 21—certification by the States to Federal agencies in cases where application has been made for Federal licenses or permits. That certification must come from the States unless, of course, the waters involved are under the direct supervision of the Federal Government or there is no State certifying authority. In those cases, the Secretary of Interior will be the certifying authority. In order to evaluate this law properly, every area of Federal licensing and permit procedure had to be examined to determine its special problems and to eliminate the possibility of overlooking important considerations in any specific area. It is under this provision that the questions of control of potential effects of heat discharged into the waters through heated effluents are dealt with. The complexities of that question are well known to the Members of this body. At the other end of the

spectrum came permits such as those required for the building of small outfalls which present minimal potential for pollution, but nevertheless, must be considered.

In that same section 21, we reinforce by statute previously expressed Presidential policy to control water pollution by requiring compliance with quality standards by Federal facilities.

Another area that was investigated thoroughly by the conference committee was that of how properly to recognize industrial organizations and political subdivisions which have demonstrated outstanding technological achievement in waste treatment and pollution abatement programs while assuring such recognition could not be abused.

We evaluated once again the very complicated area of training of personnel of all types for the operating of waste treatment plants as well for their

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design and research for new methods to solve our water quality problems.

We dealt with the complex problem of the staffing to be provided to support the Council on Environmental Quality and investigated the type and quantity of personnel that they would need to be effective.

The question of the control of hazardous polluting substances other than oil led us to an exploration of the manufacturing industry of the United States, including the process industries and chemical industries. We thus provided for designation of such substances after suitable determination and investigation by the President.

The question of area acid and mine water pollution control demonstrations brought us into another field of American life and technology.

Along with this, the dictates of humanity required us to consider the plight of the native villages of Alaska, which because of their peculiar position find themselves with no adequate water supplies and no means of preventing pollution of their waters. This, too, is an area that was explored with great care.

In short, Mr. Speaker, I would like to emphasize the very complex, wide ranged, and indeed the innovative concepts that we have dealt with here. I believe it to be an excellent piece of legislation. I am convinced that what we put into this bill is necessary and wise. I am also convinced that what we did not put in it this time should not be there at this time. Consequently, I take pride in urging the House of Representatives to adopt the conference report as reported on H.R. 4148, the Water Quality Improvement Act of 1970.

One Member of this body I believe deserves special praise for the work that he has done on this bill. The ranking minority member of the Public Works Committee, the gentleman from St. Petersburg, Fla., Mr. WILLIAM C. CRAMER, has over the period of the last several years devoted much of his time and effort to the question of resolving difficulties in water pollution legislation and developing practicable working solutions to our pollution problems. He has continuously been a leader in the area of water pollution control legislation. As a result, the law is replete with his innovations introduced either as bills or as amendments to legislation that this body has considered or is considering now. These include such items as provisions for the training of personnel for water pollution control, the financing of construction of municipal waste plants, the national contingency plan for the control of oil spills, strong penalties for failure to notify of spills, inspection, and prevention requirements to permit inspection of vessels carrying oil, the development of a strike force to deal with oil spills, provision for research for the containment of oil following a spill, research and study provisions for control and amelioration of damage caused by spills and many other areas in which his knowledge, experience, and expertise on matters dealing with water pollution have proven themselves so valuable to this committee.

Unfortunately, BILL CRAMER could not be here today. I have been in constant contact with him and have kept him apprised of the progress of this conference report. He is standing by in case any problems should arise. I assured him that we foresaw no problems in the passage of this conference report for I could imagine that there would be no problem in the House just as there was no problem in the other body. BILL CRAMER has voted for water pollution control legislation for many, many years. He voted on the original passage of this bill and was a leader for tough but workable provisions in the conference. In 1968, he twice voted for the passage of similar legislation so that his record on water pollution matters is intact. However, I feel that it is incumbent upon us to give recognition to a Member whose contribution in this field has been so great and to remind ourselves that even though he physically is not present today, his guiding hand and incisive reasoning pervades the legislation that we are considering, and I would take the liberty of reminding the Members of this body that he was indeed an active conferee, that he signed the conference report and approves and supports its provisions.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. BLATNIK. I am pleased to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I wish to commend our conferees for their diligent efforts in producing this comprehensive measure toward insuring the quality of our navigable waters. This piece of legislation represents an enormous investment of effort and time by those who have labored so hard over the past several months.

Though I support the underlying objectives of this bill, I am concerned by the tremendous potentials for delay which are inherent in the complicated system for State and Federal approvals embodied in section 21 of the bill—delays which can have many adverse effects in satisfying important needs of this country. Additionally, and without intending to fault the conferees in connection with weaknesses in some of the rather elaborate details, I detect several features which seem to me to leave something to be desired.

For example, in section 21(b) of the bill the language in subsection (2), pertaining to the objections of a State other than the State in which the discharge in point would take place, employs the key clause "to insure compliance with applicable water standards," whereas, elsewhere in the section the pivotal clause is more accurately worded in terms of "reasonable assurance—that such activity will be conducted in a manner which will not violate applicable water standards." Presumably the intention in subsection (2) is to insure that there is "reasonable assurance."

Also, in subsection (2) of section 21 (b) it is not clear what the scope of the licensing agency's judgment is intended to be, particularly in cases where the State in which the discharge would occur is satisfied on the basis of reasonable standards but another State that may be affected is not satisfied and wishes to impose unreasonably restrictive standards.

I am troubled, too, by the uncertainty which the bill creates in regard to facilities presently in operation in States that now have water quality standards.

Another potentially serious problem may be lurking in the provisions of subsection (b) (9) (B) of section 21, which apparently would enable a State that has no water quality standards at the time of construction and operation of a facility covered by the act to thereafter adopt water quality standards that would be impossible for an existing facility to meet. I am concerned that there may not be sufficient flexibility and practicality built into some of these features of the bill.

I shall vote for this bill notwithstanding my concerns.

Mr. Speaker, I might add that the

Joint Committee on Atomic Energy has under consideration bills which would also permit States to establish radiological standards more restrictive than those of the Atomic Energy Commission.

Mr. BLATNIK. Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Oklahoma (Mr. ALBERT).

Mr. ALBERT. Mr. Speaker, I certainly appreciate the gentleman from Minnesota yielding this time to me, because I think that the Water Quality Improvement Act of 1970, to which the House is about to give final approval, is not only a landmark piece of legislation but is another outstanding example of congressional initiative.

I feel humble in this area in following the distinguished gentleman from Minnesota (Mr. BLATNIK).

I think we might point out here that in this bill, as in practically every other major field, comments in many quarters to the contrary notwithstanding, it has been the Congress rather than the executive branch of the Government which has moved ahead in a vital area of high national priority. This water pollution control legislation was first introduced, this particular bill, by the distinguished gentleman from Maryland (Mr. FALLON) the chairman of the House Committee on Public Works, as early as January 23, 1969. Public hearings opened in February, but the Department of the Interior was not prepared to present the administration's position until March. The legislative product which the House Public Works Committee has fashioned in executive session was almost exclusively, insofar as policy is concerned, the product of its own labors. The administration's contribution was minimal. Drawn on heavily was the wealth of experience acquired by the committee during the past decade in pioneering in the water pollution control field.

I would remind the House that as long ago as 1960, the 86th Congress passed an antiwater pollution bill which was vetoed by President Eisenhower. Not content to rely solely on the wealth of background material it had already possessed, however, the Committee on Public Works of the House of Representatives in 1969 proceeded to gather additional evidence both in Washington and in the field.

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Visited and viewed firsthand, for example, was the Santa Barbara oil slick. I cannot emphasize too strongly that much more was involved here than merely physically inspecting the results of this unfortunate disaster. Rather, what is of prime importance is that the long immersion of the members of the Committee on Public Works, particularly the gentleman from Minnesota (Mr. BLATNIK) in this subject has equipped that committee with a sophisticated knowledge of what these problems mean both as to short- and long-range effects and how they can be dealt with on a practical basis and what the interrelationship may be between various water pollution problems.

To my knowledge no important official in the executive branch of the government could possibly possess this type of expert knowledge.

H.R. 4148 passed the House on April 16, 1969, and the other body last October. The final legislative product which we now have before us is the result of a long and arduous conference extending over weeks and months. The same expertise which was so vital in the drafting of the original House-passed measure has made possible a successful conclusion of the conference.

H.R. 4148 is truly a monumental measure. I extend my congratulations to the membership of the Committee on Public Works for a job well done. I am sure they will not object to my singling out for particular commendation my old friend, the gentleman from Minnesota (Mr. BLATNIK).

Fifteen years ago JOHN BLATNIK was warning the Nation and the Congress about water pollution. His was often

almost a voice crying in the wilderness. He received no cooperation from the Eisenhower administration. As I said earlier, his antiwater pollution bill in 1960 was vetoed. His dogged efforts were finally crowned with success in 1961 with the enactment of the Federal Water Pollution Control Act. This legislation was further expanded in 1966. The passage of H.R. 4148 today represents yet another triumph for JOHN BLATNIK in the fight against water pollution. He was of course supported in this effort by the distinguished chairman of the Committee on Public Works (Mr. FALLON) and all other Members on both sides of the aisle. This was a great triumph; however, it is the climax of great effort on the part of JOHN BLATNIK. I am sure it will not be his last major effort in this very important area in this House, or in this Congress.

Mr. FALLON. Mr. Speaker, I yield 5 minutes to the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD).

MR. GERALD R. FORD. Mr. Speaker, I am deeply grateful for the allocation of time from the distinguished chairman of the Committee on Public Works.

Let me speak out most emphatically in complimenting the members of the Committee on Public Works for sending to the House for action a conference report that I believe is a very broad-based and very constructive piece of pollution control legislation.

The House of Representatives through its Committee on Public Works has been in the forefront from the inception of the battle by the Federal Government against the problems of water pollution. The history recounted by the distinguished gentleman from Oklahoma (Mr. ALBERT) is, I believe, accurate in indicating that men like the gentleman from Minnesota, JOHN BLATNIK, deserve a great deal of credit. I would, however, add the name of one of the Members on this side of the aisle who I believe should also be recognized for his outstanding service in the Federal battle against the problems of water pollution. He is the gentleman from Florida (Mr. CRAMER), who has been, as far as I know, one of the persons in the Congress who has pushed the hardest and the most to get necessary legislation so that we could do something effectively in the field of water pollution.

Now I would like to make one observation in addition to complimenting all of the members of the Committee on Public Works on both sides of the aisle.

The gentleman from Oklahoma mentioned something to the effect that there had been a very bad oil pollution problem that developed in the Santa Barbara Channel or harbor in 1969.

If my memory is accurate, that problem arose in the last few days of January 1969. It was tragic. It was serious. Unfortunately, the tragedy that developed took place under the regulations promulgated by the previous Secretary of the Interior, the distinguished Secretary of the Interior, Mr. Udall, who served from January 21, 1961, to January 20, 1969. The regulations, we found, were inadequate. Mr. Udall apparently did not have tight enough regulations to preclude the kind of oil pollution problem that developed in the Santa Barbara Channel.

I am delighted that the Secretary of the Interior under the present administration, Mr Hickel, has done something to remedy that problem. I am told that the new, corrective regulations which are tighter, more restrictive and more constructive have been issued by Secretary Hickel as of August 1969. I am simply saying that the Nixon administration, when it found the inadequacies of the regulations under the former Secretary of the Interior Stewart Udall, has done something to correct the problem. The new regulations will do a better job—although such regulations cannot in and of themselves prevent the kind of problem that on occasion may arise regardless of the best of intentions.

Now let me add this. This legislation I do not think is the final answer to the

problems of pollution. The President has submitted to the Congress a number of bills, four of which involve the Committee on Public Works, in the area of water pollution. These bills, I am certain will get the prompt and constructive consideration of the Committee on Public Works under the chairman, the gentleman from Maryland (Mr. FALLON), and from the subcommittee under the chairmanship of the gentleman from Minnesota (Mr. BLATNIK). They are proposals that should be enacted into law. They will add to and supplement the current basic legislation. I hope and trust that within a relatively short period of time the President's new and comprehensive recommendations for clean water, for clean air, and for open spaces will get the approval of this House. It should not be a partisan issue. It has not been in the past and it should not be a partisan issue in the future. This Congress can make a name for itself, in partnership with this Administration, if we act affirmatively on the new legislative package recommended by President Nixon.

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

Mr. FALLON. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. MCEWEN).

Mr. MCEWEN. Mr. Speaker, the question I would like to propose to my dear friend and colleague, the gentleman from Texas, who has given some consideration to this is—what the meaning of the term "navigable waters of the United States" is as it particularly applies in this bill, to preempting of standards for the regulation of discharge and treatment of sewage from vessels.

Mr. Speaker, the committees of both Houses—the Committees on Public Works—recognized there was a problem and it was forcefully brought to our attention by recreational boaters. They do not want to face a multiplicity of regulation as they transit interstate waters, from one jurisdiction to another.

I think we will agree that was the primary reason behind the preemption here by the Federal Government, as proposed in this legislation, setting standards.

What I would like to ask the gentleman from Texas is this. Is it his view that in this preemption we are also preempting for Federal standards wholly intrastate waters—a lake, shall we say, wholly contained within one State—that here, too, Federal standards shall apply?

Mr. WRIGHT. Of course the term "navigable waters" has been subject to many different interpretations. I believe the intention of the conference committee in this instance was to define "navigable waters of the United States" as those waters which have legally been so defined and those waters which are, in effect, navigable waters, and those, primarily, of course, are interstate streams.

The purpose of preemption of marine safety device and sanitary device standards by the Federal agency was, if I correctly understand it, to assure that boaters engaging their recreational craft in the use of the navigable waters of the United States would not confront a proliferation of differing standards as they travel from one State jurisdiction to another.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. FALLON. Mr. Speaker, I yield to

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the gentleman from Ohio (Mr. FEIGHAN) such time as he may consume.

Mr. FEIGHAN. Mr. Speaker, I wish to commend the members of the conference committee and members of the House Committee on Public Works for their efforts in bringing to the floor of this House this report on the legislation which is of major importance in the control and cleanup of our national waters.

Mr. FALLON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I want to

express my appreciation to the members of the Public Works Committee and to the House conferees for retaining the $20 million authorization for the special pollution problems of the Great Lakes.

I also want to point out that in the committee action to date and the recent recommendations of the President failed to provide any funding for the removal of any residual pollution which continues to contaminate the waters of the Great Lakes.

I hope that the committee will this year consider legislation to approach the special problems of pollution disaster areas such as Lake Erie, the Hudson River, San Francisco Bay, and certain portions of the gulf seaboard. Efforts must be made to meet such problems by increasing a water flow, developing wave action, and in the case of Lake Erie, by dredging or aerating certain areas of densely polluted waters. These pollution disaster areas are beyond the capacity of any State or local community and can only be handled through Federal action.

I hope to urge such a program before the Public Works Committee at the earliest opportunity.

Mr. FALLON. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Speaker, I was interested in what the minority leader had to say about the comparative performance of the previous administration and the present administration in water pollution control. I would direct the attention of the minority leader to the fact that the Commissioner of Water Pollution Control, one David Dominick, appointed by the current administration on January 5 of this year, sent out simultaneous letters to a number of career regional directors of this program in effect firing them, because of ordering them transferred. And, at least in one instance, in Chicago, Ill., the current administration nominee to replace a 20-year career public servant is a civil engineer without special qualifications who was chairman of "Lithuanians for Nixon" in 1968. I just say that for the edification of the minority leader.

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

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

Mr. GERALD R. FORD. The gentleman's comment, however, do not deny the statement that I made earlier, that the oil slick problem in the Santa Barbara Channel took place under regulations promulgated by former Secretary of Interior, the Honorable Stewart Udall.

Mr. JACOBS. No, I do not; and I am sure the gentleman would not deny the fact that the oil spill which occurred in the Gulf of Mexico just 2 weeks ago occurred under regulations that exist now, and also regulations which, I am told, have not been properly enforced in the case of that well.

Mr. GERALD R. FORD. The original exemption or license was granted in that case by the previous Democratic administration, however.

Mr. FALLON. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. KEITH).

Mr. KEITH. I thank the gentleman.

Mr. Speaker, I wish to compliment the chairman of the committee and its members on their efforts to bring the final version of this important bill back to us for a vote. As the committee knows, I have been very much interested both in the problem of oil spills at sea and in territorial waters. With reference to the efforts of this administration versus earlier administrations, I would say that before 1969 there was a lack of direction insofar as the responsibility for cleanups was concerned. This legislation, I believe, firmly puts this responsibility on the shoulders of the Coast Guard, for the first time makes substantial sums of money available for oil spillage removal, and delineates the responsibility of industry in the cleanup problem.

Now that this has been assigned, we can actually make some progress, but we

should have done it many years ago. The House tried to do it, if I recall correctly, 2 years ago. We passed a bill in the closing hours of the session in 1968, but it died between the branches of Congress and so the fault does not lie with this administration but with earlier administrations at least insofar as the assignment of actual responsibility to the industry and to the branches of Government that have to cope with this problem.

At any rate, Mr. Speaker, this legislation comes not a minute too soon. In the last 2 years we have had a thousand oil spills which have tremendously damaged this ecology of America. Hopefully in the future through this legislation we will have found a way to cope with these problems, and at least cut down on the damage that would otherwise have continued to decimate our shoreline.

Mr. FALLON. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Speaker, I very much appreciate the chairman yielding to me.

I commend the House Committee on Public Works and the conference committee for the new subsection H of section 5 of the Federal Water Pollution Control Act which has been incorporated in the final version of H.R. 4148.

I am very pleased that this body has given recognition to the problems of eutrophication and lake pollution.

In fact, this provision will, for the first time, give authority directly to the Department of the Interior to carry on research and demonstration projects, including the construction of publicly owned research facilities, which will give us additional information on the problem of eutrophication and the ending of pollution in our inland lakes.

Mr. Speaker, I compliment the committee on its work and look forward to having the Department of the Interior implement this "clean lakes" section of the legislation at an early date.

Mr. FALLON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I, too, commend the committee, and I thank the chairman for having yielded to me.

Mr. Speaker, I direct one question to the gentleman from Texas regarding the matter of the discharge of waste from pleasure craft. I know there is some controversy on this subject, and there is a great deal of concern by pleasure craft owners about it in my area as to what regulations will be adopted.

Can the gentleman from Texas give us any information as to what procedures will be followed in settling this controversial question?

Mr. WRIGHT. Mr. Speaker, the bill does not lay down the guidelines but directs the Secretary of the Interior within 2 years to promulgate standards for these marine sanitation devices. Then it directs the Coast Guard to develop regulations for installation of the devices to see that they live up to the standards.

The bill exempts from these standards and regulations the vessels which already are equipped with sanitation devices that were installed pursuant to existing State law, so long as they remain consistent with existing State law. It provides that, after 2 years, new vessels would be required to comply with these standards and regulations. Existing vessels, however, would have 5 years before they have to come into compliance.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman. It seems a reasonable approach to this problem. Then those who have some controversy about this problem will have to sell their case to the authorities making those regulations.

(Mr. JONES of Alabama (at the request of Mr. FALLON) was granted permission to extend his remarks at this point in the RECORD.)

Mr. JONES of Alabama. Mr. Speaker, I am particularly pleased to have had the opportunity to be a part in bringing

this conference report to the House today.

The conferees have worked long and hard to prepare this legislation which meets such a great need in our country.

This is a giant step forward and one which every Member of this House can be proud.

Since the first Water Pollution Control Act in 1948 I have worked with my distinguished and knowledgable colleague from Minnesota, Hon. JOHN BLATNIK, to provide the most adequate legislation possible for control of water pollution.

We were able to extend the original act in 1953 and make it permanent in 1956. This initiated the grants for construction of municipal water treatment works.

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Concern for quality of our environment was not so strong at that time.

In 1955 and 1956, public apathy was most obvious to me as chairman of the special subcommittee which traveled back and forth across the country conducting hearings on the Nation's water resource problems. Only in the urban centers were the warnings of growing pollution problems given voice.

During the early 1960s another series of hearings throughout the country before the Natural Resources and Power Subcommittee of which I was chairman focused particular attention on the water pollution problems which were multiplying at an alarming rate.

The improvements of the Federal Water Pollution Control Act in 1961, 1965, and 1966 reflected the rising tide of public concern and interest in preventing the death of our lakes and streams.

It is in response to a great need and demand by the people of this country that we bring this conference report to the House for adoption today. This legislation will be an accommodation to the people who are earnestly seeking to make corrections and improvements in the quality of the water they use and discharge.

I believe that H.R. 4148 is another fine piece of legislation which has been reported from the Committee on Public Works, and which has already passed this body and is now before you today for final approval of the conference report. This bill is one of the outstanding pieces of legislation in which I have played a part in during my tenure with the Congress.

H.R. 4148 moves us into new categories in the drive to keep our Nation's waters pure. It establishes liability, monetary limitations, and requirements for oil cleanup spillage, whether it be by a vessel or onshore or offshore installation. It moves into the category of pollution from various types of vessels and lays down the guidelines for the development of appropriate disposal of sewage from those vessels in the years ahead. It requires for the first time certifications from any industry or from anyone who would use our Nation's waters for purposes such as nuclear power development, steel plant development, bridge construction, among other things that in the use of such Nation's waters the operation of any of these facilities will not effect the water quality standards of a State or States.

It covers many other major points too long to be enumerated here in the short time that I have. Suffice it to say I believe this legislation will prove to be one of the most important pieces of legislation this Congress will pass in this or any other session, and I recommend adoption of the conference report on H.R. 4148.

Mr. FALLON. Mr. Speaker, I am proud to have been a part in development of the legislation which is pending before this body today for final consideration before it will be sent to the White House for signature.

This is major legislation with a capital "M."

Throughout the years from the Committee on Public Works there has been reported legislation which has developed a stronger and stronger program to keep

our Nation's waters clean. This body throughout the years has consistently supported legislation which will provide necessary funding to develop proper means of cleaning up our Nation's waters and when necessary it has provided a means by which the Federal Government and the States have the power to bring action against those who would violate the water quality standards or our Nation's rivers, lakes, streams, and oceans.

The legislation pending before this body is another giant step in an effort to accomplish the goal we all seek—clean water for the use of all Americans. It is a long and complex bill. It covers such diverse fields as control of pollution by oil; control of hazardous polluting substances; control of sewage from vessels; and a requirement that proper certification be received from those who would use our Nation's waters and in the process must obtain a Federal license or permit, that they give reasonable assurance of compliance with water quality standards for a State or States before that applicant can receive any license or permit. This includes among others a license from the Atomic Energy Commission for a nuclear powerplant or for any new dam which requires a license or from the Federal Power Commission, as well as many other industries which would require a permit to build a dock discharge pipe, a water intake pipe, or a bridge.

These are just some of the highlights of this fine legislation. It is the result of almost 2½ years of intensive work by the Congress and comes to you today as a result of one of the most fully discussed and lengthy conferences in the history of the Committee on Public Works.

I am proud to be a part of it and I support it.

May I conclude my remarks by commending all those on the conference who worked so hard for the legislation, in particular the gentleman from Minnesota (Mr. BLATNIK), the gentleman from Alabama (Mr. JONES), the gentleman from Texas (Mr. WRIGHT), the ranking member of the committee, the gentleman from Florida (Mr. CRAMER), the gentleman from Ohio (Mr. HARSHA), and the gentleman from New York (Mr. GROVER).

I urge adoption of the conference report.

Mr. FEIGHAN. Mr. Speaker, let me say that I myself have been a strong supporter over many years of all the legislation that the Committee on Public Works has reported in the field of water pollution. I am particularly grateful for the fact that this conference report contains language which I supported when H.R. 4148 was first considered by the House. I have reference to section 15 of the conference report dealing with pollution control in the Great Lakes. This is an opening for the Secretary to begin to develop projects, to find new methods and techniques to eliminate or control pollution in all portions of the watersheds of the Great Lakes.

I note that the figure of $20 million for this section is still retained in the conference report and I appreciate this as well. I am pleased that elsewhere in this legislation which is before us today there is also authorization for clean lakes study and their research. I am appreciative of all these steps but I might add that they are only a beginning.

The problem in Lake Erie and in the other Great Lakes and in many portions of the waters of this country is a pressing one.

Under the $20 million authorized for this Great Lakes program the pilot project of the program would be one dealing with Lake Erie itself. The problem in Lake Erie has been most pressing for a number of years and therefore the first attention and the first priority for this program will be given to Lake Erie.

We must move forward faster in this field and I intend to do all I can to see that this effort is made to finally clean up this problem. I believe the balance of the legislation covering such things as oil pollution, licensing of facilities who

use our Nation's waters, vessel pollution are major steps in the advancement of the pollution cleanup of our Nation.

I support the conference report.

Mr. DONOHUE. Mr. Speaker, I most earnestly urge my colleagues to speedily and overwhelmingly approve this conference report on H.R. 4148, the Water Quality Improvement Act of 1970.

Beyond the extension of the present water pollution control legislation, this report recommends the acceptance and inclusion of the substance of a measure, H.R. 9382, that I cosponsored in March last year, and the legislative proposal I supported last September to create a Council on Environmental Quality.

That act is implemented in this measure by providing for the further establishment of the Office of Environmental Quality, to provide technical advice and assistance that will enable the President, the Congress, States, and municipalities to better meet and overcome our environmental pollution dangers.

Other additional major provisions recommended in this report are those authorizing an accelerated study of the removal methods and enforcement measures designed to deal with releases of hazardous substances into the waters of the United States; requiring that all Federal facilities and activities, as well as those federally licensed or permitted facilities and activities, must comply with certain water quality standards; projecting a clearer policy, in the protection of the public interest, of complete liability upon owners and operators of vessels and onshore and offshore facilities for pollution cleanup costs incurred by the United States.

Mr. Speaker, these and other additions to existing water pollution control legislation, contained in this report, represent a vigorous forward step in our continuing efforts to recruit all the resources of our Government and our society to expedite the removal and control of the increasingly dangerous pollution of our waters.

They constitute a commendable legislative effort on the part of the Congress to join with the President in moving faster and more effectively toward the completion of what we might well call a great national house-cleaning project that is absolutely essential for our survival.

Of course, many of us here who joined

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in urging the approval of the originally proposed appropriation of $1 billion for the construction of sewage and waste treatment facilities are mindful that our cause was lost by two votes. I sincerely hope that, when the time comes for the House to approve the actual appropriations necessary to carry out the provisions of this legislation, the same spirit of urgency and priority will be present as is being demonstrated here today.

Let us remember that most small towns, particularly, and our cities and States, have practically reached the end of their financial resources and overburdened taxpayers, in these inflationary days, cannot bear the additional burden of cleaning up local and State waters. All our good intentions and our best legislative projections will come to nothing unless sufficient money is recommended by the President and appropriated by the Congress to fulfill the purpose of this act, and to honor our commitment to the taxpayers of the United States to provide them with a wholesome environment, free from pollution and poison.

Mr. VANIK. Mr. Speaker, I want to express my appreciation to the members of the Public Works Committee and to the House conferees for retaining the $20 million authorization for the special pollution problems of the Great Lakes.

I also want to point out that in the committee action to date and the recent recommendations of the President failed to provide any funding for the removal of any residual pollution which continues to contaminate the waters of the Great Lakes.

It is my hope that the committee will

this year consider legislation to approach the special problems of pollution disaster areas such as Lake Erie, the Hudson River, San Francisco Bay, and certain portions of the gulf seaboard. Efforts must be made to meet such problems by increasing water flow, developing currents and wave action, and in the case of Lake Erie, by dredging or aerating certain areas of densely polluted waters. These pollution disaster areas are beyond the capacity of any state or local community and can only be handled through Federal action.

I expect to urge such a program before the Public Works Committee at the earliest opportunity

Mr. ROTH. Mr. Speaker, the Water Quality Improvement Act—H.R. 4148, now reported out of conference after lengthy debate—is a significant step forward toward restoring and improving the quality of our Nation's waters. Initiated in the wake of the disastrous *Torrey Canyon* incident in 1967, and spurred by the Santa Barbara blowout and the *Ocean Eagle* spill in San Juan Harbor, this landmark legislation finally passed through the committees of both houses and was sent into conference committee last session. While the differences were being worked out, a series of disasters took place which prodded completion of the bill—a tanker grounded and leaking off the coast of Nova Scotia, one spilling its cargo into Tampa Bay, and the oil spillage following the drilling platform explosion off New Orleans.

From all these incidents, from 1967 to the present, it is necessary to conclude that there is a very serious problem and that our present laws are inadequate to deal with that problem. The penalties contained in the Oil Pollution Act of 1924—personal punishment of a fine of up to $2,500 and imprisonment went up to 1 year, or both, and vessel liabilities of up to $10,000—do not begin to cope with the threats posed by the expanding oil extraction and transportation industry. Far larger oil tankers, drilling platforms operated improperly or placed in seismically active offshore land, and increasing commerce with increasing chance of accidents—all call for the reform provided by this bill.

The conference report contains provisions for absolute liability to the United States, unless the owner or operator can prove that the discharge resulted solely from an act of God, an act of war, an act of U.S. Government negligence, or an act or omission of a third party. The limits on the liability have been set at $14 million for a vessel and $8 million for offshore or onshore facilities. This liability may not be high enough for the future, but it is sufficient to pay for the cleanup of the most disastrous spill on record.

A second provision of the bill that is needed badly is contained in section 21, which requires any applicant for a Federal license or permit with respect to the navigable waters of the United States to obtain certification that his activities will not violate existing water quality standards. This broad provision is very important. Among other things, it offers us the possibility of responding to the expanding demand for electric power and yet giving those parties especially concerned with the pollution generated along with that power a means, outside of the courts, for seeing that their concerns are considered.

This is vitally needed legislation and it has my wholehearted support. It is an integral part of the growing Federal effort aimed at assuring a quality environment for present as well as future generations. It is a sensible balancing of the growing demands of our people for the benefits from oil and electricity, and the benefits of a clean, healthy, life-promoting environment.

Mr. DENNEY. Mr. Speaker, I am a strong supporter of programs for improvement of our environment. One of the best of these that I see working in my district is the small watershed program—Public Law 566. I have been on these projects during the planning stage and have seen the problems faced by the

local people and I have seen the projects with the land treatment on the land and the dams in place.

I strongly support the SCS budget increasing construction by $8,246,000. Why, I ask, since Aowa Creek watershed in Dixon County has been approved by Congress, have not funds been made available for construction. This is unfair to the local people. I have seen gullies in Aowa watershed 30 feet deep, eating away at the landscape and threatening roads and bridges. These gullies will continue to grow until action is taken. Gully erosion is an extremely serious problem throughout my district.

This source of sediment which causes pollution of our streams must be controlled. Also, the day must come when this land will be needed to satisfy our expanding population. The small watershed program is a natural for stopping these gullies and healing up the landscape. Frequent and devastating floods have plagued Nebraska during its entire history, and the people want to do something about them. In my district, the Nemaha Basin is now entirely covered with applications for assistance under the small watershed program. This work must go forward.

The accelerated land treatment program, an integral part of the small watersheds, supplements the going program of the soil and water conservation districts in holding soil and water on the farm, thus reducing sediment production and preventing agricultural chemicals from polluting the streams in the State.

Eastern Nebraska was not blessed with natural lakes. The small watershed program, however, is being used to develop water-based recreation that can satisfy a large part of this increasing demand for recreation. These recreational opportunities will make eastern Nebraska a better place in which to live, and will help prevent the outmigration of people.

As I have said, I support the SCS budget increasing construction funds, however, I am concerned at the sharp drop in planning funds. In my district alone there are 30 applications not yet planned even though 17 projects have been authorized and funded for construction and six projects completed.

Mr. FALLON. Mr. Speaker, I have no further request for time.

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

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

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

Mr. ASHBROOK. 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 pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 358, nays 0, not voting 72, as follows:

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So the conference report was agreed to.

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The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

ENROLLMENT OF TITLE OF H.R. 4148, WATER QUALITY IMPROVEMENT ACT OF 1970

Mr. FALLON. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 559) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 559

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill H.R. 4148 the Clerk of the

House of Representatives is authorized and directed to enroll the title so as to read: "An Act to amend the Federal Water Pollution Control Act, as amended, and for other purposes."

The SPEAKER pro tempore (Mr. EDMONDSON). Is there objection to the request of the gentleman from Maryland?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

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1.2k(5) MESSAGE FROM THE PRESIDENT OF THE UNITED STATES "CONSERVATION AND WATER MANAGEMENT"

H.R. REP. Doc. No. 273, 90th Cong., 2d Sess. (1968)

CONSERVATION AND WATER MANAGEMENT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A MESSAGE ON CONSERVATION AND WATER MANAGEMENT

MARCH 11, 1968.—Referred to the Committee of the Whole House on the State of the Union and ordered to be printed

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To the Congress of the United States:

Theodore Roosevelt made conservation more than a political issue in America. He made it a moral imperative.

More than half a century ago, he sounded this warning:

> To skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed.

The conservation work that Roosevelt began was protection of our natural heritage for the enjoyment and enrichment of all the families of the land. That is work which never ends. It must be taken up

anew by each succeeding generation, acting as trustees for the next.

But the conservation problems Theodore Roosevelt saw are dwarfed by the new ones of our own day.

An unfolding technology has increased our economic strength and added to the convenience of our lives.

But that same technology—we know now—carries danger with it.

From the great smoke stacks of industry and from the exhausts of motors and machines, 130 million tons of soot, carbon and grime settle over the people and shroud the Nation's cities each year.

From towns, factories, and stockyards, wastes pollute our rivers and streams, endangering the waters we drink and use.

The debris of civilization litters the landscapes and spoils the beaches.

Conservation's concern now is not only for man's enjoyment—but for man's survival.

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Fortunately, we have recognized the threat in time, and we have begun to meet it.

Through the landmark legislation of the past few years we are moving to bring a safe environment—both to this generation, and to the America still unborn.

—The Water Quality Act of 1965 and the Clean Water Restoration Act of 1966 provide the foundation of our first major efforts to curb the pollution blighting America's waters.

—The Clean Air Act of 1965 and the Air Quality Act of 1967 build a strong base from which we can begin to clean the air.

—The Solid Waste Disposal Act of 1965 launched a new program to find the most efficient ways of disposing of millions of tons of solid wastes that clog the city and the countryside.

—The Highway Beautification Act of 1965 laid the groundwork for scenic roads and enjoyable travels.

—Over 2.2 million acres have been authorized for addition to the Nation's Park System—and for the first time in generations more land is being preserved for the people than is being developed for industrial or urban purposes.

But the work of the new conservation, too—like the task we inherited from an earlier day—is unending. Technology is not something which happens once and then stands still. It grows and develops at an electric pace. And our efforts to keep it in harmony with human values must be intensified and accelerated. Indeed, technology itself is the tool with which these new environmental problems can be conquered.

In this Message I shall outline the steps which I believe America

must take this year to preserve the natural heritage of its people—a broad heritage that must include not only the wilderness of the unbroken forest, but a safe environment for the crowded city.

A PRIORITY CONSERVATION AGENDA

The dangers that threaten our environment are varied. To succeed in meeting their challenge requires a wide-ranging response, with special emphasis on the items of highest priority.

For fiscal 1969, I propose a program to complete this vital agenda for action.

First I recommend that we assure the people that their water supplies will be pure and plentiful now and in the years ahead by:

—Prosecuting the war on water pollution with conviction, combining Federal, State and local efforts to finance the construction this year of $1.5 to $2 billion in community waste treatment plants.

—Creating a National Water Commission to plot the course of water resource management for the next century.

—Helping to assure the quality of community water supplies through the Safe Drinking Water Act of 1968.

—Meeting the water needs of one of America's fastest growing regions by authorizing the Central Arizona Project.

Second, I recommend that we guard the landscape against the waste products of modern life by:

—Protecting rivers, beaches, and coastal areas against the devastation of oil spillage and other hazardous substances through strong legislation to control them.

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—Preventing the future despoilment of thousands of acres of mining land through the Surface Mining Reclamation Act of 1968.

—Discovering efficient methods to dispose of the millions of tons of refuse and trash that threaten to engulf city and countryside, through an extension of the Solid Waste Disposal Act, and to accelerate the development of economical systems which will convert waste into useful by-products.

—Transforming our highways into corridors of beauty through prompt action to continue the Highway Beautification Program, and building new roadside parks for the traveling family.

Third, I recommend that we advance in the battle for clean air over America's cities by:

—Fully exploiting our vast technology to find new and effective pollution abatement methods.

—Investing $128 million as the Federal share in pollution control

and research, more than has ever been committed in a single year before.

—Organizing for action, through the designation of Air Quality Control Regions under the landmark Air Quality Act of 1967.

Fourth, I recommend that we bring a sense of fulfillment, outdoor recreation and serenity to all Americans by:

—Bringing new national parks closer to the people who live crowded city lives by development of the redwood groves of California, the Northern Cascades of Washington and the historic Potomac River.

—Adding thousands of new acres of unspoiled and primitive lands to the wilderness system.

—Completing action on the nationwide networks of scenic rivers and trails.

—Focusing now on the problem of noise and its impact on our daily lives.

Fifth, I recommend that we explore the peaceful promise of the ocean's depths by:

—Beginning to plan now with other nations to launch an International Decade of Ocean Exploration.

—Putting our most advanced marine technology to work in the development of improved buoys for better prediction of weather and ocean conditions.

WATER POLLUTION CONTROL

America's rivers, lakes and coastal waters have nourished her growth: irrigated the farms, powered the dynamos, and provided transport for commerce.

But we have not used our waters well.

Our major rivers are defiled by noxious debris. Pollutants from cities and industries kill the fish in our streams. Many waterways are covered with oil slicks and contain growths of algae that destroy productive life and make the water unfit for recreation. "Polluted Water—No Swimming" has become a familiar sign on too many beaches and rivers. A lake that has served many generations of men now can be destroyed by man in less than one generation.

Only recently have we begun to reverse this trend—to undertake a program to preserve waters that are still clean, and purify those that have become infested with pollution.

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The conditions have worsened through decades of neglect and indifference. They affect entire industries. They involve thousands of miles of waterways and thousands of communities that border them.

We have discovered not only that the problems of pollution are formidable, but that their solutions must be interlocking.

—Water quality standards must be set for entire bodies of water, varying from place to place depending on the water's use.

—Standards must be enforceable and they must apply to both municipalities and industries.

—Waste treatment plants must be constructed and other methods developed to prevent pollutants from reaching the water.

—New methods of cooperation and enforcement must be established at all levels, for waters bearing poisons do not stop at city, county or State boundaries. Clearing one part of a stream is no answer. Water bodies must be cleaned in their entirety.

America took strong action to combat the problem in 1965 with the Water Quality Act, and took another major step a year later with the Clean Water Restoration Act. Under those measures, the long and difficult task of cleaning the waters of our land has begun.

WATER QUALITY STANDARDS

Now, for the first time in our history, all the States have taken inventory of their water resources, considered their future needs, and developed quality standards.

As the law requires, these standards, and the plans to carry them out, have been submitted to the Secretary of the Interior for approval.

Many of the plans have already been approved. This is welcome news for communities and businessmen alike. Now they can take action because they know the standards they must all meet.

I have asked the Secretary of the Interior to speed the review of the remaining standards and plans so the Federal Government can more effectively help the States and communities turn their blueprints into action.

THE CONSTRUCTION OF TREATMENT PLANTS

The heart of a water pollution control program is the community waste treatment plant which prevents refuse, debris and filth from reaching the waters. To meet the Nation's critical needs calls for both the construction of new plants and the improvement of existing facilities.

Through the Clean Water Restoration Act, the Federal Government can provide financial help—from 30 to 55 percent of the cost—for the construction of municipal waste treatment works. Already, under that Act and earlier authority, 8,000 grants, totaling more than $1 billion, have been made. They have helped local communities build more than $4.5 billion worth of plants, to control the pol-

lution in 67,000 miles of water on which almost 66 million Americans depend.

More is required, however. The problem is pressing and the backlog of needed plants is great.

With accelerated Federal help, we can stimulate the construction of $1.5 billion to $2 billion in waste treatment plants under the $700 million authorization approved by the Congress for Fiscal 1969.

This will be done in two ways.

First, I recommend an appropriation of $225 million for grants under the Clean Water Restoration Act. This should generate about $500 to $600 million of plant construction.

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Second, I recommend legislation to allow the Secretary of the Interior to make annual installment payments in addition to the lump sum grants as is presently the practice. This would permit the Federal Government to make construction commitments up to a total of $475 million in Fiscal 1969.

Under this new financing method, the $475 million would generate a total of about $1 to $1.4 billion of construction. Communities would be able to build many of their urgently needed plants without delay and get them into the fight against pollution now.

USER CHARGES

Capital and operating costs of treatment plants are expensive, and it is right that those costs be borne by those who receive the plant's benefits. Accordingly, the new financing program will require, as one criterion for assistance, that municipalities impose a system of user charges on those who use the plants.

A system of user charges would not only provide an equitable way of sharing costs, but would accomplish other desirable purposes, as well. Such charges would:

—Provide an incentive for industries to curb pollution through improved manufacturing techniques.

—Relieve the pressure on the overloaded tax bases of local governments.

SAFE COMMUNITY WATER SUPPLIES

As America's cities grew and developed their own water supply systems, cholera and typhoid posed a grim threat to health and safety.

That threat was countered long ago.

Now, we in America drink tap water without a thought as to its safety. And yet—that water is not always as safe as it should be.

We do not have enough information on the long-term health effects of substances in drinking water.

New hazards—chemical and industrial wastes, and other materials —are creating new problems.

The Nation's Public Health Service cannot respond fully to this danger. Its authority is limited by a law passed almost half a century ago.

A recent study has indicated that about 30 percent of the Nation's public drinking water systems may fall below Federal standards.

To help the cities and communities of America assure citizens that the water they drink is safe, I propose the Safe Drinking Water Act of 1968:

This measure will strengthen the authority of the Secretary of Health, Education, and Welfare to:

—Develop, adopt and enforce improved standards relating to chemical contaminants in drinking water.

—Conduct a comprehensive study of the safety of public drinking water supplies in the United States.

—Determine whether any additional steps are necessary in this area.

The new law will help move us toward this goal: That every glass of drinking water drawn from America's public water supply systems will meet proper health standards.

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WATER MANAGEMENT AND PLANNING

NATIONAL WATER COMMISSION

We will not have served the water needs of Americans if we meet only the requirements of today's population. A prudent nation must look ahead and plan for tomorrow.

First, we must continue our sound programs of water management, research, and advance planning to solve supply problems and to prepare for the future needs of farms and factories, and growing city populations.

Second, we must establish a board to develop long-range policy for water resources.

Last year I asked the Congress to establish a National Water Commission to:

—Work with Federal, State and private agencies in a survey of our long-term water needs.

—Explore the effect of water development projects on regional growth.

—Identify alternative policies and programs to meet national and regional water resource objectives.

Both the Senate and the House of Representatives have passed

legislation to establish this Commission. The measure is now in conference.

I urge the Congress to complete its action and authorize this much needed Commission.

Central Arizona Project

A vast area of the Western United States is arid. Thousands of acres are in danger of becoming a barren wasteland as underground sources of water are used up or depleted.

We have the techniques and know-how to overcome this problem.

Now legislation is required to authorize a program to bring water from the Colorado River to meet the urgent needs of the people of Arizona.

Proposals affecting the canyons and the gorges of this mighty and historic river have been the subject of searching national debate. Out of this discussion, a plan has evolved that will require no dams on the Colorado River, preserve its scenic values, and at the same time permit the immediate construction of essential water supply facilities.

I ask the Congress to authorize the Central Arizona Project this year.

OIL POLLUTION ABATEMENT

Last year, when the TORREY CANYON sank off the coast of Cornwall, the 30 million gallons of oil it was carrying spread destruction throughout the coastal waters, killing fish and birds, and then the refuse of this devastation swept onto the beaches.

Only this week, at home, tragedy struck again. The tanker OCEAN EAGLE broke in half at the mouth of San Juan Bay, spewing some 1½ million gallons of oil over some of the finest beaches in the Western Hemisphere.

Major disasters rarely occur. But minor oil spills are frequent—and their combined effect, although less dramatic, can also be harmful.

Last year, I asked the Secretary of the Interior and the Secretary of Transportation to study the problem of oil pollution in American waters. Their report warns us that we must protect the beaches, places

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of recreation, coastal and inland waters, and our fisheries from spillage not only of oil, but of other hazardous substances as well.

We need a comprehensive system to control oil pollution and to provide for prompt clean-up.

We also must be able to cope with the spillage of large quantities of such substances as chlorine.

Last year the Senate passed S. 2760 to deal with the problem of oil pollution.

I propose we build upon and strengthen that bill through the Oil Pollution and Hazardous Substances Control Act of 1968.

This Act, together with the earlier Senate legislation, would:

—As a general rule, make the discharge of oil unlawful if it occurs from a shore facility or a ship operating within 12 miles from shore. The 3-mile territorial and 9-mile contiguous zones are thus both covered. This greatly expands the previous standard of liability, which was limited to "gross or willful negligence" and to the 3-mile limit.

—Impose upon the oil pollutor responsibility for cleaning the beaches and waters.

—Empower the Federal Government to clean up oil spills whenever the owner or operator fails to act, but require the polluter to reimburse the Government for the clean-up costs. Prior law limited the owner's liability to the salvage value of the ship. The proposal will make them liable for the full costs of clean-up.

—Authorize the Government to establish regulations for shipboard and related marine operations to reduce the possibility of oil leakage at the source.

—Provide protection against large and dangerous discharges of pollutants other than oil by requiring those responsible to take whatever clean-up or other action the Government considers necessary. If the polluter fails to act, the Government will take the necessary steps, and hold the polluter liable for the costs.

AIR POLLUTION

Metals corrode, fabrics weaken and fade, leather weakens and becomes brittle, rubber cracks and loses its elasticity, paint discolors, concrete and building stone discolor and erode, glass is etched and paper becomes brittle.

This is not a description of the effects of a new weapon.

It is a sobering report on the results of pollution in the air we breathe.

And that air is not divisible into convenient shares. Polluted air affects the lungs of all—rich and poor, manager and worker, farmer and urban dweller.

Of all the problems of conservation, none is more urgent than the polluted air which endangers the American people. We have been fortunate so far. But we have seen that when winds fail to blow, the concentrations of poisonous clouds over our cities can become perilous.

Air pollution is a threat to health, especially of older persons. It

contributes significantly to the rising rates of chronic respiratory ailments.

It stains our cities and towns with ugliness, soiling and corroding whatever it touches. Its damages extend to our forests and farmlands as well.

The economic toll for our neglect amounts to billions of dollars each year.

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The Clean Air Act of 1963 gave the Federal Government authority to help States and local communities plan effective programs to combat pollution.

In 1965, at my request, the Congress strengthened that Act by empowering the Secretary of Health, Education, and Welfare to set standards controlling automobile exhaust pollution—a major and mobile source of air contaminants.

Last year we took a giant step with the Air Quality Act of 1967. That Act:

—Will help our States abate pollution in the only practical way—on a regional basis. For air knows no man-made boundary.

—Gives the Government standby power to impose Federal standards or enforce State standards, if the States do not act.

—Gives the Secretary of Health, Education, and Welfare new power to stop serious cases of pollution that present a clear hazard to the public's health.

—Through accelerated research and testing, will help provide the technological answers to this baffling problem: How can we most economically and effectively prevent pollution at its source—in the fuels, while those fuels are being burned, or before the fumes reach the air?

To carry out our efforts to fight air pollution, I am seeking some $128 million for Fiscal 1969—more than we have committed in any past year.

I have directed the Secretary of Health, Education, and Welfare to designate the Nation's principal Air Quality Control Regions within the next few months, and to publish Air Quality criteria and related information on control techniques. This information will give States, local governments and industry the cost and control data they need to carry out their responsibilities.

One day we will have clean air over America—but only if all levels of Government and industry work closely and conscientiously. The legislation now on the books provides the framework for a partnership without precedent, matching the dimension of the need. The problem deeply affects us all, and all of us share the responsibility for solving it.

I am confident that those responsibilities will be carried out—and that we can return to the American people a fundamental right of their national heritage: the right to breathe clean air.

ASSISTANCE IN HARDSHIP CASES

We have looked carefully into the question whether water and air pollution control will have a serious economic impact on American industry.

According to recent studies, the cost should be small for most firms.

In some cases, however, pollution control costs may present undue financial hardships to both a business and a community. *I have asked the Secretary of Commerce and the Administrator of the Small Business Administration to give priority attention to providing assistance in these hardship situations.*

AIR AND WATER POLLUTION FROM FEDERAL INSTALLATIONS

In the field of pollution, it is not enough for an enlightened Federal Government to stimulate the work of the States, localities and private industry. It must also set a good example for the Nation.

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Across America, federal installations are adopting the latest air and water pollution control methods. During the coming year, that effort will be intensified.

We expect to devote $53 million to the task, for thirteen separate federal agencies and 360 air and water pollution abatement projects.

NOISE CONTROL

What was once critically described as "the busy hum of traffic" has now turned into an unbearable din for many city dwellers.

The crescendo of noise—whether it comes from truck or jackhammer, siren or airplane—is more than an irritating nuisance. It intrudes on privacy, shatters serenity and can inflict pain.

We dare not be complacent about this ever-mounting volume of noise. In the years ahead, it can bring even more discomfort—and worse—to the lives of people.

I am directing all departments of Government to take account of noise factors in choosing the location and design of buildings, highways and other facilities whose construction is assisted by Federal funds.

I also urge the Congress to take prompt action on legislation to strengthen the authority of the Secretary of Transportation to deal with aircraft noise. We need greater capacity to deal with the rapidly growing noise problem created by our expanding air transportation system.

SURFACE MINING

An air traveler over some of the richest country in America can look down upon deep scars gouging the earth, acres of ravaged soil stretching out on either side.

Advances in mining technology have allowed us to extract the earth's minerals economically and swiftly.

But too often these new techniques have been used unwisely and stripping machines have torn coal and other minerals from the surface of the land, leaving 2 million acres of this Nation sterile and destroyed. The unsightly scars of strip mining blight the beauty of entire areas, and erosion of the damaged land pours silt and acid into our streams.

Under present practices, only one-third of the land being mined is also being reclaimed. This start has been made by responsible individuals, by mining companies, and by the States that have already enacted laws to regulate surface mining.

America needs a nationwide system to assure that all lands disturbed by surface mining in the future will be reclaimed. This can best be achieved through cooperative efforts between the States and the Federal Government.

I propose the Surface Mining Reclamation Act of 1968. Under this Act:

—Criteria will be established which the States will use in developing their own regulatory plans.

—The States, assisted by Federal grants, will develop their own plans within two years and submit them to the Secretary of the Interior for review and approval.

—The Secretary will impose Federal standards if the State plans are inadequate or if they are not submitted.

Surface mining also occurs on Federal lands. To enable Government to take the lead in this important conservation effort, I have directed that:

—Federal Agencies assure that their regulations require the reclamation of Federal lands leased for surface mining.

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—From now on, Federal contracts for the purchase of coal and other surface-mined minerals contain effective reclamation clauses.

SOLID WASTE DISPOSAL

In 1965, I recommended and the Congress approved a national planning, research and development program to find ways to dispose of the annual discard of solid wastes—millions of tons of garbage and

rubbish, old automobile hulks, abandoned refrigerators, slaughterhouse refuse. This waste—enough to fill the Panama Canal four times over—mars the landscapes in cities, suburbia and countryside alike. It breeds disease-carrying insects and rodents, and much of it finds its way into the air and water.

The problem is not only to learn how to get rid of these substances—but also how to convert waste economically into useful materials. Millions of dollars of useful by-products may go up in smoke, or be buried under the earth.

Already scientists working under the 1965 Act have learned much about how soils absorb and assimilate wastes. States and local communities have drawn up their plans for solid waste disposal.

That Act expires in June, 1969.

To continue our efforts, I recommend a one-year extension of the Solid Waste Disposal Act.

In addition, *I am directing the Director of the Office of Science and Technology working with the appropriate Cabinet officers to undertake a comprehensive review of current solid waste disposal technology.* We want to find the solutions to two key problems:

—How to bring down the present high costs of solid waste disposal.

—How to improve and strengthen government-wide research and development in this field.

AGRICULTURAL WASTES

The new agricultural and land management techniques that increase the productivity of our farms have also brought new problems:

—Soil and other substances polluting our streams are the result of the erosion of farmlands and other areas. This cause of pollution has never been fully controlled and rapidly expanding suburban development has aggravated it.

—Added amounts of animal wastes are generated from the efficient concentration of cattle, hogs and sheep in feed lots.

We must not permit harmful effects on fish, other wildlife and on drinking water supplies of chemicals from fertilizer and pesticides—whatever their source.

Many of these problems can be dealt with through existing programs. But some will require new research and new approaches.

I am instructing the Secretary of Agriculture to conduct a government-wide review of these problems.

THE SPLENDOR OF A CONTINENT

Before anything else, Americans had the splendor of a continent. Behind the facade of our cities, beyond the concrete ribbons that connect them, much of that splendor remains.

It is there because men of vision and foresight—men like Gifford Pinchot, Theodore Roosevelt and Franklin Roosevelt—determined

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that the people's oldest legacy, the inheritance of a spacious land, must be preserved.

It is for each generation to carry on that work.

In our time, the task has become more difficult—but ever more urgent. Our numbers grow, our cities become more crowded, the pace of our lives quickens—but man's need to raise his spirits and expand his vision still endures.

A clear stream, a long horizon, a forest wilderness and open sky—these are man's most ancient possessions. In a modern society, they are his most priceless.

NATIONAL PARKS AND RECREATION AREAS

In the past several years, we have authorized the addition of more than 2.2 million acres to the Nation's Park System.

We are actually preserving more lands—over 1.7 million acres in 1967—for conservation and the recreational enjoyment of America's families than the bulldozer and power shovel are taking over.

A park, however splendid, has little appeal to a family that cannot reach it.

The magnificent areas preserved in the early days of conservation were remote from the cities—and many Americans had to travel half a continent to visit them.

The new conservation is built on a new promise—to bring parks closer to the people. The man who works hard all week—the laborer, the shopkeeper, the subway rider—deserves a chance to escape the city's crush and congestion. He should have the opportunity to give his children a weekend of recreation and beauty and fresh air.

To provide this chance is the purpose of our program.

In the last several years, 32 of the 35 areas set aside by the new conservation—seashores, lakeshores, and parks—were located near large urban centers—North, West, East, and South. They are within easy driving distance of 120 million of our people. For example:

—The resident of New York City can within an hour or so reach the beaches and waters of the Fire Island National Seashore, established in 1965.

—A family living in the Washington, D.C. area has—since 1965—been able to enjoy the advantages and scenic wonders of Assateague Island National Seashore, only three hours away by car.

—Citizens of Chicago will soon be able to visit the conveniently located Indiana Dunes National Lakeshore, whose development began last year.

—A father in Kentucky can take his son hunting and camping in the new "Land Between the Lakes" recreation area, which will serve millions of Americans in the Southeast.

—Boy Scout troops in the Southwest can explore and hike through the Guadalupe National Park in Texas.

—People in North Carolina will have easy access to the Cape Lookout National Seashore, now underway.

In 1967, almost 140 million visits were made to National Park areas. These visits are increasing steadily—a tribute to the quality and importance of our parks. It is also a signal that more parks are needed.

Paramount among our last-chance conservation opportunities is the creation of a Redwood National Park in Northern California to

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preserve the tallest, most ancient sentinels of nature on the American continent. A park in this region would benefit millions of Americans living on the West Coast who could reach the park within an afternoon's drive.

I urge the House to seize this opportunity and complete action on a Redwood bill this year.

I also recommend that the House complete action on two other major additions to the Park System that we sought and the Senate approved last year:

—*North Cascades National Park* in Washington State, the American Alps, an unsurpassed spectacle of mountain beauty in the great Northwest.

—*Apostle Islands National Lakeshore,* along Wisconsin's most scenic water areas.

We can achieve a new concept in conservation—greater than a park, more than the preservation of a river—by beginning this year to make the Potomac a living part of our national life.

That great river, coursing through Maryland, Virginia and West Virginia, cradles much of our early history. Five million people live within 50 miles of its shores, and its legend beckons millions more from every part of the Nation. For the Potomac is truly the American River.

I urge the Congress to authorize the development of a uniquely historic area—the Potomac National River. Failure to act now will make us the shame of generations to come.

SCENIC TRAILS, RIVERS AND WILDERNESS AREAS

The urgent work of conservation leads us into three other areas.

A citizen should be able to leave his car behind and explore a scenic trail on foot, by bicycle or horse. He can do that if we establish a

nationwide network of scenic trails, many near our large cities and through historic areas. *Once again, I urge the Congress—as I did last year—the authorize a network of scenic trails.*

"The time has come," I said in 1965, "to identify and preserve free-flowing stretches of our great scenic rivers before growth and development make the beauty of the unspoiled waterway a memory."

Let this be the session of Congress that grasps the opportunity.

Last year the Senate passed a bill to save seven wild rivers and five scenic rivers. *I urge the Congress to complete action this year on legislation which would establish a scenic rivers system.*

One of the greatest delights for an American is to visit a primitive area of his land in its natural splendor.

In 1964, the Congress passed the Wilderness Act—a milestone in conservation policy. It permits the Government to set aside, at little cost to the taxpayer, some of the truly unspoiled areas of our continent.

Last year I asked the Congress to add the first four wilderness areas to the system: San Rafael in California, Mount Jefferson in Oregon, San Gabriel in California, and Washakie in Wyoming.

I urge the Congress to complete action on these wilderness areas.

I am today recommending the addition of seven new areas to the wilderness system, embracing more than 400,000 acres of mountain and forest and lake. These new wilderness areas are:

—Mt. Baldy in Arizona's Apache National Forest.

—The Desolation Wilderness in California's Eldorado National Forest.

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—The Flat Tops, in Colorado's Roult and White River National Forests.

—Pine Mountain in Arizona's Prescott and Tonto National Forests.

—The Spanish Peaks, in Montana's Gallatin National Forest.

—The Ventana Wilderness in California's Los Padres National Forest.

—Sycamore Canyon in Arizona's Coconino, Kaibab, and Prescott National Forests.

We are now surveying unspoiled and primitive areas in Arkansas, Oklahoma, Georgia, and Florida as further possible additions to the Wilderness system.

THE LAND AND WATER CONSERVATION FUND

The machinery to finance the acquisition of Federal recreation lands and to help the States plan, acquire and develop their own parks and forests is provided by the Land and Water Conservation Fund.

That Fund draws upon revenues from motorboat fuel taxes, Federal recreation area admission charges, and proceeds from the sale of surplus Federal lands.

For Fiscal 1969, I recommended new obligational authority of $130 million for the Land and Water Conservation Fund—an increase of $11 million over 1968.

But this alone may not be enough. The need for more recreation acreage to serve our growing population—along with rising land costs—requires that the Land and Water Conservation Fund be enlarged.

The longer we wait to acquire land for recreational purposes, the more those lands will cost.

A suitable addition to those sources of revenues now authorized can be found in the receipts from our mineral leases in the Outer Continental Shelf. That Shelf belongs to the people, and it is only right that revenues from it be used for the people's benefit. *I recommend that the Congress authorize the use of part of these revenues to augment the Land and Water Conservation Fund to raise it up to a level of $200 million a year for the next five years.*

THE NATION'S HIGHWAYS

More than any other mark we make upon the land, the signature of mid-20th Century America is found in the more than 3 million miles of highways that cross and link a continent.

It is not enough that those highways be roads of utility. They must also be safe and pleasant to travel.

We have embarked on a major campaign to make them safe, in the Highway and Traffic Safety Acts of 1966.

In 1965—in the Highway Beautification Act—we set out to make them attractive. In partnership with the States, we determined to remove and control the eyesores that mar the landscape—auto graveyards, unsightly billboards, junk heaps.

Early last year I asked the Congress to extend that Act—which expired on June 30, 1967—for two additional years. The Senate passed a one-year extension. It is still awaiting House action. The Highway Beautification Act represents an important item of unfinished business before the Congress. *I urge the Congress to complete action on the bill*

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so that we can get on with the job of making America a more beautiful place to live.

Our highways must be in harmony with the communities and countrysides of which they are part. Too often in the past, this need

has received little more than lip-service.

A distinguished Citizens' Advisory Committee on Recreation and Natural Beauty, under the Chairmanship of Mr. Laurance Rockefeller, has reported:

> Highways have effects that reach far beyond those who drive on them; yet our present devices for choosing locations are still based mostly on requirements of the highway user rather than the community at large.

Under the new authority in the Department of Transportation Act, we are moving now to assure that natural beauty and recreational factors are woven into the highway and freeway planning process, along with traditional engineering and cost considerations.

—The Secretary of Transportation is requiring States to give full consideration to the views of local groups—and private citizens in preparing their route selections for Federally supported highways.

—The Secretaries of Transportation, Housing and Urban Development, Interior, and Agriculture will review exceptional cases which raise questions concerning a proposed highway route's impact on scenic and historic values.

ROADSIDE PARKS

A highway should not be an unending ribbon of concrete from point to point.

American families traveling on their roads should be able to stop, to stretch their legs, to open a picnic lunch and relax before going on their way.

A park along the roadside—with landscaped grounds, an outdoor stove and tables, a path to explore—should be part of every travel experience. These way stations are not expensive. But they can add immeasurably to the comfort and enjoyment of a family on a trip.

I have directed the Secretary of Transportation to work with the Governors and Highway Commissioners of each State on a priority program to increase substantially the number and quality of rest and scenic areas along the Federal-aid Highway System.

VOLUNTEERS FOR CONSERVATION

All across America, men and women, boys and girls are making their cities and communities better places to live. In garden clubs and civic leagues, in Scout troops, 4–H clubs, and Junior Chambers of Commerce, they are planning and painting, cleaning and building, growing and repairing.

This is the army of conservation volunteers, and they number in the millions.

I propose this action program for volunteers to make America a place of beauty, enriching its communities and raising the spirits of their people, volunteers to:

—Increase local conservation efforts in every community through the full participation of all citizens.

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—Extend the National Paint-Up, Clean-Up, Fix-Up Week, now an annual event, to a seasonal event, four times a year.

—Encourage every city to beautify its approaches, through the planting of trees, shrubs and flowers native to the area.

—Impress upon every citizen the contribution he can make simply by observing the "No litter" signs as he drives along the highway and walks along the street. Clean-up is costly. For example, it takes $2,000 of the taxpayers' money each year to keep each mile of highway leading into the Nation's capital free of refuse.

—Call upon the news media to encourage the conservation work of local groups. Television and radio stations, which are granted the public airways, have a special obligation to highlight these worthy public events.

The volunteer work for conservation deserves recognition and honor. It deserves help in mobilizing for greater effort in the years ahead.

Accordingly, I am asking the President's Council on Recreation and Natural Beauty and the Secretary of the Interior in cooperation with the Governors and Mayors to join with private organizations in sponsoring a series of regional workshops to focus attention on those areas where greater private conservation efforts would be particularly productive.

THE OCEANS

The seas are the world's oldest frontiers. As Longfellow observed, they not only separate—but unite—mankind.

Even in the Age of Space, the sea remains our greatest mystery. But we know that in its sunless depths, a richness is still locked which holds vast promise for the improvement of men's lives—in all nations.

Those ocean roads, which so often have been the path of conquest, can now be turned to the search for enduring peace.

The task of exploring the ocean's depth for its potential wealth—food, minerals, resources—is as vast as the seas themselves. No one nation can undertake that task alone. As we have learned from prior ventures in ocean exploration, cooperation is the only answer.

I have instructed the Secretary of State to consult with other nations on the steps that could be taken to launch an historic and unprecedented adventure—an International Decade of Ocean Exploration for the 1970s.

Together the countries which border the seas can survey the ocean's resources, reaching where man has never probed before.

We hope that those nations will join in this exciting and important work.

Already our marine technology gives us the ability to use the ocean as a new and promising source of information on weather and climate. We can now build and moor electronic buoys in deep water. Unattended, these scientific outposts can transmit to shore data for accurate long-range forecasts.

The benefits will be incalculable—to farmers, to businessmen, to all travelers.

This year we can begin development of improved ocean buoys. I urge the Congress to approve my request for $5 million in the Fiscal 1969 Coast Guard budget for this program.

As we turn more and more of our attention to the exploration and the promise of the seas, America must train more ocean scientists and engineers.

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In 1966, I signed the National Sea Grant College and Program Act. This new partnership between the Federal Government and the Nation's universities will prepare men and women for careers in the Marine Sciences.

I recommend that the Congress appropriate $6 million in Fiscal 1969 to advance this program.

THE CRISIS OF CHOICE

Three years ago, I said to the Congress:

"... beauty must not be just a holiday treat, but a part of our daily life."

I return to that theme in this message, which concerns the air we breathe, the water we drink and use, the oceans that surround us, the land on which we live.

These are the elements of beauty. They are the forces that shape the lives of all of us—housewife and farmer, worker and executive, whatever our income and wherever we are. They are the substance of The New Conservation.

Today, the crisis of conservation is no longer quiet. Relentless and insistent, it has surged into a crisis of choice.

Man—who has lived so long in harmony with nature—is now

struggling to preserve its bounty.

Man—who developed technology to serve him—is now racing to prevent its wastes from endangering his very existence.

Our environment can sustain our growth and nourish our future. Or it can overwhelm us.

History will say that in the 1960s the Nation began to take action so long delayed.

But beginning is not enough. The America of the future will reflect not the wisdom with which we saw the problem, but the determination with which we saw it through.

If we fail now to complete the work so nobly begun, our children will have to pay more than the price of our inaction. They will have to bear the tragedy of our irresponsibility.

The new conservation is work not for some Americans—but for all Americans. All will share in its blessings—and all will suffer if the work is neglected. That work begins with the family. It extends to all civic and community groups. It involves city hall and State capitol. And finally it must engage the concern of the Federal Government.

I urge the Congress to give prompt and favorable consideration to the proposals in this Message.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *March 8, 1968.*

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1.21 RIVERS AND HARBORS ACT OF 1970

December 31, 1970, P.L. 91-611, Title I, §§120, 123, 84 Stat. 1823

SEC. 120. Paragraph (1) of subsection (p) of section 11 of the Federal Water Pollution Control Act, as amended, is amended by inserting after the word "size," in the first sentence thereof, a new clause as follows: "but not including any barge that is not self-propelled and that does not carry oil as cargo or fuel".

SEC. 123. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain, subject to the provisions of subsection (c), contained spoil disposal facilities of sufficient capacity for a period not to exceed ten years, to meet the requirements of this section. Before establishing each such facility, the Secretary of the Army shall obtain the concurrence

of appropriate local governments and shall consider the views and recommendations of the Administrator of the Environmental Protection Agency and shall comply with requirements of section 21 of the Federal Water Pollution Control Act, and of the National Environmental Policy Act of 1969. Section 9 of the River and Harbor Act of 1899 shall not apply to any facility authorized by this section.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall establish the contained spoil disposal facilities authorized in subsection (a) at the earliest practicable date, taking into consideration the views and recommendations of the Administrator of the Environmental Protection Agency as to those areas which, in the Administrator's judgment, are most urgently in need of such facilities and pursuant to the requirements of the National Environmental Policy Act of 1969 and the Federal Water Pollution Control Act.

(c) Prior to construction of any such facility, the appropriate State or States, interstate agency, municipality, or other appropriate political subdivision of the State shall agree in writing to (1) furnish all lands, easements, and rights-of-way necessary for the construction, operation, and maintenance of the facility; (2) contribute to the United States 25 per centum of the construction costs, such amount to be payable either in cash prior to construction, in installments during construction, or in installments, with interest at a rate to be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due or callable for redemption for fifteen years from date of issue; (3) hold and save the United States free from damages due to construction, operation, and maintenance of the facility; and (4) except as provided in subsection (f), maintain the facility after completion of its use for disposal purposes in a manner satisfactory to the Secretary of the Army.

(d) The requirement for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (c) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, and other appropriate political subdivision of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator

has found that applicable water quality standards are not being violated.

(e) Notwithstanding any other provision of law, all costs of disposal of dredged spoil from the project for the Great Lakes connecting channels, Michigan, shall be borne by the United States.

(f) The participating non-Federal interest or interests shall retain title to all lands, easements, and rights-of-way furnished by it pursuant to subsection (c). A spoil disposal facility owned by a non-Federal interest or interests may be conveyed to another party only after completion of the facility's use for disposal purposes and after the transferee agrees in writing to use or maintain the facility in a manner which the Secretary of the Army determines to be satisfactory.

(g) Any spoil disposal facilities constructed under the provisions of this section shall be made available to Federal licensees or permittees upon payment of an appropriate charge for such use. Twenty-five per centum of such charge shall be remitted to the participating non-Federal interest or interests except for those excused from contributing to the construction costs under subsections (d) and (e).

(h) This section, other than subsection (i), shall be applicable only to the Great Lakes and their connecting channels.

(i) The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to extend to all navigable waters, connecting channels, tributary streams, other waters of the United States and waters contiguous to the United States, a comprehensive program of research, study, and experimentation relating to dredged spoil. This program shall be carried out in cooperation with other Federal and State agencies, and shall include, but not be limited to, investigations on the characteristics of dredged spoil, and alternative methods of its disposal. To the extent that such study shall include the effects of such dredge spoil on water quality, the facilities and personnel of the Environmental Protection Agency shall be utilized.

1.21(1) HOUSE COMMITTEE ON PUBLIC WORKS

H.R. REP. No. 91-1665, 91st Cong., 2d Sess. (1970)

RIVERS AND HARBORS AND FLOOD CONTROL ACTS OF 1970

DECEMBER 8, 1970.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. FALLON, from the Committee on Public Works, submitted the following

REPORT

[To accompany H.R. 19877]

The Committee on Public Works, to whom was referred the bill (H.R. 19877) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

[p. 1]

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ENVIRONMENTAL IMPACTS

Environmental statements for all projects in this bill have been filed with the Committee in accordance with the requirements of section 102 of the National Environmental Policy Act of 1969. The Committee notes that many of the project proposals impact on and impose changes on our natural and human environment, but considers such changes are inevitable if our nation is to continue to be responsive to the needs of present and future generations. The concern of this Committee is, therefore, that these needs be met by projects that not only minimize injurious environmental impacts, but also which contribute positively to an improved environment for the well-being of our people. The National Environmental Policy Act was approved January 1, 1970, and guidelines for making environmental statements were promulgated by the Council on Environmental Quality on April 30, 1970. In view of the short period of time which has elapsed since the promulgation of the guidelines and the requirements

for extensive coordination, the environmental statements reflect a satisfactory degree of analysis based on available information, both with respect to alternative solutions and to the inclusion of measures to protect and improve the quality of the environment.

[p. 3]

SECTION 111

This section provides for a program of construction of contained spoil disposal facilities in the Great Lakes in order to eliminate pollution associated with open water disposal of contaminated dredged spoil. The section is similar in import to a proposal submitted earlier this year by the Administration. It varies from the Administration proposal mainly in the area of cost sharing, by providing for waiver of the required local cooperation where the Administrator of the Environmental Protection Agency finds that the local interests are participating in an approved plan for the construction, modification, expansion, or rehabilitation of waste treatment facilities and are making progress satisfactory to the Administrator. The Committee feels that this provision is appropriate in view of the fact that the section contemplates the construction of disposal facilities only for a ten-year period, at which time the sources of the polluted materials are expected to be eliminated, and local interests who are expending money to eliminate the source of the pollutants should not be penalized by requiring them to participate in the costs of the interim measures authorized by this section.

[p. 29]

The section provides that, in any case where the Administrator of the Environmental Protection Agency determines that dredged spoil from an area within an authorized Federal navigation project is significantly polluted, and the Secretary of the Army thereafter determines that dredged spoil disposal facilities are available, then open water disposal of such dredged spoil shall be discontinued. No determinations as to significant pollution and availability of disposal areas are to be made except after consultation with the Governors of the affected States.

The section authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct contained spoil disposal facilities, subject to conditions of non-Federal cooperation, as soon as practicable. The priority of construction of the various facilities would be determined after considering the views and recommendations of the Administrator of the Environmental Protection Agency. Before establishing any spoil disposal facility, the Secretary of the Army would be required to obtain the concurrence of appropriate local governments and consider the views and recommendations of the Ad-

ministrator and other appropriate heads of Federal agencies with respect to the location and the effect of the proposed facility on the quality of the water and land resources involved, and on the environment.

Subsection (f) provides that all costs of the disposal of dredged spoil from the connecting channels of the Great Lakes shall be borne by the Federal Government. This provision was added for two reasons: First, some of the connecting channels, while maintained by the United States, are in Canada. Second, the channels serve all of the Great Lakes, and it would be inequitable to assess the costs of disposal of channel materials to one particular locality simply because it happened to be geographically near the channel.

It is the intent of this section that the construction of any new facilities, or the expansion of existing ones, when accomplished for the purposes of this section, shall be done in accordance with the provisions of this section, notwithstanding any previously enacted provision of law or contract or agreement to the contrary.

The Committee recognizes that in certain cases the disposal of particularly hazardous spoil by open waters dumping would be so contrary to the public interest that it should not and will not be permitted at all, notwithstanding the fact that alternative disposal areas are not available.

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1.2l(2) SENATE COMMITTEE ON PUBLIC WORKS

S. REP. No. 91-1422, 91st Cong., 2d Sess. (1970)

PUBLIC WORKS AUTHORIZATIONS, 1970, RIVERS AND HARBORS—FLOOD CONTROL AND MULTIPLE-PURPOSE PROJECTS

DECEMBER 8.—Ordered to be printed

Mr. YOUNG of Ohio, from the Committee on Public Works, submitted the following

REPORT

together with

INDIVIDUAL VIEWS

[To accompany S. 4572]

The Committee on Public Works, reporting on the original bill (S. 4572) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

PURPOSE

The purpose of the bill is to authorize construction of certain navigation, beach erosion control, flood control, multiple purpose and related projects on which favorable recommendations have been made by the Chief of Engineers. S. 4572 is an omnibus rivers and harbors and flood control bill similar to those which have been enacted at intervals of 2 to 4 years.

The bill is divided into two parts. Title I covers river and harbor works, which include navigational projects for the control of beach erosion, and authorization for navigation and beach erosion control surveys to be carried out by the Corps of Engineers.

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[p. 1]

Section 11 of the Water Quality Improvement Act of 1970 imposed a form of absolute liability on those who carry oil, and residual lia-

bility on those who may cause accidents resulting in the discharge of oil in the navigable waters. Since non-self-propelled dry cargo barges would not be directly liable under the act, it does not at this time seem necessary for owners of such barges to meet the same financial responsibility requirements imposed upon owners of vessels which carry oil as either cargo or fuel. In addition, it should be noted that with only the exception of a very small number in Canada, all owners and operators of such non-oil-carrying barges are domestic corporations with assets readily accessible should a liability under act occur.

It should be clear that the amendment in no way affects the liability imposed by the act. Rather, it simply exempts owners and operators of non-oil-carrying inland and coastal non-self-propelled barge units from the requirement of establishing, with the Federal Maritime Commission, evidence of financial responsibility to meet costs of removal of oil discharged as a result of an act involving barges and for which the act imposes liability.

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1.21(3) COMMITTEE OF CONFERENCE

H.R. REP. No. 91-1782, 91st Cong., 2d Sess. (1970)

RIVERS AND HARBORS AND FLOOD CONTROL ACTS OF 1970

DECEMBER 17, 1970.—Ordered to be printed

Mr. BLATNIK, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 19877]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19877)

authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

* * * * * * *

[p. 1]

SEC. *120. Paragraph (1) of subsection (p) of section 11 of the Federal Water Pollution Control Act, as amended, is amended by inserting after the word "size," in the first sentence thereof, a new clause as follows: "but not including any barge that is not self-propelled and that does not carry oil as cargo or fuel,"*

SEC. *123. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain, subject to the provisions of subsection (c), contained spoil disposal facil-*

[p. 7]

ities of sufficient capacity for a period not to exceed ten years, to meet the requirements of this section. Before establishing each such facility, the Secretary of the Army shall obtain the concurrence of appropriate local governments and shall consider the views and recommendations of the Administrator of the Environmental Protection Agency and shall comply with requirements of section 21 of the Federal Water Pollution Control Act, and of the National Environmental Policy Act of 1969. Section 9 of the River and Harbor Act of 1899 shall not apply to any facility authorized by this section.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall establish the contained spoil disposal facilities authorized in subsection (a) at the earliest practicable date, taking into consideration the views and recommendations of the Administrator of the Environmental Protection Agency as to those areas which, in the Administrator's judgment, are most urgently in need of such facilities and pursuant to the requirements of the National Environmental Policy Act of 1969 and the Federal Water Pollution Control Act.

(c) Prior to construction of any such facility, the appropriate State or States, interstate agency, municipality, or other appropriate political subdivision of the State shall agree in writing to (1) furnish all lands, easements, and rights-of-way necessary for the construction, operation, and maintenance of the facility; (2) contribute to the United States 25 per centum of the construction costs, such amount to

be payable either in cash prior to construction, in installments during construction, or in installments, with interest at a rate to be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue; (3) hold and save the United States free from damages due to construction, operation, and maintenance of the facility; and (4) except as provided in subsection (f), maintain the facility after completion of its use for disposal purposes in a manner satisfactory to the Secretary of the Army.

(d) The requirement for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (c) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, and other appropriate political subdivision of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

(e) Notwithstanding any other provision of law, all costs of disposal of dredged spoil from the project for the Great Lakes connecting channels, Michigan, shall be borne by the United States.

(f) The participating non-Federal interest or interests shall retain title to all lands, easements, and rights-of-way furnished by it pursuant to subsection (c). A spoil disposal facility owned by a non-Federal

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interest or interests may be conveyed to another party only after completion of the facility's use for disposal purposes and after the transferee agrees in writing to use or maintain the facility in a manner which the Secretary of the Army determines to be satisfactory.

(g) Any spoil disposal facilities constructed under the provisions of this section shall be made available to Federal licensees or permittees upon payment of an appropriate charge for such use. Twenty-five per centum of such charge shall be remitted to the participating non-Federal interest or interests except for those excused from contributing to the construction costs under subsections (d) and (e).

(h) This section, other than subsection (i), shall be applicable only to the Great Lakes and their connecting channels.

(i) The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to extend to all navigable waters, connecting channels, tributary streams, other waters of the United States and waters contiguous to the United States, a comprehensive program of research, study, and experimentation relating to dredged spoil. This program shall be carried out in cooperation with other Federal and State agencies, and shall include, but not be limited to, investigations, on the characteristics of dredged spoil, and alternative methods of its disposal. To the extent that such study shall include the effects of such dredge spoil on water quality, the facilities and personnel of the Environmental Protection Agency shall be utilized.

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STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19877) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

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EVIDENCE OF FINANCIAL RESPONSIBILITY

The Senate amendment Section 11 of the Federal Water Pollution Control Act—relating to the discharge of oil—to exempt owners and operators of nonoil carrying, nonself propelled barge units from requirements of filing with the Federal Government evidence of financial responsibility to meet any liability imposed by the act.

The House bill does not contain this provision.

The conference substitute is the same as the Senate amendment.

[p. 24]

GREAT LAKES DREDGING

The House bill contained a provision which provides that in any case where the Administrator of the Environmental Protection

Agency determines that dredged spoil from an area within an authorized Federal navigation project is significantly polluted, and the Secretary of the Army thereafter determines that dredged spoil disposal facilities are available, then open water disposal of such dredged spoil shall be discontinued. No determinations as to significant pollution and availability of disposal areas are to be made except after consultation with the Governors of the affected States.

The section authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct contained spoil disposal facilities, subject to conditions of non-Federal cooperation, as soon as practicable. The priority of construction of the various facilities would be determined after considering the views and recommendations of the Administrator of the Environmental Protection Agency. Before establishing any spoil disposal facility, the Secretary of the Army would be required to obtain the concurrence of appropriate local governments and consider the views and recommendations of the Administrator and other appropriate heads of Federal agencies with respect to the location and the effect of the proposed facility on the quality of the water and land resources involved, and on the environment.

The requirement that local interests contribute to the United States 25 per centum of the construction costs may be waived where the Administrator of the Environmental Protection Agency finds that the local interests are participating in an approved plan for the construction, modification, expansion, or rehabilitation of waste treatment facilities and are making progress satisfactory to the Administrator.

Subsection (f) provides that all costs of the disposal of dredged spoil from the connecting channels of the Great Lakes shall be borne by the Federal Government.

The Senate amendment contains no similar provision.

The conference substitute is essentially the same as the provisions of the House bill with the following exceptions:

(1) The first subsection relating to dual determinations by the Administrator of EPA and the Secretary of the Army is deleted.

(2) The provisions of Section 21 of the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969 are specifically required to be complied with.

(3) The provision relating to waiver of the 25 per centum cost of construction is modified to require that prior to waiver that the

[p. 25]

Administrator of EPA must make a finding that applicable water quality standards are not being violated.

(4) To the extent that the study authorized in subsection (i) in-

cludes the effect of dredged spoil on water quality the facilities and personnel of EPA shall be utilized.

[p. 26]

1.2l(4) CONGRESSIONAL RECORD, VOL. 116 (1970)
1.2l(4)(a) Dec. 7: Passed House, pp. 40139, 40143, 40145–40147, 40149

SEC. 111. (a) In any case where the Administrator of the Environmental Protection Agency determines that dredged spoil from an area within an authorized Federal navigation project is significantly polluted and the Secretary of the Army thereafter determines that dredged spoil disposal facilities are available for the disposition of such spoil, then open water disposal of such dredged spoil shall be discontinued The Administrator of the Environmental Protection Agency and the Secretary of the Army shall not make any determination under this section except after consultation with the Governors of all affected States.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall undertake to establish the contained spoil disposal facilities authorized in subsection (c) at the earliest practicable date, taking into consideration the views and recommendations of the Administrator of the Environmental Protection Agency as to those areas which, in the Administrator's judgment, are most urgently in need of such facilities

(c) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain, subject to the provisions of subsection (d), contained spoil disposal facilities of sufficient capacity to meet the requirements of this section for a period not to exceed ten years. Before establishing each such facility, the Secretary of the Army shall obtain the concurrence of appropriate local governments and shall consider the views and recommendations of the Administrator of the Environmental Protection Agency and other appropriate heads of Federal agencies with respect to the effect of the proposed facility on the quality of the water and land resources involved, and on the environment. Section 9 of the River and Harbor Act of 1899 shall not apply to any facility authorized by this section.

(d) Prior to construction of any such facility, the appropriate non-Federal interest or interests shall agree in writing to (1) furnish all lands, easements, and rights-of-way necessary for the construction, operation, and maintenance of the facility; (2) contribute to the United States 25 per centum of the construction costs, such amount to be payable either in cash prior to construction, in installments during construction, or in installments, with interest at a rate to be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue, (3) hold and save the United States free from damages due to construction, operation, and maintenance of the facility; and (4) except as provided in subsection (g), maintain the facility after completion of its use for disposal purposes in a manner satisfactory to the Secretary of the Army.

(e) The requirement for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (d) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that the State or States involved, interstate agency, municipality, or other appropriate political subdivision of the State or industrial concern is participating in an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and is making progress satisfactory to the Administrator.

(f) Notwithstanding any other provision of law, all costs of disposal or dredged spoil from the project for the Great Lakes connecting channels, Michigan, shall be borne by the United States.

(g) The participating non-Federal interest or interests shall retain title to all lands, easements, and rights-of-way furnished by it pursuant to subsection (d). A spoil disposal facility owned by a non-Federal interest or

interests may be conveyed to another party only after completion of the facility's use for disposal purposes and after the transferee agrees in writing to use or maintain the facility in a manner which the Secretary of the Army determines to be satisfactory.

(h) Any spoil disposal facilities constructed under the provisions of this section shall be made available to Federal licensees or permittees upon payment of an appropriate charge for such use. Twenty-five per centum of such charge shall be remitted to the participating non-Federal interest or interests except for those excused from contributing to the construction costs under subsections (e) and (f).

(i) This section, other than subsection (j), shall be applicable only to the Great Lakes and their connecting channels.

(j) The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to extend to all navigable waters, connecting channels, tributary waters, connecting channels, tributary streams, other waters of the United States and water contiguous to the United States, a comprehensive program of research, study, and experimentation relating to dredged spoil. This program shall be carried out in cooperation with other Federal and State agencies, and shall include, but not be limited to, investigations on the characteristics of dredged spoil, alternative methods of its disposal, and its effects on receiving waters.

[p. 40139]

Mr. BLATNIK.

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Section 111 provides for a program of construction of contained spoil disposal facilities in the Great Lakes in order to eliminate pollution associated with open water disposal of contaminated dreged spoil. The section is similar in import to a proposal submitted earlier this year by the administration. It varies from the administration proposal mainly in the area of cost sharing, by providing for waiver of the required local cooperation where the Administrator of the Environmental Protection Agency finds that the local interests are participating in an approved plan for the construction, modification, expansion, or rehabilitation of waste treatment facilities and are making progress satisfactory to the Administrator.

The section provides that, in any case where the Administrator of the Environmental Protection Agency determines that dreged spoil from an area within an authorized Federal navigation project is significantly polluted, and the Secretary of the Army thereafter determines that dredged spoil disposal facilities are available for the disposition of such spoil, then open water disposal of such dredged spoil shall be discontinued. No determinations as to significant pollution and availability of disposal areas are to be made except after consultation with the Governors of the affected States.

[p. 40145]

The section further authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct contained spoil disposal facilities, subject to conditions of non-Federal cooperation, as soon as practicable. The priority of construction of the various facilities would be determined after considering the views and recommendations of the Administrator of the Environmental Protection Agency.

One point we would note is that we recognize that in certain cases the disposal of particularly hazardous spoil by open waters dumping would be so contrary to the public interest that it should not and will not be permitted at all, notwithstanding the fact that alternative disposal areas are not available.

H.R. 19877, is another forward move in the extension of the Federal river and harbor program which has produced the best system of navigable harbors and waterways possessed by any nation. Since Congress initiated the program in 1824, considerable sums of money have been appropriated for improving and maintaining the Nation's navigable waterways. These improved waterways carry huge tonnage of foreign and interstate commerce and have made possible free, easy, and unobstructed interstate commerce, and have more than justified the Federal expenditure.

Mr. Speaker, in addition to the projects in this bill, the Committee heard testimony with respect to report recommen-

dations for a number of projects each having an estimated Federal cost of less than $10,000,000. These projects qualify for authorization under the provisions of section 201 of the Flood Control Act of 1965 which permits the Congressional Committees on Public Works to approve projects under $10,000,000 by resolution. This committee presently has under active consideration a number of flood control, navigation and beach erosion projects which qualify for authorization under section 201.

The following tables summarize the number of projects contained in the bill, together with the estimated Federal cost:

	Number	Amount
Title I:		
Navigation projects	10	$184,501,000
Beach erosion control projects	1	240,000
Total, title I	11	184,741,000
Title II: Flood control and multiple purpose projects	19	400,052,000
Grand total	30	584,793,000

List of projects by States

Project	*Estimated Federal cost*
Alabama	None
Alaska	None
Arizona	None
Arkansas: Navigation: Ouachita and Black Rivers (also Louisiana)	$13,500,000
California: Flood control:	
Goleta and vicinity, Atascadero Creek	13,830,000
Merced County Streams	37,260,000
Cottonwood Creek (channel improvement and two reservoirs)	40,000,000
Total, California	91,090,000
Colorado	None
Connecticut	None
Delaware	None
Florida:	
Navigation:	
Port Sutton, Tampa Harbor	Maintenance
Tampa Harbor	40,000,000
Beach erosion control: Lido Key	240,000
Total, Florida	40,240,000
Georgia	None
Hawaii	None
Idaho	None
Illinois	None
Indiana	None
Iowa: Flood control: Mississippi River at Davenport (local protection and reservoir)	12,263,000
Kansas: Flood control:	
Blue River, vicinity of Kansas City (channel improvement and four reservoirs). (See Missouri.)	
Arkansas-Red River Basin, water quality control. (See Oklahoma.)	
Total, Kansas	None
Kentucky	None
Louisiana:	
Navigation: Ouachita and Black Rivers. (See Arkansas.)	
Flood control:	
Eastern Rapides and South-Central Avoyelles Parishes	(15,333,000)
Sabine River Basin (local protection, 3 reservoirs, and navigation channel). (See Texas)	
Total, Louisiana	(15,333,000)
Maine	None
Maryland: Navigation: Baltimore Harbor (also Virginia)	40,000,000
Massachusetts: Navigation: Pleasant Bay	10,221,000
Michigan: Flood Control: Red Run Drain and Lower Clinton River (channel improvement)	40,000,000
Minnesota: Flood Control: Wild Rice River, Twin Valley Reservoir	8,359,000
Mississippi	None
Missouri: Flood control: Blue River, vicinity of Kansas City (channel improvement and 4 reservoirs) (also Kansas)	40,000,000
Montana	None
Nebraska: Navigation: Missouri River (also North Dakota and South Dakota)	35,981,000
Nevada	None
New Hampshire	None
New Jersey	None
New Mexico	None
New York: Flood control: Ellicott Creek, Sandridge Reservoir	19,070,000
North Carolina: Navigation:	
Manteo (Shallowbag) Bay	10,769,000
Atlantic Intracoastal Waterway Bridges (also Virginia)	11,220,000
Total, North Carolina	21,989,000

North Dakota:	
Navigation: Missouri River. (See Nebraska.)	
Flood control:	
Missouri River, Oahe Reservoir	732,000
Cheyenne River, Kindred Reservoir	20,000,000
Souris River, Burlington Reservoir	29,240,000
Total, North Dakota	49,972,000
Ohio: Flood control: Mill Creek (channel improvement)	32,642,000
Oklahoma: Flood control:	
Deep Fork River, Arcadia Reservoir	24,900,000
Arkansas-Red River Basin, water quality control (also Texas and Kansas).	
Oregon: Navigation: Coos Bay	9,100,000
Pennsylvania	None
Rhode Island	None
South Carolina	None
South Dakota: Navigation: Missouri River (see Nebraska)	None
Tennessee	None
Texas:	
Navigation: Freeport Harbor	13,710,000
Flood control:	
Arkansas-Red River Basin, water quality control. (See Oklahoma.)	
Sabine River Basin (channel improvement, 3 reservoirs, and navigation channel) (also Louisiana)	40,000,000
Total, Texas	53,710,000
Utah	None
Vermont	None
Virginia: Navigation:	
Baltimore Harbor. (See Maryland)	
Atlantic Intracoastal Waterway Bridges. (See North Carolina.)	
Total, Virginia	None
Washington	None
West Virginia	None
Wisconsin	None
Wyoming	None
Puerto Rico: Flood Control:	
Portugues River, Portugues Reservoir	11,110,000
Cerrillos River, Cerrillos Reservoir	16,351,000
Ponce, channel improvements	14,295,000
Total, Puerto Rico	41,756,000
Grand total	584,793,000

The following table lists the projects in the River and Harbor Act of 1970, project document number and estimated Feleral cost:

TITLE I.—RIVERS AND HARBORS NAVIGATION PROJECTS

Project	H. Doc. No.	Federal cost of new work
Pleasant Bay, Mass	91–	$10,221,000
Baltimore Harbor, Md. and Va.	91–	40,000,000
Atlantic Intracoastal Waterway bridges, North Carolina	91–	11,220,000
Manteo (Shallowbag) Bay, N.C.	91–303	10,769,000
Port Sutton, Fla.	91–150	.....
Tampa Harbor, Fla.	91–401	40,000,000
Freeport Harbor, Tex.	91–	13,710,000
Quachita-Black Rivers naval project, Arkansas and Louisiana	91–	13,500,000
Missouri River, N. Dak., and Nebr.	91–	35,981,000
Coos Bay, Oreg.	91–151	9,100,000
Subtotal		184,501,000
Beach erosion: Lido Key, Fla.	91–320	240,000
Total of title I		184,741,000

[p. 40146]

Mr. Speaker, I urge favorable consideration of H.R. 19877.

[p. 40147]

Mr. KLUCZYNSKI.

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Section 111 provides for a program of construction of contained spoil disposal facilities in the Great Lakes in order to eliminate pollution associated with open water disposal of contaminated dredged spoil. This should go a long way toward resolving the complaints pertaining to the Corps of Engineers disposal of polluted materials in the Great Lakes.

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[p. 40149]

1.21(4)(b) Dec. 9: Amended and passed Senate, pp. 40594, 40598

Mr. RANDOLPH.

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Section 113 amends Section 11 of the Federal Water Pollution Control Act—relating to the discharge of oil—to exempt owners and operators of nonoil carrying, nonself propelled barge units from requirements of filing with the Federal Government evidence of financial responsibility to meet any liability imposed by the act. The amendment does not in any way affect liability under the act.

[p. 40594]

Mr. COOPER. Mr. President, the Senator from Delaware (Mr. BOGGS) also described, in individual views filed in the report with reference to specific projects, difficulties with problems that arise in the authorization of corps projects.

Mr. President, during the consideration of the omnibus bill, it was brought to the attention of the committee that the requirement in the Federal Water Pollution Control Act for evidence of financial responsibility, as it was being implemented by regulations, was causing a hardship to certain owners and operators of vessels that was in no way related to the objectives of the requirement in the act to show financial responsibility. Because of the timing involved, the committee chose to make a clarifying amendment to the financial responsibility subsection of the Water Pollution Control Act in the omnibus bill in order to avoid such hardship and administrative redtape. The very limited amendment provides that owners and operators of non-oil-carrying, non-self-propelled barge units do not have to show evidence of financial responsibility to meet liabilities imposed by the act. It should be pointed out further that the amendment in no way affects liabilities imposed by the act. I ask unanimous consent that at this point in the RECORD the section in the report describing the amendment be printed.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

SECTION 113

Section 11 of the Federal Water Pollution Control Act as amended was added by the Water Quality Improvement Act of 1970, Public Law 91-224, April 3, 1970.

* * * * *

Section 11 of the Water Quality Improvement Act of 1970 imposed a form of absolute liability on those who carry oil, and residual liability on those who may cause accidents resulting in the discharge of oil in the navigable waters. Since non-self-propelled dry cargo barges would not be directly liable under the act, it does not at this time seem necessary for owners of such barges to meet the same financial responsibility requirements imposed upon owners of vessels which carry oil as either cargo or fuel. In addition, it should be noted that with only the exception of a very small number in Canada, all owners and operators of such non-oil-carrying barges are domestic corporations with assets readily accessible should a liability under act occur.

It should be clear that the amendment in no way affects the liability imposed by the act. Rather, it simply exempts owners and operators of non-oil-carrying inland and coastal non-self-propelled barge units from the requirement of establishing, with the Federal Maritime Commission, evidence of financial responsibility to meet costs of removal of oil discharged as a result of an act involving barges and for which the act imposes liability.

[p. 40598]

1.21(4)(c) Dec. 18: House agreed to conference report, pp. 42509, 42512

Mr. BLATNIK.

* * * * *

Section 123 provides for a program of construction of contained spoil disposal facilities in the Great Lakes in order to eliminate pollution associated with open water disposal of contaminated dredged spoil. The section is similar in import to a proposal submitted earlier this year by the administration. It differs from the administration proposal mainly in the area of cost sharing, by providing for waiver of the required local cooperation where the Administrator of the Environmental Protection Agency finds that the local interests are participation in an approved plan for the construction, modification, expansion, or rehabilitation of waste treatment facilities and are making progress satisfactory to the Administrator.

The section authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct contained spoil disposal facilities subject to conditions of non-Federal cooperation, as soon as practicable. Construction priority of the various facilities would be determined after considering the views and recommendations of the Administrator of the Environmental Protection Agency.

* * * * *

[p. 42509]

Mr. GERALD R. FORD. Mr. Speaker, would the gentleman from Minnesota yield?

Mr. BLATNIK. I will be delighted to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, approximately 2 years ago I introduced legislation that would have prevented the Army Corps of Engineers from dumping in the Great Lakes the dredgings that they acquire from their various operations. Earlier this year the President of the United States also recommended to the Congress that such prohibiting legislation be approved by the House and the Senate.

I was reading the conference report on page 25, and would the gentleman from Minnesota explain what has been done in this legislation that involves this particular problem? Because we do have a serious situation concerning the dumping of soil dredgings, particularly in the Great Lakes from the various operations of the Corps of Engineers and others.

Mr. BLATNIK. Mr. Speaker, the gentleman from Michigan raises not only a very important question, but the gentleman is directing himself to a very vexing problem.

Section 123 of the legislation as agreed to by both the Senate and the House, has a program for construction of spoil disposal facilities for the Great Lakes in order to eliminate this very serious problem. We did not adopt all of the recommendations made by the administration. I would point that the basic difference was in cost sharing, because at this stage much of this will be of an advanced demonstration program of what to do with these materials. The gentleman knows, the problem can vary from place to place.

Again let me emphasize that the difference was not in concept but merely in cost sharing. The administration asked for a 50–50 sharing between the local units and the Federal Government. We changed that to a requirement for local cooperation of 25 percent. Also in some instances the Corps of Engineers, with proper justification, can waive the local contribution because the local interests are in compliance with an ongoing program of sewage treatment facility construction.

We do make what is, in our judgment, a very significant forward step in coping with this problem in a workable manner, and in as efficient a manner as we can to handle this problem of disposal.

Mr. GERALD R. FORD. Mr. Speaker, if the gentleman will yield further, let me say that I applaud the action taken by the conference, even though it does not go the full length recommended by the administration. This is a forward advance from the conditions of the past, and perhaps after we have had some experience with this law perhaps we can take further steps in the future to prohibit this kind of a problem from existing at all.

Mr. BLATNIK. Mr. Speaker, I appreciate the good words from the distinguished minority leader.

I also want the RECORD to show the gentleman's persistent and continuing interest in advocating that action be taken on this important problem.

* * * * *

[p. 42512]

1.2l(4)(d) Dec. 19: Senate agreed to conference report, p. 42724

Mr. RANDOLPH. Mr. President, an item of importance in the report agreed to in conference deals with the matter of construction of spoil disposal facilities in the Great Lakes in order in eliminate pollution associated with open-water disposal in contaminated dredged spoil. The provision is similar to one proposed by the administration earlier this year. The main difference is in the area of cost sharing.

Your conferees are aware of opposition expressed by some Members of the Senate to this provision and thorough consideration was given to their views. However, the situation with respect to the Great Lakes is critical and the hour is late. Action is required now if we are to save these valuable resources and permit the uninterrupted flow of commerce on these waterways.

[p. 42724]

1.2m EXTENSION OF AUTHORIZED FUNDS FOR FEDERAL WATER POLLUTION CONTROL ACT OF 1971

July 9, 1971, P.L. 92-50, §§2, 3, 85 Stat. 124

An Act to extend the Federal Water Pollution Control Act, as amended, for three months.

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

* * * * * * *

SEC. 2. Section 7(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 446 et seq.), is amended by inserting after

"$10,000,000" the following: ", and for the three-month period ending September 30, 1971, $2,500,000."

SEC. 3. The second sentence of section 8(d) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), is amended by striking "and $1,250,000,000 for the fiscal year ending June 30, 1971." and inserting in lieu thereof "$1,250,000,000 for the fiscal year ending June 30, 1971; and $500,000,000 for the three-month period ending September 30, 1971."

Approved July 9, 1971.

[p. 124]

1.2m(1) SENATE COMMITTEE ON PUBLIC WORKS,

S. REP. No. 92-234, 92d Cong., 1st Sess. (1971)

THREE-MONTH EXTENSION OF FEDERAL WATER POLLUTION CONTROL ACT

JUNE 23, 1971.—Ordered to be printed

Mr. MANSFIELD (for Mr. MUSKIE), from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 2133]

The Committee on Public Works reports an original bill (S. 2133) to extend the Federal Water Pollution Control Act, as amended, for 3 months, and recommends that the bill do pass.

PURPOSE OF LEGISLATION

Authorizations contained in the Federal Water Pollution Control Act, as amended, expire on June 30, 1971. While the Committee on Public Works has completed hearings and commenced markup on pending legislation which would extend these authorizations, final action will not be taken until after July 1 of this year. In order to

allow time for the Congress to complete action on a major revision of the water pollution control legislation and preserve the continuity of the water pollution control program, this bill would extend expiring authorizations until September 30, 1971.

Funds authorized for research, investigations, training, and information under section 5, and for research and development under section 6 of the Federal Water Pollution Control Act for fiscal year ending June 30, 1971, would remain available until September 30, 1971.

Grants for State water pollution control programs under section 7 would be authorized at $2,500,000 for that 3-month period, a level which is 25 percent of the fiscal year 1971 authorization.

Construction grants under section 8 would be authorized at $500 million for the 3-month period ending June 30, 1971, a level which is 25 percent of the administration's budget request for this program. Three months should allow ample time for the Congress to complete its task of extending water pollution legislation.

In the opinion of the Committee on Public Works it is necessary to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate, pertaining to the printing of changes in existing law, in order to expedite the business of the Senate.

[p. 1]

1.2m(2) CONGRESSIONAL RECORD, VOL. 117 (1971)

1.2m(2)(a) June 23: Considered and passed Senate, p. S9807

EXTENSION OF THE FEDERAL WATER POLLUTION CONTROL ACT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed immediately to the consideration of S. 2133, reported today from the Committee on Public Works. The bill is at the desk, and as I understand, it is a matter that has been cleared by the minority.

I ask unanimous consent that the time consumed in acting on this measure not be charged under rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the present consideration of the bill?

There being no objection, the bill (S. 2133) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

[p. S9807]

1.2m(2)(b) July 1: Considered and passed House, pp. H6229–H6230

EXTENDING THE FEDERAL WATER POLLUTION CONTROL ACT

Mr. BLATNIK. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2133) to extend the Federal Water Pollution Control Act, as amended, for 3 months.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2133

An act to extend the Federal Water Pollution Control Act, as amended, for three months

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds authorized to be appropriated in section 5(n) and 6(e) of the Federal Water Pollution Control Act, as amended (33 U S.C. 466 et seq.), for the fiscal year ending June 30, 1971, shall remain available until September 30, 1971.

[p. H6229]

SEC. 2. Section 7(a) of the Federal Water Pollution Control Act, as amended (33 U S.C. 466 et seq.), is amended by inserting after "$10,000,000" the following: ", and for the three-month period ending September 30, 1971, $2,500,000".

SEC. 3. The second sentence of section 8 (d) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), is amended by striking "and $1,250,000,000 for the fiscal year ending June 30, 1971" and inserting in lieu thereof "$1,250,000,000 for the fiscal year ending June 30, 1971; and $500,000,000 for the three-month period ending September 30, 1971."

Mr. BLATNIK. Mr. Speaker, for the last month the Committee on Public Works has been holding oversight hearings on the operation of the water pollution control program. We have heard from representatives of the Environmental Protection Agency and State and local governments on the many problems involved in the implementation of this most important program. The hearings have been extremely helpful in reviewing the status of the program and in spotlighting many of the major issues which must be solved.

These oversight hearings will probably continue for another week. Thereafter, the committee will consider the various legislative proposals now pending before it. The legislative hearings will be in depth and, in all probability, will continue beyond the August recess before the Committee will report out a bill for the consideration of the House.

Because of the necessity to continue the funding for programs under the Federal Water Pollution Control Act, it is necessary to call up S. 2133 for immediate House consideration. The bill includes three sections.

* * * * *

Section 2 authorizes $2,500,000 for grants for State water pollution control programs for the 3-month period ending September 30, 1971, a level which is 25 percent of the fiscal year 1971 authorization.

Section 3 authorizes construction grants for the 3-month period ending September 30, 1971, in the amount of $500 million, a level which is consistent with the administration's budget request for this program.

I would emphasize that the Committee on Public Works is well aware of the importance of this program. This extension is needed at the present time and it may be necessary to later request a further extension if the committee has not completed action on the bills pending before the committee by September 30. I would urge the immediate passage of S. 2133.

Mr. HARSHA. Mr. Speaker, I rise to join my colleague, the distinguished chairman of the Public Works Committee, in supporting S. 2133.

This bill would extend expiring authorizations for parts of our water pollution control program for 33 months.

In so doing, it would provide time necessary for the Public Works Committee to continue the difficult task of evaluating existing legislation for water pollution control programs and to develop comprehensive water pollution control legislation, probably by the end of the 3 months.

S. 2133 would preserve the continuity of the water pollution control program while providing additional time.

* * * * *

Section 2 of S. 2133 authorizes the appropriation of $2,500,000 for grants to States for water pollution control programs for the 3-month period ending September 30, 1971. This authorization is at the same annual rate as the $10 million authorized to be appropriated by section 7 of the Water Pollution Control Act for the fiscal year ending June 30, 1971. These grants assist the State and interstate agencies in meeting the cost of establishing and maintaining adequate measures for the prevention and control of water pollution, including the training of personnel of public agencies.

Section 3 of S. 2133 authorizes the appropriation of $500 million for grants to States, municipalities, and intermunicipal and interstate agencies for the construction of waste treatment works. The $500 million for the 3-month period is equal, on an annual rate basis, to the $2 billion requested by the administration for such grants for each of the fiscal years ending June 30, 1972, 1973, and 1974, which amount the House approved by passage of the Agriculture-Environmental Protection Appropriation Act last week. This increase in authorization is consistent with the need for an increase in the rate of construction of treatment works and it will prevent delay in the acceleration of this needed construction.

Mr. Speaker, because of major legislation on accelerated public works, economic development, and Appalachia programs, the Public Works Committee was precluded from starting consideration of water pollution legislation as early as desired. The oversight hearings presently being held have also demonstrated that existing legislation requires major revisions in some areas. Thus, the completion of this task in the thorough manner required, dictates that the extension authorized in S. 2133 is urgently required. We must, at this point, take the time and make the effort required to develop workable, effective, and efficient legislation.

The product of the committee's time and effort must be the providing of the legislative and fiscal tools needed to bring the Federal, State, and local governments' programs along with private, industrial, land use, and agricultural projects and programs into harmony. Also, our Nation's industries which, I believe, are willing to shoulder their portion of the burden of investment in the environment, must be in a position to base their future investment decisions on a predictable legal environment.

In addition, we must develop an environmental maintenance framework which includes more effective support of and reliance upon State efforts.

Mr. Speaker, the Public Works Committee will start legislative hearings on the comprehensive water pollution control legislation and the required fiscal authorizations after the July 4 recess. Because of the comprehensive nature of the legislation, the Public Works Committee will probably not be able to report a bill to the House by October 1. It may be necessary either to come back for additional authorizations for a short period or to have a period of time during which no authorizations will be available to continue the program. This, however, can be determined as the legislative hearings proceed, and at this time we ask only for a 3-month authorization.

The Public Works Committee recognizes that the additional authorizations are not as desirable as having comprehensive and effective legislation available on July 1. However, it is also necessary to recognize that the expira-

tion of the fiscal year should not in any way preclude the completion of the committee's work. It is a difficult and time-consuming task and it must be completed in the detail required to provide the effective, comprehensive, and lasting program for water pollution control that our Nation requires. I urge your support of S. 2133.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

[p. H6230]

1.2n EXTENSION OF FEDERAL WATER POLLUTION CONTROL ACT OF 1971

October 13, 1971, P.L. 92-137, 85 Stat. 379

AN ACT to extend the Federal Water Pollution Control Act, as amended, for one month

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

SECTION 1. Section 5(n) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), is amended by inserting after the first sentence thereof the following: "There is authorized to be appropriated not to exceed $7,000,000 for the period ending October 31, 1971, in addition to funds made available under Public Law 92-50."

SEC. 2. The funds authorized to be appropriated in section 6(e) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), for the fiscal year ending June 30, 1971, shall remain available until October 31, 1971.

SEC. 3. Section 7(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), is amended by striking "and for the three month period ending September 30, 1971, $2,500,000." and inserting in lieu thereof "and for the four month period ending October 31, 1971, $4,000,000."

SEC. 4. The second sentence of section 8(d) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), is amended by striking "$500,000,000 for the three-month period ending September 30, 1971." and inserting in lieu thereof "$650,000,000 for the four-month period ending October 31, 1971."

Approved October 13, 1971.

[p. 379]

1.2n(1) SENATE COMMITTEE ON PUBLIC WORKS

S. REP. No. 92-383, 92d Cong., 1st Sess. (1971)

ONE-MONTH EXTENSION OF FEDERAL WATER POLLUTION CONTROL ACT

SEPTEMBER 29, 1971 —Ordered to be printed

Mr. RANDOLPH, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 2613]

The Committee on Public Works reports an original bill, to which was referred the bill (S. 2613) to extend the Federal Water Pollution Control Act, as amended, for 1 month, and recommends that the bill do pass.

PURPOSE OF LEGISLATION

Authorizations contained in the Federal Water Pollution Control Act, as amended earlier this year, expire on September 30, 1971. While the Committee on Public Works is nearing completion of markup on pending legislation which would extend these authorizations, final action will not be taken until after October 1 of this year. In order to allow time for Congress to complete action on a major revision of the water pollution control legislation and preserve the continuity of the water control programs, this bill would extend expiring authorizations until October 31, 1971.

Funds authorized for research, investigations, training and information under section 5 of the Federal Water Pollution Control Act would be increased by $7 million for the period of the extension, in addition to funds made available by the earlier 3-month extension.

Funds authorized for research and development under section 6 of the Federal Water Pollution Control Act for fiscal year ending June 30, 1971, would remain available until October 31, 1971.

Grants for State water pollution control programs under section 7 would be authorized at $4 million for a 4-month period, an increase of $1,500,000 over the earlier extension through September.

Construction grants under section 8 would be authorized at $650

million for the 4-month period ending October 31, 1971, including an additional $150 million for the added month. An extra month should allow ample time for the Congress to complete its task of extending water pollution legislation.

[p. 1]

1.2n(2) CONGRESSIONAL RECORD, VOL. 117 (1971)
1.2n(2)(a) Sept. 29: Passed Senate, p. S15406

FEDERAL WATER POLLUTION CONTROL ACT

Mr. RANDOLPH. Mr. President, I call up a bill, which was reported earlier today, and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2613) to extend the Federal Water Pollution Control Act, as amended, for one month.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. RANDOLPH. Mr. President, the Committee on Public Works has reported unanimously this 1-month extension of the Federal Water Pollution Control Act. I would advise my colleagues that the authorizations contained in the Federal Water Pollution Control Act as amended earlier this year expire on September 30, 1971.

Our committee is nearing the completion of the markup on pending legislation which would extend these authorizations, but final action will not be taken before October 1.

The distinguished Senator from Kentucky (Mr. COOPER), the ranking minority member of the committee, is in the Chamber. We are just attempting at this time to allow Congress to work its will in a major revision of the proposed legislation, but we do not want to break the continuity of the present control program, and that is the reason why we bring the measure today. It is a matter of timing.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. BYRD of West Virginia. Do I correctly understand that this matter has been cleared on the other side of the aisle?

Mr. RANDOLPH. Yes, it has. Senator COOPER is here, and I believe he has discussed it with the leadership. That is my understanding. I have had the privilege of discussing it with Senator MANSFIELD and Senator BYRD.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2613) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2613

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

SECTION 1. Section 5(n) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), is amended by inserting

after the first sentence thereof the following: "There is authorized to be appropriated not to exceed $7,000,000 for the period ending October 31, 1971, in addition to funds made available under Public Law 92-50."

SEC. 2. The funds authorized to be appropriated in section 6(e) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.) for the fiscal year ending June 30, 1971, shall remain available until October 31, 1971.

SEC. 3. Section 7(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.) is amended by striking "and for the three month period ending September 30, 1971, $2,500,000." and inserting in lieu thereof "and for the four month period ending October 31, 1971, $4,000,000."

SEC. 4. The second sentence of section 8 (d) of the Federal Water Pollution Control Act as amended (33 U.S.C. 466 et seq.) is amended by striking "$500,000,000 for the three-month period ending September 30, 1971." and inserting in lieu thereof "$650,000,000 for the four-month period ending October 31, 1971."

Mr. RANDOLPH. I move to reconsider the vote by which the bill was passed.

Mr. BYRD of West Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

[p. S15406]

1.2n(2)(b) Sept. 30: Passed House, pp. H8939–H8940

EXTENDING WATER POLLUTION CONTROL ACT

Mr. ROE. Mr. Speaker, I ask unanimous consent for the immediate con-

[p. H8939]

sideration of the Senate bill (S. 2613) to extend the Federal Water Pollution Control Act, as amended, for 1 month.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill as follows:

S. 2613

An act to extend the Federal Water Pollution Control Act, as amended, for one month

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

SECTION 1. Section 5(n) of the Federal Water Pollution Control Act, as amended (33 U S.C. 466 et seq.), is amended by inserting after the first sentence thereof the following: "There is authorized to be appropriated not to exceed $7,000,000 for the period ending October 31, 1971, in addition to funds made available under Public Law 92-50."

SEC. 2 The funds authorized to be appropriated in section 6(e) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), for the fiscal year ending June 30, 1971, shall remain available until October 31, 1971.

SEC. 3. Section 7(a) of the Federal Water Pollution Control Act as amended (33 U.S.C. 466 et seq.), is amended by striking "and for the three-month period ending September 30, 1971, $2,500,000." and inserting in lieu thereof "and for the fourth month period ending October 31, 1971, $4,000,000.".

SEC. 4. The second sentence of section 8(d) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), is amended by striking "$500,000,000 for the three-month period ending September 30, 1971." and inserting in lieu thereof "$650,000,000 for the four-month period ending October 31, 1971."

Mr. ROE. Mr. Speaker, in July 1971, the Congress extended the Federal Water Pollution Control Act for 90 days to permit the Committee on Public Works sufficient time to complete its hearings and consideration on revision of the water pollution control program. The committee has now held the most extensive and fruitful hearings which have ever been held on this program. However, we have not yet been able to complete our action.

S. 2613 passed by the Senate on yesterday, Wednesday, September 29, 1971, would extend for an additional month to October 31, 1971, the authorization for the basic sections of the Federal Water Pollution Control Act.

Section 1 of the bill extends section 5(n) of the Federal Water Pollution Control Act which authorizes an additional $7 million for research, investigations, training, and information programs under the jurisdiction of EPA.

Section 2 authorizes further funding for research and development programs under section 6(e) of the Federal Water Pollution Control Act.

Section 3 of the bill authorizes $4 million for section 7(a) of the Federal Water Pollution Control Act. This allows the States to carry on the planning of their programs.

Section 4 of the bill authorizes $650 million for section 8(d) of the Federal Water Pollution Control Act which is the basic grant program for waste treatment facilities.

The need for this authorization is urgent since the program must be continued until the Committee on Public Works completes its consideration of the proposed water pollution legislation now pending in the committee.

We are attempting at this time to allow the committee and eventually the Congress to work its will on a major revision of the water pollution control program, but we do not wish to break the continuity of the present program.

I would urge the immediate passage of S. 2613.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

[p. H8940]

1.2o EXTENSION OF CERTAIN PROVISIONS OF FEDERAL WATER POLLUTION CONTROL ACT OF 1971

March 1, 1972, P.L. 92-240, 86 Stat. 47

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

SECTION 1. Section 5(n) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.), is further amended by inserting after the first sentence thereof the following: "There is authorized to be appropriated not to exceed $9,000,000 for the period commencing November 1, 1971, and ending June 30, 1972, for the purpose of salaries and related expenses incurred during that period under this section, in addition to funds made available under Public Law 92-50 and Public Law 92-137. There is authorized to be appropriated not to exceed $30,000,000 for the period commencing November 1, 1971, and ending April 30, 1972, for otherwise carrying out this section and such amount shall be in addition to any other funds authorized for this section.".

SEC. 2. Section 7(a) of the Federal Water Pollution Control Act (33 U.S.C. 1157(a)) is amended by striking out "and for the four-month period ending October 31, 1971, $4,000,000." and inserting in lieu thereof "and for the fiscal year ending June 30, 1972, $15,000,000.".

[p. 47]

SEC. 3. The second sentence of section 8(d) of the Federal Water Pollution Control Act (33 U.S.C. 1158(d)) is amended by striking out $650,000,000 for the four-month period ending October 31, 1971." and inserting in lieu thereof $1,650,000,000 for the period ending April 30, 1972.".

Approved March 1, 1972.

[p. 48]

1.2o(1) SENATE COMMITTEE ON PUBLIC WORKS

S. REP. No. 92-602, 92d Cong., 2d Sess. (1972)

EXTENSION OF FEDERAL WATER POLLUTION CONTROL ACT

FEBRUARY 3, 1972.—Ordered to be printed

Mr. RANDOLPH, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 3122]

The Committee on Public Works reports an original bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972, and recommends that the bill do pass.

PURPOSE OF LEGISLATION

Authorizations contained in the Federal Water Pollution Control Act, as amended last year, expired on October 31, 1971. Since the House Committee on Public Works has not concluded markup on legislation similar to S. 2770, which would extend these authorizations

final action on a major revision probably cannot be taken until later in March. However, it is vital that this program not be extended in unamended form longer than absolutely necessary, so that the major revisions of policy and authority contemplated for the water pollution program under S. 2770 and comparable House legislation can take effect as soon as possible. Without a partial extension, salaries of some 1,300 employees of the Environmental Protection Agency could no longer be paid, and State water pollution control programs would have to be curtailed for lack of promised support grants. In order to allow time for the Congress to complete action and preserve the continuity of water pollution control programs, this bill would extend authorizations for salaries under section 5(n) and for section 7(a) until June 30, 1972.

Funds utilized for salaries and related expenses under section 5(n) of the Federal Water Pollution Control Act would be authorized at $9 million for the period from November 1, 1971 to June 30, 1972.

Grants for State water pollution control programs under section 7 would be authorized at $15 million for the fiscal year, an increase of $11 million over the earlier extension through October.

[p. 1]

1.2o(2) HOUSE COMMITTEE ON PUBLIC WORKS

H.R. REP. No. 92-812, 92d Cong., 2d Sess. (1972)

EXTENSION OF FEDERAL WATER POLLUTION CONTROL ACT

FEBRUARY 3, 1972.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BLATNIK, from the Committee on Public Works, submitted the following

REPORT

[To accompany H.R. 12741]

The Committee on Public Works to whom was referred the bill (H.R. 12741) to extend the Federal Water Pollution Control Act

through June 30, 1972, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

Since June 30, 1971, the programs under the Federal Water Pollution Control Act have been carried out under the authority of two temporary resolutions. The latest extension expired on October 31, 1971. It has been expected that this would allow sufficient time for the Committee on Public Works to complete its hearings and recommend new legislation to extend and revise the water pollution control program. The committee on December 15, after completing the most extensive and constructive hearings ever held on this program, ordered reported H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972. However, it is not anticipated that this will be enacted into law in the immediate future.

Section 1 of H.R. 12741 extends section 5(n) of the Federal Water Pollution Control Act and provides an additional authorization of $45 million for the period ending June 30, 1972, for research, investigations, training and information programs.

Section 2 provides an additional $11 million for section 7(a) of the Federal Water Pollution Control Act for the period ending June 30, 1972. This will permit the States to continue the planning of their programs in an orderly fashion.

Section 3 increases the authorization for the basic grant program for waste treatment facilities under section 8(d) to $2 billion, or an increase of $1.350 billion.

[p. 1]

This bill to extend portions of the Federal Water Pollution Control Act until June 30, 1972, specifically does not include authorization for the obligation of any funds for reimbursement of prefinanced sewage treatment works projects pursuant to Section 8(c) of the existing act, 33 U.S.C. 1158(c).

S. 2770 passed by the other body and H.R. 11896 as amended and ordered to be reported by the Committee on Public Works of the House of Representatives each authorizes a maximum Federal construction grant of at least 70 percentum for projects meeting the statutory requirements. Grants at this increased level will be applicable to construction during the fiscal year ending June 30, 1972.

The initial allotment to the individual States of the $2 billion for construction of treatment works as authorized by this bill and as appropriated by Public Law 92–73 is a fixed sum of money. The construction plans for the fiscal year ending June 30, 1972, must

recognize that Federal grants will be at a level from 60 to 75 percent of the construction cost depending upon the final language of the pending amendments to the Federal Water Pollution Control Act and the participation by the individual States in paying a portion of the cost of construction of treatment works. This compares with the 30 to 55 percentum level of prior years. Thus, extreme care must be taken to make sure that the construction in any given State at the increased grant level of the pending legislation does not exceed the individual State's allotment for the fiscal year ending June 30, 1972.

Neither reimbursement nor advanced financing are authorized by this bill and there is no provision in the law for the States or municipalities to recover their expenditures if, because of the increased Federal grant levels, the allotment to the individual State is insufficient to recover the grant levels at the increased rates.

The need for this authorization is urgent since the program must be continued until permanent legislation has been passed by the Congress. The waste treatment program is vital to this Nation and has gathered momentum during the past 2 years. We must continue to move forward and complete the program at the earliest practicable date. The committee urges the immediate passage of H.R. 12741.

In accordance with rule XIII (7) of the House of Representatives, the estimated costs to the United States which would be incurred in carrying out H.R. 12741 is $1,406 million.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

FEDERAL WATER POLLUTION CONTROL ACT

* * * * * * *

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RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

SEC. 5. * * *

* * * * * * *

(g) (1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Secretary shall finance a pilot program, in cooperation with State and interstate agencies, municipalities, educational institutions, and

other organizations and individuals, of manpower development and training and retraining of persons in, on entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, not supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Secretary is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

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

* * * * * * *

(n) There is authorized to be appropriated to carry out this section, other than subsection (g) (1) and (2), not to exceed $65,000,000 per fiscal year for each of the fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971. There is authorized to be appropriated not to exceed [$7,000,000 for the period ending October 31, 1971] *$52,000,000 for the fiscal year ending June 30, 1972,* in addition to funds made available under Public Law 92–50. Sums so appropriated shall remain available until expended. There is authorized to be appropriated to carry out subsection (g) (1) of this section $5,000,000 for the fiscal year ending June 30, 1970, and $7,500,000 for the fiscal year ending June 30, 1971. There is authorized to be appropriated to carry out subsection (g) (2) of this section $2,500,000 per fiscal year for each of the fiscal years ending June 30, 1970, and June 30, 1971.

GRANTS FOR WATER POLLUTION CONTROL PROGRAMS

SEC. 7. (a) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each succeeding fiscal year to and including the fiscal year ending June 30, 1961, $3,000,000, for

[p. 3]

each succeeding fiscal year to and including the fiscal year ending June 30, 1967, $5,000,000, and for each succeeding fiscal year to and including the fiscal year ending June 30, 1971, $10,000,000 and for the [four-month period ending October 31, 1971, $4,000,000] *fiscal*

year ending June 30, 1972, $15,000,000 for grants to States and to interstate agencies to assist them in meeting the costs of establishing and maintaining adequate measures for the prevention and control of water pollution, including the training of personnel of public agencies.

* * * * * * *

GRANTS FOR CONSTRUCTION

SEC. 8. * * *

* * * * * * *

(d) There are hereby authorized to be appropriated for each fiscal year through and including the fiscal year ending June 30, 1961, the sum of $50,000,000 per fiscal year for the purpose of making grants under this section. There are hereby authorized to be appropriated, for the purpose of making grants under this section, $80,000,000 for the fiscal year ending June 30, 1962, $90,000,000 for the fiscal year ending June 30, 1963, $100,000,000 for the fiscal year ending June 30, 1964, $100,000,000 for the fiscal year ending June 30, 1965, $150,000,000 for the fiscal year ending June 30, 1966, $150,000,000 for the fiscal year ending June 30, 1967; $450,000,000 for the fiscal year ending June 30, 1968; $700,000,000 for the fiscal year ending June 30, 1969; $1,000,000,000 for the fiscal year ending June 30, 1970; $1,250,000,000 for the fiscal year ending June 30, 1971; and [$650,000,000 for the four-month period ending October 31, 1971] $2,000,000,000 *for the fiscal year ending June 30, 1972.* Sums so appropriated shall remain available until expended. At least 50 per centum of the funds so appropriated for each fiscal year ending on or before June 30, 1965, and at least 50 per centum of the first $100,000,000 so appropriated for each fiscal year beginning on or after July 1, 1965, shall be used for grants for the construction of treatment works servicing municipalities of one hundred and twenty-five thousand population or under.

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1.2o(3) COMMITTEE OF CONFERENCE

H.R. REP. No. 92-834, 92d Cong., 2d Sess. (1972)

FEDERAL WATER POLLUTION CONTROL ACT

FEBRUARY 9, 1972.—Ordered to be printed

Mr. JONES of Alabama, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 3122]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 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:

Section 1. Section 5(n) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.), is further amended by inserting after the first sentence thereof the following: "There is authorized to be appropriated not to exceed $9,000,000 for the period commencing November 1, 1971, and ending June 30, 1972, for the purpose of salaries and related expenses incurred during that period under this section, in addition to funds made available under Public Law 92-50 and Public Law 92-137. There is authorized to be appropriated not to exceed $30,000,000 for the period commencing November 1, 1971, and ending April 30, 1972, for otherwise carrying out this section and such amount shall be in addition to any other funds authorized for this section."

Sec. 2. Section 7 (a) of the Federal Water Pollution Control Act (33 U.S.C. 1157(a)) is amended by striking out "and for the four-month period ending October 31, 1971, $4,000,000." and inserting in lieu thereof "and for the fiscal year ending June 30, 1972, $15,000,000,".

Sec. 3. The second sentence of section 8 (d) of the Federal Water Pollution Control Act (33 U.S.C. 1158(d)) is amended by striking out "$650,000,000 for the four-month period ending October 31, 1971."

[p. 1]

and inserting in lieu thereof "$1,650,000,000 for the period ending April 30, 1972.".

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 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:

Amend the title so as to read:

An Act to extend certain provisions of the Federal Water Pollution Control Act through June 30, 1972, and others through April 30, 1972.

And the House agree to the same.

ROBERT E. JONES,
HAROLD T. JOHNSON,
W. J. BRYAN DORN,
WM. H. HARSHA,
JAMES R. GROVER, JR.,
Managers on the Part of the House.
JENNINGS RANDOLPH,
THOMAS F. EAGLETON,
JOHN SHERMAN COOPER,
J. CALEB BOGGS,
Managers on the Part of the Senate.

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JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 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:

SECTION 1

Senate bill: The Senate bill authorized $9 million for the period November 1, 1971, to June 30, 1972, for the payment of salaries and

related expenses necessary in connection with the Federal Water Pollution Control Act.

House amendment: The House's amendment authorized an additional $45 million for the purposes of carrying out section 5 of the Federal Water Pollution Control Act, which would include salaries as well as research activities.

Conference substitute: The conference substitute provides $9 million for salaries in the same manner as does the Senate bill. In addition, it authorizes $30 million for research and otherwise carrying out section 5 of the Federal Water Pollution Control Act through the period ending April 30, 1972.

SECTION 2

Senate bill: The Senate bill authorized an additional $11 million for carrying out section 7(a) of the Federal Water Pollution Control Act for the period ending June 30, 1972.

House amendment: This is the same as the Senate bill.

Conference substitute: Same as both the Senate bill and the House amendment.

SECTION 3

Senate bill: The Senate bill contained no provision extending the authorizations for construction grants.

House amendment: The House amendment provided an additional $1.350 billion for the construction grant program under section 8 of the Federal Water Pollution Control Act for the period ending June 30, 1972.

Conference substitute: Conference substitute authorizes an additional $1 billion for the construction grant program under section 8 of the Federal Water Pollution Control Act for the period ending April 30, 1972.

TITLE

Senate bill: The title of the Senate bill indicated sections 5(n) and 7(a) of the Federal Water Pollution Control Act were extended until the end of fiscal year 1972.

[p. 3]

House amendment: The House amendment provided that the title be amended so as to read "An Act to extend the Federal Water Pollution Control Act through June 30, 1972."

Conference substitute: The conference substitute proposes a title which more accurately describes the text of the conference substitute.

ROBERT E. JONES,
HAROLD T. JOHNSON,
W. J. BRYAN DORN,
WM. H. HARSHA,
JAMES R. GROVER, JR.,
Managers on the Part of the House.
JENNINGS RANDOLPH,
THOMAS F. EAGLETON,
JOHN SHERMAN COOPER,
J. CALEB BOGGS,
Managers on the Part of the Senate.

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1.2o(4) CONGRESSIONAL RECORD, VOL. 118 (1972)

1.2o(4)(a) Feb. 3: Considered and passed Senate, pp. S1165–S1166

FEDERAL WATER POLLUTION CONTROL ACT

Mr. RANDOLPH. Mr. President, the Senator from Kentucky (Mr. COOPER) is in the Chamber. As we know, he is the ranking minority member of the Senate Committee on Public Works.

[p. S1165]

I report from the Committee on Public Works an original bill to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972.

Mr. President, I ask unanimous consent that a letter dated February 1, 1972, from Mr. William Ruckelshaus, Administrator of the Environmental Protection Agency, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., February 1, 1972.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you may know, authority under Section 5(n) of the Federal Water Pollution Control Act expired on June 30, 1971. Authority under that provision was extended by Public Law 92-50 and Public Law 92-137 through October 31, 1971.

I am forwarding herewith a draft bill which would extend the authority of Section 5(n) from the date of its expiration through the end of the fiscal year.

It is respectfully recommended and urged that the Congress extend the authority of Section 5(n) as expeditiously as possible.

Sincerely yours,
WILLIAM D. RUCKELSHAUS,
Administrator.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill as reported.

Mr. GRIFFIN. Mr. President, reserving the right to object, the Senator is asking unanimous consent to proceed to the immediate consideration of the bill?

Mr. RANDOLPH. That is what we would like to do because the Environmental Protection Agency has indicated that without certain action in the Senate, which we propose today, there will not be the payment——

Mr. GRIFFIN. The distinguished ranking Member on our side is on the floor.

Mr. COOPER. Mr. President, we have been considering this subject in the committee since the Senate returned. I have talked with every Member on the mi-

nority side. We all know that this must be done. It is a very critical situation. We are only providing funds until the end of this fiscal year to assure the payment of salaries and expenses, $9 million, and $15 million to meet the contract obligations.

Mr. GRIFFIN. I have no objection.

Mr. COOPER. I wholly concur with the chairman of the committee.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. RANDOLPH. Mr. President, I have no desire to speak on this measure. It has been clarified by my distinguished colleague from Kentucky as to why we ask for this legislation. I would have made that explanation. I am delighted that it has been made.

The Senate has previously acted, but we have not had any action yet from the House—and that is no criticism—but this is rather in the nature of stopgap legislation.

If dedicated and capable employees are to be paid for their services, passage in both Senate and House will take care of the problem. We trust that it can be speedily handled not only here, as we are doing now, but also in the other body.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3122) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3122

A bill to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972

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

SECTION 1. Section 5(n) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.), is further amended by inserting after the first sentence thereof the following: "There is authorized to be appropriated not to exceed $9,000,000 for the period commencing November 1, 1971, and ending June 30, 1972, for the purpose of salaries and related expenses incurred during that period under this section, in addition to funds made available under Public Law 92-50 and Public Law 92-137."

SEC. 2. Section 7(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq) is amended by striking "and for the four-month period ending October 31, 1971, $4,000,000." and inserting in lieu thereof "and for the fiscal year ending June 30, 1972, $15,000,000."

[p. S1166]

1.2o(4)(b) Feb. 7: Considered and passed House, amended, pp. H801–H808

EXTENSION OF FEDERAL WATER POLLUTION CONTROL ACT

Mr. JONES of Alabama. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12741) to extend the Federal Water Pollution Control Act through June 30, 1972.

The Clerk read as follows:

H.R. 12741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 5(n) of the Federal Water Pollution Control Act (33 U.S.C. 1155(n)) is amended by striking out "$7,000,000 for the period ending October 31, 1971," and inserting in lieu thereof "$52,000,000 for the fiscal year ending June 30, 1972.".

SEC. 2. Section 7(a) of the Federal Water Pollution Control Act (33 U.S.C. 1157(a)) is amended by striking out "and for the four-month period ending October 31, 1971, $4,000,000." and inserting in lieu thereof "and for the fiscal year ending June 30, 1972,

$15,000,000.".

SEC. 3. The second sentence of section 8(d) of the Federal Water Pollution Control Act (33 U.S.C. 1158(d)) is amended by striking out "$650,000,000 for the four-month period ending October 31, 1971." and inserting in lieu thereof "$2,000,000,000 for the fiscal year ending June 30, 1972.".

The SPEAKER. Is a second demanded?

Mr. GROVER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. JONES of Alabama. Mr. Speaker, since June 30, 1971, the programs under the Federal Water Pollution Control Act have been carried out under the authority of two temporary resolutions. The latest extension expired on October 31, 1971. It had been expected that this would allow sufficient time for the Committee on Public Works to complete its hearings and recommend new legislation to extend and revise the water pollution control program. The committee on December 15, after completing the most extensive and constructive hearings ever held on this program, ordered reported

[p. H801]

H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972. However, it is not anticipated that this will be enacted into law in the immediate future.

Section 1 of H.R. 12741 extends section 5(n) of the Federal Water Pollution Control Act and provides an additional authorization of $45 million for the period ending June 30, 1972, for research, investigations, training and information programs.

Section 2 provides an additional $11 million for section 7(a) of the Federal Water Pollution Control Act for the period ending June 30, 1972. This will permit the States to continue the planning of their programs in an orderly fashion.

Section 3 increases the authorization for the basic grant program for waste treatment facilities under section 8(d) to $2 billion, or an increase of $1,350 billion.

Mr. Speaker, although H.R. 12741 authorizes a total of $1,406 billion, it should be noted that the enactment of this legislation will not require the appropriation of any additional moneys. Public Law 92-73 approved last August included the necessary moneys for this program subject to later authorizations. This bill is the authorization to utilize the funds previously appropriated.

Mr. Speaker, I wish to express my appreciation to the gentlemen from Ohio (Mr. HARSHA) and New York (Mr. GROVER) for their splendid assistance in expediting this needed bill so as to prevent further delays in continuing this extremely important program.

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

Mr. JONES of Alabama. I yield to the gentleman from Missouri.

Mr. HALL. I say to the gentleman, is it not true that this bill increases the authorization for the water pollution program by $1,406 million.

Mr. JONES of Alabama. The answer is "Yes."

Mr. HALL. If the gentleman will yield further, we are again in the position of authorizing legislation after the fact for an appropriation that has already been committed, but in a sense this does, in continuing the authorization, add on additional billions of dollars to the previously authorized act. Is that not true?

Mr. JONES of Alabama. I would say to the gentleman that the appropriations have already been made in Public Law 92-73. The bill merely authorizes the use of these previous appropriations.

Mr. HALL. Can the gentleman explain the last sentence in his report wherein it says:

Section 3 increases the authorization for the basic grant program for waste treatment facilities under section 8(d) to $2 billion, or an increase of $1,350 billion.

Does not the money here add any increased authorization?

Mr. JONES of Alabama. The gentle-

man is correct.

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

Mr. JONES of Alabama. I yield to the gentleman from Michigan.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, H.R. 12741 would extend the Federal Water Pollution Control Act until June 30, 1972. In my view, this extension is needed to enable us to work out some very serious problems created by the administration in connection with the pending water pollution legislation, particularly the Senate-passed bill S. 2770.

Last week, the administration sent to several Members of Congress, including myself, a farreaching amendment to the Federal Water Pollution Control Act which is designed to limit severely the scope of the National Environmental Policy Act of 1969. The amendment would do two things:

First, with respect to Federal license or permit applications covering activities "which may result in any discharge into navigable waters," a section 102 environmental impact statement would be required, but the permitting or licensing agency would not be required to examine any problem of water quality. The chief objective of this amendment is to render moot one of the principal conclusions of the court in *Calvert Cliffs* v. *Atomic Energy Commission*, 449 F.2d 1109 (D.C. Cir. 1971).

Second, environmental impact statements will not be required in the case of "specified environmentally protective regulatory actions"—whatever that means—taken by EPA or any other Federal agency identified by regulations issued by the Council on Environmental Quality. Under this amendment, the CEQ, not Congress, would decide which agencies and agency actions require environmental impact statements, and which do not. The chief objective of this amendment is to render moot the conclusions of the court in *Kalur* v. *Resor*, 3 ERC 1458 (Dec. 22, 1971).

These are amendments to the National Environmental Policy Act. That law emanated from the Merchant Marine and Fisheries Committee, and not the Public Works Committee. EPA and CEQ know that. I do not look kindly to the administration proposing to another House Committee amendments to NEPA that would bypass our committee.

The matters to be considered here are fundamental. The objective of NEPA and the environmental impact statements is to require that all Federal agencies review and put down on paper the environmental effects of a proposed action before the agencies decide whether or not to take or permit that action. At this juncture, the public and other Federal and State agencies have an opportunity to review this paper and to learn of the agency's judgments and reasons which support a proposed action. Only a few weeks ago, the Corps of Engineers—to its great credit—abandoned a proposal in Florida on the environmental grounds after preparing an environmental impact statement.

In my view, this approach to the decisionmaking process is sound. I see no reason why EPA—like the corps or any other agency—should be exempt from this requirement of NEPA. Even environmentally oriented agencies make decisions that are not always environmentally sound or are subject to pressure that cause them to strike a balance weighted toward approving a permit which, absent that pressure, they might not approve. The recent newspaper articles revealing that the CEQ had abandoned a proposed executive order on clear-cutting after protests by timbercutters show that such pressures are quite effective.

Environmentally concerned citizens have successfully fought in the courts to require Federal agencies to consider the environmental impact of their decisions through these statements. These NEPA amendments of the administration seek to wipe out many of those

successes. I strongly oppose those amendments.

The House Subcommittee on Fisheries and Wildlife will soon be holding extensive hearings on the implementation of NEPA. These hearings will include a comprehensive review by the General Accounting Office of NEPA and its implementation. We will be looking into the concerns which the administration cites as the reasons for these amendments. We will want concrete facts, not just conjecture, that a real problem exists. I recall that early last year, the administration and industry were crying the blues over the prospects of 40,000 to 100,000 Refuse Act permit applications, only to learn that a more realistic number of 20,000.

I urge environmentalists to review these proposed administration amendments and those that would repeal the Refuse Act of 1899 and tell the administration, and the Congress, about your concerns.

I also call to the attention of all environmentalists a provision in section 511(b) of the Senate-passed bill (S. 2770) which would amend the Fish and Wildlife Coordination Act. This statute now requires that, before the Corps of Engineers or any other Federal agency issues any Federal permit or license which would modify a waterway, the agency must obtain the views and recommendations of the Bureau of Sport Fisheries and Wildlife, NOAA, and the State fish and game agencies. This amendment would eliminate that requirement as to Refuse Act permits and as to discharge permits issued by EPA.

I oppose that amendment. The Fish and Wildlife Coordination Act has proven to be a most valuable means for protecting environmental issues and requiring Federal permitting and licensing agencies to take actions that would protect our fisheries and wildlife resources.

It will be a black day for environmentalists if the Refuse Act is repealed, the National Environmental Policy Act weakened, and the Fish and Wildlife Coordination Act gutted, all in the name of water pollution control.

GENERAL LEAVE

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the pending bill.

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

There was no objection.

[p. H802]

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

Mr. JONES of Alabama. I yield to the gentleman from Iowa.

Mr. GROSS. Has this money been budgeted?

Mr. JONES of Alabama. Yes. All the amounts have been budgeted, I will say to the gentleman from Iowa.

Mr. GROSS. Does the gentleman have any idea as to where it is proposed to get this kind of money?

Mr. JONES of Alabama. I am sorry; I fail to understand the gentleman.

Mr. GROSS. Where is it proposed to get this kind of money, this kind of an increase, up to $2 billion? Where is it proposed to get the money? Does the gentleman have any good idea as to where it is coming from—off a printing press, or where?

Mr. JONES of Alabama. I guess it is off the same press that has been printing it since the beginning of the Republic. I do not know of any new source. It has already been appropriated. We sat here and voted for it.

Mr. GROSS. As sure as death and taxes, it is not in the U.S. Treasury, is it?

Mr. JONES of Alabama. I will say to the gentleman from Iowa, I believe that one of the most important things we can do for our country is to preserve the waters of the great land. The Appropriations Committee has already made the necessary appropriations. All we are

trying to do is to legislate the authorization for their proper expenditure.

Mr. GROSS. Is there some reason why those doing the polluting cannot take care of it?

Mr. JONES of Alabama. The Public Works Committee recently ordered reprinted H.R. 11896, the Federal Waters Pollution Control Amendments of 1972. In this bill which we will shortly bring to the floor we make some very specific recommendations as to the responsibilities for paying the cost of water pollution by those who create the situation.

Mr. GROVER. Mr. Speaker, I yield myself such time as I may consume.

(Mr. GROVER asked and was given permission to revise and extend his remarks.)

Mr. GROVER. Mr. Speaker, I urge support of H.R. 12741 as an essential continuation of the Nation's water pollution control program during the period which the House Public Works Committee continues its drafting of H.R. 11896 and the preparing of the bill report.

The House Committee on Public Works has spent many weeks in hearings, committee deliberations, and staff preparations in order to complete work on H.R. 11896. The Committee on Public Works on December 15, 1971, ordered H.R. 11896 to be reported. At the present time the staff is incorporating the amendments to H.R. 11896 which were passed by the committee during executive sessions held in December. There were a number of amendments which required a detailed and thorough study of their effect on other sections of the bill. Because of the length and complexity of this bill, the Committee on Public Works has taken the position that sufficient time will be made available to complete the committee report in the detail and with the thoroughness that is required for a bill as complex and with as broad a spectrum as H.R. 11896. The committee fully intends that the bill and the report will not be allowed to suffer from a lack of the necessary time to complete this task in the manner our Nation's water pollution control program deserves. Thus, the time needed to complete this large task plus the time which will be required for conference on the differences with the other body makes it necessary that we again extend the funding authorizations under the existing law, as we said previously we would have to do.

While it can be argued that to not have an extension would put added pressure on the committee to complete the bill and report it at an earlier date, to do so would be foolhardy. We must give this bill the time it deserves.

Mr. Speaker, I have two comments on the report of the Committee on Public Works accompanying H.R. 12741.

First, in the second paragraph of page 2 of the report, we state:

> Grants at this increased level will be applicable to construction during the fiscal year ending June 30, 1972.

By this we mean that such—at least up to 70 percent—grants will be applicable to funds obligated from the $2 billion authorized and appropriated for the fiscal year ending June 30, 1972.

Second, this bill does not change the authority of the Administrator of the Environmental Protection Agency to make grants from the $2 billion authorized for the fiscal year ending June 30, 1972, for reimbursement of prefinancing of the Federal share of treatment works construction costs in any fiscal year ending on or before June 30, 1971. Portions of the $2 billion for grants for the construction of treatment works for the fiscal year ending June 30, 1972, may be used for outstanding prior-year reimbursables.

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

Mr. GROVER. I yield to the gentleman from New York (Mr. TERRY).

Mr. TERRY. Mr. Speaker, I should like to ask the gentleman a question with respect to the report. I refer to page 2 of the report, where it is stated:

> Neither reimbursement nor advanced financing are authorized by this bill and there

is no provision in the law for the States or municipalities to recover their expenditures if, because of the increased Federal grant levels, the allotment to the individual State is insufficient to recover the grant levels at the increased rates.

I wonder if the gentleman might clarify the meaning of that language?

Mr. GROVER. If I may respond, the bill does not change the authority of the administrator of EPA to make grants from the $2 billion authorized for the fiscal year ending June 30, 1972, for reimbursement or prefinancing of the Federal share of treatment works and construction costs in any year ending before June 30, 1971.

Mr. TERRY. Then is it the intent of Congress that no State or municipality can prefinance the Federal share of the cost of any project approved after July 1, 1971, for which they would be eligible for reimbursement?

Mr. GROVER. I think there is a caution in there, and that is that the funds authorized in this bill do not permit it. However, we do hope to incorporate in the legislation we are working on now prefinancing conditions and language which I think will be satisfactory to all of those who are prefinancing. However, there just does not seem to be enough money to go around, so we are very cautious with this.

As I thought I indicated earlier in my comments, it would be very difficult for the other body in its present mood to accept the prefinancing regulation language in this bill.

Mr. JONES of Alabama. The gentleman is, of course, aware that probably one of the most complicated issues which the Committee on Public Works had to deal with in the Federal Water Pollution Control Act Amendments of 1972 was the matter of reimbursement to States for advanced construction. The gentleman has been quite diligent and active in raising this point before the committee on numerous occasions.

Gov. Nelson Rockefeller testified convincingly on this subject on two occasions during our many months of hearings. As a result of our hearings, we have in our bill, which is waiting for the completion of the committee report, provisions for generously reimbursing those communities and States which went forward by prefinancing their own treatment plants. We have also included generous provisions permitting reimbursement for prefinancing in the future. The Senate has also included provisions for repayment in its bill which it has passed.

However, we had to draw the line somewhere. There has in fact been no prefinancing since July 1971. This is February. I would hope that the Federal Water Pollution Control Act Amendments of 1972 would be approved in the next few months. A further extension of the existing prefinancing or reimbursement procedures in H.R. 12741 might seriously hamper the implementation of the new policy requirements of the pending legislation. Accordingly, I suggest that the provisions of the Federal Water Pollution Control Act Amendments of 1972, which we anticipate bringing to the House shortly, will resolve the problems which have been raised before the committee and I am sure will be most satisfactory to the gentleman.

Mr. GROVER. I yield to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I would like to inquire concerning the question of the intent of this measure. I am going to address myself to either the gentleman from New York (Mr. GROVER) or the gentleman from Alabama (Mr. JONES), and my question is this:

Several of the States are now faced with a problem. Following this colloquy, I will insert letters from New Hampshire testifying to the problem. The Senate has passed a bill that increases the Federal share from the current level, from 30 to 55 percent, to a level of 60 to 70 percent. The House committee reported

a bill which increases the level of Federal participation by an even greater amount; that is, up to 75 percent.

The question facing many States and municipalities at this time in history is that if they proceed with the current financing, will they get the old or the new rate? The Senate and the House bills go back 1 year and give that retroactive feature, but in this measure which we are authorizing now, the question is raised the State or municipality will be able to obtain the larger Federal participation.

It is my understanding it is the intent of the Congress that it will be at the new and increased rate of participation. I want to make this crystal clear, because otherwise a great many projects will come to a grinding halt in this country and in New Hampshire.

Mr. GROVER. The gentleman from New Hampshire has raised a good point.

When the pending amendments to the Federal Water Pollution Control Act are enacted, it is anticipated that the maximum grant for treatment works construction for this fiscal year, which ends June 30, 1972, will be between 70 and 75 percentum because these higher levels are reflected in S. 2770 as passed by the other body and H.R. 11896 which was ordered to be reported by the House Committee on Public Works. They compare with the 30 to 55 percentum level in existing law. States upon passage of H.R. 12741 may go ahead with new projects at the 30 to 55 percentum level. However, they must clearly recognize that such new construction will be eligible for the higher grant levels from the 1972 authorizations when the pending legislation is enacted.

Thus, they must use care to make sure they do not exceed their allotment of the $2 billion for this fiscal year. In fact, the States, if they chose, could proceed with a prefinancing of the 70 percentum Federal grant level with the high probability of enactment of the higher grant levels.

Again, however, a word of warning. The States must exercise extreme care to not exceed their allocation of grant funds for fiscal year 1972, so as to be able to increase the Federal share of the costs of all projects for which grants have been made from 1972 authorizations.

Mr. CLEVELAND. Then, let me say this: Precisely then the gentleman is assuring me that if New Hampshire acts under this authorization we can expect to do it under the rate of 70 percent participation or the 75 percent participation rate, whichever one is finally enacted into law sometime later this year, assuming of course such rates are enacted.

Mr. GROVER. Assuming it is enacted into law with the present language we are contemplating in the House bill, I think it will do so.

Mr. CLEVELAND. Can you be any more positive?

Mr. GROVER. I am pretty positive.

Mr. JONES of Alabama. Will the gentleman yield to me?

Mr. CLEVELAND. I yield to the gentleman.

Mr. JONES of Alabama. I concur in the answer of the gentleman from New York.

Mr. CLEVELAND. Mr. Speaker, the letters I referred to earlier are as follows:

CONCORD, N.H.
January 21, 1972.

Hon. JAMES C. CLEVELAND,
House Office Building,
Washington, D.C.

DEAR JIM: The purpose of this letter is to bring your attention to the fact that the pollution control construction program in New Hampshire is rapidly coming to a grinding halt because of continued lack of action by the Congress with regard to funding for the pollution control program.

We are aware that both the House and Senate bills which would amend the Federal Water Pollution Control Act promise substantial increases in the level of Federal participation as well as authorizations for the associated funds. However, we cannot, in good conscience, in the face of the present inaction of Congress, encourage communities to proceed with construction of needed projects. Obviously, if the participation formula is changed from fifty percent to seventy or seventy-five percent, (as provided for in the legislative proposals)

financial losses are in prospect, not only for communities, I might add, but also for the State Government, itself, which is heavily engaged in our State aid program.

Since many other states are in similar position, it seems to me that the Congress should move expeditiously in the matter or at the very least immediately incorporate an appropriate provision in the legislation which would assure states and communities that they will not be penalized by reason of having proceeded in good faith, pending final action on these bills.

Sincerely,

WALTER PETERSON,
Governor.

WATER SUPPLY AND POLLUTION
CONTROL COMMISSION,
Concord, N.H., January 21, 1972.

Hon. JAMES C. CLEVELAND,
House Office Building,
Washington, D.C.

DEAR JIM: This will confirm my discussion with you of earlier today concerning the status of program grant funds allocated to New Hampshire under the Federal Water Pollution Control Act.

As you know, while the legislation extending the Federal pollution control program has been pending, funds were appropriated for both construction and program grants by means of a continuing resolution. Under this system, this agency has received a total of $25,960 as of October, 1971, when the last payment was made. The regular allocation for New Hampshire for Fiscal 1971 amounted to $64,300, and a like sum would certainly be minimum for Fiscal 1972. In any event, expenditures to date amount to $34,049; thus, we are in the position of prefinancing not only construction grant money but also program grant funds. Four members of the staff are employed by reason of Federal contributions; hence, there is an obvious degree of urgency involved.

Undoubtedly, many other states are similarly being deprived of the Federal assistance to which they are entitled. In this sense, if you are successful in securing favorable action on our behalf, it will provide parallel relief for administrators in other states who are equally concerned that this matter be resolved.

Enclosed is a copy of my recent communication to Mr. John A. S. McGlennon, Regional Administrator of EPA in Boston, on this same subject. I am sure he would be interested in being aware of our appeal to you for assistance, and a copy of this letter is being forwarded to him.

Kind personal regards,

Sincerely,

WILLIAM A HEALY,
Executive Director.

JANUARY 18, 1972.

Mr. JOHN A. S. MCGLENNON,
Regional Administrator, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Mass.

DEAR MR. MCGLENNON: The purpose of this letter is to request your assistance in obtaining program grant funds in accordance with the payment schedules normally adhered to by your office. At this writing, our records indicate that only $25,960 has been received by the State of New Hampshire to date for fiscal 1972, and that last payment occurred in October, 1971.

We are aware that full appropriations have not yet been authorized by the Congress because of still pending amendments to the Federal Water Pollution Control Act. Nevertheless, program funds are utilized here to employ personnel and the absence of regular payments threatens the security of these positions.

We would urge your assistance in obtaining additional funding or, failing this, a letter of assurance that the State of New Hampshire will be reimbursed for any funds which it may have to advance for the period until Federal program funds are made available.

Very truly yours,

WILLIAM A. HEALY,
Executive Director.

(Mr. CLEVELAND asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. GROVER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I would like to comment at this time that I very much support this bill.

I think the gentleman from New Hampshire raised a question, and I am glad to have the assurance that this does mean money under this act would be available at the rate of either 70 or 75 percent.

I would like to point out to the House that in my own State of New York the Congress really committed itself as far as the State of New York is concerned, anyway, to making up nearly $1.3 billion that our State prefinanced on the assumption that the Congress was going to make this money available for programs.

Now, this move right now in the

House, as I understand it, will produce approximately $109 million for the State of New York.

New York State 2 weeks ago canceled 167 programs dealing with water pollution and water pollution abatement because of insufficient funds and because the prefinancing was not available any longer under Federal programs.

So, No. 1, it is my hope that this bill will pass and, second, it is my hope that the bill that is going to be acted on in the House will contain the provisions of retroactive pay to the State of New York and many other States that are prefinancing in order that they can go ahead with their programs.

Mr. REUSS. Mr. Speaker, while I favor

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the early enactment of an effective water pollution bill such as S. 2770 which passed the Senate last fall, I am anxious that this program continue while the pending legislation is being considered. I therefore think that an extension of the program as proposed today in H.R. 12741 is sound.

A few days ago, the administration pushed the panic button and circulated in Congress two amendments to the water pollution control legislation now pending in Congress. One of these would emasculate the National Environmental Policy Act. The other would repeal the Refuse Act of 1899 as an antipollution tool.

I oppose both of these amendments of the administration. I urge all environmentally concerned citizens to do so.

I note, too, that the Senate-passed bill does not repeal the Refuse Act, particularly its provisions regarding citizen participation.

This 1899 law, for 2 years now, has been the backbone of the Federal antiwater-pollution program. Under this law, the Government has initiated over 100 enforcement actions against polluters. In many instances, the moving force behind the Government's action has been the citizen. The citizen has provided information that has caused the Government to file a criminal or civil suit against the polluter.

Take, for example, the Armco case. Last December Attorney General Mitchell announced a suit against Armco Steel Co.'s Sheffield, Tex., plant for violating the 1899 Refuse Act. The Justice Department charged then that the "effluent wastes being deposited in the waters of the Houston ship channel" daily by Armco without a corps permit "are highly toxic and constitute an immediate health hazard to all life—which might come into substantial contact with such waters—and cause irreparable injury to the ecological balance" of the channel and the Gulf of Mexico. The wastes are described as cyanide, phenols, sulfides, chlorides, manganese, and ammonia.

The Justice Department took this action when Dr. Don Berthelsen, a resident of southwest Houston, filed a complaint with the U.S. attorney. Last August, the Houston Post said that Mr. Berthelsen filed the complaint against Armco because "they seemed to be our most gross polluter and their management attitude was most flippant about the problem." At that time, Mr. Berthelsen said he "was fairly proud of the response of the Government." He said it "gives you faith that if you just will make an effort, the thing is likely to work."

We have also seen examples where criminal actions have been filed and the citizen is entitled to one-half the fine. Only yesterday the New York Times reported that the Hudson River Fishermen's Association would receive $25,000 for supplying evidence of pollution by the Anaconda Copper Co. which led to its conviction of violating the Refuse Act.

But the administration's new proposal would effectively repeal the Refuse Act and preclude forever any further citizen participation of this nature.

The Nixon administration has adopted

the position of the National Association of Manufacturers, which last September urged the House of Representatives to amend the Refuse Act so as to limit it to consideration of navigation only. This in effect repeals the Refuse Act. Ships can navigate through a sea of crud, but this does not make pollution desirable.

Mr. Nixon would take away an effective and simple tool for citizen participation and substitute a complex and cumbersome law which will result in less effective pollution control. Not even an empty shell would be left of the 1899 law.

The administration has said that citizen participation in the environmental movement is a healthy thing. But here we have a law which enables the citizen to act environmentally and to see the fruits of his efforts and, rather than retain it and urge its use, the administration seeks to repeal it. This law lets the citizen discover polluters and gather evidence against them at little or no cost to him. He does not need a lawyer to file a lawsuit for him. He does not need expert witnesses. He needs only to ferret out the polluter, tell the appropriate U.S. attorney, and wait for him to act civilly or criminally.

The Refuse Act has given the citizen this role. The Federal Water Pollution Control Act has not. Nor will the pending legislation. Oh yes, it will provide for civil suits—a much needed provision —but those cost money. The average citizen who is environmentally concerned cannot afford the costs or time associated with such suits.

I urge that the administration drop its efforts to repeal the Refuse Act. The administration should reject the arguments of the NAM and think of the citizens of this Nation who deplore the condition of our waterways. The Refuse Act and the Federal Water Pollution Control Act have operated successfully in tandem for 2 years. Let them continue to work together for many more years until our waterways once again are of good quality.

I also join in the remarks of my colleague from Michigan, Congressman DINGELL, opposing the administration's proposed amendments to weaken the National Environmental Policy Act and the Fish and Wildlife Coordination Act.

Mr. KEMP. Mr. Speaker, I rise in support of the continuing resolution. Last Monday, January 31, I introduced H.R. 12751, a bill to extend the Federal Water Pollution Control Act until June 30, 1972. This legislation, which was referred to the Committee on Public Works, was cosponsored by my distinguished colleague (Mr. DULSKI).

Since October 31, 1971, the Environmental Protection Agency has been without authorization for important areas of the Federal Water Pollution Control Act. Authority had been extended since the expiration date of June 30, 1971, by Public Law 92–50 and Public Law 92–137.

Last Thursday, February 3, our colleagues in the Senate considered and passed a bill to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972. This legislation would provide funds to assure the payment of salaries and expenses, $9 million, and $15 million to meet contract obligations until the end of this fiscal year.

Mr. Speaker, I am delighted that the Senate has acted promptly on this important matter, but I very much regret that they did not include in their bill provisions contained in proposed House legislation which would provide for vital environmental programs.

The bill reported to the House today by the Committee on Public Works would not only accomplish the aims of the Senate-passed legislation, but would also provide an additional authorization of $45 million for the period ending June 30, 1972, for research, investigations, training, and information programs. I am disappointed that we cannot specifically earmark funds at this time for the crash program to help restore the Great Lakes and for reimbursement. How-

ever, it is my understanding that the increase to $2 billion in the grant program from $1.3 billion does not include moneys for the Great Lakes and particularly Lake Erie.

Mr. Speaker, the costs of not instituting a program to abate pollution on the Great Lakes would incur damages which far exceed the expenses of such a program.

The pollution of the Great Lakes, and particularly Lake Erie, have been an environmental focal point for more than a decade. No other body of water has been given more attention by the media. As early as 1960 the then Secretary of the Interior declared that Lake Erie had the highest priority with respect to cleanup over any other river or lake in the Nation. Numerous elected and appointed officials, as well as most of the leading aquatic scientists in the world, have stated that the rejuvenation of Lake Erie will be the model and incentive for the saving of our Nation's water resources.

To curtail this effort would be a serious blow to the morale of our country as well as a serious blow to Canadian-United States relations. The Canadian federal, provincial, and local governments have kept their pledges made at meetings of the International Joint Commission and other conferences. The percentage of their economy which has been and will continue to be expended on water pollution is more than triple even the most costly of the proposed U.S. plans. Most of the Canadians' efforts as well as the nearly one-half billion dollars of previous abatement efforts by the public and private sector of our economy will be for naught if we do not implement the proposed clean-up program.

It is imperative that we keep in mind two essential facts. First, we have the technology and manpower to abate the pollution. The only factor blocking our path is the lack of funding. Secondly, the actual cost of not abating the pollution or postponing our efforts far exceeds the cost of clean-up. I would like to give some examples of the latter.

The cost of municipal sewage plant construction has more than doubled during the past 5 years. Even with inflation under restraint, it will cost considerably more 2 years from now if we put off construction. At least one of the Lakes—Lake Erie—is on the brink of an ecological cliff. A joint 1970 study by the Gov-

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ernments of Canada and the United States—Project Hypo—has shown that unless the wastes being added to the lake, particularly from cities and towns, is substantially reduced in the next 5 years, Lake Erie may go beyond the point where it can be changed from a liability to an asset. These scientists found that a larger section of the lake bottom was becoming devoid of oxygen for a longer period of time each summer. This was due to the death and decay of algae, whose overpopulation had been caused by municipal wastes. When the oxygen level at bottom reached zero, the nutrients that had accumulated on the bottom for more than a hundred years were released. Swept up into the water, these nutrients induced the growth of more algae. This perpetuated the vicious cycle. Conditions are now being approached that the amount of nutrients released may be sufficient to perpetuate a year-round algae bloom. If this occurs, even if we cease all pollution of the lake, it will remain a festering pot of foul smelling slime.

Under oxygen-less conditions, other undesirable processes occur. Mercury and other heavy metals are released in the water. The mercury that was added to Lake Erie and the Niagara and Detroit Rivers probably would have caused little problem if it were not for the low dissolved oxygen in the bottom of these waters.

Mr. Speaker, the mercury pollution damage to the Lake Erie fishing industry, which was the most profitable of all the Great Lakes for both the United States and Canada, will exceed $60 mil-

lion. The costs on the sports fishing industry probably will exceed $100 million.

The impact of pollution on recreation should not be ignored, particularly from an economic point of view. Despite the fact that more boats are owned by people residing in the Great Lakes Basin than any other area of the country, the percentage of those people who sail on the Great Lakes is less than 25 percent. Instead, they trailer their boats to other areas, particularly Canada. One survey, conducted by the Great Lakes Laboratory of the State University College at Buffalo, demonstrated that the money spent by Americans who crossed into Canada via three bridges on the Niagara Frontier for summer boating vacations in Canada, far exceeded the amount spent by Americans in Europe during a comparable number of months. When asked why they had not taken a similar vacation on the Great Lakes, the overwhelming reply was that they did not like the pollution.

The closing of beaches along Lakes Michigan, Erie, and Ontario has not only resulted in the loss of revenue for local governments but it has induced further spending for the construction and maintenance of municipal and private pools. Likewise, the closing of motels and other tourist oriented businesses along the Great Lakes in Wisconsin, Michigan, Ohio, Pennsylvania, and New York has dealt serious economic blows to these areas. If the problem is not checked, even more losses can be expected.

It is clearly evident that when all the costs are examined, it is far less expensive to abate pollution of the Great Lakes now, rather than postpone our efforts.

Mr. Speaker, I have received assurances that reimbursement provisions will be in the omnibus bill which will be brought to the floor in March, where I will continue the fight for New York and our Great Lakes at that time.

Mr. DULSKI. Mr. Speaker, I rise in support of H.R. 12741, the bill to extend the Federal Water Pollution Control Act through next June 30.

The need for this resolution is obvious. Action is long overdue. The House has sought to deal with this matter before, but our earlier action now is outdated.

It is indeed strange how this crisis should arise when we are dealing with a subject which everyone seems to feel is urgent. Yet, we find the program now in such a bind that the Agency does not even have the money needed to pay salaries, let alone act on the hundreds of pending pollution control applications.

In speaking critically, I want to make it very plain that I have no complaint either against this body or, in particular, against the distinguished gentleman from Minnesota (Mr. BLATNIK), chairman, and the members of his Committee on Public Works. All have tried hard to break the deadlock.

The problem, it seems to me, lies with foot-dragging downtown. They claim to want a pollution control program, but they are nit-picking it to death.

OWN BILL WENT FURTHER

A week ago, I cosponsored, with Congressman KEMP of New York, a resolution which is similar in part to the pending bill. My resolution went one step further and authorized payments to States which have prefinanced water pollution control work.

The omission of the reimbursement feature from the pending resolution hits New York State in an extremely tender spot—its treasury. New York already has prefinanced eligible Federal projects to the tune of more than $1 billion.

With no Federal funds in sight, the State has ordered an end to prefinancing until the Federal payments catch up. As a result, the State has put 157 sewer projects on the back burner, including some 29 in my own western end of the State.

This is a deplorable backward step in our all-out effort to deal with water pollution.

INTERNATIONAL ASPECTS

What is more, it has international implications since it means the United States is going to move even slower in dealing with pollution on the Great Lakes and the connecting channels.

Our colleague from Minnesota (Mr. BLATNIK) is fully aware of the situation as it applies to the Great Lakes since he is chairman of the Conference of Great Lakes Congressmen.

Mr. Speaker, I support the pending resolution as a step in the right direction. I am quite aware that the Committee on Public Works has ordered reported a basic pollution control bill and floor action is expected to be scheduled by mid-March.

I regret very much the stumbling blocks that have been put in the way of final action on the basic legislation. I am even more distressed, if that is possible, by the difficulties we have encountered in trying, at least, to keep the old program in force until the new one is enacted.

Mr. Speaker, I urge full support of the pending bill.

Mr. Speaker, as part of my remarks I include a pertinent recent editorial from the Buffalo (N.Y.) Evening News:

FEDERAL SEWAGE AID IS VITAL

A memorandum from the State Department of Environmental Conservation, laying down tougher guidelines for new building developments that would add to existing water pollution in Erie County, underscores the severity of the sewage treatment problems now facing the county.

The state agency stops short of requiring or encouraging a countywide moratorium on construction. But that could obviously come to pass if sewage overloading and stream pollution in the county continue to worsen. In that event, the adverse economic as well as environmental consequences for the county would be obvious.

Although some communities, as the state agency notes, are well along in planning new sewage facilities, too many others have been dragging their feet. Hence, the new state memorandum makes it more vital than ever that this county and all localities do everything possible to accelerate measures aimed at abating stream pollution.

However, the most pressing need of the moment is for Congress to appropriate adequate funds to finance the federal share of water pollution control projects. It was the inexcusable failure of Congress to deliver on promised federal aid that largely caused the state to suspend plans for 157 sewer projects, including 29 in Western New York. The U.S. already owes New York State more than $1 billion which the state prefinanced as the federal share for pollution-abatement projects.

Because of the resulting breakdown of the state's pure waters program, the immediate outlook for stepping up the attack on water pollution in Erie County, as elsewhere, is discouraging indeed. This, in turn, has grave international implications since the United States has pledged a joint cleanup of boundary waters with Canada.

Our representatives in Congress thus have a clear and urgent incentive to press for the fastest action to provide the needed pollution-abatement funds

Mr. Speaker, I urge full support of the pending bill.

Mr. KEE. Mr. Speaker, I rise in support of H.R. 12741, the extension of the Federal Water Pollution Control Act. The Public Works Committee will shortly bring to the floor H.R. 11846, probably the most important environmental legislation ever to be considered by the Congress. This will be a $27 billion program to combat water pollution and to make our waters safe for the American people.

In the meantime, however, the existing program has expired. H.R. 12741 will extend the water pollution control program to June 30, 1972, and permit the Congress to continue its careful and diligent work on H.R. 11846 which will follow shortly.

Passage of H.R. 12741 would permit EPA to carry on its research, training, and information programs. At the same time, the States will be able to continue their own planning programs without undue delay. Furthermore, EPA will be able to move forward with the waste treatment construction program.

I urge the passage of H.R. 12741.

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Mr. CONTE. Mr. Speaker, I support H.R. 12741 which would extend provisions of the Federal Water Pollution Control Act through June 30 of this

year. We are all aware that new water pollution control legislation has been passed by the Senate and that the House Committee on Public Works has reported out its own bill.

Because of the many sweeping changes in Federal policy such legislation would effectuate and because of the many uncertainties that have been raised in the minds of the public about these new proposals, it is unlikely that final legislative action on them will occur in the immediate future. Hence the need to ensure the interim continuation of the present program.

Few would argue with the necessity of further support for the waste treatment facilities construction program authorized under this legislation. Authority to meet existing contract obligations and for the payment of salaries and expenses is likewise required.

To continue the fight to reclaim and preserve the purity of our Nation's waterways, I urge the adoption of this legislation.

Thank you, Mr. Speaker.

Mr. GROVER. Mr. Speaker, I have no further requests for time.

Mr. JONES of Alabama. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Alabama (Mr. JONES) that the House suspend the rules and pass the bill H.R. 12741.

The question was taken.

Mr. HALL. 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, and the Clerk will call the roll.

The question was taken; and there were—yeas 338, nays 7, not voting 86, as follows:

* * * * *

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill as follows:

S. 3122

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

SECTION 1. Section 5(n) of the Federal Water Pollution Control Act, as amended (33 U S C. 1151 et seq.), is further amended by inserting after the first sentence thereof the

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following: "There is authorized to be appropriated not to exceed $9,000,000 for the period commencing November 1, 1971, and ending June 30, 1972, for the purpose of salaries and related expenses incurred during that period under this section, in addition to funds made available under Public Law 92-50 and Public Law 92-137."

SEC. 2. Section 7(a) of the Federal Water Pollution Control Act, as amended (33 U.S C. 466 et seq.), is amended by striking "and for the four month period ending October 31, 1971, $4,000,000." and inserting in lieu thereof "and for the fiscal year ending June 30, 1972, $15,000,000."

AMENDMENT OFFERED BY MR. JONES OF ALABAMA

Mr. JONES of Alabama. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Alabama Strike out all after the enacting clause of S. 3122 and insert in lieu thereof the provisions of H.R. 12741, as passed.

The amendment 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 extend the Federal Water Pollution Control Act through June 30, 1972.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12741) was laid on the table.

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1.2o(4)(c) Feb. 16: House agreed to conference report, pp. H1056–H1057

CONFERENCE REPORT ON S. 3122, FEDERAL WATER POLLUTION CONTROL ACT

Mr. JONES of Alabama. Mr. Speaker, I call up the conference report on the bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

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

Mr. HALL. Mr. Speaker, reserving the right to object, will the gentleman take time to explain the conference report, including the Senate amendments?

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

Mr. HALL. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. I shall do so.

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

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of February 9, 1972.)

The SPEAKER. The gentleman from Alabama is recognized.

Mr. JONES of Alabama. Mr. Speaker, I should briefly like to explain the conference report on the bill S. 3122.

Authorizations for programs contained in the Federal Water Pollution Control Act expired on June 30, 1971. Since that date the Congress has enacted two resolutions permitting the continuance of the programs to October 31, 1971.

On December 15, 1971, the Committee on Public Works, after completing the most extensive and constructive hearings ever held on the water pollution control program, ordered reported H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972. However, it is not anticipated that this legislation will be enacted into law in the immediate future.

In the interim, it is necessary that the existing program be extended while the Congress continues its careful and diligent work on H.R. 11896, probably most important environmental legislation ever to be considered.

On February 7, the House passed S. 3122 which included three sections. Section 1 extended section 5(n) of the Federal Water Pollution Control Act and provided an additional authorization of $45 million for the period ending June 30, 1972, for research, investigation, training, and information programs. Section 2 provided an additional $11 million for section 7(a) for the period ending June 30, 1972, so as to permit the States to continue the planning of programs in an orderly fashion. Finally, section 3 increased the authorization for the basic grant program for waste treatment facilities, under section 8(d) to $2 billion, or an increase of $1.350 billion. The bill authorized a total of $1.406 billion.

On February 9, as a result of a conference with our Senate colleagues, we were able to iron out the differences between the two bodies on this legislation. It was agreed in section 1 to extend section 5(n) of the Federal Water Pollution Control Act to April 30, 1972, and

provide for an additional $30 million for research, investigation, training and information programs. An additional $9 million was authorized for salaries and related expenses incurred during the period of November 1, 1971, to June 30, 1972. Section 2 of S. 3122 authorizes an additional $11 million for carrying out section 7(a) of the Federal Water Pollution Control Act to June 30, 1972. This is identical with what was contained in the House-passed bill. Finally, in section 3, in lieu of the $1.350 billion provided for in the House-passed bill for the construction grant program, the conference agreed to cut this back to $1 billion and extended the program to April 30, 1972.

The conference report allows additional authorizations of $1.050 billion. This is in lieu of the $1.406 billion authorized in the House-passed bill. I must point out, however, that the difference in the amount is primarily brought about by extending section 5(n) and 8(d) to April 30, 1972, rather than June 30, 1972, as proposed by the House.

Mr. Speaker, although S. 3122 would authorize a total of $1.050 billion, it should be noted that the enactment of this legislation will not require the appropriation of any additional moneys. Public Law 92-73, the Agriculture-Environmental and Consumer Protection Appropriation Act, 1972, included the necessary moneys for this program subject to later authorizations. This bill is the authorization to utilize the funds previously appropriated.

Mr. Speaker, I urge the immediate passage of the conference report so as to prevent further delays in continuing this extremely important program.

(Mr. HARSHA asked and was given permission to revise and extend his remarks.)

Mr. HARSHA. Mr. Speaker, I urge immediate passage of the conference report on S. 3122. The immediate passage of the report will allow the Federal water pollution control program to continue during the period that the House Public Works Committee and the full House complete their work on the 1972 amendments to the Federal Water Pollution Control Act.

The Committee on Public Works is presently incorporating amendments which were passed by the committee during executive sessions held in December and is preparing the report to accompany this comprehensive bill. This is a difficult and time-consuming task because of the length and complexity of this bill. The bill itself will be over 200 pages long and will require a report of equal length. The many matters and issues in the bill are complex and it will have significant effects on many aspects of our Nation's life. This work must be completed in a thorough and effective manner or the effectiveness of the Nation's water pollution control program could be impeded. The time needed to complete this large task, plus the time which will be required for conference on the differences with the other body, makes it necessary that we extend funding authorizations under the existing law as we previously said we would have to do.

The conference substitute incorporates most of the provisions of S. 3122, which passed the House on February 7, 1972. The conference substitute will extend section 5(n), except authorizations for salaries, through April 30, 1972, with an additional authorization of $30 million. The conference substitute will also authorize $9 million for the period through November 1, 1971, to June 30, 1972, for the payment of salaries and related expenses necessary in connection with the Federal Water Pollution Control Act. The conference substitute for section 5(n) authorizes a total of $39 million, as compared with the House-passed bill which would have extended funding for section 5(n) for research, investigation, training, and informational programs at a level of $45 million through June 30, 1972.

The conference substitute accepted the House provisions for section 7(a) to

continue the grants for State water pollution control programs through June 30. 1972, with an additional $11 million authorization.

The conference substitute on authorizations for treatment works construction grant programs will extend the program to April 30, 1972, at a total authorization of $1.65 billion or $35 million less than the $2 billion authorization through June 30, 1972, contained in the House-passed bill.

Mr. Speaker, S. 3122 will not require the appropriation of any additional moneys since Public Law 92-73, the Agriculture-Environmental Consumer Protection Appropriation Act of 1972, has appropriated the necessary moneys subject to later House authorizations. What we are doing here is authorizing the obligation of the needed, previously appropriated funds.

Mr. Speaker, it is unlikely that the House Public Works Committee and the full House will be able to complete its work in the manner required and then also come to conference agreements with the other body on the differences between the two Houses before April 30, 1972. However, it is imperative that we immediately approve the partial authorization for the fiscal year ending June 30, 1972, which is contained in the conference report. At some time prior to April 30, after a review of actual obligations under the authorizations and appropriations, it can be determined

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whether an additional extension will be required.

Mr. Speaker, while I believe that the House passed measure is superior to the bill from the other body, I believe that the conference agreement will meet our needs at this time. I urge immediate passage.

Mr. Speaker, I have an additional comment.

When the resolution was discussed on the floor under suspension Mr. CLEVELAND, of New Hampshire, made inquiry of Mr. JONES and Mr. GROVER. His question related to whether pollution abatement programs undertaken this year would qualify for any increase in Federal matching funds we may enact later this year. I am pleased to inform the gentleman from New Hampshire (Mr. CLEVELAND) that the answers are still in the affirmative.

Mr. Speaker, I yield to the gentleman from New York (Mr. GROVER).

Mr. GROVER. Mr. Speaker, I also rise in support of the conference report.

I am sure I speak for the entire New York delegation, when I say we are quite concerned that the concept of reimbursement which we were discussing when the original legislation was before us a fortnight ago will be given very favorable consideration by the committee and by the Congress at large. It is extremely important to the States which have taken broad and aggressive steps, as New York State, under the visionary leadership of Governor Rockefeller, has in the past, with a billion dollar bond issue authorized by the people of the State directed to this very important program of cleaning up our waters.

(Mr. GROVER asked and was given permission to revise and extend his remarks.)

Mr. DULSKI. Mr. Speaker, I support the Conference Report on the Federal Water Pollution Control Act (S. 3122) with some reluctance.

The bill as it comes from conference does keep the Federal program going, but the conference changes represent a backward step from what the House approved on February 7. Even the House action was inadequate, as I said at the time, and now we are winding up with still less.

I recognize fully that this is an interim measure and that a new authorization bill has been ordered reported by the Committee on Public Works. I am hopeful that the new basic bill will receive prompt consideration by the House and earliest possible final action by the Congress.

Time is fleeting. Many projects already have been delayed—I am particularly familiar with the many which have been deferred in my own State of New York. The essential momentum is in danger of being lost in the drive to control water pollution and we simply can't afford to let this happen.

I will vote for the conference report today through simple necessity, but I wanted to take this opportunity to express on the record once again my great concern about the problem of water pollution and the current interruption in basic Federal legislation.

We have made great strides in communities all across the country, but we still have much more to be done. This is not a matter which we can take for granted in any degree.

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

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

[p. H1057]

1.2o(4)(d) Feb. 16: Senate agreed to conference report, p. S1901

EXTENSION OF FEDERAL WATER POLLUTION CONTROL ACT—CONFERENCE REPORT

Mr. BYRD of West Virginia. Mr. President, I have been requested by the distinguished senior Senator from West Virginia (Mr. RANDOLPH) to submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. BEALL). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of February 9, 1972, at p. H987.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

[p. S1901]

1.3 POLLUTION OF THE SEA BY OIL, AS AMENDED, 33 U.S.C. §1001, ET SEQ. (1966)

Sec.

1001. Definitions.
1002. Prohibition against discharge of oil or oily mixtures; permissible discharges; regulations.
1003. Excepted discharges; securing safety of ship; prevention of damage to ship or cargo; saving life; damaged ship or unavoidable leakage; residue from purification or clarification.
1004. Excepted discharges; oily mixtures from bilges.
1005. Penalties for violations; liability of vessel.
1006. Suspension or revocation of license of officers of offending vessels.
1007. Personnel for enforcement of provisions; arrest of offenders and procedure; ship fittings and equipment; civil penalty.
1008. Oil record book.
(a) Printing; regulations by Secretary.
(b) Book supplied without charge; inspection and surrender.
(c) Operations requiring recordation.
(d) Entries; signatures.
(e) Rules and regulations.
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1009. Regulations.
1010. Boarding of ships; production of records; evidence of violations by foreign ships.
1011. Prohibited zones; publication of reduction or extension of zones.
1012. Repealed.
1013. Appropriations.
1014. Effect on other laws.
1015. Effective date.

§ 1001. Definitions

As used in this chapter, unless the context otherwise requires—

(a) The term "convention" means the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended;

(b) The term "discharge" in relation to oil or to an oily mixture means any discharge or escape howsoever caused;

(c) The term "heavy diesel oil" means marine diesel oil, other than those distillates of which more than 50 per centum, by volume distills at a temperature not exceeding three hundred and forty degrees centigrade when tested by American Society for the Testing of Materials standard method D. 86/59;

(d) The term "mile" means a nautical mile of six thousand and eighty feet or one thousand eight hundred and fifty-two meters;

(e) The term "oil" means crude oil, fuel oil, heavy diesel oil, and lubricating oil, and "oily" shall be construed accordingly. An "oily mixture" means a mixture with an oil content of one hundred parts or more in one million parts of mixture.

(f) The term "person" means an individual, partnership, corporation, or association; and any owner, operator, agent, master, officer, or employee of a ship;

(g) The term "prohibited zones" means the zones described in section 1011 of this title as modified by notices, if any, of extension or reduction issued by the Secretary;

(h) The term "Secretary" means the Secretary of Transportation;

(i) The term "ship", subject to the exceptions provided in paragraph (1) of this subsection, means any seagoing vessel of any type whatsoever of American registry or nationality, including floating craft, whether self-propelled or towed by another vessel making a sea voyage; and "tanker", as a type included within the term "ship", means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

(1) The following categories of vessels are excepted from all provisions of this chapter:

(i) tankers of under one hundred and fifty tons gross tonnage and other ships of under five hundred tons gross tonnage.

(ii) ships for the time being engaged in the whaling industry when actually employed on whaling operations.

(iii) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of Saint Lambert lock at Montreal in the Province of Quebec, Canada.

(iv) naval ships and ships for the time being used as naval auxiliaries.

(j) The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958.

Pub.L. 87–167, § 2, Aug. 30, 1961, 75 Stat. 402; Pub.L. 89–551, § 1(2), Sept. 1, 1966, 80 Stat. 372.

§ 1002. Prohibition against discharge of oil or oily mixtures; permissible discharges; regulations

Subject to the provisions of sections 1003 and 1004 of this title, it shall be unlawful for any person to discharge oil or oily mixture from:

(a) a tanker within any of the prohibited zones.

(b) a ship, other than a tanker, within any of the prohibited zones, except when the ship is proceeding to a port not provided with facilities adequate for the reception, without causing undue delay, it may discharge such residues and oily mixture as would remain for disposal if the bulk of the water had been separated from the mixture: *Provided,* such discharge is made as far as practicable from land.

(c) a ship of twenty thousand tons gross tonnage or more, including a tanker, for which the building contract is placed on or after the effective date of this chapter. However, if in the opinion of the master, special circumstances make it neither reasonable nor practicable to retain the oil or oily mixture on board, it may be discharged outside the prohibited zones. The reasons for such discharge shall be reported in accordance with the regulations prescribed by the Secretary.

Pub.L. 87–167, § 3, Aug. 30, 1961, 75 Stat. 402; Pub.L. 89–551, § 1(3), Sept. 1, 1966, 80 Stat. 373.

§ 1003. Excepted discharges; securing safety of ship; prevention of damage to ship or cargo; saving life; damaged ship or unavoidable leakage; residue from purification or clarification

Section 1002 of this title shall not apply to—

(a) the discharge of oil or oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo, or saving life at sea; or

(b) the escape of oil, or of oily mixture, resulting from damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of presenting or minimizing the escape;

(c) the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil: *Provided,* That such discharge is made as far from land as practicable.

Pub.L. 87–167, § 4, Aug. 30, 1961, 75 Stat. 402; Pub.L. 89–551, § 1(4), Sept. 1, 1966, 80 Stat. 373.

§ 1004. Excepted discharges; oily mixtures from bilges

Section 1002 of this title shall not apply to the discharge from the bilges of a ship of an oily mixture containing no oil other than lubricating oil which has drained or leaked from machinery spaces.

Pub.L. 87–167, § 5, Aug. 30, 1961, 75 Stat. 403; Pub.L. 89–551, § 1(5), Sept. 1, 1966, 80 Stat. 374.

§ 1005. Penalties for violations; liability of vessel

Any person who violates any provision of this chapter, except sections 1007(b) and 1008 of this title, or any regulation prescribed in pursuance thereof, is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment not exceeding one year, or by both such fine and imprisonment, for each offense. And any ship (other than a ship owned and operated by the United States) from which oil is discharged in violation of this chapter, or any regulation prescribed in pursuance thereof, shall be liable for the pecuniary penalty specified in this section, and clearance of such ship from a port of the United States may be withheld until the penalty is paid, and said penalty shall constitute a lien on such ship which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the ship may be.

Pub.L. 87–167, § 6, Aug. 30, 1961, 75 Stat. 403.

§ 1006. Suspension or revocation of license of officers of offending vessels

The Coast Guard may, subject to the provisions of section 239 of Title 46, suspend or revoke a license issued to the master or other licensed officer of any ship found violating the provisions of this chapter or the regulations issued pursuant thereto.

Pub.L. 87–167, § 7, Aug. 30, 1961, 75 Stat. 403.

§ 1007. Personnel for enforcement of provisions; arrest of offenders and procedure; ship fittings and equipment; civil penalty

(a) In the administration of sections 1001 to 1011 of this title, the Secretary may make use of the organization, equipment, and agencies, including engineering, clerical, and other personnel, employed under his direction in the improvement of rivers and harbors and in the enforcement of laws for the improvement of rivers and harbors and in the enforcement of laws for the preservation and protection of navigable waters. For the better enforcement of the provisions of said sections, the officers and agents of the United States in charge of river and harbor improvements and persons employed under them by authority of the Secretary, and officers and employees of the Bureau of Customs and the Coast Guard, shall have power and authority and it shall be their duty to swear out process and to arrest and take into custody, with or without process, any person who may violate any of said provisions: *Provided,* That no person shall be arrested without process for a violation not committed in the presence of some one of the

aforesaid officials: *And provided further,* That whenever any arrest is made under the provisions of said sections the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States. Representatives of the Secretary and of the Bureau of Customs and Coast Guard of the United States may go on board and inspect any ship in a prohibited zone or in a port of the United States as may be necessary for enforcement of this chapter.

(b) To implement article VII of the convention, ship fittings and equipment, and operating requirements thereof, shall be in accordance with regulations prescribed by the Secretary of the Department in which the Coast Guard is operating. Any person found violating these regulations shall, in addition to any other penalty prescribed by law, be subject, to a civil penalty not in excess of $100.

Pub.L. 87–167, § 8, Aug. 30, 1961, 75 Stat. 403.

§ 1008. Oil record book—Printing; regulations by Secretary

(a) The Secretary shall have printed separate oil record books, containing instructions and spaces for inserting information in the form prescribed by the Convention, which shall be published in regulations prescribed by the Secretary.

Book supplied without charge, inspection and surrender

(b) If subject to this chapter, every ship using oil fuel and every tanker shall be provided, without charge, an oil record book which shall be carried on board. The provisions of section 140 of Title 5 shall not apply. The ownership of the booklet shall remain in the United States Government. This book shall be available for inspection as provided in this chapter and for surrender to the United States Government pursuant to regulations of the Secretary.

Operations requiring recordation

(c) The oil record book shall be completed on each occasion, whenever any of the following operations takes place in the ship:

(1) ballasting of and discharge of ballast from cargo tanks of tankers;

(2) cleaning of cargo tanks of tankers;

(3) settling in slop tanks and discharge of water from tankers;

(4) disposal from tankers of oily residues from slop tanks or other sources;

(5) ballasting, or cleaning during voyage, of bunker fuel tanks of ships other than tankers;

(6) disposal from ships other than tankers of oily residues from bunker fuel tanks or other sources;

(7) accidental or other exceptional discharges or escapes of oil from tankers or ships other than tankers.

In the event of such discharge or escape of oil or oily mixture, as is referred to in sections 1002(c) and 1003 of this title, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

Entries; signatures

(d) Each operation described in subsection (c) of this section shall be fully recorded without delay in the oil record book so that all the entries in the book appropriate to that operation are completed. Each page of the book shall be signed by the officer or officers in charge of the operations concerned and, when the ship is manned, by the master of the ship.

Rules and regulations

(e) Oil record books shall be kept in such manner and for such length of time as set forth in the regulations prescribed by the Secretary.

Penalties

(f) If any person fails to comply with the requirements imposed by or under this section, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 and if any person makes an entry in any records kept in accordance with this chapter or regulations prescribed thereunder by the Secretary which is to his knowledge false or misleading in any material particular, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 or imprisonment for a term not exceeding six months, or both.

Pub.L. 87–167, § 9, Aug. 30, 1961, 75 Stat. 404; Pub.L. 89–551, § 1(6), Sept. 1, 1966, 80 Stat. 374.

§ 1009. Regulations

The Secretary may make regulations for the administration of sections 1002, 1003, 1004, 1007(a), 1008, and 1011 of this title.

Pub.L. 87–167, § 10, Aug. 30, 1961, 75 Stat. 404; Pub.L. 89–551, § 1(7), Sept. 1, 1966, 80 Stat. 375.

§ 1010. Boarding of ships; production of records; evidence of violations by foreign ships

(a) The Secretary may make regulations empowering such persons as may be designated to go on board any ship to which the convention applies, while the ship is within the territorial jurisdiction of the United States, and to require production of any records required to be kept in accordance with the convention.

(b) Should evidence be obtained that a ship registered in another country party to the convention has discharged oil in any prohibited zone, such evidence should be forwarded to the State Department for action in accordance with article X of the convention.

Pub.L. 87–167, § 11, Aug. 30, 1961, 75 Stat. 404.

§ 1011. Prohibited zones; publication of reduction or extension of zones

(a) All sea areas within fifty miles from the nearest land shall be prohibited zones, subject to extensions or reduction effectuated in accordance with the terms of the Convention, which shall be published in regulations prescribed by the Secretary.

(b) With respect to the reduction or extension of the zones described under the terms of the Convention, the Secretary shall give notice thereof by publication of such information in Notices to Mariners issued by the United States Coast Guard and United States Navy.

Pub.L. 87–167, § 12, Aug. 30, 1961, 75 Stat. 404; Pub.L. 89–551, § 1(8), Sept. 1, 1966, 80 Stat. 375.

§ 1012. Repealed. Pub.L. 89–551, § 1(9), Sept. 1, 1966, 80 Stat. 375

§ 1013. Appropriations

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

Pub.L. 87–167, § 14, Aug. 30, 1961, 75 Stat. 407.

§ 1014. Effect on other laws

Nothing in this chapter or in regulations issued hereunder shall be construed to modify or amend the provisions of the Oil Pollution Act, 1924, or of section 89 of Title 14.

Pub.L. 87–167, § 16, Aug. 30, 1961, 75 Stat. 407.

1.3a THE OIL POLLUTION CONTROL ACT OF 1961

August 30, 1961, P.L. 87-167, 75 Stat. 402

An Act to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, may be cited as the "Oil Pollution Act, 1961."

SEC. 2. DEFINITIONS.—As used in this Act, unless the context otherwise requires—

(a) The term "convention" means the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954;

(b) The term "discharge" in relation to oil or to an oily mixture means any discharge or escape howsoever caused;

(c) The term "heavy diesel oil" means marine diesel oil, other than those distillates of which more than 50 per centum, by volume distills at a temperature not exceeding three hundred and forty degrees centigrade when tested by American Society for the Testing of Materials standard method D. 158/53;

(d) The term "mile" means a nautical mile of six thousand and eighty feet or one thousand eight hundred and fifty-two meters;

(e) The term "oil" means persistent oils, such as crude oil, fuel oil, heavy diesel oil, and lubricating oil. For the purposes of this legislation, the oil in an oily mixture of less than one hundred parts of oil in one million parts of the mixture, shall not be deemed to foul the surface of the sea;

(f) The term "person" means an individual, partnership, corporation, or association; and any owner, operator, agent, master, officer, or employee of a ship;

(g) The term "prohibited zones" means the zones described in section 12 of this Act as modified by notices, if any, of extension or reduction issued by the Secretary;

(h) The term "Secretary" means the Secretary of the Army;

(i) The term "ship" means a seagoing ship of American registry except—

(1) ships for the time being used as naval auxiliaries;

(2) ships under five hundred tons gross tonnage;

(3) ships for the time being engaged in the whaling industry;

(4) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of the Lachine Canal at Montreal in the Province of Quebec, Canada.

SEC. 3. (a) Subject to the provisions of sections 4 and 5, the discharge by any person from any ship, which is a tanker, within any of the prohibited zones of oil or any oily mixture the oil in which fouls the surface of the sea, shall be unlawful.

(b) Subject to the provisions of sections 4 and 5, any discharge by any person into the sea from a ship, other than a tanker, of oily ballast water or tank washings shall be made as far as practicable from land. As from July 26, 1961, paragraph (a) of this section shall apply to ships other than tankers as it applies to tankers, except that the prohibited zones in relation to ships other than tankers shall be those referred to in the schedule.

SEC. 4. Section 3 shall not apply to—

(a) the discharge of oil or of an oily mixture from a ship for the purpose of securing the safety of the ship, preventing damage to the ship or cargo, or saving life at sea; or

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(b) the escape of oil, or of an oily mixture, resulting from damage to the ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;

(c) the discharge of sediment—

(i) which cannot be pumped from the cargo tanks of tankers by reason of its solidity; or

(ii) which is residue arising from the purification or clarification of oil fuel or lubricating oil,

Provided, That such discharge is made as far from land as is practicable.

SEC. 5. Section 3 shall not apply to the discharge from the bilges of a ship—

(a) of any oily mixture, during the period of twelve months after the United States accepts the convention;

(b) after the expiration of such period, of an oily mixture containing no oil other than lubricating oil.

SEC. 6. Any person who violates any provision of this Act, except sections 8 (b) and 9, or any regulation prescribed in pursuance thereof, is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment not exceeding one year, or by both such fine and imprisonment, for each offense. And any ship (other than a ship owned and operated by the United States) from which oil is discharged in violation of this Act, or any regulation prescribed in pursuance thereof, shall be liable for the pecuniary penalty specified in this section, and clear-

ance of such ship from a port of the United States may be withheld until the penalty is paid, and said penalty shall constitute a lien on such ship which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the ship may be.

SEC. 7. The Coast Guard may, subject to the provisions of section 4450 of the Revised Statutes, as amended (46 U.S.C. 239), suspend or revoke a license issued to the master or other licensed officer of any ship found violating the provisions of this Act or the regulations issued pursuant thereto.

SEC. 8. (a) In the administration of sections 1–12 of this Act, the Secretary may make use of the organization, equipment, and agencies, including engineering, clerical, and other personnel, employed under his direction in the improvement of rivers and harbors and in the enforcement of laws for the improvement of rivers and harbors and in the enforcement of laws for the preservation and protection of navigable waters. For the better enforcement of the provisions of said sections, the officers and agents of the United States in charge of river and harbor improvements and persons employed under them by authority of the Secretary, and officers and employees of the Bureau of Customs and the Coast Guard, shall have power and authority and it shall be their duty to swear out process and to arrest and take into custody, with or without process, any person who may violate any of said provisions: *Provided,* That no person shall be arrested without process for a violation not committed in the presence of some one of the aforesaid officials: *And provided further,* That whenever any arrest is made under the provisions of said sections the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States. Representatives of the Secretary and of the

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Bureau of Customs and Coast Guard of the United States may go on board and inspect any ship in a prohibited zone or in a port of the United States as may be necessary for enforcement of this Act.

(b) To implement article VII of the convention, ship fittings and equipment, and operating requirements thereof, shall be in accordance with regulations prescribed by the Secretary of the Department in which the Coast Guard is operating. Any person found violating these regulations shall, in addition to any other penalty prescribed by law, be subject to a civil penalty not in excess of $100.

SEC. 9. (a) There shall be carried in every ship an oil record book

in the form specified in section 13 of this Act. In the event of discharge or escape of oil from a ship in a prohibited zone, a signed statement shall be made in the oil record book, by the officer or officers in charge of the operations concerned and by the master of the ship, of the circumstances of and the reason for the discharge or escape.

(b) If any person fails to comply with the requirements imposed by or under this section, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 and if any person makes an entry in any records kept in accordance with this Act which is to his knowledge false or misleading in any material particular, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 or imprisonment for a term not exceeding six months, or both.

SEC. 10. The Secretary may make regulations for the administration of sections 3, 4, 5, 8(a), and 9.

SEC. 11. (a) The Secretary may make regulations empowering such persons as may be designated to go on board any ship to which the convention applies, while the ship is within the territorial jurisdiction of the United States, and to require production of any records required to be kept in accordance with the convention.

(b) Should evidence be obtained that a ship registered in another country party to the convention has discharged oil in any prohibited zone, such evidence should be forwarded to the State Department for action in accordance with article X of the convention.

SEC. 12. (a) Subject to paragraph (c) of this section, the prohibited zones in relation to tankers shall be all sea areas within fifty miles from land, with the following exceptions:

(1) THE ADRIATIC ZONES.—Within the Adriatic Sea the prohibited zones off the coasts of Italy and Yugoslavia respectively shall each extend for a distance of fifty miles from land, excepting only the island of Vis.

(2) THE NORTH SEA ZONE.—The North Sea Zone shall extend for a distance of one hundred miles from the coasts of the following countries—

Belgium,
Denmark,
the Federal Republic of Germany,
the Netherlands,
the United Kingdom of Great Britain and Northern Ireland;

but not beyond the point where the limit of a one-hundred-mile zone off the west coast of Jutland intersects the limits of the fifty-mile zone off the coast of Norway.

(3) THE ATLANTIC ZONE.—The Atlantic Zone shall be within a line drawn from a point on the Greenwich meridian one hundred miles in a north-northeasterly direction from the Shetland

Islands; thence northward along the Greenwich meridian to latitude 64 degrees north; thence westward along the 64th parallel to longitude 10 degrees west; thence to latitude 60 degrees north, longitude 14 degrees west; thence to latitude 54 degrees 30 minutes north, longitude 30 degrees west; thence to latitude 44 [p. 404] degrees 20 minutes north, longitude 30 degrees west; thence to latitude 48 degrees north, longitude 14 degrees west; thence eastward along the forty-eighth parallel to a point of intersection with the fifty-mile zone off the coast of France: *Provided,* That in relation to voyages which do not extend seaward beyond the Atlantic Zone as defined above, and which are to points not provided with adequate facilities for the reception of oily residue, the Atlantic Zone shall be deemed to terminate at a distance of one hundred miles from land.

(4) THE AUSTRALIAN ZONE.—The Australian Zone shall extend for a distance of one hundred and fifty miles from the coasts of Australia, except off the north and west coasts of the Australian mainland between the point opposite Thursday Island and the point on the west coast at 20 degrees south latitude.

(b) Subject to paragraph (c) of this section the prohibited zones in relation to ships other than tankers shall be all sea areas within fifty miles from land with the following exceptions:

(1) THE ADRIATIC ZONES.—Within the Adriatic Sea the prohibited zones off the coasts of Italy and Yugoslavia respectively shall each extend for a distance of twenty miles from land, excepting only the Island of Vis. After the expiration of a period of three years following the application of prohibited zones to ships other than tankers in accordance with section 3 (b) of this Act the said zones shall each be extended by a further thirty miles in width unless the two Governments agree to postpone such extension. In the event of such an argeement, the Convention provides for notification to be given accordingly to the Intergovernmental Maritime Consultative Organization by said governments not less than three months before the expiration of such period of three years and for notification to be given to all contracting governments by the Intergovernmental Maritime Consultative Organization.

(2) THE NORTH SEA AND ATLANTIC ZONES.—The North Sea and Atlantic Zones shall extend for a distance of one hundred miles from the coasts of the following countries:

Belgium,
Denmark,
the Federal Republic of Germany,

Ireland,
the Netherlands,
the United Kingdom of Great Britain and Northern Ireland,
but not beyond the point where the limit of a one-hundred-mile zone off the west coast of Jutland intersects the limit of the fifty-mile zone off the coast of Norway.

(c) With respect to the reduction or extension of the zones described above effectuated under the terms of the Convention, the Secretary of the Army shall give notice thereof by publication of such information in Notices to Mariners issued by the United States Coast Guard and United States Navy.

SEC. 13. (a) The Secretary shall have printed separate booklets which set forth instructions and spaces for inserting information as follows:

(1) FOR TANKERS.—

(A) Date of entry.

(B) Ballasting of and discharge of ballast from cargo tanks.

(i) Identity numbers of tank(s).

(ii) Type of oil previously contained in tank(s).

[p. 405]

(iii) Date and place of ballasting.

(iv) Date and time of discharge of ballast water.

(v) Place or position of ship.

(vi) Approximate amount of oil contaminated water transferred to slop tank(s).

(vii) Identity numbers of slop tank(s).

(C) Cleaning of cargo tanks.

(i) Identity numbers of tank(s) cleaned.

(ii) Type of oil previously contained in tank(s).

(iii) Identity numbers of slop tank(s) to which washings transferred.

(iv) Dates and times of cleaning.

(D) Settling in slop tank(s) and discharge of water.

(i) Identity numbers of slop tank(s).

(ii) Period of settling (in hours).

(iii) Date and time of discharge of water.

(iv) Place or position of ship.

(v) Approximate quantities of residue.

(E) Disposal from ship of oily residues from slop tanks and other sources.

(i) Date and method of disposal.

(ii) Place or position of ship.

(iii) Sources and approximate quantities.

(F) Signature of Officer or Officers in Charge of the operations concerned with Signature of the Master.

(2) FOR SHIPS OTHER THAN TANKERS.—

(A) Date of entry.

(B) Ballasting, or cleaning during voyage, of bunker fuel tanks.

(i) Identity number of tank.

(ii) Type of oil previously contained in tank.

(iii) Date and place of ballasting.

(iv) Date and time of discharge of ballast or washing water.

(v) Place or position of ship.

(vi) Whether separator used: if so, give period of use.

(vii) Disposal of oily residue retained on board.

(C) Disposal from ship of oily residues from bunker fuel tanks of other sources.

(i) Date and method of disposal.

(ii) Place or position of ship.

(iii) Sources and approximate quantities.

(D) Signature of officer or officers in charge of the operations concerned and signature of the master.

(3) FOR ALL SHIPS.—

(A) Date of entry.

(B) Accidental and other exceptional discharges of escapes of oil.

(i) Date and time of occurrence.

(ii) Place or position of ship.

(iii) Approximate quantity and type of oil.

(iv) Circumstances of discharge or escape and general remarks.

(C) Signature of office or officers in charge of the operations concerned and signature of the master.

(b) The booklet shall be furnished free to all seagoing ships of American registry subject to this Act. The provisions of section 140 of title 5, United States Code shall not apply. The ownership of the

[p. 406]

booklet shall remain in the United States Government. This booklet shall be available for inspection as provided in this Act and for surrender to the United States Government pursuant to regulations of the Secretary.

SEC. 14. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 15. If a provision of this Act or the application of such provision of any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

SEC. 16. Nothing in this Act or in regulations issued hereunder shall be construed to modify or amend the provisions of the Oil Pollution Act, 1924 (33 U.S.C. 431–437), or of section 89 of title 14, United States Code.

SEC. 17. This Act shall become effective upon the date of its enactment, or upon the date the United States becomes a party to the convention, whichever is the later date.

Approved August 30, 1961.

[p. 407]

1.3a(1) SENATE COMMITTEE ON COMMERCE

S. REP. No. 666, 87th Cong., 1st Sess. (1961)

POLLUTION OF THE SEA BY OIL

AUGUST 4, 1961.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 2187]

The Committee on Commerce, to whom was referred the bill (S. 2187) to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

GENERAL DISCUSSION

The oil pollution problem in coastal waters is becoming more acute each year, and is a problem to Government officials, the shipping industry, persons interested in wildlife preservation, resort owners, and those who frequent the beaches for recreation.

Accordingly, in 1954 a conference was held in London to develop

a convention for the purpose of preventing the pollution of the seas by oil, in which the United States participated.

Your committee was informed in public hearing that while our country was wholeheartedly committed to the objectives intended to be achieved, it was not satisfied with the convention. Because of this dissatisfaction, the Secretary of State established a National Committee for the Prevention of Pollution of the Seas by Oil to study the problem and to recommend a course of action.

Eventually this committee recommended the convention be submitted to the Senate for approval with certain reservations. The Secretary of State did so on February 15, 1960, and by a vote of 92 to 0, May 17, 1961, the Senate agreed. It has now been accepted by the United States, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Mexico, The Netherlands, Norway, Poland, Sweden, Italy, and the United Kingdom.

[p. 1]

THE CONVENTION

A summary of the convention, submitted by the Department of State, follows:

Article I contains definitions of expressions used throughout the convention.

Article II provides that the convention shall apply to seagoing ships registered in any territories of a contracting government except (i) ships used as naval auxiliaries, (ii) ships of under 500 tons gross tonnage, (iii) ships engaged in the whaling industry, (iv) ships navigating the Great Lakes of North America and their connecting and tributary waters, as set forth therein.

Article III, paragraph (1), prohibits the discharge from tankers of oil or oily mixtures (as defined therein) within prohibited zones referred to in annex A. Paragraph (2) provides that, in the case of ships other than tankers, discharges shall be made as far as practicable from land for the first 3 years after the convention comes into force. Thereafter paragraph (1) of the article shall apply to such ships as it applies to tankers, with certain exceptions, including an exception set forth in subparagraph (b) providing that discharge of oil or of an oily mixture shall not be prohibited when a ship is proceeding to a port not provided with reception facilities. This article is subject to the provisions of articles IV and V. Contravention of the article is made an offense punishable under the laws of the country in which the ship is registered.

Article IV specifies a number of circumstances under which

article III does not apply but provides that discharges made in such cases must be explained in the oil record book required by article XI.

Article V inferentially provides that article III shall not apply to discharge from bilges of a ship of lubricating oil and shall not apply, during a period of 12 months following the coming into force of the convention with respect to the territory in which the ship is registered, to discharge from bilges of a ship of oily mixtures.

Article VI requires that the penalties imposed under the laws of a contracting government in respect to unlawful discharges outside its territorial waters shall not be less than those applicable to discharges within its territorial waters.

Article VII requires that by 1 year after the convention comes into force ships must be so fitted as to prevent the escape of oil into bilges the contents of which are discharged into the sea without being passed through an oily water separator.

Article VIII requires that within 3 years after the convention comes into force in respect of any of the territories of a contracting government that government shall insure the provision in each main port of adequate facilities for the reception of oily wastes.

Article IX requires that an oil-record book, in the form specified in annex B, be carried aboard ships to which the convention applies and provides for inspection of such books.

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Article X provides that any contracting government may furnish written evidence of contravention to the contracting government in the territory of which the offending ship is registered. Upon receiving such particulars, the latter government shall investigate and may request the former government to furnish more or better particulars. If satisfied that sufficient evidence is available the government of the ship's flag shall take legal proceedings against the ship's owner or master.

Article XI provides that nothing in the convention shall be construed as in derogation of powers of any contracting government to take measures within its jurisdiction or as extending the jurisdiction of any government.

Article XII requires contracting governments to send to the Bureau copies of laws, regulations, official reports, or summaries of such reports, etc.

Article XIII provides that any dispute between contracting governments which cannot be settled by negotiation shall be

referred at the request of either party to the International Court of Justice unless the parties agree to submit it to arbitration.

Article XIV relates to signature and acceptance of the convention.

Article XV provides that the convention will come into force 12 months after 10 governments have become parties, including 5 governments of countries each with not less than 500,000 gross tons of tanker tonnage. Pursuant to this article the convention entered into force on July 26, 1958. The article further provides that for each government accepting on or after that date it shall come into force 3 months after deposit of acceptance.

Article XVI relates to amendments to the convention. It provides that any contracting government may propose an amendment, which shall be communicated by the Bureau to all contracting governments for consideration. Pursuant to paragraph (2) such proposed amendment shall be deemed to have been accepted and shall come into force 6 months after it has been communicated, unless a contracting government declares not less than 2 months before the expiration of that period that it does not accept the amendment. The article also provides for amendment by two-thirds majority vote of a conference of the contracting governments. Such an amendment will come into force for all contracting governments, except those which before it comes into force declare that they do not accept it, 12 months after acceptance by two-thirds of the contracting governments.

Article XVII provides for denunciation of the convention.

Article XVIII deals with application of the convention to territories for whose foreign relations a contracting government is responsible.

Article XIX provides for suspension in time of war or other hostilities.

Article XX provides for registry of the convention with the Secretary General of the United Nations.

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Article XXI states that the duties of the Bureau shall be carried out by the United Kingdom until IMCO takes them over.

THE LEGISLATION

The bill, in implementing the convention, would—

1. prohibit American ships from discharging wastes in any of the zones named in the amended bill, including 50 miles around our own coasts;

2. provide for the keeping of records showing where such waste was discharged;

3. provide for the inspection of oil record books, and of such books kept by foreign ships, whose governments were parties to the convention, when they were within our waters;

4. violations would be misdemeanors punishable by a fine of $500 up to $2,500, imprisonment for 1 year, or both; further, the Coast Guard could revoke a ship officer's license for a violation; and

5. provide a $100 civil penalty for violation of Coast Guard regulations re equipment designed to prevent the escape of oil, and the operation thereof.

The bill would require a signed statement by the officers in charge and the master in the record book if oil was discharged or escaped in a prohibited zone. A violation of this requirement would subject such officers to a fine, from $500 to $1,000, and, if a false or misleading entry was made with knowledge, the penalty could be 6 months' imprisonment, the fine, or both.

RESERVATIONS

With respect to understanding, reservations, and recommendations, the following were suggested by the State Department, recommended by your Committee on Foreign Relations, and approved:

Understanding:

In accepting the convention the United States declares that it does so subject to the understanding that article XI effectively reserves to the parties to the convention freedom of legislative action in territorial waters, including the application of existing laws, anything in the convention which may appear to be contrary notwithstanding. Specifically, it is understood that offenses in U.S. territorial waters will continue to be punishable under U.S. laws regardless of the ship's registry.

Reservations:

1. The United States accepts article VIII of the convention, subject to the reservation that, while it will urge port authorities, oil terminals or private contractors to provide adequate disposal facilities, the United States shall not be obliged to construct, operate, or maintain shore facilities at places on U.S. coasts or waters where such facilities may be deemed inadequate, or to assume any financial obligation to assist in such activities;

2. The United States accepts the convention subject to the reservation that amendments communicated to contracting governments under the provisions of paragraph (2) of article

XVI will become binding upon the United States of America

only after notification of acceptance thereof has been given by the United States.

Recommendations:

The United States of America, in accepting the convention subject to the aforesaid understanding and reservations, recommends that the parties give consideration to the formulation of amendments to the convention at the earliest practicable date to bring about—

(1) International uniformity in fines and penalties;

(2) International uniformity of enforcement;

(3) A more realistic definition of what shall constitute oil pollution;

(4) The right of access of each contracting government to the official reports of other contracting governments filed with the bureau which relate to its own vessels; and

(5) A more flexible arrangement for fixing the time within which contracting governments shall notify the bureau whether or not they accept an amendment.

THE AMENDMENTS

Amend section 2 (e) to read as follows:

(e) The term "oil" means persistent oils, such as crude oil, fuel oil, heavy diesel oil, and lubricating oil. For the purposes of this legislation, the oil in an oily mixture of *less than* one hundred parts of oil in one million parts of the mixture, shall *not* be deemed to foul the surface of the sea;

Add two new sections that would describe the prohibited zones, and the makeup of the oil-record book.

Renumber sections 12, 13, 14, and 15.

Your committee agrees with the State Department that these amendments should be made:

The amendment to section 2 (e) is to make uniform the definition of "oil" in the bill and the convention.

The new sections, 12 and 13, would amend the bill so as to describe the prohibited zones, and the information required by the oil-record book. This information was submitted as "schedules" when the draft bill was sent up by the Department of State.

Your committee agrees the foregoing should be incorporated in the legislation.

The remaining amendments merely renumber the sections of the bill.

NEED FOR THE LEGISLATION

Your Committee on Foreign Relations in its report on the conven-

tion urging favorable action (Ex. Rept. No. 4, 87th Cong., 1st sess., p. 8) stated:

> The committee in reporting the convention does not intend to gloss over its shortcomings. Its history alone testifies to them. Yet, at the present time, there is no other or better instrument to deal with the problem of oil pollution of the high seas. As long as the United States remains outside the
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> [p. 5]
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> convention, it has little or no opportunity to improve the convention by amendments. The administration has made clear that it intends to recommend consideration by governments of various changes through the machinery of the Intergovernmental Maritime Consultative Organization. The industry spokesman has testified that acceptance of the convention will not result in a lowering of the voluntary control standards now employed by the U.S. merchant marine.
>
> Under these circumstances, the committee believes that the best interests of the United States are served by accepting the convention. It recommends that the Senate give its advice and consent to ratification subject to the understanding, and reservations and with the recommendations referred to in section 5 of this report.

The Secretary General of the Intergovernmental Maritime Consultative Organization (IMCO) has announced that it is proposed to hold a conference from March 28 to April 12, 1962, on the prevention of pollution of the sea by oil. The purposes of this conference will be to review (i) the present situation in regard to oil pollution of the sea; (ii) the working of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954; (iii) any amendments to the provisions of the 1954 convention proposed by governments; and (iv) the practicability of securing complete avoidance of the discharge of persistent oils into the sea.

As long as the United States remains outside the convention it has little or no opportunity to improve the convention by amendments. Because the forthcoming conference will offer the only opportunity for possibly several years to make the changes desired, it is hoped that acceptance of the 1954 convention can soon be deposited by the United States. By completing the ratification, the United States would be in a much stronger position to obtain acceptance of its recommended changes in the convention. Any rewrite of the 1954 convention presumably could not enter into force in less than 2 years in view of the time needed for ratification by the requisite number of governments. By ratifying the 1954 convention now, the United

States would be a full participating member in the antipollution effort during the period while the 1962 conference is in session.

The State Department explained, when it submitted the convention to the Senate, that implementing legislation would be necessary before the U.S. instruments of acceptance of the convention could be deposited. This bill is the implementing legislation.

POSITION OF THE SHIPPING INDUSTRY

Your committee believes that the following testimony given by Ernest A. Lister, Deputy Director of the Office of Transport and Communications, Department of State, covers this point:

> In view of the fine voluntary action already taken by the American shipping industry, the Department does not believe the legislation proposed by S. 2187 will place any significant additional burden on the American shipowner. With respect to observance by American ships of the zones prohibited by the convention, the various American steam-
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> [p. 6]
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> ship associations in 1954 issued a combined bulletin calling upon American ships to observe, when in zones where discharge of oil is prohibited by the convention, the same antipollution measures which they were already applying with a good measure of success, in American waters. The industry authorized the chairman of the U.S. delegation to announce at the 1954 conference that the American industry would so cooperate. It is pertinent, and most praiseworthy, that in the 7 years since the announcement was made, there has been no complaint by any foreign government that any American ship has violated this pledge. Furthermore, the American industry has voluntarily agreed to employ good housekeeping practices in waters to which the 1954 convention has not extended. Upon hearing that oil off Newfoundland was killing the birds on which the Eskimos and Indians depended for food, the American industry agreed to observe care at least 300 miles off the coasts.

It should be noted that existing law governing oil pollution domestically is the Oil Pollution Act of 1924, which applies to all navigable waters within the territorial jurisdiction of the United States, and this act will continue to apply notwithstanding any of the provisions of the convention.

RECOMMENDATION

Your committee urges the approval of the bill.

EXECUTIVE DEPARTMENTS

The Department of State submitted the draft bill. The Departments of Commerce and Interior and the Coast Guard favor enactment; the Department of Justice and the Comptroller General had no comments to offer.

The National Audubon Society, the National Wildlife Federation, and many other organizations have indicated they favor the bill.

The reports from the Departments follow:

U.S. COAST GUARD,
Washington, D.C., July 12, 1961.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: There was held in London in 1954 a conference to develop a convention for the purpose of preventing the pollution of the seas by oil. The United States participated in this conference, and, though wholeheartedly committed to the objectives sought, was not entirely satisfied with the resulting convention. Before presenting the convention to the Senate for advice and consent to ratification, the Secretary of State established a National Committee for the Prevention of Pollution of the Seas by Oil composed of the interested U.S. departments and agencies for the purposes primarily of studying the problem in relation to the proposed convention and recommending a course of action. It was my honor to accept the chairmanship of this committee.

After considerable deliberation and discussion with the petroleum industry, the shipping industry, with the organizations interested in

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the conservation of wildlife, and with representatives of municipalities, the National Committee recommended that the convention be submitted for ratification, with certain reservations. This was done on February 15, 1960, but it was explained that implementing legislation would be necessary with respect to certain provisions of the convention before formal deposit of a U.S. instrument of acceptance could take place. The Senate on May 17, 1961, by the significant vote of 92 to 0 agreed to ratification of the convention. On June 16 of this year, the Secretary of State submitted legislation to implement the convention and enable the completion of U.S. ratification, which legislation has now been introduced by you in the Senate as S. 2187.

As Chairman of the National Committee, I should like respectfully to urge that the Committee on Commerce give this bill early attention in the hope that the implementing legislation may be enacted into law in the current session.

As background information on the reason for the desirability of expeditious action in the case, the following considerations should be of interest to your committee:

The oil pollution problem in coastal waters, not only along certain portions of our own coasts but particularly in Nova Scotia, Newfoundland, and northern European waters, has been particularly acute in recent years, causing concern not only to Government officials, but to persons interested in wildlife preservation and resort owners, as well as those who frequent the beaches for recreation. There is a prevalent feeling that the 1954 convention, if generally adopted, would do much to ameliorate the existing serious pollution problem, and the delay of the United States in taking action while the matter was being studied has subjected this country to some criticism in foreign circles, and considerable criticism at home.

The U.S. official position in the international field has been that the 1954 convention must be considerably strengthened before any major gain in solving the problem can be attained, and to this end has for the last several years strongly advocated another conference to be held as soon as possible, under the auspices of the Intergovernmental Maritime Consultative Organization.

At the insistence of the United States, the Maritime Safety Committee of IMCO agreed to the holding of such a further conference in March–April 1962, and this action was adopted at the recent meeting of the assembly of IMCO as final only after repeated efforts by the U.S. delegation succeeded in defeating proposals to delay the holding of the next conference.

Under the auspices of the National Committee, representatives of Government and industry are presently busily engaged in shaping recommendations as to the U.S. position for the forthcoming conference in March of next year. At a recent meeting of a committee of experts in London, making preliminary plans for the conference, the approaching ratification by the United States of the 1954 convention was hailed by the representatives of other countries as a significant contribution to the international effort to combat pollution. I feel that the position of the U.S. delegation to the 1962 conference would be immeasurably enhanced if the Congress of the United States would give speedy action to the legislation to implement the 1954 convention. Conversely, I think that the prestige of the United States would suffer greatly if it is unable to show that action, initiated in February of 1960,

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when the convention was first submitted to Congress for ratification, had not been consummated by March 1962, indicating a lack of

interest which is by no means the case. This is particularly true since there appears to be no opposition to the substance of the convention in the United States.

I further believe the effectiveness of the U.S. delegation in securing amendments to the 1954 convention which are desired by all interested persons both in and out of our Government will be greatly diluted at the 1962 conference if we are not at the time a participating party to the antipollution convention.

It may be considered that in view of the forthcoming 1962 conference, there is not a compelling need to urge the passage of this implementing legislation, but I would point out in this case that it will probably be at least a year or so after the 1962 conference before any new convention can be brought into force, and, therefore, the immediate adoption of the legislation necessary to implement the 1954 convention would be effective for 2 or 3 years at a minimum before any amendments would be required.

Because of the importance to the prestige of the United States of this noncontroversial piece of legislation, I am taking the liberty of calling it to your attention because of the imminence of the adjournment of Congress, and the knowledge that it might be overlooked in the press of work which always devolves upon your committee at this time of the year.

Sincerely yours,

A. C. RICHMOND,
Admiral, U.S. Coast Guard, Chairman, U.S. National Committee for Prevention of Pollution of the Seas by Oil.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 19, 1961.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Your committee has requested a report on S. 2187, a bill to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954.

We recommend the enactment of this bill.

This proposal would establish procedures for enforcement of the 1954 International Convention for the Prevention of the Pollution of the Sea by Oil. This Department, because of its responsibilities in the field of conservation, is particularly interested in this matter. We have cooperated with other Federal agencies in a study of this problem. We expect to continue such cooperation and to follow closely

the enforcement activities that we anticipate will be authorized by this bill. Oil pollution of the sea has been the cause of much damage to waterfowl, fisheries, and recreational facilities. Such pollution must be controlled in the national interest.

[p. 9]

We have been advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

THE UNDER SECRETARY OF COMMERCE
FOR TRANSPORTATION,
Washington, July 28, 1961.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of July 5, 1961, for the views of this Department with respect to S. 2187, a bill to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954.

As stated in the title, the purpose of the bill is to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, which was signed at London on May 12, 1954, by the parties to the convention but not by the United States.

The obligations imposed by the provisions of the convention cannot be fulfilled by the United States until such time as implementing legislation is enacted with respect to the provisions of the convention. S. 2187 would fulfill this purpose.

The damages and harmful effects to marine life and human life resulting from the pollution of the oceans by the discharge of oily wastes from vessels are well known. The need for effective international control of the problem is clearly recognized by all responsible maritime nations. The Department therefore recommends that favorable consideration be given to the legislation.

The Bureau of the Budget advises there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

FRANK L. BARTON,
(For C. D. Martin, Jr.)

CHANGES IN EXISTING LAW

There are no changes in existing law.

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1.3a(2) HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

H.R. REP. No. 838, 87th Cong., 1st Sess. (1961)

IMPLEMENTING THE PROVISIONS OF THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF THE POLLUTION OF THE SEA BY OIL, 1954

AUGUST 2, 1961.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BONNER, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 8152]

The Committee on Merchant Marine and Fisheries to whom was referred the bill (H.R. 8152) to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

On page 2, line 14, delete the word "is" and insert in lieu thereof the word "in".

On page 2, line 14, after the words "an oily mixture of", insert the words "less than".

On page 2, line 15, delete the words "or more".

On page 2, line 16, after the words "mixture shall", insert the word "not".

On page 2, line 21, delete the words "the schedule to" and insert in lieu thereof the words "section 12 of".

On page 7, line 7, delete the words "the schedule to" and insert in lieu thereof the words "section 13 of".

On page 8, between lines 9 and 10, insert the following two new sections 12 and 13:

SEC. 12. (a) Subject to paragraph (c) of this section, the

prohibited zones in relation to tankers shall be all sea areas within 50 miles from land, with the following exceptions:

[p. 1]

(1) The Adriatic Zones

Within the Adriatic Sea the prohibited zones off the coasts of Italy and Yugoslavia respectively shall each extend for a distance of 50 miles from land, excepting only the island of Vis.

(2) The North Sea Zone

The North Sea Zone shall extend for a distance of 100 miles from the coasts of the following countries: Belgium; Denmark; the Federal Republic of Germany; the Netherlands; and the United Kingdom of Great Britain and Northern Ireland, but not beyond the point where the limit of a 100-mile zone off the west coast of Jutland intersects the limit of the 50-mile zone off the coast of Norway.

(3) The Atlantic Zone

The Atlantic Zone shall be within a line drawn from a point on the Greenwich meridian 100 miles in a north-northeasterly direction from the Shetland Islands; thence northwards along the Greenwich meridian to latitude 64 degrees north; thence westward along the 64th parallel to longitude 10 degrees west; thence to latitude 60 degrees north, longitude 14 degrees west; thence to latitude 54 degrees 30 minutes north, longitude 30 degrees west; thence to latitude 44 degrees 20 minutes north, longitude 30 degrees west; thence to latitude 48 degrees north, longitude 14 degrees west; thence eastward along the 48th parallel to a point of intersection with the 50-mile zone off the coast of France: *Provided,* That in relation to voyages which do not extend seaward beyond the Atlantic Zone as defined above, and which are to points not provided with adequate facilities for the reception of oily residue, the Atlantic Zone shall be deemed to terminate at a distance of 100 miles from land.

(4) The Australian Zone

The Australian Zone shall extend for a distance of 150 miles from the coasts of Australia, except off the north and west coasts of the Australian mainland between the point opposite Thursday Island and the point on the west coast at 20 degrees south latitude.

(b) Subject to paragraph (c) of this section the prohibited zones in relation to ships other than tankers shall be all sea areas within 50 miles from land with the following exceptions:

(1) The Adriatic Zones

Within the Adriatic Sea the prohibited zones off the coasts of Italy and Yugoslavia respectively shall each extend for a distance of 20 miles from land, excepting only the Island of Vis. After the expiration of a period of three years following the application of prohibited zones to ships other than tankers in accordance with section 3(b) of this Act the said zones

[p. 2]

shall each be extended by a further 30 miles in width unless the two Governments agree to postpone such extension. In the event of such an agreement, the convention provides for notification to be given accordingly to the Intergovernmental Maritime Consultative Organization by said Governments not less than three months before the expiration of such period of three years and for notification to be given to all contracting Governments by the Intergovernmental Maritime Consultative Organization.

(2) The North Sea and Atlantic Zones

The North Sea and Atlantic Zones shall extend for a distance of 100 miles from the coasts of the following countries: Belgium; Denmark; the Federal Republic of Germany; Ireland; the Netherlands; and the United Kingdom of Great Britain and Northern Ireland, but not beyond the point where the limit of a 100-mile zone off the west coast of Jutland intersects the limit of the 50-mile zone off the coast of Norway.

(c) With respect to the reduction or extension of the zones described above effectuated under the terms of the convention, the Secretary of the Army shall give notice thereof by publication of such information in notices to mariners issued by the U.S. Coast Guard and U.S. Navy.

Sec. 13. (a) The Secretary shall have printed separate booklets which set forth instructions and spaces for inserting information as follows:

(1) For Tankers

(A) Date of entry.

(B) Ballasting of and discharge of ballast from cargo tanks:

(i) Identify numbers of tank(s).

(ii) Type of oil previously contained in tank(s).

(iii) Date and place of ballasting.

(iv) Date and time of discharge of ballast water.

(v) Place or position of ship.

(vi) Approximate amount of oil contaminated water transferred to slop tank(s).

(vii) Identity numbers of slop tank(s).

(C) Cleaning of cargo tanks:

(i) Identity numbers of tank(s) cleaned.

(ii) Type of oil previously contained in tank(s).

(iii) Identity numbers of slop tank(s) to which washings transferred.

(iv) Dates and times of cleaning.

(D) Settling in slop tank(s) and discharge of water:

(i) Identity numbers of slop tank(s).

(ii) Period of settling (in hours).

(iii) Date and time of discharge of water.

(iv) Place or position of ship.

(v) Approximate quantities of residue.

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(E) Disposal from ship of oily residues from slop tanks and other sources:

(i) Date and method of disposal.

(ii) Place or position of ship.

(iii) Sources and approximate quantities.

(F) Signature of officer or officers in charge of the operations concerned and signature of the master.

(2) For Ships Other Than Tankers

(A) Date of entry.

(B) Ballasting, or cleaning during voyage, of bunker fuel tanks:

(i) Identity number of tank.

(ii) Type of oil previously contained in tank.

(iii) Date and place of ballasting.

(iv) Date and time of discharge of ballast or washing water.

(v) Place or position of ship.

(vi) Whether separator used: if so, give period of use.

(vii) Disposal of oily residue retained on board.

(C) Disposal from ship of oily residues from bunker fuel tanks and other sources:

(i) Date and method of disposal.

(ii) Place or position of ship.

(iii) Sources and approximate quantities.

(D) Signature of officer or officers in charge of the operations concerned and signature of the master.

(3) For All Ships

(A) Date of entry.

(B) Accidental and other exceptional discharges or escapes of oil:

(i) Date and time of occurrence.

(ii) Place or position of ship.

(iii) Approximate quantity and type of oil.

(iv) Circumstances of discharge or escape and general remarks.

(C) Signature of officer or officers in charge of the operations concerned and signature of the master.

(b) The booklet shall be furnished free to all seagoing ships of American registry subject to this Act. The provisions of section 140 of title 5, United States Code shall not apply. The ownership of the booklet shall remain in the United States Government. This booklet shall be available for inspection as provided in this Act and for surrender to the United States Government pursuant to regulations of the Secretary.

On page 8, line 10, delete "12." and insert in lieu thereof "14."
On page 8, line 13, delete "13." and insert in lieu thereof "15."
On page 8, line 18, delete "14." and insert in lieu thereof "16."
On page 8, line 22, delete "15." and insert in lieu thereof "17."

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PURPOSE OF THE BILL

The purpose of this bill is to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil. The convention was ratified by the Senate on May 16, 1961, with certain reservations.

NEED FOR THE LEGISLATION

The present legislation is necessary to place into effect the agreements contained in the treaty. Although ratification of the treaty by the United States was delayed for some 7 years the fact of the matter is that virtually all ships have meticulously observed the provisions of the convention since its promulgation in 1954.

The increasing traffic upon the seas and the increasing damage done by oil pollution urgently demands action of the type spelled out in the present legislation.

AMENDMENTS

Section 2 (e) of the bill as introduced specified that the oil in an oily mixture which shall be deemed to foul the surface of the sea shall consist of 100 or more parts of oil per million. The convention itself places this in the negative, that a mixture of less than 100 parts shall not be deemed to foul the surface of the sea. The committee adopted the language of the convention.

A typographical error appeared in the bill as introduced and on page 2, line 14, of the bill the word "is" was changed to the word "in."

The bill as submitted by Executive Communication No. 1053 from the Secretary of State did not specify the areas subject to the terms of the convention and did not provide for the maintenance of record books. At the suggestion of the Department of State and the Coast Guard, these schedules were inserted in the bill itself.

This bill would make no changes in existing law.

DEPARTMENTAL REPORTS

The bill was the subject of an executive communication from the Secretary of State, a copy of which follows. Departmental reports on the bill also follow.

THE SECRETARY OF STATE,
Washington, June 16, 1961.

The Honorable SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: The Department submits and recommends for consideration of the House of Representatives a draft bill, to implement the provisions of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954.

A certified copy of the convention (see Senate Executive C, 86th Cong., 2d sess.) was transmitted by the President to the Senate on February 15, 1960, with a view to receiving its advice and consent to acceptance. An outline of the provisions of each article of the convention is contained in the "Commentary" in Senate Executive C. The report of the Secretary of State, which was included in the President's transmittal to the Senate, stated that implementing

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legislation would be necessary and that the U.S. instrument of ratification would not be deposited until after adoption of the legislation.

The Senate, by its resolution of May 16, 1961, gave its advice and consent to ratification of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, subject to the following understanding, reservations, and recommendation:

"The acceptance by the United States of America of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, is subject to the following understanding:

"In accepting the convention the United States declares that it does so subject to the understanding that article XI effectively reserves to the parties to the convention freedom of legislative action in territorial waters, including the application of existing laws, anything in the convention which may appear to be contrary not-

withstanding. Specifically, it is understood that offenses in U.S. territorial waters will continue to be punishable under U.S. laws regardless of the ship's registry;

"The acceptance by the United States of America of the said convention is subject to the following reservations:

"1. The United States accepts article VIII of the convention, subject to the reservation that, while it will urge port authorities, oil terminals, or private contractors to provide adequate disposal facilities, the United States shall not be obliged to construct, operate, or maintain shore facilities at places on U.S. coasts or waters where such facilities may be deemed inadequate, or to assume any financial obligation to assist in such activities;

"2. The United States accepts the convention subject to the reservation that amendments communicated to contracting governments under the provisions of paragraph (2) of article XVI will become binding upon the United States of America only after notification of acceptance thereof has been given by the United States.

"The United States of America, in accepting the convention subject to the aforesaid understanding and reservations, recommends that the parties give consideration to the formulation of amendments to the convention at the earliest practicable date to bring about—

"(1) International uniformity in fines and penalties;

"(2) International uniformity of enforcement;

"(3) A more realistic definition of what shall constitute oil pollution;

"(4) The right of access of each contracting government to the official reports of other contracting governments filed with the bureau which relate to its own vessels; and

"(5) A more flexible arrangement for fixing the time within which contracting governments shall notify the bureau whether or not they accept an amendment."

The Committee on Foreign Relations in its favorable report to the Senate on the convention (Executive Rept. No. 4) noted that implementing legislation would be required and that the administration had stated the instrument of acceptance would not be deposited until such legislation had been enacted.

The provisions incorporated in the implementing bill, submitted herewith, may be summarized as follows:

Section 1 states that this "Act * * * may be cited as the 'Oil Pollution Act, 1961' ".

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Section 2 contains definitions of the terms used in the act.

Section 3, which follows article III of the convention and imple-

ments it where necessary, makes it unlawful for any person to discharge oil from a ship in certain areas on the seas.

Sections 4 and 5 follow articles IV and V of the convention, and specify a number of circumstances or exceptions under which section 3 shall not apply.

Section 6 follows the provisions of article VI of the convention regarding imposition of penalties. Article VI requires that such penalties shall not be less than those applicable to discharge of oil within territorial waters.

Section 7 provides that the Coast Guard may, subject to 46 U.S.C. 239, suspend or revoke a license issued to the master or other licensed officer of any vessel found violating this act or the regulations issued thereunder.

Section 8 provides administrative machinery for enforcement of the act.

Section 9 follows article IX of the convention and provides that an oil record book in the form specified in the schedule to the act shall be carried in every ship of American registry. In addition, this section provides for a fine if any person fails to comply with the requirements imposed by or under this section.

Section 10 authorizes the promulgation of regulations for the administration of sections 3, 4, 5, 8(a), and 9.

Section 11 follows article X of the convention and provides for inspection of oil record books on foreign vessels within the territorial jurisdiction of the United States.

Section 12 authorizes appropriations to carry out the act.

Section 13 provides that if a provision of the act is held invalid, this shall not affect the applicability and effectiveness of other provisions.

Section 14 provides that existing legislation for the control of pollution in territorial waters and the general authority of the Coast Guard to enforce U.S. laws are to continue in effect without modification.

Section 15 provides that the act shall become effective on the date of enactment or on the date of acceptance of the convention, whichever is the later.

A similar communication is being sent to the President of the Senate.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the submission of the legislation for the consideration of the Congress.

Sincerely yours,

DEAN RUSK.

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THE UNDER SECRETARY OF COMMERCE
FOR TRANSPORTATION,
Washington, D.C., July 19, 1961.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of July 17, 1961, for the views of this Department with respect to H.R. 8152, a bill to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954.

As stated in the title, the purpose of the bill is to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, which was signed at London on May 12, 1954, by the parties to the convention but not by the United States.

The obligations imposed by the provisions of the convention cannot be fulfilled by the United States until such time as implementing legislation is enacted with respect to the provisions of the convention. H.R. 8152 would fulfill this purpose.

The damage and harmful effects to marine life and human life resulting from the pollution of the oceans by the discharge of oily wastes from vessels are well known. The need for effective international control of the problem is clearly recognized by all responsible maritime nations. The Department therefore recommends that favorable consideration be given to the legislation.

Sincerely,

C. D. MARTIN, Jr.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 19, 1961.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. BONNER: Your committee has requested a report on H.R. 8152, a bill to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954.

We recommend the enactment of this bill.

This proposal would establish procedures for enforcement of the 1954 International Convention for the Prevention of the Pollution of the Sea by Oil. This Department, because of its responsibilities in the field of conservation, is particularly interested in this matter. We have cooperated with other Federal agencies in a study of this

problem. We expect to continue such cooperation and to follow closely the enforcement activities that we anticipate will be authorized by this bill. Oil pollution of the sea has been the cause of much damage to waterfowl, fisheries, and recreation facilities. Such pollution must be controlled in the national interest.

We have been advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

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U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., July 21, 1961.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 8152, a bill to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954.

This bill is intended to implement the provisions of an agreement to prevent the pollution of the seas by oil and oily wastes by regulating the discharge thereof by vessels of the contracting governments. This legislation is required in order for the United States to implement and fulfill its obligations under the agreement.

The subject of this legislation is not a matter for which the Department has primary responsibility, and accordingly we make no recommendations as to its enactment.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE,
Deputy Attorney General.

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1.3a(3) CONGRESSIONAL RECORD, VOL. 107 (1961)

1.3a(3)(a) Aug. 14: Amended and passed Senate, pp. 15663–15665

[No Relevant Discussion on Pertinent Section]

1.3a(3)(b) Aug. 21: Passed House, pp. 16520–16521

[No Relevant Discussion on Pertinent Section]

1.3b 1966 AMENDMENTS TO THE OIL POLLUTION ACT OF 1961

September 1, 1966, P.L. 89–551, 80 Stat. 372

AN ACT to amend the provisions of the Oil Pollution Act, 1961, (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the "Oil Pollution Act, 1961" approved August 30, 1961 (33 U.S.C. 1001–1015), is amended as follows:

(1) Section 1 is amended by inserting after the title "International Convention for the Prevention of the Pollution of the Sea by Oil, 1954" the phrase "as amended," and by changing the designation of the Act from "Oil Pollution Act, 1961" to "Oil Pollution Act, 1961, as amended,".

(2) Section 2 (33 U.S.C. 1001) is amended—

(A) in subsection (a) by changing the semicolon to a comma at the end thereof and by adding "as amended;";

(B) in subsection (c) by changing the reference at the end thereof from "D. 158/53;" to "D. 86/59;";

(C) by amending subsection (e) to read as follows:

"(e) The term 'oil' means crude oil, fuel oil, heavy diesel oil, and lubricating oil, and 'oily' shall be construed accordingly. An 'oily mixture' means a mixture with an oil content of one hundred parts or more in one million parts of mixture."

(D) by amending subsection (i) to read as follows:

"(i) The term 'ship', subject to the exceptions provided in paragraph (1) of this subsection, means any seagoing vessel of any type whatsoever of American registry or nationality, including floating craft, whether self-propelled or towed by another vessel making a sea voyage; and 'tanker', as a type included within the term 'ship', means a ship in which the greater part of the cargo space in constructed or [p. 372] adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

"(1) The following categories of vessels are excepted from all provisions of the Act:

"(i) tankers of under one hundred and fifty tons gross tonnage

and other ships of under five hundred tons gross tonnage.

"(ii) ships for the time being engaged in the whaling industry when actually employed on whaling operations.

"(iii) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of Saint Lambert lock at Montreal in the Province of Quebec, Canada.

"(iv) naval ships and ships for the time being used as naval auxiliaries."

(E) by adding a new subsection (j) reading as follows:

"(j) The term 'from the nearest land' means from the baseline from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958."

(3) Section 3 (33 U.S.C. 1002) is amended to read as follows:

"SEC. 3. Subject to the provisions of sections 4 and 5, it shall be unlawful for any person to discharge oil or oily mixture from:

"(a) a tanker within any of the prohibited zones.

"(b) a ship, other than a tanker, within any of the prohibited zones, except when the ship is proceeding to a port not provided with facilities adequate for the reception, without causing undue delay, it may discharge such residues and oily mixture as would remain for disposal if the bulk of the water had been separated from the mixture: *Provided,* such discharge is made as far as practicable from land.

"(c) a ship of twenty thousand tons gross tonnage or more, including a tanker, for which the building contract is placed on or after the effective date of this Act. However, if in the opinion of the master, special circumstances make it neither reasonable nor practicable to retain the oil or oily mixture on board, it may be discharged outside the prohibited zones. The reasons for such discharge shall be reported in accordance with the regulations prescribed by the Secretary."

(4) Section 4 (33 U.S.C. 1003) is amended to read as follows:

"SEC. 4. Section 3 shall not apply to—

"(a) the discharge of oil or oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo, or saving life at sea; or

"(b) the escape of oil, or of oily mixture, resulting from damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;

"(c) the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil: *Provided,* That such discharge is made as far from land as practicable."

(5) Section 5 (33 U.S.C. 1004) is amended to read as follows:

"SEC. 5. Section 3 shall not apply to the discharge from the bilges of a ship of an oily mixture containing no oil other than lubricating oil which has drained or leaked from machinery spaces."

(6) Section 9 (33 U.S.C. 1008) is amended to read as follows:

"SEC. 9. (a) The Secretary shall have printed separate oil record books, containing instructions and spaces for inserting information in the form prescribed by the Convention, which shall be published in regulations prescribed by the Secretary.

"(b) If subject to this Act, every ship using oil fuel and every tanker shall be provided, without charge, an oil record book which shall be carried on board. The provisions of section 140 of title 5, United States Code, shall not apply. The ownership of the booklet shall remain in the United States Government. This book shall be available for inspection as provided in this Act and for surrender to the United States Government pursuant to regulations of the Secretary.

"(c) The oil record book shall be completed on each occasion, whenever any of the following operations takes place in the ship:

"(1) ballasting of and discharge of ballast from cargo tanks of tankers;

"(2) cleaning of cargo tanks of tankers;

"(3) settling in slop tanks and discharge of water from tankers;

"(4) disposal from tankers of oily residues from slop tanks or other sources;

"(5) ballasting, or cleaning during voyage, of bunker fuel tanks of ships other than tankers;

"(6) disposal from ships other than tankers of oily residues from bunker fuel tanks or other sources;

"(7) accidental or other exceptional discharges or escapes of oil from tankers or ships other than tankers.

"In the event of such discharge or escape of oil or oily mixture, as is referred to in subsection 3(c) and section 4 of this Act, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

"(d) Each operation described in subsection 9(c) of the Act shall be fully recorded without delay in the oil record book so that all the entries in the book appropriate to that operation are completed. Each page of the book shall be signed by the officer or officers in charge of

the operations concerned and, when the ship is manned, by the master of the ship.

"(e) Oil record books shall be kept in such manner and for such length of time as set forth in the regulations prescribed by the Secretary.

"(f) If any person fails to comply with the requirements imposed by or under this section, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 and if any person makes an entry in any records kept in accordance with this Act or regulations prescribed thereunder by the Secretary which is to his knowledge false or misleading in any material particular, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 or imprisonment for a term not exceeding six months, or both."

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(7) Section 10 (33 U.S.C. 1009) is amended by changing the phrase at the end thereof from "and 9" to "9, and 12."

(8) Section 12 (33 U.S.C. 1011) is amended to read as follows:

"SEC. 12. (a) All sea areas within fifty miles from the nearest land shall be prohibited zones, subject to extensions or reduction effectuated in accordance with the terms of the Convention, which shall be published in regulations prescribed by the Secretary.

"(b) With respect to the reduction or extension of the zones described under the terms of the Convention, the Secretary shall give notice thereof by publication of such information in Notices to Mariners issued by the United States Coast Guard and United States Navy."

(9) Section 13 (33 U.S.C. 1012) is repealed.

(10) Section 17 (33 U.S.C. 1015) is amended to read as follows:

"SEC. 17. (a) This Act shall become effective upon the date of its enactment or upon the date the amended Convention becomes effective as to the United States, whichever is the later date.

"(b) Any rights or liabilities existing on the effective date of this Act shall not be affected by the enactment of this Act. Any procedures or rules or regulations in effect on the effective date of this Act shall remain in effect until modified or superseded under the authority of this Act. Any reference in any other law or rule or regulation prescribed pursuant to law to the 'International Convention for the Prevention of the Pollution of the Sea by Oil, 1954,' shall be deemed to be a reference to that Convention as revised by the 'Amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954,' which were adopted by a Conference of Contracting Governments convened at London on April 11, 1962. Any reference in any other law or rule or regulation prescribed pursuant to law to the 'Oil Pollution Act, 1961,' approved August 30, 1961 (33

U.S.C. 1001–1015), shall be deemed to be a reference to that Act as amended by this Act."

Approved September 1, 1966.

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1.3b(1) HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

H.R. REP. No. 1620, 89th Cong., 2d Sess. (1966)

IMPLEMENTING PROVISIONS OF THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF THE POLLUTION OF THE SEA BY OIL, 1954

JUNE 8, 1966.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. GARMATZ, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 8760]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 8760) to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 8760 is to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015) to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes. Essentially, the effect of this bill would be to incorporate certain changes to bring the Oil Pollution Act into conformity with the amendments of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, which amendments were adopted by a conference of contracting governments convened at London on April 11, 1962.

BACKGROUND OF LEGISLATION

Implementation of the international convention is important to the United States, inasmuch as, among other things, it would increase the zone in which discharge of oily waste is prohibited from 50 miles

[p. 1]

offshore to 100 miles offshore along the New England coast which has been particularly plagued by these discharges.

In addition to other provisions, the categories of existing ships that must observe antipollution measures has been increased to bring more vessels within the provisions of the convention. As a matter of practice, the amendments to enforcement and recordkeeping provisions are likely to produce more effective results in the light of experience under existing rules.

Among other things, a definition of oily waste is included which simplifies enforcement of the rules. The enlarged categories of vessels covered by the act include tankers of over 150 gross tons and other vessels of 500 tons, and excepts whaling industry vessels when actually employed in that field, ships navigating the Great Lakes and tributary waters, and Navy vessels. It is the understanding of this committee that this latter class of vessels are covered by appropriate Defense Department regulations which meet the international standards.

It should be pointed out in connection with the legislation that neither the amended convention nor this bill affect in any way a reservation contained in the ratification of the original convention by the United States to the effect that we do not consider the international rules to interfere in any way with our freedom of legislative action in our territorial waters. Within that area any offense against our existing statutes will be punishable under those statutes, regardless of the ship's registry.

NEED FOR LEGISLATION

Enactment of this legislation will place the United States in a position to discharge fully its obligations under the convention, as amended, and will contribute materially to the reduction of oil pollution at sea, which in turn will reduce pollution along our shores. It is not believed that it will place any appreciable burden on our shipping, and it goes far to implement our desire for international cooperation in the field of ocean shipping.

The committee is of the view that the bill is a desirable one, and accordingly recommends its exactment.

COST OF LEGISLATION

This legislation would entail no additional expenditure by the U.S. Government.

DEPARTMENTAL REPORTS

H.R. 8760 was the subject of an executive communication from the Department of State, the text of which follows, together with the texts of departmental reports received on the bill.

[Ex. Com. 1107]

DEPARTMENT OF STATE
Washington, May 15, 1965.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: I submit herewith for consideration by the House of Representatives a draft bill to incorporate in the Oil Pollution [p. 2] Act, 1961, changes which will be necessary when the amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, become effective. The Senate by its resolution of February 25, 1964, gave its advice and consent to ratification of the amendments to the convention. The proposed amendments to the Oil Pollution Act would redefine the types and sizes of ships regulated, redefine the extent to which ships must record the discharge of oil, extend the zones in which discharge of oil is prohibited, and make other necessary changes. An outline of the provisions of the amendments is contained in Senate Executive C, 88th Congress, 1st session.

A similar proposed bill has been transmitted to the President of the Senate.

The Department has been advised by the Bureau of the Budget that, from the standpoint of the administration's program, there is no objection to the submission of this proposed legislation to the Congress.

Sincerely yours,

GEORGE W. BALL,
Acting Secretary.

S/S: A true copy.

EXPLANATORY MEMORANDUM

The 1954 convention entered into force on July 26, 1958, 12 months after 10 governments, including 5 each having not less than a half million gross tons of tanker tonnage, had accepted it. The United States, however, did not become a party until 1961, having considered that the convention did not provide means for effectively enforcing antipollution measures. Approval by the United States of the 1954 convention was given subject to recommendations that amendments would be sought. It was subject also to two reservations, one concerning the provision of the 1954 convention which would have obli-

gated the Federal Government to insure that adequate oil reception facilities were at all main U.S. ports although this is not a Federal function in the United States, and the other with respect to a procedure for amendment which gives only 4 months during which a government can declare its nonacceptance of amendments or become automatically bound in 6 months. By the amendments of 1962 the provision as to oil reception facilities is altered to require only that governments promote the provision of adequate facilities, and the amendment procedure is revised to provide reasonable opportunity for governments to accept or reject amendments. The amendments do not revise article XI regarding powers of a contracting government to take measures within its jurisdiction regarding pollution matters. Therefore, an "understanding," included in the U.S. acceptance of the 1954 convention, to the effect that we do not consider it to interfere with our freedom of legislative action in our territorial waters, remains in effect. Other provisions of the amendments strengthen and expand the convention of 1954.

In line with the provisions of the amendments of the 1954 convention, the enclosed draft bill to amend the Oil Pollution Act, 1961, will bring existing statutory provisions into agreement with the 1954 convention, as amended. The specific proposals will accomplish the following:

(1) Revise the language where necessary so that references will be to the "International Convention for the Prevention of the Pollution

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of the Sea by Oil, 1954, as amended," and that reference to the act as amended will be "Oil Pollution Act, 1961, as amended."

(2) Revise the definitions in section 2 (33 U.S.C. 1001) to agree with the amendments of the 1954 convention. The major changes concern the definition of the terms "oil," "oily," "oily mixture," and "ship," as well as adding a new definition of the term "from the nearest land." The only one of the amended definitions which appears to require comment is the definition of "oily mixture" which indirectly defines what shall constitute oil pollution by designation of a specific concentration. In some countries this may necessitate that samples be produced in court in order to establish proof of a violation. After study and consideration, it was not found possible to develop an acceptable definition which did not refer to a formula, and it was recommended that the formula be retained specifying 100 parts or more of oil in 1 million parts of the mixture. The previous test that the oil in an oily mixture "fouls the surface of the sea" has been removed. It is believed this amended definition is more realistic than the existing one in the 1954 convention.

(3) Revise the scope of application of the act by amending subsection 2(i) and section 3 (33 U.S.C. 1001(i), 1002), so that the law applies to all seagoing vessels of any type whatsoever of American registry or nationality except—(*a*) tankers of under 150 gross tons and other ships of under 500 gross tons; (*b*) ships in the whaling industry when actually employed on whaling operations; (*c*) ships navigating the Great Lakes and tributary waters as specified; and (*d*) naval ships and ships for the time being used as naval auxiliaries. The reason for the difference in application of requirements to tankers starting at 150 gross tons and other ships at 500 gross tons is that the majority of governments maintained that, in other parts of the world and especially in European waters, tankers between 150 and 500 gross tons, contribute materially to the pollution.

(4) Revise the prohibitions against the discharge of oil or oily mixtures in section 3 (33 U.S.C. 1002) to clarify application to ships other than tankers and to add a new subsection (c) to cover all ships of 20,000 gross tons or more, including tankers, which are contracted for on or after the effective date of this act, and prohibit any discharge of oil or oily mixture from such ships except under specified conditions when such discharge must be reported in accordance with regulations of the Secretary of the Army. It is understood that this new prohibition, especially for large tankers, amounts to no more than the current procedures followed by the American oil companies as part of their antipollution program.

(5) Revise the excepted discharges of oil or oily mixtures from the general prohibitions in sections 3 and 4 (33 U.S.C. 1002 and 1003) to include such discharges when made for securing safety when another ship is involved and those discharges from the bilges of a ship of an oily mixture containing no oil other than lubricating oil which has drained or leaked from machinery spaces. In addition, this change removes the excepted discharge of sediment which cannot be pumped from the cargo tanks of tankers and cancels the requirements for special explanations in the oil record books in the event of discharges or escapes referred to in these sections.

(6) Revise the provisions regarding the "oil record book," by stating in general terms the requirements in the law and authorizing the

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Secretary of the Army to describe these in detail in published regulations and booklets to be furnished by him to the masters of seagoing ships subject to this act, by revising section 9 (33 U.S.C. 1008), and by canceling section 13 (33 U.S.C. 1012). The amended 1954 convention requires this oil record book, and a revised form is specified in annex B to the amendments. The changes proposed will authorize the Secretary of the Army to make such regulations as necessary to

require records to be kept, which will be effective in maintaining adequate enforcement.

(7) Revise the provisions regarding the prohibited zone descriptions in section 12 (33 U.S.C. 1011) so that all sea areas within 50 miles from the nearest land shall be prohibited zones subject to extensions or reduction effectuated in accordance with the terms of the convention, as amended, which the Secretary of the Army shall have published as regulations, including publication in the notices to mariners issued by the U.S. Coast Guard and U.S. Navy. The prohibited zones are specified in annex A to the amended 1954 convention, which in a number of areas extends the prohibited zone beyond 50 miles from the nearest land. For the North-West Atlantic Zone the prohibited area extends to sea 100 miles from the coast of the United States and joins a similar 100-mile zone along the east coast of Canada. Since the convention and present statute provide for changes to be made in these prohibited zone areas, it is recommended that the designation of extensions or reductions in the areas continue to be made by regulations of the Secretary.

(8) Provide that the amended provisions of the Oil Pollution Act, 1961, be made effective by amendment to section 17 (33 U.S.C. 1015) upon the date of the enactment of this bill or upon the date the amendments to the 1954 convention become effective as to the United States, whichever is the later date. The proposed amendments to the Oil Pollution Act, 1961, should become effective when the amendments to the 1954 convention become applicable to U.S. ships. Until that time, the United States has no obligation for enforcement.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 9, 1966.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. GARMATZ: Your committee has requested this Department's views and recommendations on H.R. 8760, a bill to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes.

We recommend enactment of H.R. 8760, if amended as suggested herein.

H.R. 8760 amends the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015). The bill is designed to conform the 1961 act with the amend-

ments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, adopted in London in April 1962.

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The act now makes it unlawful for a seagoing ship of American registry to discharge any oil in prohibited zones. Certain categories of ships are now excepted from the act's requirements. They are—

(1) Ships being used as naval auxiliaries;

(2) Ships under 500 tons gross tonnage (including commercial fishing vessels);

(3) Ships engaged in the whaling industry, and

(4) Ships navigating the Great Lakes and certain connecting and tributary waters.

The bill redefines the terms "ship", "oil", and "oily mixture". These new definitions will strengthen the act.

The bill also adds to the category of excepted ships (1) tankers of under 150 tons gross tonnage, and (2) naval ships. It also makes it clear that ships engaged in the whaling industry must be actually employed in that industry.

At the present time, tankers under 500 tons are in the excepted category. The bill limits this exception to tankers under 150 tons. We believe that this change is a move in the right direction.

The act now defines "ships" to mean "a seagoing ship of American registry." Naval ships are not of American registry. Thus, naval ships are not now covered by the act. The bill, however, defines "ship" to mean "any seagoing vessel of any type whatsoever of American registry or nationality, including floating craft, whether self-propelled or towed by another vessel making a sea voyage." In order to continue the exemption now given naval vessels, H.R. 8760 adds naval ships to the category of excepted ships. We believe that this addition is desirable for the present at least.

We recommend that on page 3 of the bill, lines 1 and 2 be amended to read as follows:

" '(1) The following categories of vessels may be excepted from all provisions of the Act by the President:' ".

This country's goal, as expressed in the Water Quality Act of 1965 (79 Stat. 903) and by the President in his recent message on the "Preservation of Our Natural Heritage," is to clean up the Nation's waters, including coastal waters. Consistent with this goal, we believe that consideration should be given now to narrowing the categories of ships that should be excepted from the act's requirements. The pollution of our coastal waters or the waters of the Great Lakes by oil or by oily mixtures from ships of American registry or nationality could cause substantial harm to the national resources in those waters. Such a possibility should be avoided.

President Johnson, in his message on the "Preservation of Our Natural Heritage" said:

"The Federal Government is rightly expected to provide an example to the Nation in pollution control. We cannot make new demands on State and local governments or on private industry without putting the Federal house in order. We will take necessary steps this year to insure that Federal activities do not contribute to the deterioration of our water and air.

"Last November I signed an Executive order [11258] requiring that all new Federal installations include adequate water pollution control systems. Agencies are required to submit long-range plans to bring existing installations up to the high-level pollution control required of new facilities."

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Section 8 of that Executive order directs that a comprehensive study of water pollution from vessel operations within the United States be undertaken. While the term "vessel" is not defined, we construe the term to include, among others, naval vessels and tankers under 150 tons. The results of the study and recommendations are to be given to the President by January 1, 1967.

While it is desirable to amend the present act to make it consistent with the amended convention, there is nothing to prevent this Government from taking a more restrictive position in relation to ships of American registry and nationality.

The above amendment to H.R. 8760 authorizes the President to exempt the four categories of ships listed in the bill at his discretion. He could not enlarge these categories, but, based on the Executive order study or on other factors, he could be more restrictive. We believe that this change in the bill carries out the intention of the act which is to reduce oil pollution at sea, including our coastal waters, and on the Great Lakes.

Time has not permitted securing advice from the Bureau of the Budget as to the relationship of this report to the program of the President.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., May 5, 1966.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to the committee's request of June 7, 1965, for a report on H.R. 8760, a bill to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes.

The bill would amend the Oil Pollution Act, 1961, in order to bring its provisions into agreement with the 1962 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954. The Senate gave its advice and consent to ratification of the amendments on February 25, 1964. Among other provisions, H.R. 8760 would redefine the types and sizes of ships regulated, redefine the extent to which ships must record the discharge of oil, and extend the zones in which discharge of oil is prohibited. The formula specifying that a mixture with an oil content of 100 parts or more per million constitutes an oily mixture is retained, but the provision that the oil in a less concentrated mixture shall not be deemed to foul the surface of the sea has been removed.

In exercising responsibilities under the Federal Water Pollution Control Act, the Federal Water Pollution Control Administration is concerned with the prevention, control, and abatement of pollution from all sources whatsoever, including the discharge of oil from ships and tankers. The waters beyond the territorial limits of the United

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States, to which the international convention and the law to implement the convention apply, are not within the purview of the Federal Water Pollution Control Act. We have a direct interest, however, in the effect on water quality in near-shore waters of measures to restrain oil pollution in the prohibited zones.

H.R. 13200, the administration bill to establish a Department of Transportation, in section 6(f), would transfer from the Secretary of the Army to the Secretary of Transportation primary statutory responsibility for the Oil Pollution Act, 1961, and, in section 6(b), would transfer the Coast Guard, which now exercises certain responsibilities under the Oil Pollution Act, 1961, from the Department of the Treasury to the new Department of Transportation. We defer to the agencies most directly concerned as to the merits of H.R. 8760 in implementing more effective antipollution measures, in facilitating

the administration of the Oil Pollution Act, 1961, and in facilitating the observance of its requirements by ship and tanker operators. If, in the judgment of those agencies, the bill would accomplish those purposes, we would have no objection to the enactment of the legislation.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

WILBUR J. COHEN,
Under Secretary.

FEDERAL MARITIME COMMISSION,
Washington, D.C., June 10, 1965.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of June 7, 1965, for the views of the Federal Maritime Commission with respect to H.R. 8760, a bill to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes.

Inasmuch as the bill does not affect the responsibilities or jurisdiction of the Commission, we express no views as to its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the administration's program.

Sincerely yours,

JOHN HARLLEE,
Rear Admiral, U.S. Navy (Retired), Chairman.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., January 18, 1966.

Hon. EDWARD A. GARMATZ,
Acting Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department with respect to H.R. 8760, a bill to amend the

provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Pre-

vention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes.

The bill would amend the Oil Pollution Act, 1961, to incorporate certain changes which will be necessary to bring it into conformity with the amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, which were adopted by a Conference of Contracting Governments convened at London on April 11, 1962.

We recommend favorable consideration of the bill.

The 1954 convention went into effect on July 26, 1958, 12 months after 10 governments, including 5 each having not less than a half million gross tons of tanker tonnage had accepted it. The United States did not become a party until 1961, having considered that the convention did not provide means for effectively enforcing antipollution measures and in the belief that better results could be secured through cooperation between governments and their national shipping industries. Moreover, the U.S. acceptance of the 1954 convention was made subject to an "understanding" and two reservations.

On April 11, 1962, in accordance with article XVI, subparagraph (3) (a) of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, a Conference of Contracting Governments convening in London adopted amendments to the 1954 convention. These amendments expand and strengthen the present convention to a very considerable extent and also obviate the need for the existing U.S. reservations. They also meet in large measure the specific recommendations made by the United States at the time of accepting the 1954 convention.

On March 25, 1963, President Kennedy transmitted these "amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954" to the U.S. Senate (Senate Executive C, 88th Cong., 1st sess.) with a view to receiving its advice and consent. On February 25, 1964, the Senate, by a vote of 88 to 0, passed a resolution of ratification giving its advice and consent to acceptance of these amendments.

Inasmuch as the bill would bring existing statutory provisions into agreement with the 1954 convention as amended, the Department supports the bill.

The Bureau of the Budget advises there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES,
General Counsel.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., July 8, 1965.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 8760, to amend the provisions of

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the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes.

The bill would amend the Oil Pollution Act, 1961, generally to bring it into conformance with amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954. Among the major changes which would be accomplished by the proposed bill are changes in the definition of the term "oily mixture," in the definition of the terms "ship" and "tanker," in the requirements regarding the keeping of an oil-record book, and in the designation of prohibited zones. It is observed that the definition of the term "ship" in the proposed bill is not the same as the definition which is found in the amended convention. The phrase "as a type included within the term 'ship' " has been added. There is no objection to this minor change since the term "ship" would ordinarily include a tanker.

The Treasury Department supports enactment of the proposed bill.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

FRED B. SMITH,
Acting General Counsel.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., December 15, 1965.

Hon. EDWARD A. GARMATZ,
Acting Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: Your request for comment on H.R. 8760, a bill to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes, has been assigned to this Department by the Secretary of Defense for the preparation of a report

thereon expressing the views of the Department of Defense.

The bill would make certain amendments to the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015) to implement amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, which were adopted by a Conference of Contracting Governments convened at London on April 11, 1962, and ratified by the United States Senate on February 25, 1964.

Although H.R. 8760 would not directly affect the operation of naval vessels, the Department of the Navy, on behalf of the Department of Defense, recommends its enactment to implement the International Convention amendments adopted by the London Conference of April 1962, and ratified as a treaty by the Senate on February 25, 1964.

The following technical change to the draft bill is recommended: Page 2, line 3, the word "as" should read "is."

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

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The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report on H.R. 8760 for the consideration of the committee.

For the Secretary of the Navy.

Sincerely yours,

M. K. DISNEY,
Captain, U.S. Navy,
Director, Legislative Division.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

OIL POLLUTION ACT, 1961 (33 U.S.C. 1001–1015)

Public Law 87–167

AN ACT To implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, *as amended,*

may be cited as the ["Oil Pollution Act, 1961".] *"Oil Pollution Act, 1961, as amended".*

SEC. 2. DEFINITIONS.—As used in this Act, unless the context otherwise requires—

(a) The term "convention" means the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954[;], *as amended;*

(b) The term "discharge" in relation to oil or to an oily mixture means any discharge or escape howsoever caused;

(c) The term "heavy diesel oil" means marine diesel oil, other than those distillates of which more than 50 per centum, by volume distills at a temperature not exceeding three hundred and forty degrees centigrade when tested by American Society for the Testing of Materials standard method [D. 158/53;] *D. 86/59;*

(d) The term "mile" means a nautical mile of six thousand and eighty feet or one thousand eight hundred and fifty-two meters;

[(e) The term "oil" means persistent oils, such as crude oil, fuel oil, heavy diesel oil, and lubricating oil. For the purposes of this legislation, the oil in an oily mixture of less than one hundred parts of oil in one million parts of the mixture, shall not be deemed to foul the surface of the sea;]

(e) The term "oil" means crude oil, fuel oil, heavy diesel oil, and lubricating oil, and "oily" shall be construed accordingly. An "oily mixture" means a mixture with an oil content of one hundred parts or more in one million parts of mixture.

(i) The term person" means an individual, partnership, corporation, or association; and any owner, operator, agent, master, officer, or employee of a ship;

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(g) The term "prohibited zones" means the zones described in section 12 of this Act as modified by notices, if any, of extension or reduction issued by the Secretary;

(h) The term "Secretary" means the Secretary of the Army;

[(i) The term "ship" means a seagoing ship of American registry except—

[(1) ships for the time being used as naval auxiliaries;

[(2) ships of under five hundred tons gross tonnage;

[(3) ships for the time being engaged in the whaling industry;

[(4) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of the Lachine Canal at Montreal in the Province of Quebec, Canada.]

(i) The term "ship", subject to the exceptions provided in para-

graph (1) of this subsection, means any seagoing vessel of any type whatsoever of American registry or nationality, including floating craft, whether self-propelled or towed by another vessel making a sea voyage; and "tanker", as a type included within the term "ship", means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

(1) The following categories of vessels are excepted from all provisions of the Act:

(i) tankers of under one hundred and fifty tons gross tonnage and other ships of under five hundred tons gross tonnage.

(ii) ships for the time being engaged in the whaling industry when actually employed on whaling operations.

(iii) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of Saint Lambert lock at Montreal in the Province of Quebec, Canada.

(iv) naval ships and ships for the time being used as naval auxiliaries.

(j) The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958.

[SEC. 3. (a) Subject to the provisions of sections 4 and 5, the discharge by any person from any ship, which is a tanker, within any of the prohibited zones of oil or any oily mixture the oil in which fouls the surface of the sea, shall be unlawful.

[(b) Subject to the provisions of sections 4 and 5, any discharge by any person into the sea from a ship, other than a tanker, of oily ballast water or tank washings shall be made as far as practicable from land. As from July 26, 1961, paragraph (a) of this section shall apply to ships other than tankers as it applies to tankers, except that the prohibited zones in relation to ships other than tankers shall be those referred to in the schedule.]

Sec. 3. Subject to the provisions of sections 4 and 5, it shall be unlawful for any person to discharge oil or oily mixture from:

(a) a tanker within any of the prohibited zones.

(b) a ship, other than a tanker, within any of the prohibited zones, except when the ship is proceeding to a port not provided with facilities adequate for the reception, without causing undue delay, it

may discharge such residues and oily mixture as would remain for disposal if the bulk of the water had been separated from the mixture: Provided, such discharge is made as far as practicable from land.

(c) *a ship of twenty thousand tons gross tonnage or more, including a tanker, for which the building contract is placed on or after the effective date of this Act. However, if in the opinion of the master, special circumstances make it neither reasonable nor practicable to retain the oil or oily mixture on board, it may be discharged outside the prohibited zones. The reasons for such discharge shall be reported in accordance with the regulations prescribed by the Secretary.*

[SEC. 4. Section 3 shall not apply to—

[(a) the discharge of oil or of an oily mixture from a ship for the purpose of securing the safety of the ship, preventing damage to the ship or cargo, or saving life at sea; or

[(b) the escape of oil, or of an oily mixture, resulting from damage to the ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;

[(c) the discharge of sediment—

[(i) which cannot be pumped from the cargo tanks of tankers by reason of its solidity; or

[(ii) which is residue arising from the purification or clarification of oil fuel or lubricating oil.

Provided, That such discharge is made as far from land as is practicable.]

(a) *the discharge of oil or oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo, or saving life at sea; or*

(b) *the escape of oil, or of oily mixture, resulting from damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;*

(c) *the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil: Provided, That such discharge is made as far from land as practicable.*

[SEC. 5. Section 3 shall not apply to the discharge from the bilges of a ship—

[(a) of any oily mixture, during the period of twelve months after the United States accepts the convention;

[(b) after the expiration of such period, of an oily mixture

containing no oil other than lubricating oil.]

Sec. 5. Section 3 shall not apply to the discharge from the bilges of a ship of an oily mixture containing no oil other than lubricating oil which has drained or leaked from machinery spaces.

SEC. 6. Any person who violates any provision of this Act, except sections 8(b) and 9, or any regulation prescribed in pursuance thereof, is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment not exceeding one year, or by both such fine and imprisonment, for each offense. And any ship (other than a ship owned and operated by the United States) from which oil is discharged in violation of this Act, or any regulation prescribed in pursuance thereof, shall be liable for the pecuniary penalty specified in this section, and clear-

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ance of such ship from a port of the United States may be withheld until the penalty is paid, and said penalty shall constitute a lien on such ship which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the ship may be.

SEC. 7. The Coast Guard may, subject to the provisions of section 4450 of the Revised Statutes, as amended (46 U.S.C. 239), suspend or revoke a license issued to the master or other licensed officer of any ship found violating the provisions of this Act or the regulations issued pursuant thereto.

SEC. 8. (a) In the administration of sections 1–12 of this Act, the Secretary may make use of the organization, equipment, and agencies, including engineering, clerical, and other personnel, employed under his direction in the improvement of rivers and harbors and in the enforcement of laws for the improvement of rivers and harbors and in the enforcement of laws for the preservation and protection of navigable waters. For the better enforcement of the provisions of said sections, the officers and agents of the United States in charge of river and harbor improvements and persons employed under them by authority of the Secretary, and officers and employees of the Bureau of Customs and the Coast Guard, shall have power and authority and it shall be their duty to swear out process and to arrest and take into custody, with or without process, any person who may violate any of said provisions: *Provided,* That no person shall be arrested without process for a violation not committed in the presence of some one of the aforesaid officials: *And provided further,* That whenever any arrest is made under the provisions of said sections the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses

alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States. Representatives of the Secretary and of the Bureau of Customs and Coast Guard of the United States may go on board and inspect any ship in a prohibited zone or in a port of the United States as may be necessary for enforcement of this Act.

(b) To implement article VII of the convention, ship fittings and equipment, and operating requirements thereof, shall be in accordance with regulations prescribed by the Secretary of the Department in which the Coast Guard is operating. Any person found violating these regulations shall, in addition to any other penalty prescribed by law, be subject to a civil penalty not in excess of $100.

[SEC. 9. (a) There shall be carried in every ship an oil record book in the form specified in section 13 of this Act. In the event of discharge or escape of oil from a ship in a prohibited zone, a signed statement shall be made in the oil record book, by the officer or officers in charge of the operations concerned and by the master of the ship, of the circumstances of and the reason for the discharge or escape.

[(b) If any person fails to comply with the requirements imposed by or under this section, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 and if any person makes an entry in any records kept in accordance with this Act which is to his knowledge false or misleading in any material particular, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 or imprisonment for a term not exceeding six months, or both.]

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Sec. 9 (a) The Secretary shall have printed separate oil record books containing instructions and spaces for inserting information in the form prescribed by the Convention, which shall be published in regulations prescribed by the Secretary.

(b) If subject to this Act, every ship using oil fuel and every tanker shall be provided, without charge, an oil record book which shall be carried on board. The provisions of section 140 of title 5, United States Code, shall not apply. The ownership of the booklet shall remain in the United States Government. This book shall be available for inspection as provided in this Act and for surrender to the United States Government pursuant to regulations of the Secretary.

(c) The oil record book shall be completed on each occasion, whenever any of the following operations takes place in the ship:

(1) ballasting of and discharge of ballast from cargo tanks of tankers;

(2) cleaning of cargo tanks of tankers;

(3) settling in slop tanks and discharge of water from tankers;

(4) disposal from tankers of oily residues from slop tanks or other sources;

(5) ballasting, or cleaning during voyage, of bunker fuel tanks of ships other than tankers;

(6) disposal from ships other than tankers of oily residues from bunker fuel tanks or other sources;

(7) accidental or other exceptional discharges or escapes of oil from tankers or ships other than tankers.

In the event of such discharge or escape of oil or oily misture, as is referred to in subsection 3 (c) and section 4 of this Act, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

(d) Each operation described in section 9 (c) of the Act shall be fully recorded without delay in the oil record book so that all the entries in the book appropriate to that operation are completed. Each page of the book shall be signed by the officer or officers in charge of the operations concerned and, when the ship is manned, by the master of the ship.

(e) Oil record books shall be kept in such manner and for such length of time as set forth in the regulations prescribed by the Secretary.

(f) If any person fails to comply with the requirements imposed by or under this section, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 and if any person makes an entry in any records kept in accordance with this Act or regulations prescribed thereunder by the Secretary which is to his knowledge false or misleading in any material particular, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 or imprisonment for a term not exceeding six months, or both.

SEC. 10. The Secretary may make regulations for the administration of sections 3, 4, 5, 8 (a), [and 9.] *9, and 12.*

SEC. 11. (a) The Secretary may make regulations empowering such persons as may be designated to go on board any ship to which the convention applies, while the ship is within the territorial jurisdiction of the United States, and to require production of any records required to be kept in accordance with the convention.

(b) Should evidence be obtained that a ship registered in another country party to the convention has discharged oil in any prohibited zone, such evidence should be forwarded to the State Department for action in accordance with article X of the convention.

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[SEC. 12. (a) Subject to paragraph (c) of this section, the pro-

hibited zones in relation to tankers shall be all sea areas within fifty miles from land, with the following exceptions:

[(1) THE ADRIATIC ZONES.—Within the Adriatic Sea the prohibited zones off the coasts of Italy and Yugoslavia respectively shall each extend for a distance of fifty miles from land, excepting only the island of Vis.

[(2) THE NORTH SEA ZONE.—The North Sea Zone shall extend for a distance of one hundred miles from the coasts of the following countries—

Belgium,
Denmark,
the Federal Republic of Germany,
the Netherlands,
the United Kingdom of Great Britain and Northern Ireland;

but not beyond the point where the limit of a one hundred-mile zone off the west coast of Jutland intersects the limit of the fifty-mile zone off the coast of Norway.

[(3) THE ATLANTIC ZONE.—The Atlantic Zone shall be within a line drawn from a point on the Greenwich meridian one hundred miles in a north-northeasterly direction from the Shetland Islands; thence northward along the Greenwich meridian to latitude 64 degrees north; thence westward along the 64th parallel to longitude 10 degrees west; thence to latitude 60 degrees north, longitude 14 degrees west; thence to latitude 54 degrees 30 minutes north, longitude 30 degrees west; thence to latitude 44 degrees 20 minutes north, longitude 30 degrees west; thence to latitude 48 degrees north, longitude 14 degrees west; thence eastward along the forty-eighth parallel to a point of intersection with the fifty-mile zone off the coast of France: *Provided,* That in relation to voyages which do not extend seaward beyond the Atlantic Zone as defined above, and which are to points not provided with adequate facilities for the reception of oily residue, the Atlantic Zone shall be deemed to terminate at a distance of one hundred miles from land.

[(4) THE AUSTRALIAN ZONE.—The Australian Zone shall extend for a distance of one hundred and fifty miles from the coasts of Australia, except off the north and west coasts of the Australian mainland between the point opposite Thursday Island and the point on the west coast at 20 degrees south latitude.

[(b) Subject to paragraph (c) of this section the prohibited zones in relation to ships other than tankers shall be all sea areas within fifty miles from land with the following exceptions:

[(1) THE ADRIATIC ZONES.—Within the Adriatic Sea the prohibited zones off the coasts of Italy and Yugoslavia respectively

shall each extend for a distance of twenty miles from land, excepting only the Island of Vis. After the expiration of a period of three years following the application of prohibited zones to ships other than tankers in accordance with section 3(b) of this Act the said zones shall each be extended by a further thirty miles in width unless the two Governments agree to postpone such extension. In the event of such an agreement, the Convention provides for notification to be given accordingly to the Inter-

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governmental Maritime Consultative Organization by said governments not less than three months before the expiration of such period of three years and for notification to be given to all contracting governments by the Intergovernmental Maritime Consultative Organization.

[(2) THE NORTH SEA AND ATLANTIC ZONES.—The North Sea and Atlantic Zones shall extend for a distance of one hundred miles from the coasts of the following countries:

Belgium,
Denmark,
the Federal Republic of Germany,
Ireland,
the Netherlands,
the United Kingdom of Great Britain and Northern Ireland,

but not beyond the point where the limit of a one-hundred-mile zone off the west coast of Jutland intersects the limit of the fifty-mile zone off the coast of Norway.

[(c) With respect to the reduction or extension of the zones described above effectuated under the terms of the Convention, the Secretary of the Army shall give notice thereof by publication of such information in Notices to Mariners issued by the United States Coast Guard and United States Navy.]

Sec. 12. (a) All sea areas within fifty miles from the nearest land shall be prohibited zones, subject to extensions or reduction effectuated in accordance with the terms of the Convention, which shall be published in regulations prescribed by the Secretary.

(b) With respect to the reduction or extension of the zones described under the terms of the Convention, the Secretary shall give notice thereof by publication of such information in Notices to Mariners issued by the United States Coast Guard and United States Navy.

[SEC. 13. (a) The Secretary shall have printed separate booklets which set forth instructions and spaces for inserting information as follows:

[(1) FOR TANKERS.—

[(A) Date of entry.

[(B) Ballasting of and discharge of ballast from cargo tanks.

[(i) Identity numbers of tank(s).

[(ii) Type of oil previously contained in tank(s).

[(iii) Date and place of ballasting.

[(iv) Date and time of discharge of ballast water.

[(v) Place or position of ship.

[(vi) Approximate amount of oil contaminated water transferred to slop tank(s).

[(vii) Identity numbers of slop tank(s).

[(C) Cleaning of cargo tanks.

[(i) Identity numbers of tank(s) cleaned.

[(ii) Type of oil previously contained in tank(s).

[(iii) Identity numbers of slop tank(s) to which washings transferred.

[(iv) Dates and times of cleaning.

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[(D) Settling in slop tank(s) and discharge of water.

[(i) Identity numbers of slop tank(s).

[(ii) Period of settling (in hours).

[(iii) Date and time of discharge of water.

[(iv) Place or position of ship.

[(v) Approximate quantities of residue.

[(E) Disposal from ship of oily residues from slop tanks and other sources.

[(i) Date and method of disposal.

[(ii) Place or position of ship.

[(iii) Sources and approximate quantities.

[(F) Signature of Officer or Officers in Charge of the operations concerned and Signature of the Master.

[(2) FOR SHIPS OTHER THAN TANKERS.—

[(A) Date of entry.

[(B) Ballasting, or cleaning during voyage, of bunker fuel tanks.

[(i) Identity number of tank.

[(ii) Type of oil previously contained in tank.

[(iii) Date and place of ballasting.

[(iv) Date and time of discharge of ballast or washing water.

[(v) Place or position of ship.

[(vi) Whether separator used: if so, give period of use.

[(vii) Disposal of oily residue retained on board.

[(C) Disposal from ship of oily residues from bunker fuel tanks and other sources.

[(i) Date and method of disposal.

[(ii) Place or position of ship.

[(iii) Sources and approximate quantities.

[(D) Signature of officer or officers in charge of the operations concerned and signature of the master.

[(3) FOR ALL SHIPS.—

[(A) Date of entry.

[(B) Accidental and other exceptional discharges or escapes of oil.

[(i) Date and time of occurrence.

[(ii) Place or position of ship.

[(iii) Approximate quantity and type of oil.

[(iv) Circumstances of discharge or escape and general remarks.

[(C) Signature of officer or officers in charge of the operations concerned and signature of the master.

[(b) The booklet shall be furnished free to all seagoing ships of American registry subject to this Act. The provisions of section 140 of title 5, United States Code shall not apply. The ownership of the booklet shall remain in the United States Government. This booklet shall be available for inspection as provided in this Act and for surrender to the United States Government pursuant to regulations of the Secretary.]

SEC. 14. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

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SEC. 15. If a provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

SEC. 16. Nothing in this Act or in regulations issued hereunder shall be construed to modify or amend the provisions of the Oil Pollution Act, 1924 (33 U.S.C. 431–437), or of section 89 of title 14, United States Code.

[SEC. 17. This Act shall become effective upon the date of its enactment or upon the date the United States becomes a party to the convention, whichever is the later date.]

Sec. 17. (a) This Act shall become effective upon the date of its enactment or upon the date the amended Convention becomes effective as to the United States, whichever is the later date.

(b) *Any rights or liabilities existing on the effective date of this Act shall not be affected by the enactment of this Act. Any procedures or rules or regulations in effect on the effective date of this Act shall remain in effect until modified or superseded under the authority of this Act. Any reference in any other law or rule or regulation prescribed pursuant to law to the "International Convention for the Prevention of the Pollution of the Sea by Oil, 1954," shall be deemed to be a reference to that Convention as revised by the "Amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954," which were adopted by a Conference of Contracting Governments convened at London on April 11, 1962. Any reference in any other law or rule or regulation prescribed pursuant to law to the "Oil Pollution Act, 1961," approved August 30, 1961 (33 U.S.C. 1001–1015), shall be deemed to be a reference to that Act as amended by this Act.*

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1.3b(2) SENATE COMMITTEE ON COMMERCE

S. REP. No. 1479, 89th Cong., 2d Sess. (1966)

IMPLEMENTING PROVISIONS OF THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF THE POLLUTION OF THE SEA BY OIL, 1954

AUGUST 17 (legislative day, AUGUST 15, 1966).—Ordered to be printed

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Mr. MAGNUSON, from the Committee on Commerce, submitted the following

REPORT

[To accompany H.R. 8760]

The Committee on Commerce, to which was referred the bill (H.R. 8760) to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 8760 is to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015) to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes. Essentially, the effect of this bill would be to incorporate certain changes to bring the Oil Pollution Act into conformity with the amendments of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, which amendments were adopted by a conference of contracting governments convened at London on April 11, 1962.

BACKGROUND OF LEGISLATION

Implementation of the international convention is important to the United States, inasmuch as, among other things, it would increase the zone in which discharge of oil waste is prohibited from 50 miles offshore to 100 miles offshore along the New England coast which has been particularly plagued by these discharges.

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In addition to other provisions, the categories of existing ships that must observe antipollution measures has been increased to bring more vessels within the provisions of the convention. As a matter of practice, the amendments to enforcement and recordkeeping provisions are likely to produce more effective results in the light of experience under existing rules.

Major amendments include a definition of oily mixture and an enlargement of the categories of vessels covered by the act. The previous test that the oil in an oily mixture "fouls the surface of the sea" has been removed and the definition limited to a formula specifying 100 parts or more of oil in 1 million parts of the mixture. This is a much more realistic definition. In addition, the law will now apply to all seagoing vessels of any type except (*a*) tankers of under 150 gross tons and other ships of under 500 gross tons; (*b*) ships in the whaling industry when actually employed on whaling operations; (*c*) ships navigating the Great Lakes and tributary waters as specified; and (*d*) naval ships and ships for the time being used as naval auxiliaries.

Even though naval vessels are excepted from the convention, it is the expectation of the committee that the Department of Defense will insure compliance with this act by all U.S. naval vessels through the use of appropriate departmental regulations.

It should be pointed out in connection with the legislation that neither the amended convention nor this bill affect in any way a

reservation contained in the ratification of the original convention by the United States to the effect that we do not consider the international rules to interfere in any way with our freedom of legislative action in our territorial waters. Within that area any offense against our existing statutes will be punishable under those statutes, regardless of the ship's registry.

NEED FOR LEGISLATION

Enactment of this legislation will place the United States in a position to discharge fully its obligations under the convention, as amended, and will contribute materially to the reduction of oil pollution at sea, which in turn will reduce pollution along our shores. It is not believed that it will place any appreciable burden on our shipping, and it goes far to implement our desire for international cooperation in the field of ocean shipping.

The committee is of the view that the bill is a desirable one, and accordingly recommends its enactment.

COST OF LEGISLATION

This legislation would entail no additional expenditure by the U.S. Government.

DEPARTMENTAL REPORTS

H.R. 8760 was the subject of an executive communication from the Department of State, the text of which follows, together with the texts of departmental reports received on the bill or its companion measure, S. 2017.

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MAY 15, 1965.

Hon. HUBERT H. HUMPHREY,
President of the Senate.

DEAR MR. VICE PRESIDENT: I submit herewith for consideration by the Senate a draft bill to incorporate in the Oil Pollution Act, 1961, changes which will be necessary when the amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, become effective. The Senate by its resolution of February 25, 1964, gave its advice and consent to ratification of the amendments to the convention. The proposed amendments to the Oil Pollution Act would redefine the types and sizes of ships regulated, redefine the extent to which ships must record the discharge of oil, extend the zones in which discharge of oil is prohibited, and make other necessary changes. An outline of the provisions of the amendments is contained in Senate Executive C, 88th Congress, 1st session.

A similar proposed bill has been transmitted to the Speaker of the House of Representatives.

The Department has been advised by the Bureau of the Budget that, from the standpoint of the administration's program, there is no objection to the submission of this proposed legislation to the Congress.

Sincerely yours,

GEORGE W. BALL,
Acting Secretary.

EXPLANATORY MEMORANDUM

The 1954 convention entered into force on July 26, 1958, 12 months after 10 governments, including 5 each having not less than a half million gross tons of tanker tonnage, had accepted it. The United States, however, did not become a party until 1961, having considered that the convention did not provide means for effectively enforcing antipollution measures. Approval by the United States of the 1954 convention was given subject to recommendations that amendments would be sought. It was subject also to two reservations, one concerning the provision of the 1954 convention which would have obligated the Federal Government to insure that adequate oil reception facilities were at all main U.S. ports although this is not a Federal function in the United States, and the other with respect to a procedure for amendment which gives only 4 months during which a government can declare its nonacceptance of amendments or become automatically bound in 6 months. By the amendments of 1962 the provision as to oil reception facilities is altered to require only that governments promote the provision of adequate facilities, and the amendment procedure is revised to provide reasonable opportunity for governments to accept or reject amendments. The amendments do not revise article XI regarding powers of a contracting government to take measures within its jurisdiction regarding pollution matters. Therefore, an "understanding," included in the U.S. acceptance of the 1954 convention, to the effect that we do not consider it to interfere with our freedom of legislative action in our territorial waters, remains in effect. Other provisions of the amendments strengthen and expand the convention of 1954.

In line with the provisions of the amendments of the 1954 convention, the enclosed draft bill to amend the Oil Pollution Act, 1961, will bring existing statutory provisions into agreement with the 1954

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convention, as amended. The specific proposals will accomplish the following:

(1) Revise the language where necessary so that references will be

to the "International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended," and that reference to the act as amended will be "Oil Pollution Act, 1961, as amended."

(2) Revise the definitions in section 2 (33 U.S.C. 1001) to agree with the amendments of the 1954 convention. The major changes concern the definition of the terms "oil," "oily," "oily mixture," and "ship," as well as adding a new definition of the term "from the nearest land." The only one of the amended definitions which appears to require comment is the definition of "oily mixture" which indirectly defines what shall constitute oil pollution by designation of a specific concentration. In some countries this may necessitate that samples be produced in court in order to establish proof of a violation. After study and consideration, it was not found possible to develop an acceptable definition which did not refer to a formula, and it was recommended that the formula be retained specifying 100 parts or more of oil in 1 million parts of the mixture. The previous test that the oil in an oily mixture "fouls the surface of the sea" has been removed. It is believed this amended definition is more realistic than the existing one in the 1954 convention.

(3) Revise the scope of application of the act by amending subsection 2(i) and section 3 (33 U.S.C. 1001(i), 1002), so that the law applies to all seagoing vessels of any type whatsoever of American registry or nationality except—(*a*) tankers of under 150 gross tons and other ships of under 500 gross tons; (*b*) ships in the whaling industry when actually employed on whaling operations; (*c*) ships navigating the Great Lakes and tributary waters as specified; and (*d*) naval ships and ships for the time being used as naval auxiliaries. The reason for the difference in application of requirements to tankers starting at 150 gross tons and other ships at 500 gross tons is that the majority of governments maintained that, in other parts of the world and especially in European waters, tankers between 150 and 500 gross tons, contribute materially to the pollution.

(4) Revise the prohibitions against the discharge of oil or oily mixtures in section 3 (33 U.S.C. 1002) to clarify application to ships other than tankers and to add a new subsection (c) to cover all ships of 20,000 gross tons or more, including tankers, which are contracted for on or after the effective date of this act, and prohibit any discharge of oil or oily mixture from such ships except under specified conditions when such discharge must be reported in accordance with regulations of the Secretary of the Army. It is understood that this new prohibition, especially for large tankers, amounts to no more than the current procedures followed by the American oil companies as part of their antipollution program.

(5) Revise the excepted discharges of oil or oily mixtures from the

general prohibitions in sections 3 and 4 (33 U.S.C. 1002 and 1003) to include such discharges when made for securing safety when another ship is involved and those discharges from the bilges of a ship of an oily mixture containing no oil other than lubricating oil which has drained or leaked from machinery spaces. In addition, this change removes the excepted discharge of sediment which cannot be pumped from the cargo tanks of tankers and cancels the requirements for

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special explanations in the oil record books in the event of discharges or escapes referred to in these sections.

(6) Revise the provisions regarding the "oil record book," by stating in general terms the requirements in the law and authorizing the Secretary of the Army to describe these in detail in published regulations and booklets to be furnished by him to the masters of seagoing ships subject to this act, by revising section 9 (33 U.S.C. 1008), and by canceling section 13 (33 U.S.C. 1012). The amended 1954 convention requires this oil record book, and a revised form is specified in annex B to the amendments. The changes proposed will authorize the Secretary of the Army to make such regulations as necessary to require records to be kept, which will be effective in maintaining adequate enforcement.

(7) Revise the provisions regarding the prohibited zone descriptions in section 12 (33 U.S.C. 1011) so that all sea areas within 50 miles from the nearest land shall be prohibited zones subject to extensions or reduction effectuated in accordance with the terms of the convention, as amended, which the Secretary of the Army shall have published as regulations, including publication in the notices to mariners issued by the U.S. Coast Guard and U.S. Navy. The prohibited zones are specified in annex A to the amended 1954 convention, which in a number of areas extends the prohibited zone beyond 50 miles from the nearest land. For the North-West Atlantic Zone the prohibited area extends to sea 100 miles from the coast of the United States and joins a similar 100-mile zone along the east coast of Canada. Since the convention and present statute provide for changes to be made in these prohibited zone areas, it is recommended that the designation of extensions or reductions in the areas continue to be made by regulations of the Secretary.

(8) Provide that the amended provisions of the Oil Pollution Act, 1961, be made effective by amendment to section 17 (33 U.S.C. 1015) upon the date of the enactment of this bill or upon the date the amendments to the 1954 convention become effective as to the United States, whichever is the later date. The proposed amendments to the Oil Pollution Act, 1961, should become effective when the amend-

ments to the 1954 convention become applicable to U.S. ships. Until that time, the United States has no obligation for enforcement.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., July 22, 1966.

Hon. WARREN C. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department with respect to H.R. 8760, an act passed by the House of Representatives June 20, 1966, to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes.

The bill would amend the Oil Pollution Act, 1961, to incorporate certain changes which will be necessary to bring it into conformity with the amendments of the International Convention for the Pre-

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vention of Pollution of the Sea by Oil, 1954, which were adopted by a Conference of Contracting Governments convened at London on April 11, 1962.

We recommend favorable consideration of the bill.

The 1954 convention went into effect on July 26, 1958, 12 months after 10 governments, including 5 each having not less than a half million gross tons of tanker tonnage had accepted it. The United States did not become a party until 1961, having considered that the convention did not provide means for effectively enforcing anti-pollution measures and in the belief that better results could be secured through cooperation between governments and their national shipping industries. Moreover, the U.S. acceptance of the 1954 convention was made subject to an "understanding" and two reservations.

On April 11, 1962, in accordance with article XVI, subparagraph (3) (a) of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, a conference of contracting governments convening in London adopted amendments to the 1954 convention. These amendments expand and strengthen the present convention to a very considerable extent and also obviate the need for the existing U.S. reservations. They also meet in large measure the specific recommendations made by the United States at the time of accepting the 1954 convention.

On March 25, 1963, President Kennedy transmitted these "Amend-

ments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954" to the U.S. Senate (Senate Executive C, 88th Cong., 1st sess.) with a view to receiving its advice and consent. On February 25, 1964, the Senate, by a vote of 88 to 0, passed a resolution of ratification giving its advice and consent to acceptance of these amendments.

Inasmuch as the bill would bring existing statutory provisions into agreement with the 1954 convention as amended, the Department supports the bill.

The Bureau of the Budget advises there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

MAURICE R. DUNIE,
Acting General Counsel.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., December 15, 1965.

Hon. WARREN C. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: Your request for comment on S. 2017, a bill to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The bill would make certain amendments to the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015) to implement amendments to the Inter-

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national Convention for the Prevention of the Pollution of the Sea by Oil, 1954, which were adopted by a Conference of Contracting Governments convened at London on April 11, 1962, and ratified by the U.S. Senate on February 25, 1964.

Although S. 2017 would not directly affect the operation of naval vessels, the Department of the Navy, on behalf of the Department of Defense, recommends its enactment to implement the International Convention amendments adopted by the London Conference of April 1962 and ratified as a treaty by the Senate on February 25, 1964.

The following technical change to the draft bill is recommended:

Page 2, line 3, the word "as" should read "is".

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report on S. 2017 for the consideration of the committee.

Sincerely yours,

M. K. DISNEY,
Captain, U.S. Navy, Director, Legislative Division
(For the Secretary of the Navy).

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., July 13, 1965.

Hon. WARREN C. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 2017, "To amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes."

The bill would amend the Oil Pollution Act, 1961, generally to bring it into conformance with amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954. Among the major changes which would be accomplished by the proposed bill are changes in the definition of the term "oily mixture," in the definition of the terms "ship" and "tanker," in the requirements regarding the keeping of an oil-record book, and in the designation of prohibited zones. It is observed that the definition of the term "ship" in the proposed bill is not the same as the definition which is found in the amended convention. The phrase "as a type included within the term 'ship'" has been added. There is no objection to this minor change since the term "ship" would ordinarily include a tanker.

The Treasury Department supports enactment of the proposed bill.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

FRED B. SMITH,
Acting General Counsel.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., June 2, 1965.

B–146333.

Hon. WARREN C. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated May 25, 1965, you requested our comments on S. 2017. The stated purpose of this measure is "To amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes."

We have no special information that would assist the committee in its consideration of S. 2017 and therefore offer no comments with regard to the action to be taken thereon.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

U.S. DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 10, 1965.

Hon. WARREN C. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for your request of May 25, 1965, giving this Department an opportunity to report on S. 2017, a bill to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended. However, since the bill does not affect the responsibilities of the Department, we have no recommendations to make regarding the bill.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

FEDERAL MARITIME COMMISSION,
OFFICE OF THE CHAIRMAN,
June 27, 1966.

Hon. WARREN C. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of June 23, 1966, for the views of the Federal Maritime Commission with respect to H.R. 8760, a bill to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes.

Inasmuch as the bill does not affect the responsibilities or jurisdiction of the Commission, we express no views as to its enactment.

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The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the administration's program.

Sincerely yours,

JOHN HARLLEE,
Rear Admiral, U.S. Navy, Retired, Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., June 30, 1966

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated June 23, 1966, you requested our comments on H.R. 8760, 89th Congress. The stated purpose of this measure is to amend the provisions of the Oil Pollution Act, 1961 (33 U.S.C. 1001–1015), to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes.

We have no special information that would assist the committee in its consideration of H.R. 8760, and therefore offer no comments with regard to the action to be taken thereon.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of the rule XXIX of the Standing Rules of the Senate changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted

is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

OIL POLLUTION ACT, 1961 (33 U.S.C. 1001–1015)

Public Law 87–167

AN ACT To implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, *as amended,* may be cited as the [“Oil Pollution Act, 1961”.] *“Oil Pollution Act, 1961, as amended”.*

SEC. 2. DEFINITIONS.—As used in this Act, unless the context otherwise requires—

(a) The term “convention” means the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954 [;], *as amended;*

(b) The term “discharge” in relation to oil or to an oily mixture means any discharge or escape howsoever caused;

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(c) The term “heavy diesel oil” means marine diesel oil, other than those distillates of which more than 50 per centum, by volume, distills at a temperature not exceeding three hundred and forty degrees centigrade when tested by American Society for the Testing of Materials standard method [D. 158/53;] *D. 86/59;*

(d) The term “mile” means a nautical mile of six thousand and eighty feet or one thousand eight hundred and fifty-two meters;

[(e) The term “oil” means persistent oils, such as crude oil, fuel oil, heavy diesel oil, and lubricating oil. For the purposes of this legislation, the oil in an oily mixture of less than one hundred parts of oil in one million parts of the mixture, shall not be deemed to foul the surface of the sea:]

(e) The term “oil” means crude oil, fuel oil, heavy diesel oil, and lubricating oil, and “oily” shall be construed accordingly. An “oily mixture” means a mixture with an oil content of one hundred parts or more in one million parts of mixture.

(f) The term “person” means an individual, partnership, corporation, or association; and any owner, operator, agent, master, officer, or employee of a ship;

(g) The term “prohibited zones” means the zones described in section 12 of this Act as modified by notices, if any, of extension or reduction issued by the Secretary;

(h) The term "Secretary" means the Secretary of the Army;

[(i) The term "ship" means a seagoing ship of American registry except—

[(1) ships for the time being used as naval auxiliaries;

[(2) ships of under five hundred tons gross tonnage;

[(3) ships for the time being engaged in the whaling industry;

[(4) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of the Lachine Canal at Montreal in the Province of Quebec, Canada.]

(i) The term "ship", subject to the exceptions provided in paragraph (1) of this subsection, means any seagoing vessel of any type whatsoever of American registry or nationality, including floating craft, whether self-propelled or towed by another vessel making a sea voyage; and "tanker", as a type included within the term "ship", means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

(1) The following categories of vessels are excepted from all provisions of the Act:

(i) tankers of under one hundred and fifty tons gross tonnage and other ships of under five hundred tons gross tonnage.

(ii) ships for the time being engaged in the whaling industry when actually employed on whaling operations.

(iii) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of Saint Lambert lock at Montreal in the Province of Quebec, Canada.

(iv) naval ships and ships for the time being used as naval auxiliaries.

(j) The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in

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accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958.

[SEC. 3. (a) Subject to the provisions of sections 4 and 5, the discharge by any person from any ship, which is a tanker, within any of the prohibited zones of oil or any oily mixture the oil in which fouls the surface of the sea, shall be unlawful.

[(b) Subject to the provisions of sections 4 and 5, any discharge by any person into the sea from a ship, other than a tanker, of oily

ballast water or tank washings shall be made as far as practicable from land. As from July 26, 1961, paragraph (a) of this section shall apply to ships other than tankers as it applies to tankers, except that the prohibited zones in relation to ships other than tankers shall be those referred to in the schedule.]

Sec. 3. Subject to the provisions of sections 4 and 5, it shall be unlawful for any person to discharge oil or oily mixture from:

(a) a tanker within any of the prohibited zones.

(b) a ship, other than a tanker, within any of the prohibited zones; except when the ship is proceeding to a port not provided with facilities adequate for the reception, without causing undue delay, it may discharge such residues and oily mixture as would remain for disposal if the bulk of the water had been separated from the mixture: Provided, such discharge is made as far as practicable from land.

(c) a ship of twenty thousand tons gross tonnage or more, including a tanker, for which the building contract is placed on or after the effective date of this Act. However, if in the opinion of the master, special circumstances make it neither reasonable nor practicable to retain the oil or oily mixture on board, it may be discharged outside the prohibited zones. The reasons for such discharge shall be reported in accordance with the regulations prescribed by the Secretary.

SEC. 4. Section 3 shall not apply to—

[(a) the discharge of oil or of an oily mixture from a ship for the purpose of securing the safety of the ship, preventing damage to the ship or cargo, or saving life at sea; or

[(b) the escape of oil, or of an oily mixture, resulting from damage to the ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;

[(c) the discharge of sediment—

[(i) which cannot be pumped from the cargo tanks of tankers by reason of its solidity; or

[(ii) which is residue arising from the purification or clarification of oil fuel or lubricating oil,

Provided, That such discharge is made as far from land as is practicable.]

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(a) the discharge of oil or oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo, or saving life at sea; or

(b) the escape of oil, or of oily mixture, resulting from damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;

(c) the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil: Provided, That such discharge is made as far from land as practicable.

[SEC. 5. Section 3 shall not apply to the discharge from the bilges of a ship—

[(a) of any oily mixture, during the period of twelve months after the United States accepts the convention;

[(b) after the expiration of such period, of an oily mixture containing no oil other than lubricating oil.]

Sec. 5. Section 3 shall not apply to the discharge from the bilges of a ship of an oily mixture containing no oil other than lubricating oil which has drained or leaked from machinery spaces.

SEC. 6. Any person who violates any provision of this Act, except sections 8(b) and 9, or any regulation prescribed in pursuance thereof, is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment not exceeding one year, or by both such fine and imprisonment, for each offense. And any ship (other than a ship owned and operated by the United States) from which oil is discharged in violation of this Act, or any regulation prescribed in pursuance thereof, shall be liable for the pecuniary penalty specified in this section, and clearance of such ship from a port of the United States may be withheld until the penalty is paid, and said penalty shall constitute a lien on such ship which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the ship may be.

SEC. 7. The Coast Guard may, subject to the provisions of section 4450 of the Revised Statues, as amended (46 U.S.C. 239), suspend or revoke a license issued to the master or other licensed officer of any ship found violating the provisions of this Act or the regulations issued pursuant thereto.

SEC. 8. (a) In the administration of sections 1–12 of this Act, the Secretary may make use of the organization, equipment, and agencies, including engineering, clerical, and other personnel, employed under his direction in the improvement of rivers and harbors and in the enforcement of laws for the improvement of rivers and harbors and in the enforcement of laws for the preservation and protection of navigable waters. For the better enforcement of the provisions of said sections, the officers and agents of the United States in charge

of river and harbor improvements and persons employed under them by authority of the Secretary, and officers and employees of the Bureau of Customs and the Coast Guard, shall have power and authority and it shall be their duty to swear out process and to arrest and take into custody, with or without process, any person who may violate any of said provisions: *Provided,* That no person shall be arrested without process, for a violation not committed in the presence of some one of the aforesaid officials: *And provided further,* That whenever any arrest is made under the provisions of said sections the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States. Representatives of the Secretary and of the Bureau of Customs and Coast Guard of the United States may go on board and inspect any ship in a prohibited zone or in a port of the United States as may be necessary for enforcement of this Act.

(b) To implement article VII of the convention, ship fittings and equipment, and operating requirements thereof, shall be in accord-

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ance with regulations prescribed by the Secretary of the Department in which the Coast Guard is operating. Any person found violating these regulations shall, in addition to any other penalty prescribed by law, be subject to a civil penalty not in excess of $100.

[SEC. 9. (a) There shall be carried in every ship an oil record book in the form specified in section 13 of this Act. In the event of discharge or escape of oil from a ship in a prohibited zone, a signed statement shall be made in the oil record book, by the officer or officers in charge of the operations concerned and by the master of the ship, of the circumstances of and the reason for the discharge or escape.

[(b) If any person fails to comply with the requirements imposed by or under this section, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 and if any person makes an entry in any records kept in accordance with this Act which is to his knowledge false or misleading in any material particular, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 or imprisonment for a term not exceeding six months, or both.]

Sec. 9. (a) The Secretary shall have printed separate oil record books, containing instructions and spaces for inserting information in the form prescribed by the Convention, which shall be published in regulations prescribed by the Secretary.

(b) If subject to this Act, every ship using oil fuel and every

tanker shall be provided, without charge, an oil record book which shall be carried on board. The provisions of section 140 of title 5, United States Code, shall not apply. The ownership of the booklet shall remain in the United States Government. This book shall be available for inspection as provided in this Act and for surrender to the United States Government pursuant to regulations of the Secretary.

(c) *The oil record book shall be completed on each occasion, whenever any of the following operations takes place in the ship:*

(1) *ballasting of and discharge of ballast from cargo tanks of tankers;*

(2) *cleaning of cargo tanks of tankers;*

(3) *settling in slop tanks and discharge of water from tankers;*

(4) *disposal from tankers of oily residues from slop tanks or other sources;*

(5) *ballasting, or cleaning during voyage, of bunker fuel tanks of ships other than tankers;*

(6) *disposal from ships other than tankers of oily residues from bunker fuel tanks or other sources;*

(7) *accidental or other exceptional discharges or escapes of oil from tankers or ships other than tankers.*

In the event of such discharge or escape of oil or oily mixture, as is referred to in subsection 3(c) and section 4 of this Act, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

(d) *Each operation described in section 9(c) of the Act shall be fully recorded without delay in the oil record book so that all the entries in the book appropriate to that operation are completed. Each page of the book shall be signed by the officer or officers in charge of the operations concerned and when the ship is manned, by the master of the ship.*

(e) *Oil record books shall be kept in such manner and for such length of time as set forth in the regulations prescribed by the Secretary.*

(f) *If any person fails to comply with the requirements imposed by or under this section, he shall be liable on conviction to a fine not*

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exceeding $1,000 nor less than $500 and if any person makes an entry in any records kept in accordance with this Act or regulations prescribed thereunder by the Secretary which is to his knowledge false or misleading in any material particular, he shall be liable on conviction to a fine not exceeding $1000 nor less than $500 or imprisonment for a term not exceeding six months, or both.

SEC. 10. The Secretary may make regulations for the administration of sections 3, 4, 5, 8(a), [and 9.] *9, and 12.*

SEC. 11. (a) The Secretary may make regulations empowering such persons as may be designated to go on board any ship to which the convention applies, while the ship is within the territorial jurisdiction of the United States, and to require production of any records required to be kept in accordance with the convention.

(b) Should evidence be obtained that a ship registered in another country party to the convention has discharged oil in any prohibited zone, such evidence should be forwarded to the State Department for action in accordance with article X of the convention.

[SEC. 12. (a) Subject to paragraph (c) of this section, the prohibited zones in relation to tankers shall be all sea areas within fifty miles from land, with the following exceptions:

[(1) THE ADRIATIC ZONES.—Within the Adriatic Sea the prohibited zones off the coasts of Italy and Yugoslavia respectively shall each extend for a distance of fifty miles from land, excepting only the island of Vis.

[(2) THE NORTH SEA ZONE.—The North Sea Zone shall extend for a distance of one hundred miles from the coasts of the following countries—

Belgium,
Denmark,
the Federal Republic of Germany,
the Netherlands,
the United Kingdom of Great Britain and Northern Ireland;

but not beyond the point where the limit of a one hundred-mile zone off the west coast of Jutland intersects the limit of the fifty-mile zone off the coast of Norway.

[(3) THE ATLANTIC ZONE.—The Atlantic Zone shall be within a line drawn from a point on the Greenwich meridian one hundred miles in a north-northeasterly direction from the Shetland Islands; thence northward along the Greenwich meridian to latitude 64 degrees north; thence westward along the 64th parallel to longitude 10 degrees west; thence to latitude 60 degrees north, longitude 14 degrees west; thence to latitude 54 degrees 30 minutes north, longitude 30 degrees west; thence to latitude 44 degrees 20 minutes north, longitude 30 degrees west; thence to latitude 48 degrees north, longitude 14 degrees west; thence eastward along the forty-eighth parallel to a point of intersection with the fifty-mile zone off the coast of France: *Provided,* That in relation to voyages which do not extend seaward beyond the Atlantic Zone as defined above, and which are to points not provided with adequate facilities for the reception of

oily residue, the Atlantic Zone shall be deemed to terminate at a distance of one hundred miles from land.

[(4) THE AUSTRALIAN ZONE.—The Australian Zone shall extend for a distance of one hundred and fifty miles from the coasts of Australia, except off the north and west coasts of the Australian main-

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land between the point opposite Thursday Island and the point on the west coast at 20 degrees south latitude.

[(b) Subject to paragraph (c) of this section the prohibited zones in relation to ships other than tankers shall be all sea areas within fifty miles from land with the following exceptions:

[(1) THE ADRIATIC ZONES.—Within the Adriatic Sea the prohibited zones off the coasts of Italy and Yugoslavia respectively shall each extend for a distance of twenty miles from land, excepting only the Island of Vis. After the expiration of a period of three years following the application of prohibited zones to ships other than tankers in accordance with section 3(b) of this Act the said zones shall each be extended by a further thirty miles in width unless the two Governments agree to postpone such extension. In the event of such an agreement, the Convention provides for notification to be given accordingly to the Intergovernmental Maritime Consultative Organization by said governments not less than three months before the expiration of such period of three years and for notification to be given to all contracting governments by the Intergovernmental Maritime Consultative Organization.

[(2) THE NORTH SEA AND ATLANTIC ZONES.—The North Sea and Atlantic Zones shall extend for a distance of one hundred miles from the coasts of the following countries:

Belgium,
Denmark,
the Federal Republic of Germany,
Ireland,
the Netherlands,
the United Kingdom of Great Britain and Northern Ireland,

but not beyond the point where the limit of a one-hundred-mile zone off the west coast of Jutland intersects the limit of the fifty-mile zone off the coast of Norway.

[(c) With respect to the reduction or extension of the zones described above effectuated under the terms of the Convention, the Secretary of the Army shall give notice thereof by publication of such information in Notices to Mariners issued by the United States Coast Guard and United States Navy.]

Sec. 12. (a) All sea areas within fifty miles from the nearest land shall be prohibited zones, subject to extensions or reduction effectuated in accordance with the terms of the Convention, which shall be published in regulations prescribed by the Sceretary.

(b) With respect to the reduction or extension of the zones described under the terms of the Convention, the Secretary shall give notice thereof by publication of such information in Notices to Mariners issued by the United States Coast Guard and United States Navy.

[SEC. 13. (a) The Secretary shall have printed separate booklets which set forth instructions and spaces for inserting information as follows:

[(1) FOR TANKERS.—

[(A) Date of entry.

[(B) Ballasting of and discharge of ballast from cargo tanks.

[(i) Identify numbers of tank(s).

[(ii) Type of oil previously contained in tank(s).

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[(iii) Date and place of ballasting.

[(iv) Date and time of discharge of ballast water.

[(v) Place or position of ship.

[(vi) Approximate amount of oil contaminated water transferred to slop tank(s).

[(vii) Identity numbers of slop tank(s).

[(C) Cleaning of cargo tanks.

[(i) Identity numbers of tank(s) cleaned.

[(ii) Type of oil previously contained in tank(s).

[(iii) Identity numbers of slop tank(s) to which washings transferred.

[(iv) Dates and times of cleaning.

[(D) Settling in slop tank(s) and discharge of water.

[(i) Identity numbers of slop tank(s).

[(ii) Period of settling (in hours).

[(iii) Date and time of discharge of water.

[(iv) Place or position of ship.

[(v) Approximate quantities of residue.

[(E) Disposal from ship of oily residues from slop tanks and other sources.

[(i) Date and method of disposal.

[(ii) Place or position of ship.

[(iii) Sources and approximate quantities.

[(F) Signature of Officer or Officers in Charge of the op-

erations concerned and Signature of the Master.

[(2) FOR SHIPS OTHER THAN TANKERS.—

[(A) Date of entry.

[(B) Ballasting, or cleaning during voyage, of bunker fuel tanks.

[(i) Identity number of tank.

[(ii) Type of oil previously contained in tank.

[(iii) Date and place of ballasting.

[(iv) Date and time of discharge of ballast or washing water.

[(v) Place or position of ship.

[(vi) Whether separator used: if so, give period of use.

[(vii) Disposal of oily residue retained on board.

[(C) Disposal from ship of oily residues from bunker fuel tanks and other sources.

[(i) Date and method of disposal.

[(ii) Place or position of ship.

[(iii) Sources and approximate quantities.

[(D) Signature of officer or officers in charge of the operations concerned and signature of the master.

[(3) FOR ALL SHIPS.—

[(A) Date of entry.

[(B) Accidental and other exceptional discharges or escapes of oil.

[(i) Date and time of occurrence.

[(ii) Place or position of ship.

[(iii) Approximate quantity and type of oil.

[(iv) Circumstances of discharge or escape and general remarks.

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[(C) Signature of officer or officers in charge of the operations concerned and signature of the master.

[(b) The booklet shall be furnished free to all seagoing ships of American registry subject to this Act. The provisions of section 140 of title 5, United States Code shall not apply. The ownership of the booklet shall remain in the United States Government. This booklet shall be available for inspection as provided in this Act and for surrender to the United States Government pursuant to regulations of the Secretary.]

SEC. 14. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 15. If a provision of this Act or the application of such pro-

vision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

SEC. 16. Nothing in this Act or in regulations issued hereunder shall be construed to modify or amend the provisions of the Oil Pollution Act, 1924, (33 U.S.C. 431–437), or of section 89 of title 14, United States Code.

[SEC. 17. This Act shall become effective upon the date of its enactment or upon the date the United States becomes a party to the convention, whichever is the later date.]

Sec. 17. (a) This Act shall become effective upon the date of its enactment or upon the date the amended Convention becomes effective as to the United States, whichever is the later date.

(b) *Any rights or liabilities existing on the effective date of this Act* shall *not be affected by the enactment of this Act. Any procedures or rules or regulations in effect on the effective date of this Act shall remain in effect until modified or superseded under the authority of this Act. Any reference in any other law or rule or regulation prescribed pursuant to law to the "International Convention for the Prevention of the Pollution of the Sea by Oil, 1954," shall be deemed to be a reference to that Convention as revised by the "Amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954," which were adopted by a Conference of Contracting Governments convened at London on April 11, 1962. Any reference in any other law or rule or regulation prescribed pursuant to law to the "Oil Pollution Act, 1961," approved August 30, 1961 (33 U.S.C. 1001–1015), shall be deemed to be a reference to that Act as amended by this Act.*

1.3b(3) CONGRESSIONAL RECORD, VOL. 112 (1966)
1.3b(3)(a) June 20: Considered and passed House, pp. 13639–13640

[No Revelant Discussion on Pertinent Section]

1.3b(3)(b) Aug. 19: Considered and passed Senate, p. 19991

[No Relevant Discussion on Pertinent Section]

1.4 ADVANCES OF PUBLIC MONEYS, PROHIBITION AGAINST, AS REVISED

31 U.S.C. §529 (1946)

[Referred to in 33 U.S.C. §1155(g)(3)(A)]

No advance of public money shall be made in any case unless authorized by the appropriation concerned or other law. And in all cases of contracts for the performance of any service, or the delivery of articles of any description, for the use of the United States, payment shall not exceed the value of the service rendered, or of the articles delivered previously to such payment. It shall, however, be lawful, under the special direction of the President, to make such advances to the disbursing officers of the Government as may be necessary to the faithful and prompt discharge of their respective duties, and to the fulfillment of the public engagements. The President may also direct such advances as he may deem necessary and proper, to persons in the military and naval service employed on distant stations, where the discharge of the pay and emoluments to which they may be entitled cannot be regularly effected. R.S. §3648; Aug. 2, 1946, c. 744, §11, 60 Stat. 809.

1.4a ACT OF JANUARY 31, 1823

January 31, 1823, Chapter 9, §1, 3 Stat. 723

CHAP. IX.—*An Act concerning the disbursement of public money.*

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, from and after the passing of this act, no advance of public money shall be made in any case whatever; but in all cases of contracts for the performance of any service, or the delivery of articles of any description, for the use of the United States, payment shall not exced [exceed] the value of the service rendered, or of the articles delivered previously

to such payment: *Provided,* That it shall be lawful, under the especial direction of the President of the United States, to make such advances to the disbursing officers of the government as may be necessary to the faithful and prompt discharge of their respective duties, and to the fulfillment of the public engagements: *And provided also,* That the President of the United States may direct such advances as he may deem necessary and proper, to such persons in the military and naval service as may be employed on distant stations, where the discharge of the pay and emoluments to which they may be entitled, cannot be regularly effected.

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1.4a(1) HOUSE COMMITTEE ON PUBLIC EXPENDITURES

H.R. REP. No. 100, 17th Cong., 1st Sess. (1822)

Document in Dept. of Interior Library, but in non-reproducible condition.

1.4a(2) SENATE COMMITTEE ON FINANCE, 17th Cong., 2d Sess. (1823)

[Report unpublished.]

1.4a(3) ANNALS OF CONGRESS (1822–23)

1.4a(3)(a) Dec. 9, 17: Debated, amended, passed House, pp. 336–338, 391–394

DISBURSEMENT OF PUBLIC MONEYS

On motion of Mr. BASSETT, the House then resolved itself into a Committee of the Whole, on the bill, reported at the last session, "concerning the disbursement of public moneys."

The bill having been read—

Mr. BASSETT, as a member of the committee which prepared this bill, stated the general views on which it was founded. This bill, he said, had been drawn with a great degree of caution, so as, by embracing all cases in which ad-

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vances could be necessary, to take away any possible objection which could be made against it; and it had afterwards been submitted to the Treasury Department to undergo any alterations which it might appear to require. The jeopardizing of the public money was of that character, Mr. B. said, and the consequent waste of it so enormous, that it was time for this House to look into it. At the last session of Congress, a cata-

logue of defalcations had been presented, which astonished everybody, embracing a range, the extent of which could hardly have been conceived. Mr. B. recalled the attention of the House also to one or two facts stated in the President's Message. The fact was there disclosed, that, at one time, accounts for one hundred millions of dollars advanced for different objects remained unsettled. Such an amount, dependent on the personal responsibility of individuals, at once tells us how careful Congress ought to be in trusting so great an interest in the hands of public agents. If it had been found that this great trust had been confided to them without injury to the public interest, legislation on the subject might be less necessary; but such was not the fact. At the last session, the House was presented with a large amount of balances due by individuals, and supposed to be lost; and the Message of the President spoke of several millions of suspended accounts. Mr. B. said he had been told that, since the last session of Congress, public officers had gone off the stage of life considerably indebted to the Government—officers, too, in whom the greatest confidence had been placed. This showed, he said, that it was time to change the present system. It was most obvious, if we took the reason of the thing, the history of other countries, or the experience of this, that it was necessary to exercise a more rigorous control over the disbursements of public moneys. It was more than probable, Mr. B. continued, that on the first establishment of this Government, the different State institutions having little connexion or sympathy with one another, it was not very easy to transact the fiscal business of the nation, or to carry money from one part of it to the other, &c.; but the Government had been now established for forty years, and every difficulty of that sort had ceased. Could it be right, on the plea of enabling the poor man to be employed in public service, that the public money should be put in jeopardy? It was not necessary, he said, that it should be so, for the moment the Government makes a contract, the contractor has credit to the amount of his contract, and can borrow or buy upon that credit. It was not true, in fact, that advances were necessary, and it could not therefore be right to make them. These, Mr. B. said, were some of the general views which led the committee to prepare the bill now under consideration, and present it to the House. If the bill were to go through the committee, without amendment, he should then, to afford to gentlemen all proper time to consider the subject, move to lay it on the table.

Mr. SMITH, of Maryland, suggested that few of the members had preserved the printed copies of the bill from the last session; and, as the subject

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was of some magnitude, he thought the members ought to have an opportunity to examine it. He therefore, with this view, moved that the Committee should rise.

The Committee rose accordingly, and the bill was ordered to be printed.

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The engrossed bill "concerning the disbursement of public moneys," (forbidding advances on contracts) was read a third time; and the question being "Shall the bill pass?"

Mr. NEWTON, of Virginia, said, he was opposed to the bill, for reasons which he would briefly state. The present system had been in operation for two and thirty years, and had been amended, from time to time, until it had been made such as to compel those who had the disbursement of public money to account for it promptly. He believed, he said, notwithstanding a considerable noise had been made about the loss of public money in its collection and disbursement, it would be found, when the subject was fairly considered, and all the facts fully known, that the total amount of losses, from the commencement of the Government, would not amount to more than about two millions and a half dol-

lars. In the port of New York, in which most of the duties on imports were collected, he did not know that the total loss would amount to $600,000. Mr. N. was satisfied, he said, that the Government is going on extremely well; that the accounting officers are extremely vigilant in the discharge of their duty; that all those into whose hands the public money goes, are called strictly to account for its expenditure. Why, then, he asked, pass new laws upon the subject? Things are going on very well; let us be satisfied with them as they are. Mr. N. said he believed that the greatest curse which could befall a republican people was the multiplication of unnecessary laws. Besides this general objection, however, he had other serious objections to this bill. The bill provides that no money shall be advanced to contractors but for articles furnished, the value of which shall be ascertained, and for services actually rendered. Then comes a proviso, authorizing the officers of Government to make advances when they think them necessary to the public service. Thus, Mr. N. said, the proviso neutralizes the enactment of the bill, and leaves things exactly as they now are. But suppose it does not leave things as they are. By excluding advances you put an end at once to competition, by which the public interest is so much consulted. Your most valuable citizens are at once excluded from engaging in the business of supply for the public service. The wealth of the mechanics of the United States, Mr. N. said, consists in their honesty and their enterprise; they have no other capital. They cannot make contracts, if you forbid advances to them. By doing so, you throw business contracts into the hands of a few men who have capital, and who will make the Government pay as high as possible for that they furnish. So far from producing the delightful system of economy which the supporters of the bill imagine, it will produce the opposite effect, of prodigality, and, in addition, will be a proscription of a large class of our fellow-citizens. This, however, was not his only objection to the bill. This House, he said, was the Grand Inquest of the nation, whose business it was to arrest and punish usurpations of power. But the House was about itself to usurp power, in dismissing persons from public offices by law, (on their failure periodically to settle their accounts, &c.) This, Mr. N. said, was an Executive power; it was one of the prerogatives of the President. If he do not do his duty in removing from office those who may neglect their duty, he is amenable to this House for his misconduct. For these, and other reasons, which he would not fatigue the House by stating, Mr. N. believed that the bill was unnecessary and ought not to pass, and should give it his decided negative.

Mr. BASSETT said that to the whole of the objections adduced by his colleague to this bill, it would be a sufficient an-

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swer, perhaps, that the present practice in the Government approached as nearly as possible to the system proposed in this bill. If his arguments, therefore, were well founded, they formed no objection to the bill; inasmuch as, that what was now practice in the Government could not be worse if it were made law. Mr. B. referred to the letter from the Secretary of War, yesterday read to the House, from which it appeared that that Department had found it necessary to bring the public business as nearly as possible to the system proposed by this bill. Mr. B. had further understood, in conversation with the Secretary of War, that it was desirable that the system now established in practice should be fixed and made permanent by a legislative act; because every new officer coming into the Government, unapprized and unacquainted with the difficulties of this sort which he would have to encounter under the former system of advances, &c. was thrown, before he knew it, into the very vortex of them. Was not this, Mr. B. asked, a demonstrable argument in favor of this bill and against his colleague?

Mr. B. quoted the late Message of the President, to show the quantities of public money which were at one time in the hands of public agents. Are the moneys of the country, said he, to be thus thrown abroad, subject only to the accountability of individuals? Was this necessary? Could not Government be supported but on principles fraught with destruction to the public interest? And if there be an individual who is benefited by profligacy in the public expenditure, is that a reason why this bill should not pass? Mr. B. said he knew his colleague too well to suppose that he would support the principle that any individual in the Government, let his situation be what it will, is to be sustained at the public expense. Mr. B. defended the bill from the charge of partiality. The causes of discrimination between persons seeking contracts are, said Mr. B., beyond our control. Did the gentleman suppose the Government was to make contracts with persons who are paupers, and put large sums into their hands, relying upon their accountability? The gentleman would be himself one of the first to blame the Government for doing so. This bill, besides, Mr. B. said, would save the public money from being lost, and, from what appeared from the President's Message, it was high time some steps were taken to prevent further dilapidation of the public money. Mr. B. took further views of the subject, of the same import with the preceding. He particularly denied that the bill bore on the less wealthy more severely than on others, inasmuch as their contracts, he urged, would give them credit for as much money as was necessary to enable them to comply with them. And with regard to usurpation, which had been charged upon the bill, Mr. B. said he had supposed the very essence of legislation to be to lay down general rules under which those who perform the Executive functions are to act. If the Legislature were cut off from this authority, the Executive was supreme as to every thing relating to public offices, and no act of Congress could af-

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fect him, which was a doctrine which he presumed the House would not sustain, &c.

Mr. WRIGHT delivered his opinions against the bill, for a variety of reasons, some of which, from his distance, escaped the reporter. He said, however, that on inquiry it would be found that, in a variety of cases of contract for timber, the Navy Department had been obliged to advance money, in defiance of a desire to do otherwise, before the contracts could be complied with. In some instances, by accident, persons willing to contract might be found in a different station, but it was so rare as only by an exception to prove the rule, &c. Mr. W. concluded his remarks by moving that the bill lie on the table.

This motion was negatived.

The question was then taken on the passage of the bill, and it was passed, by a large majority, and sent to the Senate for concurrence.

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1.4a(3)(b) Jan. 21, 23: Amended and Passed Senate, pp. 147–150

[No Relevant Discussion on Pertinent Section]

1.4a(3)(c) Jan. 27: House concurs in Senate amendments, pp. 699–700

[No Relevant Discussion on Pertinent Section]

1.4b TO AUTHORIZE CERTAIN ADMINISTRATIVE EXPENSES IN THE GOVERNMENT SERVICES, AND FOR OTHER PURPOSES

August 2, 1946, P. L. 79–600, §11, 60 Stat. 809

SEC. 11. The first sentence of section 3648 of the Revised Statutes (31 U.S.C. 529) is hereby amended to read as follows:

"No advance of public money shall be made in any case unless authorized by the appropriation concerned or other law."

1.4b(1) COMMITTEE ON EXPENDITURES IN THE EXECUTIVE DEPARTMENTS

H.R. REP. No. 2186, 79th Cong., 2d Sess. (1946)

ADMINISTRATIVE EXPENSES IN GOVERNMENT DEPARTMENTS

MAY 29, 1946.—Committed to the Committee of the Whole House on the State of the Union and Ordered to be printed

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MR. MANASCO, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany H.R. 6533]

The Committee on Expenditures in the Executive Departments, to whom was referred the bill (H.R. 6533) to authorize certain administrative expenses in the Government service and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

This bill can truthfully be referred to as a bill to eliminate Government red tape.

The principal purpose of the bill, which deals with departmental procedures and expenditures incident to certain employees' travel, and to contracts and purchases, and related matters, is the permanent enactment of numerous provisions which, although of a continuing and general character, have been included hitherto in the annual appropriation acts. That purpose is designed to supplement the program announced last year by the chairman of the Appropriations Committee [1] to avoid so far as possible the recurring enactment of legislative items in appropriation acts. Related to that purpose are a number of sections designed to authorize the Appropriations Committee, in its annual review of each agency's operations, to provide exceptions from certain general prohibitory administrative-expense legislation, where the special needs of the current programs of a particular agency may justify them.[2] Finally, a number of sections

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are intended to revise and modernize a group of permanent statutes, comprising an important segment of the body of legislative guides and rules for the conduct of the Government's business, which require codification and adaptation to the current needs, size, and scope of the functions of the Government.

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EXPLANATION BY SECTIONS

Section 11. Advances of public funds.—The advance of public money generally is prohibited by section 3648, Revised Statutes (31 U.S.C. 529). Occasionally, to meet special needs and particular situations (especially in the case of transactions abroad) it has been found necessary to create legislative exceptions to the general rule. These situations are comparatively minor but are apt to require quick legislative action. Section 11 would amend the original section cited merely by adding the words "unless authorized by the appropriation concerned or other law". Its purpose is merely to sanction the incorporation of exceptions in appropriation acts as may be required from time to time without raising the question of a point of order.

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[1] See 91 Congressional Record 2671, March 23, 1945.

[2] Many such exceptions now appear in the appropriation acts, but would be subject to point of order for lack of legislative authorization, such as that now proposed.

1.4b(2) COMMITTEE ON EXPENDITURES IN THE EXECUTIVE DEPARTMENTS

S. REP. No. 1636, 79th Cong., 2d Sess. (1946)

ADMINISTRATIVE EXPENSES IN GOVERNMENT DEPARTMENTS

JULY 2, 1946.—Ordered to be printed

Mr. HILL, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany H.R. 6533]

The Committee on Expenditures in the Executive Departments, to whom was referred the bill (H.R. 6533) to authorize certain administrative expenses in the Government service, and for other purposes, having considered the same, report favorably thereon with amendments, and recommend that the bill as amended do pass.

GENERAL STATEMENT

This bill might be referred to as a bill to cut down on Government red tape.

The principal purpose of the bill, which deals with departmental procedures and expenditures incident to certain employees' travel, and to contracts and purchases, and related matters, is the permanent enactment of numerous provisions which, although of a continuing and general character, have been included hitherto in the annual appropriation acts. That purpose is designed to supplement the program announced last year by the chairman of the House Appropriations Committee [1] to avoid so far as possible the recurring enactment of legislative items in appropriation acts. Related to that purpose are a number of sections designed to authorize the Appropriations Committee, in its annual review of each agency's operations, to provide exceptions from certain general prohibitory administrative-expense legislation, where the special needs of the current programs of a particular agency may justify them.[2] Finally, a number of sections are intended to revise and modernize a group of permanent

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[p. 1]
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1.4b(3) CONGRESSIONAL RECORD, VOL. 92 (1946)

1.4b(3)(a) June 3: Amended and passed House, p. 6166

[No Relevant Discussion on Pertinent Section.]

1.4b(3)(b) June 17: Amended and passed Senate, p. 9190

[No Relevant Discussion on Pertinent Section.]

1.4b(3)(c) July 26: House concurs in Senate amendments, p. 10186

[No Relevant Discussion on Pertinent Section.]

1.5 PUBLIC CONTRACTS, ADVERTISEMENTS FOR PROPOSALS FOR PURCHASES AND CONTRACTS FOR SUPPLIES OR SERVICES FOR GOVERNMENT DEPARTMENTS; APPLICATION TO GOVERNMENT SALES AND CONTRACTS TO SELL AND TO GOVERNMENT CORPORATIONS, AS AMENDED, 41 U.S.C. §5 (1958)

[Referred to in 33 U.S.C. §1155(g)(3)(A)]

(See, "General 1.14a–1.14c(2)(b)" for legislative history)

Unless otherwise provided in the appropriation concerned or other

law, purchases and contracts for supplies or services for the government may be made or entered into only after advertising a sufficient time previously for proposals, except (1) when the amount involved in any one case does not exceed $2,500, (2) when the public exigencies require the immediate delivery of the articles or performance of the service, (3) when only one source of supply is available and the Government purchasing or contracting officer shall so certify, or (4) when the services are required to be performed by the contractor in person and are (A) of a technical and professional nature or (B) under Government supervision and paid for on a time basis. Except (1) as authorized by section 1638 of Appendix to Title 50, (2) when otherwise authorized by law, or (3) when the reasonable value involved in any one case does not exceed $500, sales and contracts of sale by the Government shall be governed by the requirements of this section for advertising.

In the case of wholly owned Government corporations, this section shall apply to their administrative transactions only. R.S. §3709; Aug. 2, 1946, c. 744, §9(a), (c), 60 Stat. 809; June 30, 1949, c. 288 Title VI, §602(f), formerly Title V, §502(e), 63 Stat. 400, renumbered Sept. 5, 1950, c. 849, §§6(a), (b), 8(c), 64 Stat. 583; Aug. 28, 1958, Pub.L. 85–800, §7, 72 Stat. 967.

1.6 COURTS OF APPEALS, CERTIORARI; APPEAL; CERTIFIED QUESTIONS, AS AMENDED, 28 U.S.C. §1254 (1948)

[Referred to in 33 U.S.C. §1157(g)(2)]

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

(2) By appeal by a party relying on a State statute held by a court of appeals to be invalid as repugnant to the Constitution, treaties or laws of the United States, but such appeal shall preclude review by writ of certiorari at the instance of such appellant, and the review on appeal shall be restricted to the Federal questions presented;

(3) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy. June 25, 1948, c. 646, 62 Stat. 928.

1.6a AN ACT TO CODIFY, REVISE AND AMEND THE LAWS RELATING TO THE JUDICIARY

March 3, 1911, P.L. 61–475, §§239, 240, 36 Stat. 1157

SEC. 239. In any case within its appellate jurisdiction, as defined in section one hundred and twenty-eight, the circuit court of appeals at any time may certify to the Supreme Court of the United States any questions or propositions of law concerning which it desires the instruction of that court for its proper decision; and thereupon the Supreme Court may either give its instruction on the questions and propositions certified to it, which shall be binding upon the circuit court of appeals in such case, or it may require that the whole record and cause be sent up to it for its consideration, and thereupon shall decide the whole matter in controversy in the same manner as if it had been brought there for review by writ of error or appeal.

SEC. 240. In any case, civil or criminal, in which the judgment or decree of the circuit court of appeals is made final by the provisions of this Title, it shall be competent for the Supreme Court to require, by certiorari or otherwise, upon the petition of any party thereto, any such case to be certified to the Supreme Court for its review and determination, with the same power and authority in the case as if it had been carried by appeal or writ of error to the Supreme Court.

[p. 1157]

1.6b ACT TO AMEND THE JUDICIAL CODE AND TO FURTHER DEFINE THE JURISDICTION OF CIRCUIT COURTS OF APPEAL AND OF THE SUPREME COURT AND FOR OTHER PURPOSES

February 13, 1925, P.L. 68–415, §1, 43 Stat. 936-939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 128, 129, 237, 238, 239, and 240 of the Judicial Code as now existing be, and they are severally, amended and reenacted to read as follows:

SEC. 128. (a) The circuit courts of appeal shall have appellate jurisdiction to review by appeal or writ of error final decisions—

"First. In the district courts, in all cases save where a direct review of the decision may be had in the Supreme Court under section 238.

("Second. In the United States district courts for Hawaii and for Porto Rico in all cases.

"Third. In the district courts for Alaska or any division thereof, and for the Virgin Islands, in all cases, civil and criminal, wherein the Constitution or a statute or treaty of the United States or any

authority exercised thereunder is involved; in all other civil cases wherein the value in controversy, exclusive of interest and costs, exceeds $1,000; in all other criminal cases where the offense charged is punishable by imprisonment for a term exceeding one year or by death, and in all habeas corpus proceedings; and in the district court for the Canal Zone in the cases and mode prescribed in the Act approved September 21, 1922, amending prior laws relating to the Canal Zone.

"Fourth. In the Supreme Courts of the Territory of Hawaii and of Porto Rico, in all civil cases, civil or criminal, wherein the Constitution or a statute or treaty of the United States or any authority exercised thereunder is involved; in all other civil cases wherein the value in controversy, exclusive of interest and costs, exceeds $5,000, and in all habeas corpus proceedings.

"Fifth. In the United States Court for China, in all cases.)

"(b) The circuit court of appeals shall also have appellate jurisdiction—

"First. To review the interlocutory orders or decrees of the district courts which are specified in section 129.

"Second. To review decisions of the district courts sustaining or overruling exceptions to awards in arbitrations, as provided in section 8 of an Act entitled 'An Act providing for mediation, conciliation, and arbitration in controversies between certain employers and their employees,' approved July 15, 1913.

("(c) The circuit courts of appeal shall also have an appellate and supervisory jurisdiction under sections 24 and 25 of the Bankruptcy Act of July 1, 1898, over all proceedings, controversies, and cases had or brought in the district courts under that Act or any of its amendments, and shall exercise the same in the manner prescribed in those sections; and the jurisdiction of the Circuit Court of Appeals for the Ninth Circuit in this regard shall cover the courts of bankruptcy in Alaska and Hawaii, and that of the Circuit Court of Appeals for the First Circuit shall cover the court of bankruptcy in Porto Rico.

"(d) The review under this section shall be in the following circuit courts of appeal: The decisions of a district court of the United States within a State in the circuit court of appeals for the circuit embracing such State; those of the District Court of Alaska or any division thereof, the United States district court, and the Supreme Court of Hawaii, and the United States Court for China, in the Circuit Court of Appeals for the Ninth Circuit; those of the United States district court and the Supreme Court of Porto Rico in the Circuit Court of Appeals for the First Circuit; those of the District

Court of the Virgin Islands in the Circuit Court of Appeals for the Third Circuit; and those of the District Court of the Canal Zone in the Circuit Court of Appeals for the Fifth Circuit.

"(e) The circuit courts of appeal are further empowered to enforce, set aside, or modify orders of the Federal Trade Commission, as provided in section 5 of 'An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' approved September 26, 1914; and orders of the Interstate Commerce Commission, the Federal Reserve Board, and the Federal Trade Commission, as provided in section 11 of 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914.)

"SEC. 129. Where, upon a hearing in a district court, or by a judge thereof in vacation, an injunction is granted, continued, modified, refused, or dissolved by an interlocutory order or decree, or an application to dissolve or modify an injunction is refused, or an interlocutory order or decree is made appointing a receiver, or refusing an order to wind up a pending receivership or to take the appropriate steps to accomplish the purposes thereof, such as directing a sale or other disposal of property held thereunder, an appeal may be taken from such interlocutory order or decree to the circuit court of appeals; and sections 239 and 240 shall apply to such cases in the circuit courts of appeals as to other cases therein: *Provided,* That the appeal to the circuit court of appeals must be applied for within thirty days from the entry of such order or decree, and shall take precedence in the appellate court; and the proceedings in other respects in the district court shall not be stayed during the pendency of such appeal unless otherwise ordered by the court, or the appellate court, or a judge thereof: *Provided, however,* That the district court may, in its discretion, require an additional bond as a condition of the appeal."

"SEC. 237. (a) A final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of the United States, and the decision is against its validity; or where is drawn, in question the validity of a statute of any State, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of its validity, may be reviewed by the Supreme Court upon a writ of error. The writ shall have the same effect as if the judgment or decree had been rendered or passed in a court of the United States. The Supreme Court may reverse, modify, or affirm the judgment or decree of such State court, and may, in its discretion, award execution or remand the cause to the court from which it was removed by the writ.

"(b) It shall be competent for the Supreme Court, by certiorari, to require that there be certified to it for review and determination, with the same power and authority and with like effect as if brought up by writ of error, any cause wherein a final judgment or decree has been rendered or passed by the highest court of a State in which a decision could be had where is drawn in question the validity of a treaty or statute of the United States; or where is drawn in question the validity of a statute of any State on the ground of its being repugnant to the Constitution, treaties, or laws of the United States; or where any title, right, privilege, or immunity is specially set up or claimed by either party under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States; and the power to review under this paragraph may be exercised as well where the Federal claim is sustained as where it is denied. Nothing in this paragraph shall be construed to limit or detract from the right to a review on a writ of error in a case where

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such a right is conferred by the preceding paragraph; nor shall the fact that a review on a writ of error might be obtained under the preceding paragraph be an obstacle to granting a review on certiorari under this paragraph.

"(c) If a writ of error be improvidently sought and allowed under this section in a case where the proper mode of invoking a review is by a petition for certiorari, this alone shall not be a ground for dismissal; but the papers whereon the writ of error was allowed shall be regarded and acted on as a petition for certiorari and as if duly presented to the Supreme Court at the time they were presented to the court or judge by whom the writ of error was allowed: *Provided,* That where in such a case there appears to be no reasonable ground for granting a petition for certiorari it shall be competent for the Supreme Court to adjudge to the respondent reasonable damages for his delay, and single or double costs, as provided in section 1010 of the Revised Statutes."

"SEC. 238. A direct review by the Supreme Court of an interlocutory or final judgment or decree of a district court may be had where it is so provided in the following Acts or parts of Acts, and not otherwise:

"(1) Section 2 of the Act of February 11, 1903, 'to expedite the hearing and determination' of certain suits brought by the United States under the antitrust or interstate commerce laws, and so forth.

"(2) The Act of March 2, 1907, 'providing for writs of error in certain instances in criminal cases' where the decision of the district court is adverse to the United States.

"(3) An Act restricting the issuance of interlocutory injunctions to suspend the enforcement of the statute of a State or of an order made by an administrative board or commission created by and acting under the statute of a State, approved March 4, 1913, which Act is hereby amended by adding at the end thereof, 'The requirement respecting the presence of three judges shall also apply to the final hearing in such suit in the district court; and a direct appeal to the Supreme Court may be taken from a final decree granting or denying a permanent injunction in such suit.'

"(4) So much of 'An Act making appropriations to supply urgent deficiencies in appropriations for the fiscal year 1913, and for other purposes,' approved October 22, 1913, as relates to the review of interlocutory and final judgments and decrees in suits to enforce, suspend, or set aside orders of the Interstate Commerce Commission other than for the payment of money.

"(5) Section 316 of 'An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes' approved August 15, 1921."

"SEC. 239. In any case, civil or criminal, in a circuit court of appeals, or in the Court of Appeals of the District of Columbia, the court at any time may certify to the Supreme Court of the United States any questions or propositions of law concerning which instructions are desired for the proper decision of the cause; and thereupon the Supreme Court may either give binding instructions on the questions and propositions certified or may require that the entire record in the cause be sent up for its consideration, and thereupon shall decide the whole matter in controversy in the same manner as if it had been brought there by writ of error or appeal."

"SEC. 240. (a) In any case, civil or criminal, in a circuit court of appeals, or in the Court of Appeals of the District of Columbia, it shall be competent for the Supreme Court of the United States, upon the petition of any party thereto, whether Government or other litigant, to require by certiorari, either before or after a judgment

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or decree by such lower court, that the cause be certified to the Supreme Court for determination by it with the same power and authority, and with like effect, as if the cause had been brought there by unrestricted writ of error or appeal.

"(b) Any case in a circuit court of appeals where is drawn in question the validity of a statute of any State, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is against its validity, may, at the election

of the party relying on such State statute, be taken to the Supreme Court for review on writ of error or appeal; but in that event a review on certiorari shall not be allowed at the instance of such party, and the review on such writ of error or appeal shall be restricted to an examination and decision of the Federal questions presented in the case.

"(c) No judgment or decree of a circuit court of appeals or of the Court of Appeals of the District of Columbia shall be subject to review by the Supreme Court otherwise than as provided in this section."

SEC. 2. That cases in a circuit court of appeals under section 8 of "An Act providing for mediation, conciliation, and arbitration in controversies between certain employers and their employees," approved July 15, 1913; under section 5 of "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914; and under section 11 of "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, are included among the cases to which sections 239 and 240 of the Judicial Code shall apply.

SEC. 3. (a) That in any case in the Court of Claims, including those begun under section 180 of the Judicial Code, that court at any time may certify to the Supreme Court any definite and distinct questions of law concerning which instructions are desired for the proper disposition of the cause; and thereupon the Supreme Court may give appropriate instructions on the questions certified and transmit the same to the Court of Claims for its guidance in the further progress of the cause.

(b) In any case in the Court of Claims, including those begun under section 180 of the Judicial Code, it shall be competent for the Supreme Court, upon the petition of either party, whether Government or claimant, to require, by certiorari, that the cause, including the findings of fact and the judgment or decree, but omitting the evidence, be certified to it for review and determination with the same power and authority, and with like effect, as if the cause had been brought there by appeal.

(c) All judgments and decrees of the Court of Claims shall be subject to review by the Supreme Court as provided in this section, and not otherwise.

SEC. 4. That in cases in the district courts wherein they exercise concurrent jurisdiction with the Court of Claims or adjudicate claims against the United States the judgments shall be subject to review in the circuit courts of appeals like other judgments of the district courts; and sections 239 and 240 of the Judicial Code shall apply to

such cases in the circuit courts of appeals as to other cases therein.

SEC. 5. That the Court of Appeals of the District of Columbia shall have the same appellate and supervisory jurisdiction over proceedings, controversies, and cases in bankruptcy in the District of Columbia that a circuit court of appeals has over such proceedings, controversies, and cases within its circuit, and shall exercise that jurisdiction in the same manner as a circuit court of appeals is required to exercise it.

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1.6b(1) SENATE COMMITTEE ON THE JUDICIARY

S. REP. No. 362, 68th Cong., 1st Sess. (1924)

APPELLATE JURISDICTION ON FEDERAL COURTS

APRIL 7 (calendar day, APRIL 8), 1924.—Ordered to be printed

Mr. CUMMINS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 2060]

The Committee on the Judiciary, to whom was referred the bill (S. 2060) to amend the Judicial Code, further to define the jurisdiction of the circuit courts of appeal and of the Supreme Court, and for other purposes, having considered the same, report favorably thereon with the recommendation that the bill do pass with an amendment.

Add to section 12, on page 15, the following proviso:

Provided, That this section shall not apply to any suit, action, or proceeding brought by or against a corporation incorporated by or under an act of Congress wherein the Government of the United States is the owner of more than one-half its capital stock.

REPORT OF THE SUBCOMMITTEE COMPOSED OF SENATORS CUMMINS, CHAIRMAN, AND SPENCER AND OVERMAN ON S. 2060

To the Judiciary Committee of the Senate:

The subcommittee appointed to consider Senate bill 2060 begs leave to report as follows:

This bill has for its chief purposes the revision of the law relating to the appellate jurisdiction of the Supreme Court of the United States and the circuit courts of

appeal. There are some minor amendments to other jurisdictional statutes to which reference will be made during the course of the report.

The bill was prepared by a committee of the members of the Supreme Court after a long and careful study of the subject, at the suggestion of the American Bar Association, and has the approval of every member of that court. This committee also prepared a detailed analysis of the existing law creating the appellate jurisdiction of the Supreme Court and the circuit courts of appeal, referring with particularity to the statutes and pointing out the proposed amendments. This analysis is printed in the hearings upon the bill, pages 6 to 20. That committee also prepared a general review and comment upon the subject which is also printed in the hearing, pages 20 to 24.

In view of the foregoing, your subcommittee invited Justices Van Devanter, McReynolds, and Sutherland to appear before your subcommittee for the purpose of explaining orally the bill, so that an opportunity might be afforded for any questions that it might seem desirable to propound. The invitation was

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accepted, and the statements of these justices were reduced to writing and will be found on pages 25 to 48 of the hearings.

Your subcommittee also invited Mr. Thomas W. Shelton, an eminent lawyer of Norfolk, Va., to give us an expression of his views upon the bill. Mr. Shelton is now and has been for many years chairman of the committee on uniformity of judicial procedure of the American Bar Association, and his statements with respect to this bill will be found on page 63 of the hearings.

It may be said at this point that the same subcommittee considered at the same time Senate bill 2061, which covers a related subject, namely, the proposal to confer upon the Supreme Court the authority to make rules for pleading, practice, and procedure in common-law actions in the district courts of the United States. Justice Sutherland and Mr. Shelton devoted themselves mainly to the latter bill, upon which the subcommittee will make a separate report.

Justice Van Devanter and Justice McReynolds gave so clear an exposition of the bill 2060 and the advantages which litigants in the Federal courts could enjoy through its passage that we sincerely hope that every member of the Judiciary Committee and, indeed every Member of the Senate, will read and study these statements. The subcommittee could not improve upon these discussions of a most important subject, and we would content ourselves with the reference to the hearings already made were it not that we feel that a brief comment may induce some members of the full committee to read the hearings who might otherwise fail to do so.

The appellate jurisdiction of the Supreme Court of the United States is conferred and governed by legislation which began in 1789 and ended with a very recent session of Congress. It is not easy for the ordinary lawyer to ascertain just what the legislation is, and it is exceedingly difficult to understand just what the various statutes mean after they are laboriously discovered. This jurisdiction is not a logical development, for the legislation which creates it has been unduced from time to time by circumstances oftentimes temporary in their character and which quickly disappeared. Plainly, the time has come when the whole subject should be reviewed in the light of present conditions and the existing system of Federal courts. Putting aside for the moment the appellate jurisdiction of the Supreme Court over the judgments and decrees of the highest courts of the several States, it will be helpful to have clearly in mind what our Federal system is.

We have one Supreme Court with nine justices. We have 9 circuit courts of appeal with 33 circuit judges. We have 81 district courts in the United States with,

at the present time, 122 active district judges. We have one district in Alaska which is divided into four judicial divisions with one Federal judge in each division. We have one district court in Hawaii with two district judges. We have a supreme court for the Territory of Hawaii with three judges. We have one circuit court in Hawaii with five circuits and eight circuit judges. We have a Court of Claims consisting of five judges. We have a Customs Court of Appeals consisting of five judges. We have a Supreme Court of the District of Columbia with six judges. We have a Court of Appeals for the District of Columbia with three judges. We have one district judge for the Virgin Islands, one for the Canal Zone, and a United States District Court for China with one judge. In Porto Rico we have the Supreme Court for Porto Rico with five judges and one district judge. In the Philippines we have the Supreme Court of the Philippines with nine judges. We have no district judge there, and appeals are taken directly to the Supreme Court of the United States.

By many and devious routes some cases from all these tribunals can finally reach the Supreme Court of the United States. It is beyond the power of the human intellect to determine with certainty just what routes these cases must travel to reach with safety the Supreme Court. To this chaos must be added the appeals, writs of error, and writs of certiorari from 48 State tribunals, and it puzzles the brain of the most skillful lawyer to determine whether his case must go from the State tribunals to the Supreme Court by writ of error, appeal, or certiorari. There is no civilized country in the world where the path to justice is so hard to find, so long from its beginning to its end, and so expensive to travel as in the United States.

With these preliminary observations and with the obvious remark that this bill is not intended to reform the entire judicial procedure of the country, we proceed to indicate just what this bill does so far as the appellate jurisdiction of the Supreme Court is concerned. It removes all obligatory jurisdiction over the judgments and decrees to the circuit courts of appeals. Cases from these courts can only reach the Supreme Court by petition for the writ of certiorari or by

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certificate, as now provided, the field for both being somewhat enlarged. The central thought is this, that litigants have, first, a trial in the district court and then, by appeal or writ of error, a trial in the circuit court of appeals—a court that ranks as high or higher than the supreme tribunals of the States. It is our belief that here ordinary litigation should end and that the cases should not go to the Supreme Court of the United States unless the questions involved are of grave public concern or unless serious uncertainty attends the decision of the circuit court of appeals by reason of conflict in the rulings of these courts or the courts of the States. It is believed that the right of the circuit courts to certify questions to the Supreme Court and the right to file a petition for certiorari will furnish ample opportunity for all cases to go from the circuit court of appeals to the Supreme Court which ought to be heard by the latter tribunal.

With respect to the jurisdiction of the Supreme Court over decisions of the courts of last resort in the States, it may be said that the jurisdiction of the Supreme Court is obligatory in all cases where is drawn in question the validity of a statute or treaty of the United States and where the decision is against the validity and in all cases where is drawn in question the validity of a State statute on the ground of its being in conflict with the Constitution of the United States and in which the decision is in favor of its validity. All the cases which involve other Federal questions must, of course, be brought to the Supreme Court by writ of certiorari. As is well known, there are certain cases which, under the present law, may be

taken directly from the district court to the Supreme Court. Without entering into a description of these four classes of cases, it is sufficient to say that under the existing law these are cases which must be heard by three judges, one of whom is a circuit judge. The bill does not change the jurisdiction of the Supreme Court in such cases.

With respect to the Court of Claims, it is given the right to certify questions of law precisely as a circuit court of appeals may certify such questions. In all other cases, the appellate jurisdiction of the Supreme Court must be invoked by certiorari.

With respect to reviews of decisions of the Court of Customs Appeals the bill makes no change in the present law.

With respect to the Court of Appeals of the District of Columbia, it is enough to say that the bill provides that the appellate jurisdiction of the Supreme Court is invoked in precisely the same way as it is invoked in the review of the judgments and decisions of the circuit courts of appeal.

No substantial change is made with regard to the review of the decisions of the Supreme Court of the Philippine Islands.

With respect to the decisions of the district courts in Porto Rico, Hawaii, Alaska, the Virgin Islands, the Canal Zone, and China it is sufficient to say that their decisions are sent for review to certain circuit courts of appeal, most convenient to litigants, and they reach the Supreme Court, if at all, in the same way as the decisions of other district courts of the United States.

This is substantially the effect of the bill upon the appellate jurisdiction of the Supreme Court. The reasons for this substantial change in the present law must now be briefly considered.

It may be assumed, we think, that no one will urge these modifications of the law on the ground that they will promote the convenience of the courts. They are brought forward solely in the interest of the people whom the courts serve, as a part of the Government. They are intended to make the administration of justice more certain, more uniform, more speedy, and less expensive. Considered from the standpoint of litigants alone, although it is far from true that litigants only are interested in the prompt and efficient administration of justice, this reform ought to be accomplished.

First, because the Supreme Court under the present system can not dispose of the cases brought before it with sufficient promptitude. Disregarding the cases which under the various statutes are advanced for argument the ordinary case is not decided for 12 or 14 months after the necessary papers are filed. In very many instances this delay is a denial of justice, and a reference to the statement of Justice Van Devanter, together with the tables which he presented, will show conclusively that a large number of cases which fall within the obligatory jurisdiction of the court are taken there simply for delay. That is to say, to prevent during that long period the execution of the judgment or decree to reverse which the appeal or writ of error is prosecuted.

Again, many worthy cases fail because of the uncertainty which attends the proper mode of reaching the Supreme Court. The method of invoking judicial relief should be made just as plain as the English language can make it. Every

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failure to pursue the right path which results in a refusal to consider the real point or points in controversy tends to destroy the confidence of the people in their judicial tribunals. There never was a time when directness of expression was more important than at the present moment.

The revision of the existing law relating to the appellate jurisdiction of the

circuit courts of appeal will be found in the amendments proposed to sections 128 and 129 of the Judicial Code, pages 1, 2, 3, 4, and 5 of the bill. It is not thought necessary to review these amendments, because it is not believed that there will be any controversy about them.

Section 12 of the bill presents a distinct subject relating to the jurisdiction of the district courts of the United States. It is an enlargement of that provision of the existing law which declares that no district court shall have jurisdiction over suits brought by or against a railway corporation solely because it was incorporated by or under an act of Congress. It is believed that this section should be somewhat restricted, and your subcommittee proposes the following amendment:

Add to the section—

"*Provided,* That this section shall not apply to any suit, action, or proceeding brought by or against a corporation incorporated by or under an act of Congress wherein the Government of the United States is the owner of more than one-half its capital stock."

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1.6b(2) HOUSE COMMITTEE ON THE JUDICIARY

H.R. REP. No. 1075, 68th Cong., 2d Sess. (1925)

JURISDICTION OF CIRCUIT COURTS OF APPEALS AND OF THE SUPREME COURT

JANUARY 6, 1925.—Referred to the House Calendar and ordered to be printed

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Mr. GRAHAM, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 8206]

The Committee on the Judiciary, to whom was referred the bill H.R. 8206, after hearings and consideration, report favorably thereon with amendments, and recommend that the bill as amended do pass.

The committee amendments are as follows:

On page 2, line 11, strike out "Constituton" and insert "Constitution."

On page 5, in line 5, strike out "taken" and insert "applied for."

On page 8, after line 5, insert the following paragraph:

(5) Section 316 of "An act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes," approved August 15, 1921.

On page 10, in line 11, strike out "writ of error or."

On page 11, in line 9, add the following sentence:

A circuit judge shall have the same power to grant writs of habeas corpus within his circuit that a district judge has within his district; and the order of the circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

On page 13, in line 5, insert between "Supreme Court" and "before the court" the words "from a circuit court of appeals or the Court of Appeals of the District of Columbia."

On page 13, between lines 8 and 9, insert two paragraphs as follows:

(c) No writ of error or appeal intended to bring any judgment or decree before a circuit court of appeals for review shall be allowed unless application therefor be duly made within three months after the entry of such judgment or decree.

(d) In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to apply for and to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court, and may be conditioned on the giving of good and sufficient security, to be approved by such judge or justice, that

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if the aggrieved party fails to make application for such writ within the period allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party may sustain by reason of the stay.

On page 17, above line 1, insert the following:

An act entitled "An act to amend section 237 of the Judicial Code," approved February 17, 1922.

An act entitled "An act to amend the Judicial Code, in reference to appeals and writs of error," approved September 14, 1922.

On page 15, line 20, strike out "1916" and insert in lieu thereof "1917."

THE BILL

It is one prepared by justices of the Supreme Court, not as volunteers, but in answer to a proper request to do so. A committee of justices carefully considered the subject for a long time and then framed a tentative measure, which was submitted to all the justices and approved by them.

THE OBJECT

The bill is designed to lessen the number of cases which under existing law reach the Supreme Court. It will not lighten the burden or relieve the Supreme Court of work, but will remove from their consideration a class of cases which now burden the docket and have no public interest or value, and give the Supreme Court time to

hear and determine those cases which should alone engage their attention. That court is more than a year behind on its list of pending cases, and this condition will surely be aggravated each year if the court is left without relief. It is hoped by this bill to enable the court to overtake its work, and keep up with it. Having to hear numbers of cases of a trivial character, or cases brought really for delay, or to wear out an adversary, the court is hindered from hearing and determining more important cases and from efficiently functioning in the performance of its highest duty of interpreting the Constitution and preserving uniformity of decision by the intermediate courts of appeals.

The Supreme Court will always have plenty to do whether this bill passes or not. The problem is whether the time and attention and energy of the court shall be devoted to matters of large public concern, or whether they shall be consumed by matters of less concern, without especial general interest, and only because the litigant wants to have the court of last resort pass upon his right.

Although final decisions will be multiplied in the intermediate courts of appeals by this bill, if it shall become a law, yet every case now reviewable by the Supreme Court under existing law will still be reviewable by that tribunal whenever a question is presented which is of sufficient importance in the opinion of the Supreme Court. The obligatory appeal and writ of error is limited, and a very broad and comprehensive discretionary power is given by certiorari. Through this discretionary power there can and will be a weeding out of all trivial and unimportant cases; cases brought for delay; cases which cover matters already decided, etc., so that rapidity of action will be achieved; and the public questions—the vital and important ones—will be reviewed, considered, and decided.

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The change of many cases from the obligatory class to the certiorari class will enable the court by a denial of the writ to give immediate notice to the parties of the disposition of their cases. It will greatly reduce the number of those who have to wait until their cases are reached on the docket and relieve them of the needless suspense and delay to which they are now subjected. The opportunity of taking cases to the Supreme Court merely for delay will be almost entirely removed.

Lest it should be thought that the increase of discretionary jurisdiction might impair the administration of justice and lead to partial hearings and not secure a decision by the whole court, it is proper to call attention to the very thorough and complete system by which discretionary jurisdiction is exercised. In granting or refusing a

prayer for a certiorari the petitioner gets the judgment of the whole court. The application is not disposed of by a single justice. The luminous and informing statement of Mr. Justice Van Devanter tells the whole story:

While the authority of the Supreme Court to take cases on petition for certiorari is spoken of as a discretionary jurisdiction, this does not mean that the court is authorized merely to exercise a will in the matter, but rather that the petition is to be granted or denied according to a sound judicial discretion. What actually is done may well be stated here with some particularity. The party aggrieved by the decision of the circuit court of appeals and seeking a further review in the Supreme Court is required to present to it a petition and accompanying brief, setting forth the nature of the case, what questions are involved, how they were decided in the circuit court of appeals, and why the case should not rest on the decision of that court. The petition and brief are required to be served on the other party, and time is given for the presentation of an opposing brief. When this has been done copies of the printed record as it came from the circuit court of appeals and of the petition and briefs are distributed among the members of the Supreme Court, and each judge examines them and prepares a memorandum or note indicating his view of what should be done.

In conference these cases are called, each in its turn, and each judge states his views in extenso or briefly as he thinks proper; and when all have spoken any difference in opinion is discussed and then a vote is taken. I explain this at some length because it seems to be thought outside that the cases are referred to particular judges, as, for instance, that those coming from a particular circuit are referred to the justice assigned to that circuit, and that he reports on them, and the others accept his report. That impression is wholly at variance with what actually occurs.

We do not grant or deny these petitions merely according to a majority vote. We always grant the petition when as many as four think that it should be granted and sometimes when as many as three think that way. We proceed upon the theory that, if that number out of the nine are impressed with the thought that the case is one that ought to be heard and decided by us, the petition should be granted.

PROPOSED CHANGES IN SUPREME COURT'S METHOD OF REVIEW

The great object of this bill is to reduce the number of cases in which there is an appeal or writ of error as of right, and increase those in which only a certiorari or a certificate can bring the case before the Supreme Court.

The courts over which the Supreme Court in this bill exercise a direct review are:

First. The State supreme courts.

Second. The district courts of the United States.

Third. The circuit courts of appeal.

Fourth. Court of Appeals of the District of Columbia.

Fifth. Court of Claims.

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Sixth. Supreme Court of the Philippines.

The only cases in the proposed bill in which the Supreme Court exercises obligatory jurisdiction—that is, by writ of error or appeal—are:

First. Over the final judgments or decrees of State courts of last resort.

(*a*) In cases in which the validity of the statute of a State under the Federal Constitution has been drawn in question and its validity sustained.

(*b*) Where the validity of a Federal statute or treaty has been drawn in question and its validity denied.

Second. In four special classes of cases from the district court, which are:

(*a*) Appeals from decrees in equity in suits brought by the United States to enforce the antitrust or interstate commerce acts.

(*b*) Writs of error in criminal cases brought by the United States to judgments of the district courts in which the United States has been defeated by a ruling of the district court, and where the defendant has not been exposed to jeopardy or acquitted by a verdict of the jury.

(*c*) Appeals from interlocutory injunctions against enforcement of State statutes by any officer of the State, or against the exercise of an authority of a board acting under a State statute.

(*d*) Appeals from interlocutory and final decrees of injunction and suspension of orders of Interstate Commerce Commission in district courts.

In all other cases, to wit, (*a*) final judgments in the State supreme courts which involve Federal constitutional questions other than those above mentioned; (*b*) all cases in the circuit courts of appeals; (*c*) all cases in the Court of Appeals of the District of Columbia; (*d*) all cases in the Court of Claims; and (*e*) certain classes of cases from the Supreme Court of the Philippines, the only method of review is either by certiorari from the Supreme Court, or (except from the Philippines) by certificate by the inferior court of questions. Writs of certiorari to State supreme courts, to the Court of Claims, and to the Supreme Court of the Philippines, can only issue after final judgments in those courts. Such writs may issue to circuit courts of appeals and to the Court of Appeals of the District of Columbia, before or after judgment, but if before judgment, the application must be made before the hearing and submission in those courts.

It is impossible to estimate how many cases these changes will transfer from the obligatory jurisdiction of the Supreme Court, as it is under existing law, to the discretionary jurisdiction of the Supreme Court, but it will be such a substantial number as greatly to help the court to catch up with its docket and to keep up with it thereafter.

JURISDICTION OF THE CIRCUIT COURTS OF APPEALS

We come now to the present and the proposed jurisdiction of the circuit courts of appeal, from which we can get some idea of the change in the appellate jurisdiction of the Supreme Court of cases from the circuit court of appeals. Under the present law, the circuit court of appeals has appellate jurisdiction in respect to all cases from

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the district court, except the four instances of direct appeal to the Supreme Court already mentioned, as still retained in the proposed bill, and also except in cases in which appeal can now be taken from the district court directly to the Supreme Court, on the sole question of jurisdiction of the district court as a Federal court, on a question involving the construction and application of the Constitution of the United States, or the construction of a treaty and in prize cases, and in suits therein against the United States for claims not exceeding $10,000 under what is known as the Tucker Act, a jurisdiction of the district courts concurrent with that of the Court of Claims. The new bill abolishes this direct review of the Supreme Court in all these except the four instances first mentioned and makes them subject to review by writ of error or appeal in the circuit court of appeals, and thence they are only reviewable by certiorari or certificate in the Supreme Court.

EXISTING LAW AS TO REVIEW OF CASES IN CIRCUIT COURTS OF APPEALS

Circuit courts of appeal now have final appellate jurisdiction in all cases from the district courts wherein the amount involved does not exceed $1,000, in diverse citizenship cases, in patent cases, in copyright cases, in revenue cases, in criminal cases, in admiralty cases, in trade-mark cases, and in bankruptcy proceedings, controversies, and cases, in cases under the employers' liability act, in cases under the hour of service act and cases under the safety appliance act, and also in habeas corpus cases. These can under existing law only reach the Supreme Court by certiorari or certificate. In all other cases coming up to the circuit court of appeals from the district courts, there is, by existing law, an appeal or writ of error as of right to the Supreme Court.

WRITS OF ERROR AND APPEALS FROM CIRCUIT COURTS OF APPEALS TO THE SUPREME COURT CUT OFF BY THE BILL

Just what cases may, by existing law, be taken to the Supreme Court from the circuit court of appeals by writ of error or appeal it is difficult to state in a brief way. Section 24 of the Judicial Code contains a list of 25 classes of civil suits that are cognizable by district

courts of the United States and are reviewable by the circuit court of appeals. They embrace suits so rarely brought as to be regarded as nearly obsolete, e.g., "suits arising under any law relating to the slave trade." On the other hand, they do include such classes as civil suits.

(1) Brought by the United States, or by any officer thereof authorized by law to sue.

(2) Between citizens of the same State claiming lands under grants from different States.

(3) Where more than $3,000 is involved and the suit arises under the Constitution or laws or treaties of the United States.

(4) Seizures on land or waters not within admiralty or maritime jurisdiction.

(5) Cases arising under the postal laws.

(6) Suits and proceedings under any law regulating commerce, except such as may be covered by special statutes already mentioned.

(7) Civil suits and proceedings for enforcement of penalties and forfeitures incurred under any law of the United States.

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(8) Suits for damages by officers and persons for injury done him in protection or collection of United States revenue or to enforce right of citizens to vote.

(9) Suits for damages by citizens injured in their Federal constitutional rights.

(10) Suits against consuls and vice consuls.

(11) Suits under immigration and contract labor laws.

(12) Private suits under the antitrust act.

(13) Suits by Indians or part blood Indians for allotment under any law or treaty.

(14) Suits by tenants in common or joint tenant for partition of land in which the United States is also tenant in common or joint tenant.

All these cases can now be heard in review by the circuit court of appeals and then in the Supreme Court as of right, unless, as may happen, they are also patent, revenue, criminal, or admiralty cases, or in some other class now made final in the circuit court of appeals. Under the proposed bill, the decisions in them in the circuit court of appeals are to be final and they can only reach the Supreme Court by certiorari or certificate.

REVIEW OF COURTS OF ALASKA AND DEPENDENCIES

Under existing law, appellate jurisdiction over the courts of our dependencies (except those of the Philippines), and over the district

court of the Territory of Alaska, and over the United States court for China, is distributed between first, third, fifth, and ninth circuit courts of appeals. Cases from the Supreme Courts of Hawaii and Porto Rico, as distinguished from United States district courts, so called therein, are now reviewable in the Supreme Court of the United States when they present questions similar to those which are reviewable in that court from State courts of last resort; and some cases from the district court of Alaska also go to the Supreme Court direct. All these cases from the dependencies, from Alaska, and from the United States Court for China, under the new bill, which are reviewable at all, no matter what they involve, are to be carried by appeal or writ or error to the designated circuit court of appeals. This final jurisdiction of circuit courts of appeals under the new bill includes Porto Rico, Hawaii, both supreme and district courts, the District Court of the Virgin Islands, the Court of the Canal Zone, the United States Court for China, and the United States District Court for Alaska. The review of these is final in the designated circuit court of appeals, except that there is the same opportunity for review by certiorari and certificate in the Supreme Court as in other cases in such circuit courts of appeals. A few changes have been made in the limit of the pecuniary amount involved in cases which may be appealed from these dependency and territorial courts, for the purpose of uniformity, but this is not important.

EFFECT OF BILL ON REVIEW OF CASES IN THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

All cases from the Supreme Court of the District of Columbia are, by the proposed law, appealable to the Court of Appeals of the District, including all forms of cases, controversies, and proceedings in [p. 6] bankruptcy and cases in habeas corpus, and the judgments of the Court of Appeals of the District are final therein, to be reviewed by the Supreme Court only by certiorari and certificate.

EFFECT OF BILL ON REVIEW OF CASES FROM COURT OF CLAIMS

The decisions of the Court of Claims are final, only to be reviewed in the Supreme Court by certiorari or certificate.

REMEDIAL PROVISIONS

In addition to these changes in jurisdiction, there are in the proposed bill some remedial amendments of a general character.

First. The time for application for writ of error or appeal or certiorari to the Supreme Court has been enlarged from the present limit of three months, and six months for the Philippines, by a pro-

vision for a further allowance of 60 days upon order of a justice of the Supreme Court upon a proper showing.

Second. There is a reenactment of the present remedial provision as to parol proof of amount in controversy, where it is necessary for the jurisdiction and is not adequately shown either in the trial court or in the appellate court.

Third. There is the remedial provision that if a man takes out a writ or error when he should have taken out an appeal, or vice versa, it shall be considered by the court to be a right writ. This is at present the law; but in addition to this it is provided that where one takes out a writ of error from the Supreme Court of the United States to a State supreme court, and it turns out that it should have been a certiorari, the writ of error may be considered by the court as an application for certiorari and acted upon as such.

Fourth. There is a very necessary remedial provision for the substitution in suits in the Supreme Court for public officers who have ceased to be such, of their successors, as parties in suits brought by them or against them. This is now the case with respect to officers of the United States; but it is not the case with respect to officers of the States, of the counties, or of the municipalities who are plaintiffs or defendants in the Supreme Court. This is a great injustice, because one may begin a suit in a district court of the United States against officers of a State, county, or city, or such officers may bring a suit therein, and not reach the Supreme Court for review before their successors have been elected. Now, no substitution can be made, the case abates, and the action goes for nothing. Under this provision, the new State, county, and city officers may be substituted after notice to them and if such substitution is shown not to work them injustice.

Fifth. There is another provision that takes away all rights of corporations organized by Congress to seek the Federal court on that ground. This enlarges a present provision of a similar tenor which applies only to railway corporations.

THE WAY OF APPEAL WILL CEASE TO BE A "TRAP"

Besides the relief of the Supreme Court docket, and turning aside a large number of cases from that court and making the decisions of the circuit courts of appeals final in many cases and only reviewable [p. 7] by certiorari—this bill should become a law because it clarifies and makes understandable the law governing appeal whether by writ of error, appeal, or certiorari.

It was well said by the Chief Justice at the hearing that the present laws are a "trap" in procedure.

This bill will simplify the law of appellate jurisdiction, relieve lawyers and litigants of uncertainties and perils which can not always be avoided even by the well-equipped and trained practitioner.

The statutes fixing the jurisdiction of the Supreme Court and the circuit courts of appeals are to-day fragmentary. They are scattered. Some are in the Revised Statutes of 1878; some in the Judicial Code of 1911; and others consist of amendments appearing here and there in many volumes of the Statutes at Large. They are difficult to find and when found are neither harmonious nor plain. Mr. Justice Van Devanter very forcefully pictured this state of the law when he said in the hearing:

> The circuit courts of appeals act passed in 1891, besides defining the jurisdiction of those courts, contained many provisions relating to the jurisdiction of the Supreme Court. Most of these provisions and many amendatory enactments were brought together advantageously in the Judicial Code of 1911. But that was not a complete revision. It left some statutes, old ones, untouched and did not bring them forward; so no one could examine the Judicial Code and act safely merely upon what appeared there. It would be necessary to go back and search the Revised Statutes and the intermediate Statutes at Large to determine what course to pursue in invoking a review by either a circuit court of appeals or the Supreme Court. Not only so, but the statutes when found left it uncertain in some classes of cases in the district courts whether the case could be carried directly to the Supreme Court or must go to the circuit court of appeals.
>
> Since the Judicial Code of 1911 many statutes have been enacted which bear upon the jurisdiction of these courts—a statute would be adopted at one time with respect to one class of cases, and another statute would be adopted at another time with respect to another class. These statutes have been multiplied until now they are not harmonious. Neither do they follow a consistent plan or theory.
>
> The situation now is that in the Supreme Court a good many cases have to be dismissed, their merits left untouched, because they have been brought there from a district court when they should have gone to a circuit court of appeals, or because they have been brought from a circuit court of appeals on writ of error or appeal when they could come up only on certiorari, or because they have been brought from a State court on writ of error where certiorari was the only admissible mode of bringing them up.
>
> These mistakes are generally attributable to the fact that the practitioner has found a part of the statutes and not the rest. Sometimes the mistake is mere carelessness; but it not infrequently happens that lawyers who stand high in their profession at home mistake their remedy or the mode of invoking it either because they do not find the controlling statute or because they have difficulty in reconciling it with others.

Your committee expresses its deep obligation to the Chief Justice and justices of the Supreme Court for their help not only in preparing this bill but explaining it thoroughly.

The proposed legislation was recommended by the President in his message of December 3, 1924, to the Congress.

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1.6b(3) CONGRESSIONAL RECORD, VOL. 66 (1925)
1.6b(3)(a) Feb. 2: Amended and passed House, p. 2880

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Mr. DENISON. On page 2 legislation is provided for appeals from the District Court of the Canal Zone. I want to ask the chairman of the committee if this bill changes the present law with reference to appeals from the District Court of the Canal Zone?

Mr. GRAHAM. No. It is the same as it is now, except that no review of a judgment in the Canal Zone can be had except by petition of certiorari.

Mr. DENISON. What I want to know is to what extent and in what way it changes the existing law with reference to the Canal Zone?

Mr. GRAHAM. It does not change the existing law.

Mr. DENISON. If it does not, that answers the question.

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, was read the third time, and passed.

[p. 2880]

1.6b(3) (b) Feb. 3: Amended and passed Senate, p. 2928

JURISDICTION OF CIRCUIT COURTS OF APPEALS AND SUPREME COURT

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H.R. 8206) to amend the Judicial Code, and to further define the jurisdiction of the circuit courts of appeals and of the Supreme Court, and for other purposes.

The PRESIDING OFFICER. The bill is still before the Senate as in Committee of the Whole and open to amendment. If there be no further amendment proposed, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. HEFLIN. Mr. President, I am opposed to certain features of this bill. I have listened to the discussion here in which the Senator from Iowa [Mr. CUMMINS], the Senator from Missouri [Mr. REED], and the Senator from Montana [Mr. WALSH] have taken part. I do not think it is right to withdraw from the citizen the right to appeal to the highest courts in the land if he wants to appeal. For a Supreme Court judge to say to any citizen, I care not how humble he may be, simply that he can not appeal a case involving his rights, that he can not and will not be heard, it seems to me is wrong.

I understand that out of some 115 cases that came here the Supreme Court decided that a mistake was made in appealing eighty-odd cases. I submit that if one man's rights were preserved and safeguarded the court in that action served a just purpose and it could well afford to consider 100 to 200 cases if necessary, in order to do justice by even one American citizen.

I do not want our Supreme Court judges to be overworked, but I, for one, think more of the rights of the citizen under the organic law of the land than I do of any effort to lessen their work and provide for the comfort and convenience of the Supreme Court judges.

The Bible tells us that it were better that 90 guilty persons go free than that 1 innocent man should suffer. Of the number of cases mentioned here in debate that have gone up to the Supreme Court, some 15 or 20 were held to be cases of merit and property appealed. If I felt in the lower court that I had not

had a fair deal I would want the higher court to pass on the questions involved and tell me whether I was right or wrong in my contention.

I am not ready to surrender the average citizen's right to appeal and accept in its stead discretionary power given to judges of the Supreme Court.

This bill has some good provisions in it. I am in favor of simplifying methods of procedure and improving the practice in every safe way that I can, but I can not conscientiously vote for a measure that I think has in it a provision that will deny to the citizen the absolute and unqualified right to appeal to the highest court in the country. This bill, in my judgment, has such a provision in it.

Mr. President, I want to enter my protest against legislation that will vitally affect the citizen's right to appeal. If we are not careful and watchful the day will come when the highest court in this land will be open to nobody but the immensely rich and the great corporate concerns of the country. The humble citizen in the common walks of life will not be able to reach the high court if we are going to permit judges who may be looking for the least work possible and for longer periods of leisure to lay down rules and regulations by which a citizen is to lose his right to carry certain cases from the lower courts to the highest court.

Because of this objectionable and dangerous provision I shall vote against the bill.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

* * * * *

So the bill was passed.

[p. 2928]

1.6b(3) (c) Feb. 4: House concurs in Senate amendments, p. 3005

JURISDICTION OF THE CIRCUIT COURTS OF APPEALS AND OF THE SUPREME COURT

Mr. GRAHAM. Mr. Speaker, I call up the bill (H.R. 8206) to amend the Judicial Code and to further define the jurisdiction of the circuit courts of appeals and of the Supreme Court, and for other purposes, with a Senate amendment thereto, and move to concur in the Senate amendment.

The Clerk read the Senate amendment.

Mr. GRAHAM. Mr. Speaker, I yield two minutes to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Speaker, the last bill that was agreed to a moment ago had all after the enacting clause stricken out by the Senate, and then a reenacting of our 19 pages of language with one little change. We still have a 19 page bill, but it has become a Senate instead of a House bill. The Senate has stricken out every word of our bill after the enacting clause and has then put back all of the language of our bill, embracing nearly 20 pages, except two little changes. Why was that necessary? Some of the best lawyers in the Nation are on this Judiciary Committee of the House. Are they not able to write a bill that can be passed into law without its being stricken out? Why is it that every bill we pass in the House and send to another body, regardless of its size and the number of its pages, has to have all of it stricken out after the enacting clause and practically the same language put back into it page after page, with just a few changes? Why do they not insert their amendments in our House bills? I am protesting against their practice. It ought not to be continued. If a bill which we send to the other body is meritorious but needs a little change,

the change ought to be made by their amendments; they ought not to rewrite word for word our entire bill, and they ought not to require us to read 19 pages of matter which they insert and which they send back to us to find out the changes they have made. It puts double work on the committee and it puts double work on the membership of the House and I hope that they will stop it. [Applause.]

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

Mr. GRAHAM. Yes.

Mr. JONES. What changes did the Senate make in the bill?

Mr. GRAHAM. They made one change to meet the objection of the gentleman from Illinois [Mr. DENISON], made at the time we passed the bill. I had given a promise that I would help him introduce any change that might be necessary to properly safeguard what he was seeking. He went to the committee of judges and the matter was agreed on, and two amendments were inserted, and then there was one formal amendment inserted by the Senator from Massachusetts, Mr. WALSH. Otherwise the bill is exactly the same as it passed the House.

Mr. JONES. What was the other amendment?

Mr. GRAHAM. The Judiciary Committee considered it and have authorized concurrence in the amendments of the Senate, unanimously.

Mr. JONES. I understand the amendment that the gentleman from Illinois referred to, in respect to the jurisdiction of the Panama Canal, but what does the other amendment refer to?

Mr. GRAHAM. I can not point it out as I have not the bill before me, but it is a simple change. It does not involve any organic change or even an important change. It was inserted to satisfy the objection of Senator WALSH.

The SPEAKER. The question is on agreeing to the Senate amendment.

The Senate amendment was agreed to.

* * * * *

[p. 3005]

1.6c AN ACT IN REFERENCE TO WRITS OF ERROR

January 31, 1928, P.L. 70–10, §1, 45 Stat. 54

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the writ of error in cases, civil and criminal, is abolished. All relief which heretofore could be obtained by writ of error shall hereafter be obtainable by appeal.

[p. 54]

1.6c(1) HOUSE COMMITTEE ON THE JUDICIARY

H.R. REP. No. 370, 70th Cong., 1st Sess. (1928)

IN REFERENCE TO WRITS OF ERROR

JANUARY 24, 1928.—Referred to the House Calendar and ordered to be printed

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Mr. DYER, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1801]

The Committee on the Judiciary to whom was referred the bill S. 1801, after hearing (67th Cong., serial 25, p. 18) and consideration, reports the same favorably and recommends that the bill do pass.

This bill is merely to simplify procedure by abolishing writs of error and providing that the relief which heretofore could be obtained by writ of error shall hereafter be obtainable by appeal. It has been repeatedly indorsed by the American Bar Association.

[p. 1]

1.6c(2) CONGRESSIONAL RECORD, VOL. 69 (1928)

1.6c(2)(a) Jan. 14: Passed Senate, p. 1486

WRITS OF ERROR

The bill (S. 1801) in reference to writs of error was considered as in Committee of the Whole, and was read, as follows:

Be it enacted, etc., That the writ of error in cases, civil and criminal, is abolished. All relief which heretofore could be obtained by writ of error shall hereafter be obtainable by appeal.

* * * * *

Mr. WALSH of Montana. I may say that this is a bill recommended by the American Bar Association for the purpose of simplifying the practice of getting appeals into the Supreme Court of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

[p. 1486]

1.6c(2) (b) Jan. 25: Passed House, p. 2040

[No Relevant Discussion on Pertinent Section]

1.6d 1934 AMENDMENTS TO 1893 ACT

June 7, 1934, P.L. 73–298, 48 Stat. 926

AN ACT To amend an Act of Congress approved February 9, 1893, entitled "An Act to establish a court of appeals for the District of Columbia, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the court established by the Act of February 9, 1893 (27 Stat. 434), entitled "An Act to establish a court of appeals for the District of Columbia, and for other purposes", shall hereafter be known as the United States Court of Appeals for the District of Columbia.

Approved, June 7, 1934.

[p. 926]

1.6d(1) SENATE COMMITTEE ON THE JUDICIARY

S. REP. No. 917, 73rd Cong., 2d Sess. (1934)

TO CHANGE THE NAME OF THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

APRIL 26 (calendar day, MAY 7), 1934.—Ordered to be printed

Mr. KING, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 3524]

The Committee on the Judiciary, having had under consideration the bill (S. 3524) to amend an act of Congress approved February 9, 1893, entitled "An act to establish a court of appeals for the District of Columbia, and for other purposes", report the same favorably to the Senate and recommend that the bill do pass.

The sole purpose of this bill is to correct a misnomer in the title of the court. The present title—"Court of Appeals of the District of Columbia"—implies that the court is merely an appellate court for matters arising in the District of Columbia. It has such local appellate jurisdiction, but in addition its national jurisdiction is broader than that of any other national court except the Supreme Court of the United States. Among the national questions being constantly considered by this court are those involving the Transportation Act and the Interstate Commerce Act; mandamus proceedings in relation to Indian treaties; equity proceedings in relation to public lands; proceedings for the enforcement of the postal laws; suits against the Federal Power Commission; suits against the Civil Service Commission; suits against the Alien Property Custodian; suits against the Federal Trade Commission; title to patented public lands; appeals from the Board of Tax Appeals without relation to the residence of the taxpayer; proceedings under War Veterans' Act; proceedings in relation to irrigation projects; proceedings in relation to cancelation of mineral and oil leases; proceedings in relation to the admission of aliens; the enrollment of Indians; suits under the antitrust laws; and appeals from the Radio Commission.

1.6d(2) HOUSE COMMITTEE ON THE JUDICIARY

H.R. REP. No. 1748, 73rd Cong., 2d Sess. (1934)

TO CHANGE THE NAME OF THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

MAY 23, 1934.—Referred to the House Calendar and ordered to be printed

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Mr. SUMNERS of Texas, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 9437]

The Committee on the Judiciary, to whom was referred the bill (H.R. 9437) to amend an act approved February 9, 1893, "An act to establish a Court of Appeals for the District of Columbia, and for other purposes," after consideration, report the same favorably to the House with recommendation that the bill do pass.

This bill changes the name of the Court of Appeals of the District of Columbia to "The United States Court of Appeals for the District of Columbia". It is felt that this change in name will help to correct an erroneous impression which is frequently found to exist among the laity, and the bar as well, that this court is simply a local court of the District of Columbia, whereas, in fact, it is a United States court with extensive national jurisdiction in addition to its jurisdiction as an appellate court of the District of Columbia.

As pointed out by Mr. Justice Groner, one of the five members of the court, the court deals with many questions which have no relation to the District of Columbia. These involve the Transportation Act and the Interstate Commerce Act; mandamus proceedings in relation to Indian treaties; equity proceedings in relation to public lands; proceedings for the enforcement of the postal laws; suits against the Federal Power Commission; suits against the Civil Service Commission; suits against the Alien Property Custodian; suits against the Federal Trade Commission; title to patented public lands; appeals from the Board of Tax Appeals without relation to the residence of the taxpayer; proceedings under War Veterans' Act; proceedings in relation to irrigation projects; proceedings in relation to cancelation of mineral and oil leases; proceedings in relation to the admission of

aliens; the enrollment of Indians; suits under the antitrust laws; and appeals from the Radio Commission.

[p. 1]

Mr. Justice Groner's communication addressed to the Chairman of the Senate Committee on the Judiciary, which your committee is advised expresses the views of the court, follows:

APRIL 25, 1934.

Hon. WILLIAM H. KING,
United States Senate, Washington, D.C.

MY DEAR SENATOR KING: I enclose the bill making the change of name in the Court of Appeals which Judge Van Orsdel and I spoke to you about this morning, and I wish again to thank you for your assurance that you would introduce it tomorrow morning and have it acted on by the Judiciary Committee to which you will have it referred next Monday. As the session will soon be over, the element of time is of great importance.

The sole purpose of the bill is to correct a misnomer in the title of the court. It creates no new office, adds no jurisdiction, and has no other purpose than that mentioned above, but this is an important purpose, and its lack of notice heretofore has been the cause of great misunderstanding on the part of the bar of the importance of the court and its part in the Federal judicial system. It is an appellate court for matters arising in the District of Columbia, just as the Supreme Court of Utah is for matters arising in Utah, but this is only a part of its jurisdiction and is the least part. Its national jurisdiction is broader than that of any other national court, except the Supreme Court of the United States. For instance, questions with no relation to the District of Columbia but entirely national in their scope are constantly arising. These involve the Transportation Act and the Interstate Commerce Act; mandamus proceedings in relation to Indian treaties; equity proceedings in relation to public lands; proceedings for the enforcement of the postal laws; suits against the Federal Power Commission; suits against the Civil Service Commission; suits against the Alien Property Custodian; suits against the Federal Trade Commission; title to patented public lands; appeals from the Board of Tax Appeals without relation to the residence of the taxpayer; proceedings under War Veterans' Act; proceedings in relation to irrigation projects; proceedings in relation to cancelation of mineral and oil leases; proceedings in relation to the admission of aliens; the enrollment of Indians; suits under the anti trust laws; and appeals from the Radio Commission.

The Supreme Court in a number of cases has declared the court is a court of the United States. (See *Benson* v. *Henkle*, 198 U.S. 1; *James* v. *United States*, 202 U.S. 407, 408.) In the recent case of *O'Donoghue* v. *United States* (289 U.S. 516, 551), the Supreme Court said of the Court of Appeals: "It is a constitutional court of the United States." And in another part of the same opinion (p. 545) said of the Supreme Court and Court of Appeals of the District of Columbia: "We take the true rule to be that they are courts of the United States, vested generally with the same jurisdiction as that possessed by the interior Federal courts located elsewhere in respect of the cases enumerated in section 2 of article III." And in *Federal Trade Commission* v. *Klesner* (274 U.S. 145, 154), the Supreme Court said: "The courts of the District of Columbia are Federal courts of the United States." And in the same case (p. 156): "The parallelism between the Supreme Court of the District and the Court of Appeals of the District, on the one hand, and the district courts of the United States and the circuit courts of appeals, on the other,

* * * is complete." Many acts of Congress also refer to the courts as "courts of the United States."

If you will pardon a personal reference, Attorney General Mitchell told me, as an inducement to leave the United States District Court for Virginia to come to the Court of Appeals, that as a result of his 4 years as Solicitor General and his experiences as Attorney General he was of opinion that the Court of Appeals was, after the Supreme Court of the United States, the most important Federal court in the country. He was speaking, of course, from the viewpoint of its general Federal jurisdiction, and this of course grows out of its location at the seat of government.

The dignity of the court and its appeal to the highest grade lawyers in the country when vacancies occur make the correction of this misnomer important, and I very earnestly urge that you will take the matter under your consideration to the end that it may be accomplished before the session ends.

Finally, may I add this statement? This court disposes of more cases each year than any other Circuit Court of Appeals except the second (New York), and the court is now up to date with its docket and the time required for a hearing after the filing of the appeal is from 3 to 4 months, dependent upon the time required for printing records and filing briefs.

Yours very cordially,

D. LAWRENCE GRONER.

[p. 2]

The Attorney General states that he has no objection to the proposed change of name. A communication received by the chairman of the committee from the Attorney General in this connection follows:

DEPARTMENT OF JUSTICE,
Washington, D.C. May 7, 1934.

Hon. HATTON W. SUMNERS,
Chairman Committee on the Judiciary, House of Representatives.

MY DEAR MR. CHAIRMAN: I have your letter of May 3 in which you request my comment on H.R. 9437, a bill to change the name of the Court of Appeals of the District of Columbia to the United States Court of Appeals for the District of Columbia.

In reply I wish to say that I know of no objection to the proposed change.

Sincerely yours,

HOMER CUMMINGS, *Attorney General.*

[p. 3]

1.6d(3) CONGRESSIONAL RECORD, VOL. 78 (1934)
1.6d(3)(a) May 10: Passed Senate, p. 8479

COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

The Senate proceeded to consider the bill (S. 3524) to amend an act of Congress approved February 9, 1893, entitled "An act to establish a court of appeals for the District of Columbia, and for other purposes."

Mr. ROBINSON of Arkansas. The report states that the object in changing the name of this court?

Mr. KING. Mr. President, I was requested to introduce this bill by the judges of the court. It changes the name

from the "Court of Appeals of the District of Columbia" to the "United States Court of Appeals for the District of Columbia."

Mr. ROBINSON of Arkansas. The report states that the present title "Court of Appeals of the District of Columbia" implies that the court is merely an apellate court for matters arising in the District of Columbia, whereas it exercises other jurisdiction.

Mr. KING. Exactly.

Mr. ROBINSON of Arkansas. I have no objection.

Mr. KING. Much of the business of the court comes now from outside the District, and therefore its duties are of a broader nature than implied by the name, "Court of Appeals of the District of Columbia."

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the court established by the act of February 9, 1893 (27 Stat. 434), entitled "An act to establish a court of appeals for the District of Columbia, and for other purposes", shall hereafter be known as the United States Court of Appeals for the District of Columbia.

[p. 8479]

1.6d(3)(b) June 5: Passed House, p. 10537

Mr. SUMNERS of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 3524) to amend an act of Congress approved February 9, 1893, entitled "An act to establish a court of appeals for the District of Columbia, and for other purposes."

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

There was no objection.

The Senate bill is as follows:

Be it enacted, etc, That the court established by the act of February 9, 1893 (27 Stat. 434), entitled "An act to establish a court of appeals for the District of Columbia, and for other purposes", shall hereafter be known as the United States Court of Appeals for the District of Columbia.

The bill was ordered to be read the third time, was read the third time, and passed, and a motion to reconsider and a similar House bill (H.R. 9437) were laid on the table.

[p. 10537]

1.7 DAVIS-BACON ACT, AS AMENDED, 40 U.S.C. §§276a 276a–5 (1964)

[Referred to in 33 U.S.C. §1158(g)]

(See, "General 1.13a–1.13h" for legislative history)

§ 276a. Rate of wages for laborers and mechanics

(a) The advertised specifications for every contract in excess of $2,000, to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union, or the District of Columbia, and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State, in which the work is to be performed, or in the District of Columbia if the work is to be performed there; and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the contractor, subcontractors, or their agents.

(b) As used in sections 276a to 276a—5 of this title the term "wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" shall include—

(1) the basic hourly rate of pay; and

(2) the amount of—

(A) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(B) the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforcible commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected,

for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other Federal, State, or local law to provide any of such benefits:

Provided, That the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, insofar as sections 276a to 276a—5 of this title and other Acts incorporating sections 276a to 276a—5 of this title by reference are concerned may be discharged by the making of payments in cash, by the making of contributions of a type referred to in paragraph (2) (A), or by the assumption of an enforcible commitment to bear the costs of a plan or program of a type referred to in paragraph (2) (B), or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in paragraph (1) plus the amount referred to in paragraph (2).

In determining the overtime pay to which the laborer or mechanic is entitled under any Federal law, his regular or basic hourly rate of pay (or other alternative rate upon which premium rate of overtime compensation is computed) shall be deemed to be the rate computed under paragraph (1), except that where the amount of payments, contributions, or costs incurred with respect to him exceeds the prevailing wage applicable to him under sections 276a to 276a—5 of this title, such regular or basic hourly rate of pay (or such other alternative rate) shall be arrived at by deducting from the amount of payments, contributions, or costs actually incurred with respect to him, the amount of contributions or costs of the types described in paragraph (2) actually incurred

with respect to him, or the amount determined under paragraph (2) but not actually paid, whichever amount is the greater.
Mar. 3, 1931, c. 411, § 1, 46 Stat. 1494; Aug. 30, 1935, c. 825, 49 Stat. 1011; June 15, 1940, c. 373, § 1, 54 Stat. 399; July 12, 1960, Pub.L. 86–624, § 26, 74 Stat. 418; July 2, 1964, Pub.L. 88–349, § 1, 78 Stat. 238.

§ 276a—1. Termination of work on failure to pay agreed wages; completion of work by Government

Every contract within the scope of sections 276a to 276a—5 of this title shall contain the further provision that in the event it is found by the contracting officer that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the Government may, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages and to prosecute the work to completion by contract or otherwise, and the contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.
Mar. 3, 1931, c. 411, § 2, as added Aug. 30, 1935, c. 825, 49 Stat. 1011.

§ 276a—2. Payment of wages by Comptroller General from withheld payments; listing contractors violating contracts

(a) The Comptroller General of the United States is authorized and directed to pay directly to laborers and mechanics from any accrued payments withheld under the terms of the contract any wages found to be due laborers and mechanics pursuant to sections 276a to 276a—5 of this title; and the Comptroller General of the United States is further authorized and is directed to distribute a list to all departments of the Government giving the names of persons or firms whom he has found to have disregarded their obligations to employees and subcontractors. No contract shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have an interest until three years have elapsed from the date of publication of the list containing the names of such persons or firms.

(b) If the accrued payments withheld under the terms of the contract, as aforesaid, are insufficient to reimburse all the laborers and mechanics, with respect to whom there has been a failure to

pay the wages required pursuant to sections 276a to 276a—5 of this title, such laborers and mechanics shall have the right of action and/or of intervention against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in such proceedings it shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.
Mar. 3, 1931, c. 411, § 3, as added Aug. 30, 1935, c. 825, 49 Stat. 1011.

§ 276a—3. Effect on other Federal laws

Sections 276a to 276a—5 of this title shall not be construed to supersede or impair any authority otherwise granted by Federal law to provide for the establishment of specific wage rates.
Mar. 3, 1931, c. 411, § 4, as added Aug. 30, 1935, c. 825, 49 Stat. 1011.

§ 276a—4. Effective date of sections 276a to 276a—5

Sections 276a to 276a—5 of this title shall take effect thirty days after August 30, 1935, but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitations for bids that are outstanding on August 30, 1935.
Mar. 3, 1931, c. 411, § 5, as added Aug. 30, 1935, c. 825, 49 Stat. 1011.

§ 276a—5. Suspension of sections 276a to 276a—5 during emergency

In the event of a national emergency the President is authorized to suspend the provisions of sections 276a to 276a—5 of this title.
Mar. 3, 1931, c. 411, § 6, as added Aug. 30, 1935, c. 825, 49 Stat. 1011.

1.8 PER DIEM, TRAVEL, AND TRANSPORTATION EXPENSES; EXPERTS AND CONSULTANTS; INDIVIDUALS SERVING WITHOUT PAY, AS AMENDED, 5 U.S.C. §5703 (1966)

[Referred to in 33 U.S.C. §§1159(a)(2)(B), 1160(c)(4), (i)]

(See, "General 1.15a–1.15d(3)(c)" for legislative history)

PER DIEM, TRAVEL, AND TRANSPORTATION EXPENSES; EXPERTS AND CONSULTANTS; INDIVIDUALS SERVING WITHOUT PAY

5 § 5703

(a) For the purpose of this section, "appropriation" includes funds made available by statute under section 849 of title 31.

(b) An individual employed intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis may be allowed travel expenses under this subchapter while away from his home or regular place of business, including a per diem allowance under this subchapter while at his place of employment.

(c) An individual serving without pay or at $1 a year may be allowed transportation expenses under this subchapter and a per diem allowance under this section while en route and at his place of service or employment away from his home or regular place of business. Unless a higher rate is named in an appropriation or other statute, the per diem allowance may not exceed—

(1) the rate of $25 for travel inside the continental United States; and

(2) the rates established under section 5702(a) of this title for travel outside the continental United States.

(d) Under regulations prescribed under section 5707 of this title, the head of the agency concerned may prescribe conditions under which an individual to whom this section applies may be reimbursed for the actual and necessary expenses of the trip, not to exceed an amount named in the travel authorization, when the maximum per diem allowance would be much less than these expenses due to the unusual circumstances of the travel assignment. The amount named in the travel authorization may not exceed—

(1) $40 for each day in a travel status inside the continental United States; or

(2) the maximum per diem allowance plus $18 for each day in a travel status outside the continental United States.

Pub.L. 89–554, Sept. 6, 1966, 80 Stat. 499, amended Pub.L. 91–114, § 2, Nov. 10, 1969, 83 Stat. 190.

1.9 1909 BOUNDARY WATERS TREATY BETWEEN CANADA AND THE UNITED STATES AND THE WATER UTILIZATION TREATY OF 1944 BEWEEN MEXICO AND THE UNITED STATES, 36 STAT. 2448 (1909), 59 STAT. 1219 (1944)

[Referred to in 33 U.S.C. §1160(d)(2)]

1909 BOUNDARY WATERS TREATY BETWEEN CANADA AND THE UNITED STATES

Treaty between the United States and Great Britain relating to boundary waters between the United States and Canada. Signed at Washington, January 11, 1909; ratification advised by the Senate, March 3, 1909; ratified by the President, April 1, 1910; ratified by Great Britain, March 31, 1910; ratification exchanged at Washington, May 5, 1910; proclaimed, May 13, 1910.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A Proclamation.

Whereas a Treaty between the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, to prevent disputes regarding the use of boundary waters and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise, was concluded and signed by their respective Plenipotentiaries at Washington on the eleventh day of January, one thousand nine hundred and nine, the original of which Treaty is word for word as follows:

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being equally desirous to prevent disputes regarding the use of boundary waters and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise, have resolved to conclude a treaty in furtherance of these ends, and for that purpose have appointed as their respective plenipotentiaries:

The President of the United States of America, Elihu Root, Secretary of State of the United States; and

His Britannic Majesty, the Right Honorable James Bryce, O. M., his Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

PRELIMINARY ARTICLE.

For the purposes of this treaty boundary waters are defined as the waters from main shore to main shore of the lakes and rivers and connecting waterways, or the portions thereof, along which the international boundary between the United States and the Dominion of Canada passes, including all bays, arms, and inlets thereof, but not including tributary waters which in their natural channels would flow into such lakes, rivers and waterways, or the waters of rivers flowing across the boundary.

ARTICLE I.

The High Contracting Parties agree that the navigation of all navigable boundary waters shall forever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels, and boats of both countries equally, subject, however, to any laws and regulations of either country, within its own territory, not inconsistent with such privilege of free navigation and applying equally and without discrimination to the inhabitants, ships, vessels, and boats of both countries.

It is further agreed that so long as this treaty shall remain in force, this same right of navigation shall extend to the waters of Lake Michigan and to all canals connecting boundary waters, and now existing or which may hereafter be constructed on either side of the line. Either of the High Contracting Parties may adopt rules and regulations governing the use of such canals within its own territory and may charge tolls for the use thereof, but all such rules and regulations and all tolls charged shall apply alike to the subjects or citizens of the High Contracting Parties and the ships, vessels, and boats of both of the High Contracting Parties, and they shall be placed on terms of equality in the use thereof.

ARTICLE II.

Each of the High Contracting Parties reserves to itself or to the several State Governments on the one side and the Dominion or

Provincial Governments on the other as the case may be, subject to any treaty provisions now existing with respect thereto, the exclusive jurisdiction and control over the use and diversion, whether temporary or permanent, of all waters on its own side of the line which in their natural channels would flow across the boundary or into boundary waters; but it is agreed that any interference with or diversion from their natural channel of such waters on either side of the boundary, resulting in any injury on the other side of the boundary, shall give rise to the same rights and entitle the injured parties to the same legal remedies as if such injury took place in the country where such diversion or interference occurs; but this provision shall not apply to cases already existing or to cases expressly covered by special agreement between the parties hereto.

It is understood, however, that neither of the High Contracting Parties intends by the foregoing provision to surrender any right, which it may have, to object to any interference with or diversions of waters on the other side of the boundary the effect of which would be productive of material injury to the navigation interests on its own side of the boundary.

ARTICLE III.

It is agreed that, in addition to the uses, obstructions, and diversions heretofore permitted or hereafter provided for by special agreement between the Parties hereto, no further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a joint commission, to be known as the International Joint Commission.

The foregoing provisions are not intended to limit or interfere with the existing rights of the Government of the United States on the one side and the Government of the Dominion of Canada on the other, to undertake and carry on governmental works in boundary waters for the deepening of channels, the construction of breakwaters, the improvement of harbors, and other governmental works for the benefit of commerce and navigation, provided that such works are wholly on its own side of the line and do not materially affect the level or flow of the boundary waters

on the other, nor are such provisions intended to interfere with the ordinary use of such waters for domestic and sanitary purposes.

ARTICLE IV.

The High Contracting Parties agree that, except in cases provided for by special agreement between them, they will not permit the construction or maintenance on their respective sides of the boundary of any remedial or protective works or any dams or other obstructions in waters flowing from boundary waters or in waters at a lower level than the boundary in rivers owing across the boundary, the effect of which is to raise the natural level of waters on the other side of the boundary unless the construction or maintenance thereof is approved by the aforesaid International Joint Commission.

It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.

ARTICLE V.

The High Contracting Parties agree that it is expedient to limit the diversion of waters from the Niagara River so that the level of Lake Erie and the flow of the stream shall not be appreciably affected. It is the desire of both Parties to accomplish this object with the least possible injury to investments which have already been made in the construction of power plants on the United States side of the river under grants of authority from the State of New York, and on the Canadian side of the river under licenses authorized by the Dominion of Canada and the Province of Ontario.

So long as this treaty shall remain in force, no diversion of the waters of the Niagara River above the Falls from the natural course and stream thereof shall be permitted except for the purposes and to the extent hereinafter provided.

The United States may authorize and permit the diversion within the State of New York of the waters of said river above the Falls of Niagara, for power purposes, not exceeding in the aggregate a daily diversion at the rate of twenty thousand cubic feet of water per second.

The United Kingdom, by the Dominion of Canada, or the Province of Ontario, may authorize and permit the diversion within the Province of Ontario of the waters of said river above the Falls of Niagara, for power purposes, not exceeding in the aggre-

gate a daily diversion at the rate of thirty-six thousand cubic feet of water per second.

The prohibitions of this article shall not apply to the diversion of water for sanitary or domestic purposes, or for the service of canals for the purposes of navigation.

ARTICLE VI.

The High Contracting Parties agree that the St. Mary and Milk Rivers and their tributaries (in the State of Montana and the Provinces of Alberta and Saskatchewan) are to be treated as one stream for the purposes of irrigation and power, and the waters thereof shall be apportioned equally between the two countries, but in making such equal apportionment more than half may be taken from one river and less than half from the other by either country so as to afford a more beneficial use to each. It is further agreed that in the division of such waters during the irrigation season, between the 1st of April and 31st of October, inclusive, annually, the United States is entitled to a prior appropriation of 500 cubic feet per second of the waters of the Milk River, or so much of such amount as constitutes three-fourths of its natural flow, and that Canada is entitled to a prior appropriation of 500 cubic feet per second of the flow of St. Mary River, or so much of such amount as constitutes three-fourths of its natural flow.

The channel of the Milk River in Canada may be used at the convenience of the United States for the conveyance, while passing through Canadian territory, of waters diverted from the St. Mary River. The provisions of Article II of this treaty shall apply to any injury resulting to property in Canada from the conveyance of such waters through the Milk River.

The measurement and apportionment of the water to be used by each country shall from time to time be made jointly by the properly constituted reclamation officers of the United States and the properly constituted irrigation officers of His Majesty under the direction of the International Joint Commission.

ARTICLE VII.

The High Contracting Parties agree to establish and maintain an International Joint Commission of the United States and Canada composed of six commissioners, three on the part of the United States appointed by the President thereof, and three on the part of the United Kingdom appointed by His Majesty on

the recommendation of the Governor in Council of the Dominion of Canada.

ARTICLE VIII.

This International Joint Commission shall have jurisdiction over and shall pass upon all cases involving the use or obstruction or diversion of the waters with respect to which under Articles III and IV of this treaty the approval of this Commission is required, and in passing upon such cases the Commission shall be governed by the following rules or principles which are adopted by the High Contracting Parties for this purpose:

The High Contracting Parties shall have, each on its own side of the boundary, equal and similar rights in the use of the waters hereinbefore defined as boundary waters.

The following order of precedence shall be observed among the various uses enumerated hereinafter for these waters, and no use shall be permitted which tends materially to conflict with or restrain any other use which is given preference over it in this order of precedence:

(1) Uses for domestic and sanitary purposes;

(2) Uses for navigation, including the service of canals for the purposes of navigation;

(3) Uses for power and for irrigation purposes.

The foregoing provisions shall not apply to or disturb any existing uses of boundary waters on either side of the boundary.

The requirement for an equal division may in the discretion of the Commission be suspended in cases of temporary diversions along boundary waters at points where such equal division can not be made advantageously on account of local conditions, and where such diversion does not diminish elsewhere the amount available for use on the other side.

The Commission in its discretion may make its approval in any case conditional upon the construction of remedial or protective works to compensate so far as possible for the particular use or diversion proposed, and in such cases may require that suitable and adequate provision, approved by the Commission, be made for the protection and indemnity against injury of any interests on either side of the boundary.

In cases involving the elevation of the natural level of waters on either side of the line as a result of the construction or maintenance on the other side of remedial or protective works or dams or other obstructions in boundary waters or in waters flowing

therefrom or in waters below the boundary in rivers flowing across the boundary, the Commission shall require, as a condition of its approval thereof, that suitable and adequate provision, approved by it, be made for the protection and indemnity of all interests on the other side of the line which may be injured thereby.

The majority of the Commissioners shall have power to render a decision. In case the Commission is evenly divided upon any question or matter presented to it for decision, separate reports shall be made by the Commissioners on each side to their own Government. The High Contracting Parties shall thereupon endeavor to agree upon an adjustment of the question or matter of difference, and if an agreement is reached between them, it shall be reduced to writing in the form of a protocol, and shall be communicated to the Commissioners who shall take such further proceedings as may be necessary to carry out such agreement.

ARTICLE IX.

The High Contracting Parties further agree that any other questions or matters of difference arising between them involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along the common frontier between the United States and the Dominion of Canada, shall be referred from time to time to the International Joint Commission for examination and report, whenever either the Government of the United States or the Government of the Dominion of Canada shall request that such questions or matters of difference be so referred.

The International Joint Commission is authorized in each case so referred to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

Such reports of the Commission shall not be regarded as decisions of the questions or matters so submitted either on the facts or the law, and shall in no way have the character of an arbitral award.

The Commission shall make a joint report to both Governments in all cases in which all or a majority of the Commissioners agree, and in case of disagreement the minority may make a joint report

of both Governments, or separate reports to their respective Governments.

In case the Commission is evenly divided upon any question or matter referred to it for report, separate reports shall be made by the Commissions on each side to their own Government.

ARTICLE X.

Any questions or matters of difference arising between the High Contracting Parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada either in relation to each other or to their respective inhabitants, may be referred for decision to the International Joint Commission by the consent of the two Parties, it being understood that on the part of the United States any such action will be by and with the advice and consent of the Senate, and on the part of His Majesty's Government with the consent of the Governor General in Council. In each case so referred, the said Commission is authorized to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

A majority of the said Commission shall have power to render a decision or finding upon any of the questions or matters so referred.

If the said Commission is equally divided or otherwise unable to render a decision or finding as to any questions or matters so referred, it shall be the duty of the Commissioners to make a joint report to both Governments, or separate reports to their respective Governments, showing the different conclusions arrived at with regard to the matters or questions so referred, which questions or matters shall thereupon be referred for decision by the High Contracting Parties to an umpire chosen in accordance with the procedure prescribed in the fourth, fifth, and sixth paragraphs of Article XLV of The Hague Convention for the pacific settlement of international disputes, dated October 18, 1907. Such umpire shall have power to render a final decision with respect to those matters and questions so referred on which the Commission failed to agree.

ARTICLE XI.

A duplicate original of all decisions rendered and joint reports made by the Commission shall be transmitted to and filed with the

Secretary of State of the United States and the Governor General of the Dominion of Canada, and to them shall be addressed all communications of the Commission.

ARTICLE XII.

The International Joint Commission shall meet and organize at Washington promptly after the members thereof are appointed, and when organized the Commission may fix such times and places for its meetings as may be necessary, subject at all times to special call or direction by the two Governments. Each Commissioner, upon the first joint meeting of the Commission after his appointment, shall, before proceeding with the work of the Commission, make and subscribe a solemn declaration in writing that he will faithfully and impartially perform the duties imposed upon him under this treaty, and such declaration shall be entered on the records of the proceedings of the Commission.

The United States and Canadian sections of the Commission may each appoint a secretary, and these shall act as joint secretaries of the Commission at its joint sessions, and the Commission may employ engineers and clerical assistants from time to time as it may deem advisable. The salaries and personal expenses of the Commission and of the secretaries shall be paid by their respective Governments, and all reasonable and necessary joint expenses of the Commission, incurred by it, shall be paid in equal moieties by the High Contracting Parties.

The Commission shall have power to administer oaths to witnesses, and to take evidence on oath whenever deemed necessary in any proceeding, or inquiry, or matter within its jurisdiction under this treaty, and all parties interested therein shall be given convenient opportunity to be heard, and the High Contracting Parties agree to adopt such legislation as may be appropriate and necessary to give the Commission the powers above mentioned on each side of the boundary, and to provide for the issue of subpoenas and for compelling the attendance of witnesses in proceedings before the Commission. The Commission may adopt such rules of procedure as shall be in accordance with justice and equity, and may make such examination in person and through agents or employees as may be deemed advisable.

ARTICLE XIII.

In all cases where special agreements between the High Contracting Parties hereto are referred to in the foregoing articles,

such agreements are understood and intended to include not only direct agreements between the High Contracting Parties, but also any mutual arrangements between the United States and the Dominion of Canada expressed by concurrent or reciprocal legislation on the part of Congress and the Parliament of the Dominion.

ARTICLE XIV.

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty. The ratifications shall be exchanged at Washington as soon as possible and the treaty shall take effect on the date of the exchange of its ratifications. It shall remain in force for five years, dating from the day of exchange of ratifications, and thereafter until terminated by twelve months' written notice given by either High Contracting Party to the other.

In faith whereof the respective plenipotentiaries have signed this treaty in duplicate and have hereunto afixed their seals.

Done at Washington the 11th day of January, in the year of our Lord one thousand nine hundred and nine.

ELIHU ROOT [SEAL]
JAMES BRYCE [SEAL]

And whereas the Senate of the United States by their resolution of March 3, 1909, (two-thirds of the Senators present concurring therein) did advise and consent to the ratification of the said Treaty with the following understanding, to wit:

"Resolved further, as a part of this ratification, That the United States approves this treaty with the understanding that nothing in this treaty shall be construed as affecting, or changing, any existing territorial or riparian rights in the water, or rights of the owners of lands under water, on either side of the international boundary at the rapids of the St. Mary's river at Sault Ste. Marie, in the use of the waters flowing over such lands, subject to the requirements of navigation in boundary waters and of navigation canals, and without prejudice to the existing right of the United States and Canada, each to use the waters of the St. Mary's river, within its own territory and further, that nothing in this treaty shall be constructed to interfere with the drainage of wet swamp and overflowed lands into streams flowing into boundary waters, and that this interpretation will be mentioned in the ratification of this treaty as coveying the true meaning of the treaty, and will, in effect, form part of the treaty;"

And whereas the said understanding has been accepted by the Government of Great Britain, and the ratifications of the two Governments of the said treaty were exchanged in the City of Washington, on the 5th day of May, one thousand nine hundred and ten;

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said treaty and the said understanding, as forming a part thereof, to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this thirteenth day of May in the year of our Lord one thousand nine hundred and ten, and of the Independence of the United States of America the one hundred and thirty-fourth.

[SEAL]

WM H TAFT

By the President:

P C KNOX

Secretary of State.

Protocol of Exchange

On preceeding to the exchange of the ratification of the treaty signed at Washington on January 11, 1909, between the United States and Great Britain, relating to boundary waters and questions arising along the boundary between the United States and the Dominion of Canada, the undersigned plenipotentiaries, duly authorized thereto by their respective Governments, hereby declare that nothing in this treaty shall be construed as affecting, or changing, any existing territorial, or riparian rights in the water, or rights of the owners of lands under water, on either side of the international boundary at the rapids of the St. Mary's River at Sault Ste. Marie, in the use of the waters flowing over such lands, subject to the requirements of navigation in boundary waters and of navigation canals, and without prejudice to the existing right of the United States and Canada, each to use the waters of the St. Mary's River, within its own territory; and further, that nothing in this treaty shall be construed to interfere with the drainage of wet, swamp, and overflowed lands into streams flowing into boundary waters, and also that this declaration shall be deemed to have equal force and effect as the treaty itself and to form an integral part thereto.

The exchanges of ratifications then took place in the usual form.

IN WITNESS WHEREOF, they have signed the present Protocol of Exchange and have affixed their seals thereto.

DONE at Washington this 5th day of May, one thousand nine hundred ten.

PHILANDER C KNOX [SEAL]
JAMES BRYCE [SEAL]

WATER UTILIZATION TREATY OF 1944 BETWEEN MEXICO AND THE UNITED STATES

Treaty between the United States of America and Mexico respecting utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande. Signed at Washington February 3, 1944. And protocol signed at Washington November 14, 1944. Ratification advised by the Senate of the United States of America April 18, 1945, subject to certain understandings; ratified by the President of the United States of America November 1, 1945, subject to said understandings; ratified by Mexico October 16, 1945; ratifications exchanged at Washington November 8, 1945; proclaimed by the President of the United States of America November 27, 1945, subject to said understandings; effective November 8, 1945.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A Proclamation

Whereas a treaty between the United States of America and the United Mexican States relating to the utilization of the waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas to the Gulf of Mexico, was signed by their respective Plenipotentiaries in Washington on February 3, 1944, and a protocol supplementary to the said treaty was signed by their respective Plenipotentiaries in Washington on November 14, 1944, the originals of which treaty and protocol, in the English and Spanish languages, are word for word as follows:

The Government of the United States of America and the Government of the United Mexican States: animated by the sincere spirit of cordiality and friendly cooperation which happily governs the relations between them; taking into account the fact that Articles VI and VII of the Treaty of Peace, Friendship and Limits

between the United States of America and the United Mexican States signed at Guadalupe Hidalgo on February 2, 1948, and Article IV of the boundary treaty between the two countries signed at the City of Mexico December 30, 1853 regulate the use of the waters of the Rio Grande (Rio Bravo) and the Colorado River for purposes of navigation only; considering that the utilization of these waters for other purposes is desirable in the interest of both countries, and desiring, moreover, to fix and delimit the rights of the two countries with respect to the waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas, United States of America, to the Gulf of Mexico, in order to obtain the most complete and satisfactory utilization thereof, have resolved to conclude a treaty and for this purpose have named as their plenipotentiaries:

The President of the United States of America:

Cordell Hull, Secretary of State of the United States of America, George S. Messersmith, Ambassador Extraordinary and Plenipotentiary of the United States of America in Mexico, and Lawrence M. Lawson, United States Commissioner, International Boundary Commission, United States and Mexico; and

The President of the United Mexican States:

Francisco Castillo Nájera, Ambassador Extraordinary and Plenipotentiary of the United Mexican States in Washington, and Rafael Fernández MacGregor, Mexican Commissioner, International Boundary Commission, United States and Mexico; who, having communicated to each other their respective Full Powers and having found them in good and due form, have agreed upon the following:

I—PRELIMINARY PROVISIONS

ARTICLE 1

For the purposes of this Treaty it shall be understood that:

(a) "The United States" means the United States of America.

(b) "Mexico" means the United Mexican States.

(c) "The Commission" means the International Boundary and Water Commission, United States and Mexico, as described in Article 2 of this Treaty.

(d) "To divert" means the deliberate act of taking water from any channel in order to convey it elsewhere for storage, or to utilize it for domestic, agricultural, stock-raising or industrial purposes whether this be done by means of dams across the

channel, partition weirs, lateral intakes, pumps or any other methods.

(e) "Point of diversion" means the place where the act of diverting the water is effected.

(f) "Conservation capacity of storage reservoirs" means that part of their total capacity devoted to holding and conserving the water for disposal thereof as and when required, that is, capacity additional to that provided for silt retention and flood control.

(g) "Flood discharges and spills" means the voluntary or involuntary discharge of water for flood control as distinguished from releases for other purposes.

(h)"Return flow" means that portion of diverted water that eventually finds its way back to the source from which it was diverted.

(i) "Release" means the deliberate discharge of stored water for conveyance elsewhere or for direct utilization.

(j) "Consumptive use" means the use of water by evaporation, plant transpiration or other manner whereby the water is consumed and does not return to its source of supply. In general it is measured by the amount of water diverted less the part thereof which returns to the stream.

(k) "Lowest major international dam or reservoir" means the major international dam or reservoir situated farthest downstream.

(l) "Highest major international dam or reservoir" means the major international dam or reservoir situated farthest upstream.

ARTICLE 2

The International Boundary Commission established pursuant to the provisions of the Convention between the United States and Mexico signed in Washington March 1, 1889 to facilitate the carrying out of the principles contained in the Treaty of November 12, 1884 and to avoid difficulties occasioned by reason of the changes which take place in the beds of the Rio Grande (Rio Bravo) and the Colorado River shall hereafter be known as the International Boundary and Water Commission, United States and Mexico, which shall continue to function for the entire period during which the present Treaty shall continue in force. Accordingly, the term of the Convention of March 1, 1889 shall be considered to be indefinitely extended, and the Convention of November 21, 1900 between the United States and Mexico regarding that Convention shall be considered completely terminated.

The application of the present Treaty, the regulation and exercise of the rights and obligations which the two Governments assume thereunder, and the settlement of all disputes to which its observance and execution may give rise are hereby entrusted to the International Boundary and Water Commission, which shall function in conformity with the powers and limitations set forth in this Treaty.

The Commission shall in all respects have the status of an international body, and shall consist of a United States Section and a Mexican Section. The head of each Section shall be an Engineer Commissioner. Wherever there are provisions in this Treaty for joint action or joint agreement by the two Governments, or for the furnishing of reports, studies or plans to the two Governments, or similar provisions, it shall be understood that the particular matter in question shall be handled by or through the Department of State of the United States and the Ministry of Foreign Relations of Mexico.

The Commission or either of its two Sections may employ such assistants and engineering and legal advisers as it may deem necessary. Each Government shall accord diplomatic status to the Commissioner, designated by the other Government. The Commissioner, two principal engineers, a legal adviser, and a secretary, designated by each Government as members of its Section of the Commission, shall be entitled in the territory of the other country to the privileges and immunities appertaining to diplomatic officers. The Commission and its personnel may freely carry out their observations, studies and field work in the territory of either country.

The jurisdiction of the Commission shall extend to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary, each Section of the Commission retaining jurisdiction over that part of the works located within the limits of its own country. Neither Section shall assume jurisdiction or control over works located within the limits of the country of the other without the express consent of the Government of the latter. The works constructed, acquired or used in fulfillment of the provisions of this Treaty and located wholly within the territorial limits of either country, although these works may be international in character, shall remain, except as herein otherwise specifically provided, under the exclusive jurisdiction and control of the Section of the Commission in whose country the works may be situated.

The duties and powers vested in the Commission by this Treaty shall be in addition to those vested in the International Boundary Commission by the Convention of March 1, 1889 and other pertinent treaties and agreements in force between the two countries except as the provisions of any of them may be modified by the present Treaty.

Each Government shall bear the expenses incurred in the maintenance of its Section of the Commission. The joint expenses, which may be incurred as agreed upon by the Commission, shall be borne equally by the two Governments.

ARTICLE 3

In matters in which the Commission may be called upon to make provision for the joint use of international waters, the following order of preferences shall serve as a guide:

1. Domestic and municipal uses.
2. Agriculture and stock-raising.
3. Electric power.
4. Other industrial uses.
5. Navigation.
6. Fishing and hunting.
7. Any other beneficial uses which may be determined by the Commission.

All of the foregoing uses shall be subject to any sanitary measures or works which may be mutually agreed upon by the two Governments, which hereby agree to give preferential attention to the solution of all border sanitation problems.

II—RIO GRANDE (RIO BRAVO)

ARTICLE 4

The waters of the Rio Grande (Rio Bravo) between Fort Quitman, Texas and the Gulf of Mexico are hereby allotted to the two countries in the following manner:

A. To Mexico:

(a) All of the waters reaching the main channel of the Rio Grande (Rio Bravo) from the San Juan and Alamo Rivers, including the return flow from the lands irrigated from the latter two rivers.

(b) One-half of the flow in the main channel of the Rio Grande (Rio Bravo) below the lowest major international storage dam, so far as said flow is not specifically allotted under this Treaty to either of the two countries.

(c) Two-thirds of the flow reaching the main channel of the Rio Grande (Rio Bravo) from the Conchos, San Diego, San Rodrigo, Escondido and Salado Rivers and the Las Vacas Arroyo, subject to the provisions of subparagraph (c) of paragraph B of this Article.

(d) One-half of all other flows not otherwise allotted by this Article occurring in the main channel of the Rio Grande (Rio Bravo), including the contributions from all the unmeasured tributaries, which are those not named in this Article, between Fort Quitman and the lowest major international storage dam.

B. To the United States:

(a) All of the waters reaching the main channel of the Rio Grande (Rio Bravo) from the Pecos and Devils Rivers, Goodenough Spring, and Alamito, Terlingua, San Felipe and Pinto Creeks.

(b) One-half of the flow in the main channel of the Rio Grande (Rio Bravo) below the lowest major international storage dam, so far as said flow is not specifically allotted under this Treaty to either of the two countries.

(c) One-third of the flow reaching the main channel of the Rio Grande (Rio Bravo) from the Conchos, San Diego, San Rodrigo, Escondido and Salado Rivers and the Las Vacas Arroyo, provided that this third shall not be less, as an average amount in cycles of five consecutive years, than 350,000 acre-feet (431,721,000 cubic meters) annually. The United States shall not acquire any right by the use of the waters of the tributaries named in this subparagraph, in excess of the said 350,000 acre-feet (431,721,000 cubic meters) annually, except the right to use one-third of the flow reaching the Rio Grande (Rio Bravo) from said tributaries, although such one-third may be in excess of that amount.

(d) One-half of all other flows not otherwise allotted by this Article occurring in the main channel of the Rio Grande (Rio Bravo), including the contributions from all the unmeasured tributaries, which are those not named in this Article, between Fort Quitman and the lowest major international storage dam.

In the event of extraordinary drought or serious accident to the hydraulic systems on the measured Mexican tributaries, making it difficult for Mexico to make available the run-off of 350,000 acre-feet (431,721,000 cubic meters) annually, allotted in subparagraph

(c) of paragraph B of this Article to the United States as the minimum contribution from the aforesaid Mexican tributaries, any deficiencies existing at the end of the aforesaid five-year cycle shall be made up in the following five-year cycle with water from the said measured tributaries.

Whenever the conservation capacities assigned to the United States in at least two of the major international reservoirs, including the highest major reservoir, are filled with waters belonging to the United States, a cycle of five years shall be considered as terminated and all debits fully paid, whereupon a new five-year cycle shall commence.

ARTICLE 5

The two Governments agree to construct jointly, through their respective Sections of the Commission, the following works in the main channel of the Rio Grande (Rio Bravo):

I. The dams required for the conservation, storage and regulation of the greatest quantity of the annual flow of the river in a way to ensure the continuance of existing uses and the development of the greatest number of feasible projects, within the limits imposed by the water allotments specified.

II. The dams and other joint works required for the diversion of the flow of the Rio Grande (Rio Bravo).

One of the storage dams shall be constructed in the section between Santa Helena Canyon and the mouth of the Pecos River; one in the section between Eagle Pass and Laredo, Texas (Piedras Negras and Nuevo Laredo in Mexico); and a third in the section between Laredo and Roma, Texas (Nuevo Laredo and San Pedro de Roma in Mexico). One or more of the stipulated dams may be omitted, and others than those enumerated may be built, in either case as may be determined by the Commission, subject to the approval of the two Governments.

In planning the construction of such dams the Commisson shall determine:

(a) The most feasible sites;

(b) The maximum feasible reservoir capacity at each site;

(c) The conservation capacity required by each country at each site, taking into consideration the amount and regimen of its allotment of water and its contemplated uses;

(d) The capacity required for retention of silt;

(e) The capacity required for flood control.

The conservation and silt capacities of each reservoir shall be

assigned to each country in the same proportion as the capacities required by each country in such reservoir for conservation purposes. Each country shall have an undivided interest in the flood control capacity of each reservoir.

The construction of the international storage dams shall start within two years following the approval of the respective plans by the two Governments. The works shall begin with the construction of the lowest major international storage dam, but works in the upper reaches of the river may be constructed simultaneously. The lowest major international storage dam shall be completed within a period of eight years from the date of the entry into force of this Treaty.

The construction of the dams and other joint works required for the diversion of the flows of the river shall be initiated on the dates recommended by the Commission and approved by the two Governments.

The cost of construction, operation and maintenance of each of the international storage dams shall be prorated between the two Governments in proportion to the capacity allotted to each country for conservation purposes in the reservoir at such dam.

The cost of construction, operation and maintenance of each of the dams and other joint works required for the diversion of the flows of the river shall be prorated between the two Governments in proportion to the benefits which the respective counties receive therefrom, as determined by the Commission and approved by the two Governments.

ARTICLE 6

The Commission shall study, investigate, and prepare plans for flood control works, where and when necessary, other than those referred to in Article 5 of this Treaty, on the Rio Grande (Rio Bravo) from Fort Quitman, Texas to the Gulf of Mexico. These works may include levees along the river, floodways and grade-control structures, and works for the canalization, rectification and artificial channeling of reaches of the river. The Commission shall report to the two Governments the works which should be built, the estimated cost thereof, the part of the works to be constructed by each Government, and the part of the works to be operated and maintained by each Section of the Commission. Each Government agrees to construct, through its Section of the Commission, such works as may be recommended by the Commission and approved by the two Governments. Each Govern-

ment shall pay the costs of the works constructed by it and the costs of operation and maintenance of the part of the works assigned to it for such purpose.

ARTICLE 7

The Commission shall study, investigate and prepare plans for plants for generating hydro-electric energy which it may be feasible construct at the international storage dams on the Rio Grande (Rio Bravo). The Commission shall report to the two Governments in a Minute the works which should be built, the estimated cost thereof, and the part of the works to be constructed by each Government. Each Government agrees to construct, through its Section of the Commission, such works as may be recommended by the Commission and approved by the two Governments. Both Governments, through their respective Sections of the Commission, shall operate and maintain jointly such hydroelectric plants. Each Government shall pay half the cost of the construction, operation and maintenance of such plants, and the energy generated shall be assigned to each country in like proportion.

ARTICLE 8

The two Governments recognize that both countries have a common interest in the conservation and storage of waters in the international reservoirs and in the maximum use of these structures for the purpose of obtaining the most beneficial, regular and constant use of the waters belonging to them. Accordingly, within the year following the placing in operation of the first of the major international storage dams which is constructed, the Commission shall submit to each Government for its approval, regulations for the storage, conveyance and delivery of the waters of the Rio Grande (Rio Bravo) from Fort Quitman, Texas to the Gulf of Mexico. Such regulations may be modified, amended or supplemented when necessary by the Commission, subject to the approval of the two Governments. The following general rules shall severally govern until modified or amended by agreeemnt of the Commission, with the approval of the two Governments:

(a) Storage in all major international reservoirs above the lowest shall be maintained at the maximum possible water level, consistent with flood control, irrigation use and power requirements.

(b) Inflows to each reservoir shall be credited to each country in accordance with the ownership of such inflows.

(c) In any reservoir the ownership of water belonging to the country whose conservation capacity therein is filled, and in excess of that needed to keep it filled, shall pass to the other country to the extent that such country may have unfilled conservation capacity, except that one country may at its option temporarily use the conservation capacity of the other country not currently being used in any of the upper reservoirs; provided that in the event of flood discharge or spill occurring while one country is using the conservation capacity of the other, all of such flood discharge or spill shall be charged to the country using the other's capacity, and all inflow shall be credited to the other country until the flood discharge or spill ceases or until the capacity of the other country becomes filled with its own water.

(d) Reservoir losses shall be charged in proportion to the ownership of water in storage. Releases from any reservoir shall be charged to the country requesting them, except that releases for the generation of electrical energy, or other common purpose, shall be charged in proportion to the ownership of water in storage.

(e) Flood discharges and spills from the upper reservoirs shall be divided in the same proportion as the ownership of the inflows occurring at the time of such flood discharges and spills, except as provided in subparagraph (c) of this Article. Flood discharges and spills from the lowest reservoir shall be divided equally except that one country, with the consent of the Commission, may use such part of the share of the other country as is not used by the latter country.

(f) Either of the two countries may avail itself, whenever it so desires, of any water belonging to it and stored in the international reservoirs, provided that the water so taken is for direct beneficial use or for storage in other reservoirs. For this purpose the Commissioner of the respective country shall give appropriate notice to the Commission, which shall prescribe the proper measures for the opportune furnishing of the water.

ARTICLE 9

(a) The channel of the Rio Grande (Rio Bravo) may be used by either of the two countries to convey water belonging to it.

(b) Either of the two countries may, at any point on the main channel of the river from Fort Quitman, Texas to the Gulf of Mexico, divert and use the water belonging to it and may for this purpose construct any necessary works. However, no such diver-

sion or use, not existing on the date this Treaty enters into force, shall be permitted in either country, nor shall works be constructed for such purpose, until the Section of the Commission in whose country the diversion or use is proposed has made a finding that the water necessary for such diversion or use is available from the share of that country, unless the Commission has agreed to a greater diversion or use as provided by paragraph (d) of this Article. The proposed use and the plans for the diversion works to be constructed in connection therewith shall be previously made known to the Commission for its information.

(c) Consumptive uses from the main stream and from the unmeasured tributaries below Fort Quitman shall be charged against the share of the country making them.

(d) The Commission shall have the power to authorize either country to divert and use water not belonging entirely to such country, when the water belonging to the other country can be diverted and used without injury to the latter and can be replaced at some other point on the river.

(e) The Commission shall have the power to authorize temporary diversion and use by one country of water belonging to the other, when the latter does not need it or is unable to use it, provided that such authorization or the use of such water shall not establish any right to continue to divert it.

(f) In case of the occurrence of an extraordinary drought in one country with an abundant supply of water in the other country, water stored in the international storage reservoirs and belonging to the country enjoying such abundant water supply may be withdrawn, with the consent of the Commission, for the use of the country undergoing the drought.

(g) Each country shall have the right to divert from the main channel of the river any amount of water, including the water belonging to the other country, for the purpose of generating hydroelectric power, provided that such diversion causes no injury to the other country and does not interfere with the international generation of power and that the quantities not returning directly to the river are charged against the share of the country making the diversion. The feasibility of such diversions not existing on the date this Treaty enters into force shall be determined by the Commission, which shall also determine the amount of water consumed, such water to be charged against the country making the diversion.

(h) In case either of the two countries shall construct works for diverting into the main channel of the Rio Grande (Rio Bravo) or its tributaries waters that do not at the time this Treaty enters into force contribute to the flow of the Rio Grande (Rio Bravo) such water shall belong to the country making such diversion.

(i) Main stream channel losses shall be charged in proportion to the ownership of water being conveyed in the channel at the times and places of the losses.

(j) The Commission shall keep a record of the waters belonging to each country and of those that may be available at a given moment, taking into account the measurement of the allotments, the regulation of the waters in storage, the consumptive uses, the withdrawals, the diversions, and the losses. For this purpose the Commission shall construct, operate and maintain on the main channel of the Rio Grande (Rio Bravo) and each Section shall construct, operate and maintain on the measured tributaries in its own country, all the gaging stations and mechanical apparatus necessary for the purpose of making computations and of obtaining the necessary data for such record. The information with respect to the diversions and consumptive uses on the unmeasured tributaries shall be furnished to the Commission by the appropriate Section. The cost of construction of any new gaging stations located on the main channel of the Rio Grande (Rio Bravo) shall be borne equally by the two Governments. The operation and maintenance of all gaging stations or the cost of such operation and maintenance shall be apportioned between the two Sections in accordance with determinations to be made by the Commission.

III—COLORADO RIVER

ARTICLE 10

Of the waters of the Colorado River, from any and all sources, there are allotted to Mexico:

(a) A guaranteed annual quantity of 1,500,000 acre-feet (1,850, 234,000 cubic meters) to be delivered in accordance with the provisions of Article 15 of this Treaty.

(b) Any other quantities arriving at the Mexican points of diversion, with the understanding that in any year in which, as determined by the United States Section, there exists a surplus of waters of the Colorado River in excess of the amount necessary to supply uses in the United States and the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) annually to

Mexico, the United States undertakes to deliver to Mexico, in the manner set out in Article 15 of this Treaty, additional waters of the Colorado River system to provide a total quantity not to exceed 1,700,000 acre-feet (2,096,931,000 cubic meters) a year. Mexico shall acquire no right beyond that provided by this subparagraph by the use of the waters of the Colorado River system, for any purpose whatsoever, in excess of 1,500,000 acre-feet (1,850,234,000 cubic meters) annually.

In the event of extraordinary drought or serious accident to the irrigation system in the United States, thereby making it difficult for the United States to deliver the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) a year, the water allotted to Mexico under subparagraph (a) of this Article will be reduced in the same proportion as consumptive uses in the United States are reduced.

ARTICLE 11

(a) The United States shall deliver all waters allotted to Mexico wherever these waters may arrive in the bed of the limitrophe section of the Colorado River, with the exceptions hereinafter provided. Such waters shall be made up of the waters of the said river, whatever their origin, subject to the provisions of the following paragraphs of this Article.

(b) Of the waters of the Colorado River allotted to Mexico by subparagraph (a) of Article 10 of this Treaty, the United States shall deliver, wherever such waters may arrive in the limitrophe section of the river, 1,000,000 acre-feet (1,233,489,000 cubic meters) annually from the time the Davis dam and reservoir are placed in operation until January 1, 1980 and thereafter 1,125,000 acre-feet (1,387,675,000 cubic meters) annually, except that, should the main diversion structure referred to in subparagraph (a) of Article 12 of this Treaty be located entirely in Mexico and should Mexico so request, the United States shall deliver a quantity of water not exceeding 25,000 acre-feet (30,837,000 cubic meters) annually, unless a larger quantity may be mutually agreed upon, at a point, to be likewise mutually agreed upon, on the international land boundary near San Luis, Sonora, in which event the quantities of 1,000,000 acre-feet (1,233,489,000 cubic meters) and 1,125,000 acre-feet (1,387,675,000 cubic meters) provided hereinabove as deliverable in the limitrophe section of the river shall be reduced by the quantities to be deliverd in the year concerned near San Luis, Sonora.

(c) During the period from the time the Davis dam and reservoir are placed in operation until January 1, 1980, the United States shall also deliver to Mexico annually, of the water allotted to it, 500,000 acre-feet (616,745,000 cubic meters), and thereafter the United States shall deliver annually 375,000 acre-feet (462,558,000 cubic meters), at the international boundary line, by means of the All-American Canal and a canal connecting the lower end of the Pilot Knob Wasteway with the Alamo Canal or with any other Mexican canal which may be substituted for the Alamo Canal. In either event the deliveries shall be made at an operating water surface elevation not higher than that of the Alamo Canal at the point where it crossed the international boundary line in the year 1943.

(d) All the deliveries of water specified above shall be made subject to the provisions of Article 15 of this Treaty.

ARTICLE 12

The two Governments agree to construct the following works:

(a) Mexico shall construct at its expense, within a period of five years from the date of the entry into force of this Treaty, a main diversion structure below the point where the northernmost part of the international land boundary line intersects the Colorado River. If such diversion structure is located in the limitrophe section of the river, its location, design and construction shall be subject to the approval of the Commission. The Commission shall thereafter maintain and operate the structure at the expense of Mexico. Regardless of where such diversion structure is located, there shall simultaneously be constructed such levees, interior drainage facilities and other works, or improvements to existing works, as in the opinion of the Commission shall be necessary to protect lands within the United States against damage from such floods and seepage as might result from the construction, operation and maintenance of this diversion structure. These protective works shall be constructed, operated and maintained at the expense of Mexico by the respective Sections of the Commission, or under their supervision, each within the territory of its own country.

(b) The United States, within a period of five years from the date of the entry into force of this Treaty, shall construct in its own territory and at its expense, and thereafter operate and maintain at its expense, the Davis storage dam and reservoir, a part of the capacity of which shall be used to make possible the regula-

tion at the boundary of the waters to be delivered to Mexico in accordance with the provisions of Article 15 of this Treaty.

(c) The United States shall construct or acquire in its own territory the works that may be necessary to convey a part of the waters of the Colorado River allotted to Mexico to the Mexican diversion points on the international land boundary line referred to in this Treaty. Among these works shall be included: the canal and other works necessary to convey water from the lower end of the Pilot Knob Wasteway to the international boundary, and, should Mexico request it, a canal to connect the main diversion structure referred to in subparagraph (a) of this Article, if this diversion structure should be built in the limitrophe section of the river, with the Mexican system of canals at a point to be agreed upon by the Commission on the international land boundary near San Luis, Sonora. Such works shall be constructed or acquired and operated and maintained by the United States Section at the expense of Mexico. Mexico shall also pay the costs of any sites or rights of way required for such works.

(d) The Commission shall construct, operate and maintain in the limitrophe section of the Colorado River, and each Section shall construct, operate and maintain in the territory of its own country on the Colorado River below Imperial Dam and on all other carrying facilities used for the delivery of water to Mexico, all necessary gaging stations and other measureing devices for the purpose of keeping a complete record of the waters delivered to Mexico and of the flows of the river. All data obtained as to such deliveries and flows shall be periodically compiled and exchanged between the two Sections.

ARTICLE 13

The Commission shall study, investigate and prepare plans for flood control on the Lower Colorado River between Imperial Dam and the Gulf of California, in both the United States and Mexico, and shall, in a Minute, report to the two Governments the works which should be built, the estimated cost thereof, and the part of the works to be constructed by each Government. The two Governments agree to construct, through their respective Sections of the Commission, such works as may be recommended by the Commission and approved by the two Governments, each Government to pay the costs of the works constructed by it. The Commission shall likewise recommend the parts of the works to be operated and maintained jointly by the Commission and the parts to be

operated and maintained by each Section. The Two Governments agree to pay in equal shares the cost of joint operation and maintenance, and each Government agrees to pay the cost of operation and maintenance of the works assigned to it for such purpose.

ARTICLE 14

In consideration of the use of the All-American Canal for the delivery to Mexico, in the manner provided in Articles 11 and 15 of this Treaty, of a part of its allotment of the waters of the Colorado River, Mexico shall pay to the United States:

(a) A proportion of the costs actually incurred in the construction of Imperial Dam and the Imperial Dam-Pilot Knob section of the All-American Canal, this proportion and the method and terms of repayment to be determined by the two Governments, which, for this purpose, shall take into consideration the proportionate uses of these facilities by the two countries, these determinations to be made as soon as Davis dam and reservoir are placed in operation.

(b) Annually, a proportionate part of the total costs of maintenance and operation of such facilities, these costs to be prorated between the two countries in proportion to the amount of water delivered annually through such facilities for use in each of the two countries.

In the event that revenues from the sale of hydro-electric power which may be generated at Pilot Knob become available for the amortization of part or all of the costs of the facilities named in subparagraph (a) of this Article, the part that Mexico should pay of the costs of said facilities shall be reduced or repaid in the same proportion as the balance of the total costs are reduced or repaid. It is understood that any such revenue shall not become available until the cost of any works which may be constructed for the generation of hydro-electric power at said location has been fully amortized from the revenues derived therefrom.

ARTICLE 15

A. The water allotted in subparagraph (a) of Article 10 of this Treaty shall be delivered to Mexico at the points of delivery specified in Article 11, in accordance with the following two annual schedules of deliveries by months, which the Mexican Section shall formulate and present to the Commission before the beginning of each calendar year:

SCHEDULE I

Schedule I shall cover the delivery, in the limitrophe section of the Colorado River, of 1,000,000 acre-feet (1,233,489,000 cubic meters) of water each year from the date Davis dam and reservoir are placed in operation until January 1, 1980 and the delivery of 1,125,000 acre-feet (1,387,675,000 cubic meters) of water each year thereafter. This schedule shall be formulated subject to the following limitations:

With reference to the 1,000,000 acre-foot (1,233,489,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 600 cubic feet (17.0 cubic meters) nor more than 3,500 cubic feet (99.1 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 1,000 cubic feet (28.3 cubic meters) nor more than 3,500 cubic feet (99.1 cubic meters) per second.

With reference to the 1,125,000 acre-foot (1,387,675,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 675 cubic feet (19.1 cubic meters) nor more than 4,000 cubic feet (113.3 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 1,125 cubic feet (31.9 cubic meters) nor more than 4,000 cubic feet (113.3 cubic meters) per second.

Should deliveries of water be made at a point on the land boundary near San Luis, Sonora, as provided for in Article 11, such deliveries shall be made under a sub-schedule to be formulated and furnished by the Mexican Section. The quantities and monthly rates of deliveries under such sub-schedule shall be in proportion to those specified for Schedule I, unless otherwise agreed upon by the Commission.

SCHEDULE II

Schedule II shall cover the delivery at the boundary line by means of the All-American Canal of 500,000 acre-feet (616,745,000 cubic meters) of water each year from the date Davis dam and reservoir are placed in operation until January 1, 1980 and the delivery of 375,000 acre-feet (462,558,000

cubic meters) of water each year thereafter. This schedule shall be formulated subject to the following limitations:

With reference to the 500,000 acre-feet (616,745,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 300 cubic feet (8.5 cubic meters) nor more than 2,000 cubic feet (56.6 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 500 cubic feet (14.2 cubic meters) nor more than 2,000 cubic feet (56.6 cubic meters) per second.

With reference to the 375,000 acre-foot (462,558,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 225 cubic feet (6.4 cubic meters) nor more than 1,500 cubic feet (42.5 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 375 cubic feet (10.6 cubic meters) nor more than 1,500 cubic feet (42.5 cubic meters) per second.

B. The United States shall be under no obligation to deliver, through the All-American Canal, more than 500,000 acre-feet (616,745,000 cubic meters) annually from the date Davis dam and reservoir are placed in operation until January 1, 1980 or more than 375,000 acre-feet (462,558,000 cubic meters) annually thereafter. If, by mutual agreement, any part of the quantities of water specified in this paragraph are delivered to Mexico at points on the land boundary otherwise than through the All-American Canal, the above quantities of water and the rates of deliveries set out under Schedule II of this Article shall be correspondingly diminished.

C. The United States shall have the option of delivering, at the point on the land boundary mentioned in subparagraph (c) of Article 11, any part or all of the water to be delivered at that point under Schedule II of this Article during the months of January, February, October, November and December of each year, from any source whatsoever, with the understanding that the total specified annual quantities to be delivered through the All-American Canal shall not be reduced because of the exercise of this option, unless such reduction be requested by the Mexican Section, provided that the exercise of this option shall not have

the effect of increasing the total amount of scheduled water to be delivered to Mexico.

D. In any year in which there shall exist in the river water in the excess of that necessary to satisfy the requirements in the United States and the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) allotted to Mexico, the United States hereby declares its intention to cooperate with Mexico in attempting to supply additional quantities of water through the All-American Canal as such additional quantities are desired by Mexico, if such use of the Canal and facilities will not be detrimental to the United States, provided that the delivery of any additional quantities through the All-American Canal shall not have the effect of increasing the total scheduled deliveries to Mexico. Mexico hereby declares its intention to cooperate with the United States by attempting to curtail deliveries of water through the All-American Canal in years of limited supply, if such curtailment can be accomplished without detriment to Mexico and is necessary to allow full use of all available water supplies, provided that such curtailment shall not have the effect of reducing the total scheduled deliveries of water to Mexico.

E. In any year in which there shall exist in the river water in excess of that necessary to satisfy the requirements in the United States and the guaranteed quantity of 1,500,000 acre-feet (1,850,-234,000 cubic meters) allotted to Mexico, the United States Section shall so inform the Mexican Section in order that the latter may schedule such surplus water to complete a quantity up to a maximum of 1,700,000 acre-feet (2,096,931,000 cubic meters). In this circumstance the total quantities to be delivered under Schedules I and II shall be increased in proportion to their respective total quantities and the two schedules thus increased shall be subject to the same limitations as those established for each under paragraph A of this Article.

F. Subject to the limitations as to rates of deliveries and total quantities set out in Schedules I and II, Mexico shall have the right, upon thirty days notice in advance to the United States Section, to increase or decrease each monthly quantity prescribed by those schedules by not more than 20% of the monthly quantity.

G. The total quantity of water to be delivered under Schedule I of paragraph A of this Article may be increased in any year if the amount to be delivered under Schedule II is correspondingly reduced and if the limitations as to rates of delivery under each schedule are correspondingly increased and reduced.

IV—TIJUANA RIVER

ARTICLE 16

In order to improve existing uses and to assure any feasible further development, the Commission shall study and investigate, and shall submit to the two Governments for their approval:

(1) Recommendations for the equitable distribution between the two countries of the waters of the Tijuana River system;

(2) Plans for storage and flood control to promote and develop domestic, irrigation and other feasible uses of the waters of this system;

(3) An estimate of the cost of the proposed works and the manner in which the construction of such works or the cost thereof should be divided between the two Governments;

(4) Recommendations regarding the parts of the works to be operated and maintained by the Commission and the parts to be operated and maintained by each Section.

The two Governments through their respective Sections of the Commission shall construct such of the proposed works as are approved by both Governments, shall divide the work to be done or the cost thereof, and shall distribute between the two countries the waters of the Tijuana River system in the proportions approved by the two Governments. The two Governments agree to pay in equal shares the costs of joint operation and maintenance of the works involved, and each Government agrees to pay the cost of operation and maintenance of the works assigned to it for such purpose.

V—GENERAL PROVISIONS

ARTICLE 17

The use of the channels of the international rivers for the discharge of flood or other excess waters shall be free and not subject to limitation by either country, and neither country shall have any claim against the other in respect of any damage caused by such use. Each Government agrees to furnish the other Government, as far in advance as practicable, any information it may have in regard to such extraordinary discharges of water from reservoirs and flood flows on its own territory as may produce floods on the territory of the other.

Each Government declares its intention to operate its storage dams in such manner, consistent with the normal operations of its hydraulic systems, as to avoid, as far as feasible, material damage in the territory of the other.

ARTICLE 18

Public use of the water surface of lakes formed by international dams shall, when not harmful to the services rendered by such dams, be free and common to both countries, subject to the police regulations of each country in its territory, to such general regulations as may appropriately be prescribed and enforced by the Commission with the approval of the two Governments for the purpose of the application of the provisions of this Treaty, and to such regulations as may appropriately be prescribed and enforced for the same purpose by each Section of the Commission with respect to the areas and borders of such parts of those lakes as lie within its territory. Neither Government shall use for military purposes such water surface situated within the territory of the other country except by express agreement between the two Governments.

ARTICLE 19

The two Governments shall conclude such special agreements as may be necessary to regulate the generation, development and disposition of electric power at international plants, including the necessary provisions for the export of electric current.

ARTICLE 20

The two Governments shall, through their respective Sections of the Commission, carry out the construction of works allotted to them. For this purpose the respective Sections of the Commission may make use of any competent public or private agencies in accordance with the laws of the respective countries. With respect to such works as either Section of the Commission may have to execute on the territory of the other, it shall, in the execution of such works, observe the laws of the place where such works are located or carried out, with the exceptions hereinafter stated.

All materials, implements, equipment and repair parts intended for the construction, operation and maintenance of such works shall be exempt from import and export customs duties. The whole of the personnel employed either directly or indirectly on the construction, operation or maintenance of the works may pass freely from one country to the other for the purpose of going to and from the place of location of the works, without any immigration restrictions, passports or labor requirements. Each Government shall furnish, through its own Section of the Commis-

sion, convenient means of identification to the personnel employed by it on the aforesaid works and verification certificates covering all materials, implements, equipment and repair parts intended for the works.

Each Government shall assume responsibility for and shall adjust exclusively in accordance with its own laws all claims arising within its territory in connection with the construction, operation or maintenance of the whole or of any part of the works herein agreed upon, or of any works which may, in the execution of this Treaty, be agreed upon in the future.

ARTICLE 21

The construction of the international dams and the formation of artificial lakes shall produce no change in the fluvial international boundary, which shall continue to be governed by existing treaties and conventions in force between the two countries.

The Commission shall, with the approval of the two Governments, establish in the artificial lakes, by buoys or by other suitable markers, a practicable and convenient line to provide for the exercise of the jurisdiction and control vested by this Treaty in the Commission and its respective Sections. Such line shall also mark the boundary for the application of the customs and police regulations of each country.

ARTICLE 22

The provisions of the Convention between the United States and Mexico for the rectification of the Rio Grande (Rio Bravo) in the El Paso-Juárez Valley signed on February 1, 1933, shall govern, so far as delimitation of the boundary, distribution of jurisdiction and sovereignty, and relations with private owners are concerned, in any places where works for the artificial channeling, canalization or rectification of the Rio Grande (Rio Bravo) and the Colorado River are carried out.

ARTICLE 23

The two Governments recognize the public interest attached to the works required for the execution and performance of this Treaty and agree to acquire, in accordance with their respective domestic laws, any private property that may be required for the construction of the said works, including the main structures and their appurtenances and the construction materials therefor,

and for the operation and maintenance thereof, at the cost of the country within which the property is situated, except as may be otherwise specifically provided in this Treaty.

Each Section of the Commission shall determine the extent and location of any private property to be acquired within its own country and shall make the necesssary requests upon its Government for the acquisition of such property.

The Commission shall determine the cases in which it shall become necessary to locate works for the conveyance of water or electrical energy and for the servicing of any such works, for the benefit of either of the two countries, in the territory of the other country, in order that such works can be built pursuant to agreement between the two Governments. Such works shall be subject to the jurisdiction and supervision of the Section of the Commission within whose country they are located.

Construction of the works built in pursuance of the provisions of this Treaty shall not confer upon either of the two countries any rights either of property or of jurisdiction over any part whatsoever of the territory of the other. These works shall be part of the territory and be the property of the country wherein they are situated. However, in the case of any incidents occurring on works constructed across the limitrophe part of a river and with supports on both banks, the jurisdiction of each country shall be limited by the center line of such works, which shall be marked by the Commission, without thereby changing the international boundary.

Each Government shall retain, through its own Section of the Commission and within the limits and to the extent necessary to effectuate the provisions of this Treaty, direct ownership, control and jurisdiction within its own territory and in accordance with its own laws, over all real property—including that within the channel of any river—rights of way and rights *in rem*, that it may be necessary to enter upon and occupy for the construction, operation or maintenance of all the works constructed, acquired or used pursuant to this Treaty. Furthermore, each Government shall similarly acquire and retain in its own possession the titles, control and jurisdiction over such works.

ARTICLE 24

The International Boundary and Water Commission shall have, in addition to the powers and duties otherwise specifically provided in this Treaty, the following powers and duties:

(a) To initiate and carry on investigations and develop plans for the works which are to be constructed or established in accordance with the provisions of this and other treaties or agreements in force between the two Governments dealing with boundaries and international waters; to determine, as to such works, their location, size, kind and characteristic specifications; to estimate the cost of such works; and to recommend the division of such costs between the two Governments, the arrangements for the furnishing of the necessary funds, and the dates for the beginning of the works, to the extent that the matters mentioned in this subparagraph are not otherwise covered by specific provisions of this or any other Treaty.

(b) To construct the works agreed upon or to supervise their construction and to operate and maintain such works or to supervise their operation and maintenance, in accordance with the respective domestic laws of each country. Each Section shall have, to the extent necessary to give effect to the provisions of this Treaty, jurisdiction over the works constructed exclusively in the territory of its country whenever such works shall be connected with or shall directly affect the execution of the provisions of this Treaty.

(c) In general to exercise and discharge the specific powers and duties entrusted to the Commission by this and other treaties and agreements in force between the two countries, and to carry into execution and prevent the violation of the provisions of those treaties and agreements. The authorities of each country shall aid and support the exercise and discharge of these powers and duties, and each Commissioner shall invoke when necessary the jurisdiction of the courts or other appropriate agencies of his country to aid in the execution and enforcement of these powers and duties.

(d) To settle all differences that may arise between the two Governments with respect to the interpretation or application of this Treaty, subject to the approval of the two Governments. In any case in which the Commissioners do not reach an agreement, they shall so inform their respective governments reporting their respective opinions and the grounds therefor and the points upon which they differ, for discussion and adjustment of the difference through diplomatic channels and for application where proper of the general or special agreements which the two Governments have concluded for the settlement of controversies.

(e) To furnish the information requested of the Commissioners jointly by the two Governments on matters within their jurisdic-

tion. In the event that the request is made by one Government alone, the Commissioner of the other Government must have the express authorization of his Government in order to comply with such request.

(f) The Commission shall construct, operate and maintain upon the limitrophe parts of the international streams, and each Section shall severally construct, operate and maintain upon the parts of the international streams and their tributaries within the boundaries of its own country, such stream gaging stations as may be needed to provide the hydrographic data necessary or convenient for the proper functioning of this Treaty. The data so obtained shall be compiled and periodically exchanged between the two Sections.

(g) The Commission shall submit annually a joint report to the two Governments on the matters in its charge. The Commission shall also submit to the two Governments joint reports on general or any particular matters at such other times as it may deem necessary or as may be requested by the two Governments.

ARTICLE 25

Except as otherwise specifically provided in this Treaty, Articles III and VII of the Convention of March 1, 1889 shall govern the proceedings of the Commission in carrying out the provisions of this Treaty. Supplementary thereto the Commission shall establish a body of rules and regulations to govern its procedure, consistent with the provisions of this Treaty and of Articles III and VII of the Convention of March 1, 1889 and subject to the approval of both Governments.

Decisions of the Commission shall be recorded in the form of Minutes done in duplicate in the English and Spanish languages, signed by each Commissioner and attested by the Secretaries, and copies thereof forwarded to each Government within three days after being signed. Except where the specific approval of the two Governments is required by any provision of this Treaty, if one of the Governments fails to communicate to the Commission its approval or disapproval of a decision of the Commission within thirty days reckoned from the date of the Minute in which it shall have been pronounced, the Minute in question and the decisions which it contains shall be considered to be approved by that Government. The Commissioners, within the limits of their respective jurisdictions, shall execute the decisions of the Commission that are approved by both Governments.

If either Government disapproves a decision of the Commission the two Governments shall take cognizance of the matter, and if an agreement regarding such matter is reached between the two Governments, the agreement shall be communicated to the Commissioners, who shall take such further proceedings as may be necessary to carry out such agreement.

VI—TRANSITORY PROVISIONS

ARTICLE 26

During a period of eight years from the date of the entry into force of this Treaty, or until the beginning of operation of the lowest major international reservoir on the Rio Grande (Rio Bravo), should it be placed in operation prior to the expiration of said period, Mexico will cooperate with the United States to relieve, in times of drought, any lack of water needed to irrigate the lands now under irrigation in the Lower Rio Grande Valley in the United States, and for this purpose Mexico will release water from El Azúcar reservoir on the San Juan River and allow that water to run through its system of canals back into the San Juan River in order that the United States may divert such water from the Rio Grande (Rio Bravo). Such releases shall be made on condition that they do not affect the Mexican irrigation system, provided that Mexico shall, in any event, except in cases of extraordinary drought or serious accident to its hydraulic works, release and make available to the United States for its use the quantities requested, under the following conditions: that during the said eight years there shall be made available a total of 160,000 acre-feet (197,358,000 cubic meters) and up to 40,000 acre-feet (49,340,000 cubic meters) in any one year; that the water shall be made available as requested at rates not exceeding 750 cubic feet (21.2 cubic meters) per second; that when the rates of flow requested and made available have been more than 500 cubic feet (14.2 cubic meters) per second the period of release shall not extend beyond fifteen consecutive days; and that at least thirty days must elapse between any two periods of release during which rates of flow in excess of 500 cubic feet (14.2 cubic meters) per second have been requested and made available. In addition to the guaranteed flow, Mexico shall release from El Azúcar reservoir and conduct through its canal system and the San Juan River, for use in the United States during periods of drought and after satisfying the needs of Mexican users, any excess water that does not in the opinion of the Mexican Section have to be stored and

that may be needed for the irrigation of lands which were under irrigation during the year 1943 in the Lower Rio Grande Valley in the United States.

ARTICLE 27

The provisions of Article 10, 11, and 15 of this Treaty shall not be applied during a period of five years from the date of the entry into force of this Treaty, or until the Davis dam and the major Mexican diversion structure on the Colorado River are placed in operation, should these works be placed in operation prior to the expiration of said period. In the meantime Mexico may construct and operate at its expense a temporary diversion structure in the bed of the Colorado River in territory of the United States for the purpose of diverting water into the Alamo Canal, provided that the plans for such structure and the construction and operation thereof shall be subject to the approval of the United States Section. During this period of time the United States will make available in the river at such diversion structure river flow not currently required in the United States, and the United States will cooperate with Mexico to the end that the latter may satisfy its irrigation requirements within the limits of those requirements for lands irrigated in Mexico from the Colorado River during the year 1943.

VII—FINAL PROVISIONS

ARTICLE 28

This Treaty shall be ratified and the ratifications thereof shall be exchanged in Washington. It shall enter into force on the day of the exchange of ratifications and shall continue in force until terminated by another Treaty concluded for that purpose between the two Governments.

In witness whereof the respective Plenipotentiaries have signed this Treaty and have hereunto affixed their seals.

Done in duplicate in the English and Spanish languages, in Washington on this third day of February, 1944.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

CORDELL HULL [SEAL]

GEORGE S. MESSERSMITH [SEAL]

LAWRENCE M. LAWSON. [SEAL]

FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES:

F. CASTILLO NAJERA [SEAL]

RAFAEL FERNANDEZ MACGREGOR [SEAL]

PROTOCOL

The Government of the United States of America and the Government of the United Mexican States agree and understand that:

Wherever, by virtue of the provisions of the Treaty between the United States of America and the United Mexican States, signed in Washington on February 3, 1944, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande from Fort Quitman, Texas, to the Gulf of Mexico, specific functions are imposed on, or exclusive jurisdiction is vested in, either of the Sections of the International Boundary and Water Commission, which involve the construction or use of works for storage or conveyance of water, flood control, stream gaging, or for any other purpose, which are situated wholly within the territory of the country of that Section, and which are to be used only partly for the performance of treaty provisions, such jurisdiction shall be exercised, and such functions, including the construction, operation and maintenance of the said works, shall be performed and carried out by the Federal agencies of that country which now or hereafter may be authorized by domestic law to construct, or to operate and maintain, such works. Such functions or jurisdictions shall be exercised in conformity with the provisions of the Treaty and in cooperation with the respective Section of the Commission, to the end that all international obligations and functions may be coordinated and fulfilled.

The works to be constructed or used on or along the boundary, and those to be constructed or used exclusively for the discharge of treaty stipulations, shall be under the jurisdiction of the Commission or of the respective Section, in accordance with the provisions of the Treaty. In carrying out the construction of such works the Sections of the Commission may utilize the services of public or private organizations in accordance with the laws of their respective countries.

This Protocol, which shall be regarded as an integral part of the aforementioned Treaty signed in Washington on February 3, 1944, shall be ratified and the ratifications thereof shall be exchanged in Washington. This Protocol shall be effective beginning with the day of the entry into force of the Treaty and shall continue effective so long as the Treaty remains in force.

In witness whereof the respective Plenipotentiaries have signed this Protocol and have hereunto affixed their seals.

Done in duplicate, in the English and Spanish languages, in Washington, this fourteenth day of November, 1944.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

E. R. STETTINIUS, JR. [SEAL]
Acting Secretary of State
of the United States of America

FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES:

F. CASTILLO NAJERA [SEAL]
Ambassador Extraordinary and Plenipotentiary
of the United Mexican States in Washington

AND WHEREAS the Senate of the United States of America by their Resolution of April 18, 1945, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said treaty and protocol, subject to certain understandings, the text of which Resolution is word for word as follows:

"*Resolved* (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of Executive A, Seventy-eighth Congress, second session, a treaty between the United States of America and the United Mexican States, signed at Washington on February 3, 1944, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande from Fort Quitman, Texas, to the Gulf of Mexico, and Executive H. Seventy-eighth Congress, second session, a protocol, signed at Washington on November 14, 1944, supplementary to the treaty subject to the following understandings, and that these understandings will be mentioned in the ratification of this treaty as conveying the true meaning of the treaty, and will in effect form a part of the treaty:

"(a) That no committment for works to be built by the United States in whole or in part at its expense, or for expenditures by the United States, other than those specifically provided for in the treaty, shall be made by the Secretary of State of the United States, the Commissioner of the United States Section of the International Boundary and Water Commission, the United States Section of said Commission, or any other officer or employee of the United States, without prior approval of the Congress of the United States. It is understood that the works to be built by the United States, in whole or in part at its expense, and the expenditures by the United States, which are specifically provided for in the treaty, are as follows:

"1. The joint construction of the three storage and flood-control dams on the Rio Grande below Fort Quitman, Texas, mentioned in article 5 of the treaty.

"2. The dams and other joint works required for the diversion of the flow of the Rio Grande mentioned in subparagraph II of article 5 of the treaty, it being understood that the commitment of the United States to make expenditures under this subpararaph is limited to its share of the cost of one dam and works appurtenant thereto.

"3. Stream-gaging stations which may be required under the provisions of section (j) of article 9 of the treaty and of subparagraph (d) of article 12 of the treaty.

"4. The Davis Dam and Reservoir mentioned in subparagraph (b) of article 12 of the treaty.

"5. The joint flood-control investigations, preparing of plans, and reports on the Rio Grande below Fort Quitman required by the provisions of article 6 of the treaty.

"6. The joint flood-control investigations, preparations of plans, and reports on the lower Colorado River between the Imperial Dam and the Gulf of California required by article 13 of the treaty.

"7. The joint investigations, preparation of plans, and rereports on the establishment of hydroelectric plants at the international dams on the Rio Grande below Fort Quitman provided for by article 7 of the treaty.

"8. The studies, investigations, preparation of plans, recommendations, reports, and other matters dealing with the Tijuana River system provided for by the first paragraph (including the numbered subparagraphs) of article 16 of the treaty.

"(b) Insofar as they affect persons and property in the territorial limits of the United States, the powers and functions of the Secretary of State of the United States, the Commissioner of the United States Section of the International Boundary and Water Commission, the United States Section of said Commission, and any other officer or employee of the United States, shall be subject to the statutory and constitutional controls and processes. Nothing contained in the treaty or protocol shall be construed as impairing the power of the Congress of the United States to define the terms of office of members of the United States Section of the International Boundary and Water Commission or to provide for their ap-

pointment by the President by and with the advice and consent of the Senate or otherwise.

"(c) That nothing contained in the treaty or protocol shall be construed as authorizing the Secretary of State of the United States, the Commissioner of the United States Section of the International Boundary and Water Commission, or the United States Section of said Commission, directly or indirectly to alter or control the distribution of water to users within the territorial limits of any of the individual States.

"(d) That 'international dam or reservoir' means a dam or reservoir built across the common boundary between the two countries.

"(e) That the words 'international plants,' appearing in article 19, mean only hydroelectric generating plants in connection with dams built across the common boundary between the two countries.

"(f) That the words 'electric current,' appearing in article 19, mean hydroelectric power generated at an international plant.

"(g) That by the use of the words 'The jurisdiction of the Commission shall extend to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary * * *' in the first sentence of the fifth paragraph of article 2, is meant: 'The jurisdiction of the Commission shall extend and be limited to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary * * *.'

"(h) The word 'agreements' whenever used in subparagraphs (a), (c), and (d) of article 24 of the treaty shall refer only to agreements entered into pursuant to and subject to the provisions and limitations of treaties in force between the United States of America and the United Mexican States.

"(i) The word 'disputes' in the second paragraph of article 2 shall have reference only to disputes between the Govevrnments of the United States of America and the United Mexican States.

"(j) First, that the one million seven hundred thousand acre-feet specified in subparagraph (b) of article 10 includes and is not in addition to the one million five hundred thousand acre-feet, the delivery of which to Mexico is guaranteed in subparagraph (a) of article 10; second, that the one million

five hundred thousand acre-feet specified in three places in said subparagraph (b) is identical with the one million five hundred thousand acre-feet specified in said subparagraph (a); third, that any use by Mexico under said subparagraph (b) of quantities of water arriving at the Mexican points of diversion in excess of said one million five hundred thousand acre-feet shall not give rise to any future claim of right by Mexico in excess of said guaranteed quantity of one million five hundred thousand acre-feet of water.

"(k) The United States recognizes a duty to require that the protective structures to be constructed under article 12, paragraph (a), of this treaty, are so constructed, operated, and maintained as to adequately prevent damage to property and lands within the United States from the construction and operation of the diversion structure referred to in said paragraph."

AND WHEREAS the said treaty and protocol were duly ratified by the President of the United States of America on November 1, 1945, in pursuance of the aforesaid advice and consent of the Senate and subject to the aforesaid understandings on the part of the United States of America;

AND WHEREAS the said treaty and protocol were duly ratified by the President of the United Mexican States on October 16, 1945, in pursuance and according to the terms of a Decree of September 27, 1945 of the Senate of the United Mexican States approving the said treaty and protocol and approving the said understandings on the part of the United States of America in all that refers to the rights and obligations between the parties;

AND WHEREAS it is provided in Article 28 of the said treaty that the treaty shall enter into force on the day of the exchange of ratification;

AND WHEREAS it is provided in the said protocol that the protocol shall be regarded as an integral part of the said treaty and shall be effective beginning with the day of the entry into force of the said treaty;

AND WHEREAS the respective instruments of ratification of the said treaty and protocol were duly exchanged, and a protocol of exchange of instruments of ratification was signed in the English and Spanish languages, by the respective Plenipotentiaries of the United States of America and the United Mexican States on November 8, 1945, the English text of which protocol of exchange of instruments of ratification reads in part as follows:

"The ratification by the Government of the United States of America of the treaty and protocol aforesaid recites in their entirety the understandings contained in the resolution of April 18, 1945 of the Senate of the United States of America advising and consenting to ratification, the text of which resolution was communicated by the Government of the United States of America to the Government of the United Mexican States. The ratification by the Government of the United Mexican States of the treaty and protocol aforesaid is effected, in the terms of its instrument of ratification, in conformity to the Decree of September 27, 1945 of the Senate of the United Mexican States approving the treaty and protocol aforesaid and approving also the aforesaid understandings on the part of the United States of America in all that refers to the rights and obligations between both parties, and in which the Mexican Senate refrains from considering, because it is not competent to pass judgment upon them, the provisions which relate exclusively to the internal application of the treaty within the United States of America and by its own authorities, and which are included in the understandings set forth under the letter (a) in its first part to the period preceding the words 'It is understood' and under the letters (b) and (c)."

NOW, THEREFORE, be it known that I, Hary S. Truman, President of the United States of America, do hereby proclaim and make public the said treaty and the said protocol supplementary thereto, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith, on and from the eighth day of November, one thousand nine hundred forty-five, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twenty-seventh day of November in the year of our Lord one thousand nine
[SEAL] hundred forty-five and of the Independence of the United States of America the one hundred seventieth.

HARRY S TRUMAN

By the President:

JAMES F BYRNES
Secretary of State

1.9a CONGRESSIONAL RECORD, VOL. 91 (1945)
April 18: Senate advises and consents to treaty and supplementary protocol, pp. 3480–3492

TREATY WITH MEXICO RELATING TO THE UTILIZATION OF THE WATERS OF CERTAIN RIVERS

The Senate resumed the consideration of the treaty (Executive A, 78th Cong., 2d sess.) between the United States of America and the United Mexican States, relating to the utilization of the waters of certain rivers, and (Executive H, 78th Cong., 2d sess.) a protocol supplementary to the treaty.

Mr. MURDOCK. Mr. President, for several days I have been conferring with the very distinguished senior Senator from Wyoming on the bill which he has just introduced, which provides for the extensive development of the upper Colorado River.

Whenever this Government enters into a contract or a treaty, of course it does so with no other thought than fully to discharge each and every obligation undertaken in the contract or treaty. It is quite obvious that the pending treaty will be ratified this afternoon. It is my opinion that under that treaty we have not only been fair to the Republic of Mexico, but we have been generous—in my opinion more generous than circumstances and conditions warrant. But inasmuch as the treaty will in all probability be ratified today, and inasmuch as I am willing to abide by the decision of the Senate, all I have in mind to say at this time is that the United States, in order to carry out its agreement with Mexico for the delivery of waters of the Colorado River, should leave no stone unturned in preparing itself to do that very thing.

When the Colorado River compact was entered into in 1922 by the seven Colorado River States, it allotted 7,500,000 acre-feet of water for consumptive use to the upper basin. It also allotted eight and half million acre-feet of the waters of the Colorado River for consumptive use in the lower basin States.

As has been pointed out several times during the debate on the treaty, the compact also provided that in the event a treaty was ever made with Mexico, the waters allotted under such treaty should be made up, first, of any surplus over and above the allotments in the compacts; and in the event there was not sufficient surplus water to take care of any allotment which might be made to Mexico by treaty, whatever deficit there might be would be made up equally by the two basins, the upper and lower basins of the Colorado.

I believe that the evidence which was submitted to the Committee on Foreign Relations, which considered the treaty, and statements which have been made on the floor of the Senate, especially the statement made yesterday by the honorable and distinguished senior Senator from Nevada [Mr. McCARRAN], demonstrate that there is already a shortage of water in the Colorado River system to supply the allotments under the compact and the guaranty to Mexico. The only way that deficit can be made up is by further conservation of the water of the Colorado River system.

In my opinion the future conservation of the waters of the river is dependent on projects in the upper basin. The State of Utah is second only to the State of Arizona in area drained by this great river. It is second only to the State of Colorado in its contribution of water to the river. But notwithstanding these facts, very few projects have been constructed in the State of Utah for the utilization of its share of Colorado River waters.

Mr. President, I invite the attention of the Senate today to the record on the part of my State of wholehearted and vigorous cooperation with the State of California and all other States in the Colorado River system, in the negotia-

tion and realization of the seven-State compact entered into at Santa Fe in 1922.

As a result of the cooperation of the Colorado River States and the Federal Government the Boulder Canyon project is a reality; and as a result 30,000,000 acre-feet of storage capacity has been provided on the lower reaches of the river. A number of other projects have been constructed in Arizona, Nevada, and California for the further conservation of the waters of the river. But notwithstanding all these projects in the lower basin, unless projects are constructed in the near future in the upper basin, this country will find that it cannot carry out the guaranty of delivery of 1,500,000 acre-feet of water to Mexico without some rights in the United States being impaired.

Today the distinguished senior Senator from Wyoming introduced a bill which would authorize the construction of projects necessary to the fulfillment of, and which would greatly facilitate, our treaty obligations, if and when the Mexican treaty is ratified. Other Senators from the upper-basin States have joined with the senior Senator from Wyoming in introducing that bill. I hope the Senate, and also the House of Representatives, will not hesitate to pass the bill, and I hope that as soon as the bill is passed steps will immediately be taken to bring into realization all the projects which are necessary and feasible on the upper river. By that means,

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and only by that means, can the allotments under the compact and under the treaty be filled.

Mr. President, I do not wish to take my seat today without saying something about California. I deplore some of the things which have been said about the great State of California during this treaty fight and debate on the floor of the Senate. Several times in the debate the statement has been made that California contributes no water to the Colorado River. It is true that California does not naturally contribute any water to the Colorado River; but by the construction of the Boulder Canyon project the State of California contributes more water to the Colorado River than does any other State in the system. When I say that I have fully in mind the fact that under natural conditions my State is second only to Colorado in its contribution of water to this great river system. Until the completion of Boulder Dam the Colorado River was nothing but a wild, torrential flood most of the time, the waters of which wasted into the Gulf of California. Back in the early 20's and even prior to that, we found a great migration of people going into the southern part of California. As the population in southern California expanded, the most important thing to the life of that rapidly-growing community in that great State was water for culinary and other domestic purposes. The great population of southern California could not exist if it were not for the flow of Colorado River water through the great aqueduct from the Colorado River, over the mountains, through the deserts, and into southern California. When the Boulder Canyon project was first visualized, it was one of the greatest engineering projects ever contemplated by man. Today it is one of the greatest engineering projects which human beings have ever constructed. Its cost was enormous. It was estimated at $165,000,000, if I remember the correct figures, including the cost of the All-American Canal. I call the attention of the Senate to the fact that after the seven States had agreed on the Colorado River compact, after six States had ratified it, after it was presented to the Congress of the United States, and after the Boulder Canyon Project Act was enacted, the people of California were told by that act that the Federal Government would not spend one penny and not a spade would be put into the earth out there in the construction of that project until the people of California submitted to the Secretary of the Interior satisfactory

contracts providing for full and complete amortization within a period of 50 years, with interest. Mr. President, how many projects which have been constructed in the United States have been subjected to such conditions before they were commenced? Some say that California has not contributed any water to the Colorado River. I ask the Members of the Senate to go there and look at the gigantic Boulder Dam and at the great and enormous Lake Mead behind it. Then they will see that by taxation and electric power charges the people of California contribute and will contribute down through the years as much water or more water than does any other State in the system, not simply by reason of the snows and rains which fall on the mountains and finally flow into the river, but by reason of the fact that the people of California had the courage, they had the foresight, they had the fortitude to undertake, by taxation, directly and indirectly, the repayment of the enormous cost of the Boulder Canyon project.

When we find the people of California making such a great fight in connection with the pending treaty, I call the attention of the Senate to the fact that they are fighting for their very life blood. Water that makes their desert blossom. Water that makes their vigorous growth possible. Water, without which that great civilization could not exist. When the debate was begun by the able and distinguished senior Senator from Texas [Mr. CONNALLY], he rolled up the sleeve on his great right arm in dramatic fashion, and said to us, "Yes; we are mighty enough to deny everything to Mexico. But are we going to stand on that might and power, and refuse to do equity?" Mr. President, my answer to him is this: Yes; we are a great and mighty Nation, and God grant that we shall always continue to be. But even with all our might and all our strength, we cannot fail to consider the great natural resources of the country which give us that might and strength. No nation, no people, can be so mighty and strong that they can dissipate their great natural resources in a way that is too generous to others, and might be unfair to our own people. Our people and taxpayers have been fed for many years, now, on the diet that it is more blessed to give than it is to receive. I say that the time is coming, and probably it is here now, when our country, by reason of our great generosity, has reached the point where, from this time on, we must think of the people of the United States, as well as of other peoples. I say that in making this treaty with Mexico—and it will be ratified this afternoon—the United States has not only been fair but, again, it has been generous.

What did Mexico have in the Colorado River before its erratic flow was equated by our money? The best description I can give of it is in the language of the West. Mexico, so far as the Colorado River is concerned, had a wild cayuse horse which was hard to catch and was not worth anything after he was caught. Under this treaty the Government of the United States substitutes a fine Kentucky saddle horse for a worthless cayuse which could not be used. We put the saddle, the bridle, and all the necessary equipment on the horse which is being substituted for the wild cayuse, and then we say to our neighbor, Mexico, "Here, it is for you. Whenever you call for it the United States will deliver it right at your door. Use it in any way you wish to use it. When it has served its purpose for the present bring it back to your door, get off it, and then the United States will take it back and have it ready when you call for it again." This certainly is the good-neighbor policy carried to the *n*th degree. I hope our generosity is appreciated. It is something new in the world.

Mr. President, that is exactly what we do under this treaty. We developed a river which was worth nothing to Mexico in its natural state. It had flowed for centuries into the Gulf of Mexico. Mexico had never attempted to cope with its wild floods. They waited and, not in

vain, for our enterprise, for our engineering ingenuity, for our courage and willingness to bear the cost. The people of California undertook, first, the construction of a canal for the irrigation of the Imperial Valley. Because a part of the canal had to run through Mexican territory she demanded one-half of the waters which flowed through it. Those who built the canal O.K.'d the demand and delivered the water which had been demanded by Mexico. What a contrast to our attitude under this treaty.

I ask Senators to bear in mind that Mexico has never successfully diverted one drop of the waters of the Colorado River within her own borders. With the exception of pumping, all the waters which she has used have been diverted within the United States, carried in a canal to the Mexican border line, and delivered to Mexico. But, by reason of the fact that the people of California were willing to undertake the construction of the Boulder Canyon project, store the water, equate the stream, and make it possible for Mexico to use the water, the people of California, as well as the people of my State, and all other Colorado River States, are penalized by this treaty for making it possible for Mexico to use the water.

Mr. President, I do not wish to be greedy or stingy with Mexico, but I do want to be fair to the people of my State, the people of California, and the people of the other States in the Colorado River system.

I return to the argument of the distinguished senior Senator from Texas. He rolled up his sleeve and raised his arm, and said, "Shall we take the water away from Mexico merely because we are mighty enough to do so?" Mr. President, that is not the true picture. Through the expenditures of American taxpayers, we have made it possible for Mexico to use the waters of the Colorado River. Mexico is entitled to an equitable part of the natural flow of the river. But she is not entitled to a dedication of all our facilities in perpetuity for the delivery of that water. Why do we not say to Mexico with respect to the Colorado what we say with respect to the Rio Grande, namely, "You are entitled to so much water, but we do not undertake to guarantee the delivery of it?" Why should this country undertake, at the expense of the American taxpayers, to guarantee the delivery of water to the people of any foreign country? I ask that question in all fairness.

Although we are a mighty country, the mightiest in the world, the taxpayer of my country is no stronger, no larger, nor more able to pay taxes than the taxpayer of Mexico. It is just as difficult for him to wrest a living from the desert soil of California or Utah and to pay taxes as it is for the taxpayer of Mexico to wrest a living from his soil and pay taxes. That is why I assert that we have not

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only been fair in this treaty but we have perhaps been too generous. The money which is raised through taxation is not raised collectively. When we pay our tax bills we pay as individuals.

Mr. President, I repeat that collectively we are mighty, but our great wealth and power have made it possible for us to be very generous to all the world, and we have not failed. We shall continue to be generous. However, I ask Senators to bear in mind that the individual taxpayer in this country is no more able to pay taxes and his tax burden is just as heavy as in Mexico or any other country.

In carrying on its part in the prosecution of the war the State of Utah has become depleted to such a degree in its great mineral wealth that some other type of wealth must be supplied or it will be greatly impoverished. The soldiers from Utah who are fighting battles today in all the war theaters of the world desire to return to Utah. Why? Because they love that land more than they love any other soil under heaven. Many will desire to return to Utah and take up farming. They desire to return in order to rear their families in their native State. Mr. President, they are

entitled to every drop of water from the Colorado River that their State is equitably entitled to. Every acre which is put under cultivation in Mexico means that another acre in some Western State shall forever remain desert. I do not mean by that statement that Mexico is not entitled to water from the Colorado River. However, it is my opinion that had we granted her not in excess of a million acre-feet we would have been fair to her, and even generous.

I did not intend, Mr. President, to make a lengthy statement on the pending treaty this afternoon. I shall vote for it, but I cannot let the opportunity pass without saying that in the treaty we are not only fair but we are generous. I cannot let the opportunity pass without saying that California has contributed, and will continue in perpetuity to contribute, to the waters of the river by the great conservation works she has constructed and obligated her citizens and taxpayers to pay for.

Mr. CHAVEZ. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from New Mexico?

Mr. MURDOCK. I yield.

Mr. CHAVEZ. I never doubt the sincerity or purpose of any of my colleagues and I never inquire as to motives, but I do find myself a little confused after hearing the Senator from Utah make a statement as to the bad features of this treaty and then hear him state that he proposes to vote for it. Is there any particular good thing about this treaty that would compel the Senator from Utah to vote for it?

Mr. MURDOCK. There is something good about it. One good thing about it, and perhaps the best thing, in my opinion, so far as my country is concerned, is that I am hopeful that it will set at rest for all time the question of the division of the waters of the Colorado River; and if it does that, even with its bad features, even with its too generous provisions, I am willing to vote for it.

Mr. CHAVEZ. In the hearings I notice a question asked by the junior Senator from Colorado of one of the witnesses which brings out what the Senator has just stated, namely, that this treaty will forever quiet any claims that Mexico might have to the waters of the Colorado or other rivers, and I think that is a very good feature of the treaty.

Mr. MURDOCK. I agree with the Senator that that is its redeeming feature.

Mr. CHAVEZ. So far as New Mexico is concerned, I agree with the Senator from Utah that the upper basin States up to this particular time have done nothing but deliver water.

Mr. MURDOCK. And to guarantee rights. That is about all we have done up to this point.

Mr. CHAVEZ. That is correct. Utah has not received any benefits that I know of, except in an indirect way from the great Boulder Canyon project; neither has Wyoming, nor Colorado, nor New Mexico, and I was glad that the Senator from Wyoming [Mr. O'MAHONEY], in conjunction with other Senators from the upper basin States, has introduced the bill which he has presented today, and I hope there will be action on it.

Personally I am not here representing any other State in the United States except New Mexico, and I want to do everything I possibly can to try to do my duty by the people of my State. I think that the treaty is beneficial to the people of my State for many reasons, but, in the making of a treaty, there has to be an agreement between the parties. A treaty between two countries is more or less like a contract between the Senator from Utah and possibly the Senator from New Mexico. It is necessary to agree on something; it is necessary to recognize rights, and I dislike to have the idea spread that we are giving everything away and the other country is not giving something. The Senator agrees, does he not, that so far as Texas is concerned the water which will be obtained under this treaty practically all comes from Mexico?

Mr. MURDOCK. I do not want to take the position, and I have not taken it, that one section of the country is being traded off against another section. I have studiously avoided saying that.

Mr. CHAVEZ. But, as a practical proposition, is not what I have said true?

Mr. MURDOCK. It is my opinion, I may say to the distinguished Senator from New Mexico, that it was a mistake in the first place to approach a treaty with Mexico on the basis of the two rivers instead of dealing individually with them. In my opinion, equity could have been much better served if the two rivers had been treated in separate treaties instead of together.

Mr. CHAVEZ. Possibly I would have preferred that, but that is not the question now before us. The fact still remains that the Government of the United States has entered into a contractual obligation with a friendly republic, and I do not feel that the Government of the United States would enter into such a contractual obligation with a foreign country unless the United States felt that they were getting something under the contract, and I believe that under the contract we are getting something from Mexico.

The point I am trying to make is this: I think we made a pretty good treaty so far as the United States is concerned, although of course there is a difference of opinion; but the question still remains that I do not see how it can be proved to the American people that under this contract this country is giving everything away and getting nothing in return. I think we are getting something.

Mr. MURDOCK. I respect the Senator's opinion and I never quarrel with him as to any opinion he may express. I may be considered a little too vehement in my statement, but the point I am making today is that we are not only being fair to Mexico but we are being generous. It is my opinion that if under the treaty we had limited Mexico to 1,000,000 acre-feet, we would have been not only fair but generous. I may say further to the distinguished Senator from New Mexico that I object to my country undertaking to guarantee delivery of water. This is a very extraordinary undertaking. I do not think there is any obligation on our part to do that. In my opinion all we are obligated to do is to say to Mexico, "You are entitled to so much water from the Colorado River," and, having said that, then it would become our obligation not to enlarge our use to the point where the right of Mexico would have to be curtailed except as the natural flow of the river is diminished by natural causes. But for my country to say that forever and ever we will dedicate, for Mexican use, facilities along the Colorado River which we have built, in my opinion goes too far.

Mr. CHAVEZ. I understand what the Senator from Utah has in mind, and I respect his opinion. The Senator from Utah feels about this particular matter as possibly some of us in the upper basin States feel about the original Colorado River compact. The upper basin States were left in the same situation the Senator now suggests the United States is being left. Of course, the upper basin States were all for the Boulder Dam project, but what have we gotten up to now? California gets the power, California gets the water, but the upper States furnish the water and have not a single project.

Mr. MURDOCK. My answer to the distinguished Senator is that all California gets she will pay for. She not only is amortizing the cost of the project to the Federal Government but she is also paying—and I think rightly so—to Arizona so much every year, to Nevada so much every year, and she is paying into a development fund for the river $500,000 annually for a period of 50 years.

Mr. CHAVEZ. That is paid by the users of the power which is developed by the water that comes from the upper basin States.

Mr. MURDOCK. That is correct.

Mr. CHAVEZ. So they are not paying anything back, but they are getting power cheaper than it can be obtained in any of the upper basin States.

Mr. MURDOCK. The Senator must admit if they were not paying $1,100,000

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a year as itemized a moment ago by me their power would come much cheaper.

Mr. CHAVEZ. But, of course, the taxpayer of California is paying for that power only in an indirect way. The user of the power pays for it.

Mr. MURDOCK. If the distinguished Senator can distinguish between the taxpayers of California and the users of power in California, then he is capable of doing something that I cannot do. Whether the Boulder Canyon project is paid for by direct taxation or in power rates it costs the people of southern California the same amount. The distinguished Senator from New Mexico may get some satisfaction out of his distinction between taxpayers and power users, but the people who pay will get little comfort.

Mr. DOWNEY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from California?

Mr. MURDOCK. I yield.

Mr. DOWNEY. I know my dear friend, the Senator from New Mexico, will want the RECORD to be correct. As the Senator knows, one of the power contractors under the Colorado River project was the metropolitan water district, which obligated itself to take 36 percent of the power, and to pay for that power, I might say, whether they could use it or not, or whether they could resell it or not. In the few years before the war came on, the metropolitan water district, as I recall the figures—and I know they are approximately correct—was compelled to pay for four and a half million dollars' worth of power which it could not dispose of, and which represented a total loss, and the only unhappy and tragic event which saved the situation was the coming on of the war, with its great demand for power. But I might say to the distinguished Senator that the California power interests, including the largest, the metropolitan water district, have guaranteed the obligation, even though they lose vast sums on it, as they may. They still have to make good on the payments to Uncle Sam on Boulder Dam.

Mr. CHAVEZ. Mr. President, the Senator from California will also recognize that when the original contract was made with the Federal Government for the payment for power by the water district of southern California, or the agency that was using it, it was under a certain rate. Is not that correct?

Mr. DOWNEY. That is correct.

Mr. CHAVEZ. For delivery of power at Boulder Dam?

Mr. DOWNEY. That is correct.

Mr. CHAVEZ. Is it not true that within the last few years the same agency has been before the Congress and has had the rates lowered to the very minimum, so they certainly are getting some benefits out of Boulder Dam?

Mr. DOWNEY. Will the Senator from Utah yield?

Mr. MURDOCK. I should like to say just this to the distinguished Senator from New Mexico. When the Boulder Canyon Adjustment Act was before the Congress, what California did was to liquidate the uncertain claims which were contained in the Boulder Canyon Project Act, to reduce to a cash basis payments to Arizona and Nevada, and she also reduced to a cash basis her contribution to the development fund.

I yield to the junior Senator from California.

Mr. DOWNEY. Mr. President, if the Senator will permit me, I merely wish to reply to the last very logical point pertinently made by the Senator from New Mexico.

It is true that the rates as originally fixed for the amortization and operation of the Boulder Canyon project have been

reduced. The obligation of the power contract is to amortize out the debt, to pay the interest, to pay $1,100,000 extra for 50 years, and turn the project over to Uncle Sam at the end of 50 years in good condition.

The power rates must, in the opinion of the Secretary of the Interior, be sufficient to do that, and whenever he thinks existing rates are too high, he can lower them, and when he thinks they are too low, he can increase them. Of course, as the Senator has correctly stated, there has been one decrease from the original rate.

Mr. MURDOCK. Mr. President, I conclude my remarks by saying that while I do intend to, and shall, vote for the treaty, I do it because, as the Senator from New Mexico has said, we do gain something. I hope we have set at rest for all time any controversy over the division of waters between the two countries. That, in my opinion, is a big accomplishment.

I also secured the adoption of a reservation which, in my opinion, emphatically and clearly places a ceiling on the maximum quantity of water which Mexico will get.

Having done that, in my opinion, Mr. President, we have accomplished at least something of permanent value. I am confident that the Congress will cooperate with the Colorado River States in full development of the river. Utmost conservation of Colorado River waters will lessen the burden under the treaty and protect the States' rights under the compact. The present international situation, coupled with the fact that the reservations adopted have greatly improved the treaty cause me to forego my objections and I shall vote for the treaty.

Mr. O'MAHONEY. Mr. President, I wonder if the Senator from California would allot me about 5 minutes' time.

Mr. DOWNEY. Is the implication from that, Mr. President, that the distinguished Senator is about to lend his persuasive ability to the rejection of the treaty?

Mr. O'MAHONEY. Not at all. I merely wish to talk for the treaty.

Mr. DOWNEY. I shall be happy to yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from California has the floor, and he yields to the Senator from Wyoming for 5 minutes.

Mr. O'MAHONEY. I thank the Senator. I desire to add one or two items with respect to the revenues which are being derived under the Boulder Canyon Act from the Boulder Dam and its facilities, indicating what may be expected from the development of the other projects to which I referred when I took the floor earlier today.

The Boulder Canyon Adjustment Act, which was enacted in July 1920, directed the Secretary of the Interior to fix rates and charges for electrical energy generated at Boulder Dam in such a manner as to produce certain revenue for certain purposes. Among those purposes was one to build up a fund known as the Colorado River development fund.

The table which I have in my hand, and which is taken from pages 556 and 557 of the Senate committee hearings on the Interior Department appropriation bill for 1945, shows that the receipts of the Colorado River development fund under this act, from the year 1938 to 1945, inclusive—the revenues for the latter year being estimated—total for the entire river $4,000,000, and for the upper division $2,500,000.

Out of this sum there has been appropriated to date, from the Colorado River development fund, for the lower basin a total of $1,349,750 and for the upper basin $750,000. These appropriations are all for the preparation of the plans for future development.

I cite these figures, Mr. President, as indicating that the construction of these projects will create new opportunities for Federal revenue. They may well be called self-liquidating projects. They are not to be regarded as in the category of wasteful Federal expenditures which produce nothing. They are investments

in productive enterprise, and as such, deserve the support and consideration of the entire Congress in the future, as they have in the past.

I thank the Senator from California.

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Mr. BUTLER. Mr. President, I should like to ask the senior from Texas a question.

The real nut of this whole treaty is the 1,500,000 acre-feet of water to be delivered to Mexico. As I understand, we guarantee to Mexico a minimum of 1,500,000 acre-feet. In some of the statements which I have heard, speakers have taken the position that in case of an extended drought less than 1,500,000 acre-feet could be delivered. Can the Senator from Texas direct my attention to the clause of the treaty which protects the United States in that respect?

Mr. CONNALLY. I will find it in a moment. We discussed it on the floor of the Senate yesterday.

Mr. AUSTIN. It is found in article 10, in the fourth paragraph.

Mr. CONNALLY. Without reading it now, does that explain the situation?

Mr. BUTLER. Yes.

Mr. DOWNEY. Mr. President, I wish to make a very brief statement to the Senate concerning this treaty, as I see it developing. I will appreciate it if the distinguished presiding officer will notify me when I have occupied 20 minutes of time.

The PRESIDENT pro tempore. That will be done.

Mr. DOWNEY. Mr. President, I assume from what has occurred in the Senate that there will be a vote at 4 o'clock today, and that two-thirds of the Senators present will vote to approve the treaty.

First, on behalf of myself and the State which I represent, I wish to thank the Foreign Relations Committee, particularly the distinguished chairman of the committee [Mr. CONNALLY] for his courtesy and patience in permitting me to participate in the committee's hearings by questioning witnesses who offered testimony. On behalf of the many witnesses who came here from California to testify, I want to thank the chairman for his most generous consideration. We have not had as much time or opportunity to express our ideas as we should like to have, but in view of the tremendous flow of issues in and out of Washington, I know that we have had all we are justified in having.

At the beginning of this debate I stated that impartial political writers seem to agree that the Senate has improved almost every treaty it has amended in any way, and has been justified in rejecting the treaties which it has rejected. I reserve my opinion with respect to the great League of Nations Treaty which, of course, is in a class by itself.

In hundreds of cases the Senate has prevented the administrative agencies from making ambiguous and imprudent commitments. I wish to express to the Senate my gratitude that here in this free forum we have greatly improved the pending treaty. Vast and extreme powers which were grasped at by the designers of the treaty have been swept aside or greatly curtailed. Many ambiguities have been clarified. Possibly imprudent commitments have been prevented. We are grateful for that. When the treaty left the State Department it was a tragic and unfortunate document. The protocol first greatly curtailed its powers, and the 10 or 15 reservations, to which we have here agreed, accomplish a great deal.

Mr. President, I hope the Senate will not think I am dealing too much in personalities when I now express my deep appreciation and gratitude for our senior Senator from California [Mr. JOHNSON] for the gallant struggle he has made here. The gallantry and the courage which he has so often shown in well over 30 years of public service have again been demonstrated in this treaty fight. In our State our distinguished senior Senator will always remain one of our

great figures. One of his great undertakings and great dreams was consummated by the building of Boulder Dam, by which the water in the Colorado River available for irrigation and other beneficial uses was more than doubled.

I also wish to express my appreciation, if I may do so, of our California witnesses. As this record is examined by engineers, attorneys, and historians, I think they will find that the witnesses from California dealt with the subject matter with intelligence, accuracy, and integrity. Most of the witnesses who were presented by California were men eminent in our State as engineers, lawyers, and industrial leaders; I am proud of the record they have presented. Without their valuable technical services and their clear understanding of the dangers which lurked in the cumbersome provisions in the treaty as it was revealed well over a year ago, I am certain the situation would not have been so much improved by the protocol to the treaty and the several clarifying reservations.

While I am very happy over a greatly improved treaty, I still find at least three serious faults in it. The International Boundary Commissioner and his aides apparently never realized that there is a great body of underground water in the Colorado River delta in Mexico which is not in the United States. At least, they never dealt with that subject at all. The Supreme Court of the United States declared, in the Kansas-Colorado case, that under similar conditions existing in Kansas and Colorado, underground waters must be considered as one of the equities chargeable against the lower State. What is more important in this respect, the future development of underground waters in Lower California might, by affecting the capacity of the geological structure there, allow Mexico to draw down another 200,000 or 300,000 or 400,000 acre-feet of water which would be from our river in the United States.

Mr. President, yesterday I tried unavailingly to convince the Senate that, as a part of the treaty, we should make a commitment to build the Gila Dam. Of the many matters entirely overlooked in the negotiations or at least in the writing of the treaty, one of the outstanding ones was with respect to the building of the Gila Dam. I serve notice on the Senate now that at some time in the immediate future it will be my intention to press in this body for action on the Gila Dam, and I hope similar action will be taken in the House of Representatives.

The great defect in the treaty at this time—and whether it strikes at the heart of Mexico or of the United States, I do not pretend to say—is the failure to clarify the provision with reference to the salinity of water to be delivered to Mexico. In irrigation the salinity of the water is a factor just as important as the actual volume of water. In my opinion, the treaty contains a very serious ambiguity in respect to that matter. I doubt very much whether we shall ever know, until there has been some kind of adjudication by some international body, whether Mexico will be compelled to take water regardless of its quality. If Mexico is obligated to take water from the Colorado River from our return flow, however saline it may be, in my opinion she will have a treaty which will be

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dangerous and of very doubtful value to her. The State Department anticipates that there will be over a million acre-feet of return flow from the Colorado, most of which, I believe, will be highly saline. In arriving at that figure it did not count upon the 500,000 or 1,000,000 acre-feet of water which might at some time be returned by California to the Colorado River. It might very well be, according to the interpretation given by our State Department, that under this treaty all the water obtained by Mexico might be from return flow, and all of it might be so saline as to be unusable. If hereafter it should be de-

termined that Mexico does not have to take water of poor quality, then we might be obligated to add 300,000 or 400,000 acre-feet of water to the 1,500,000 acre-feet of water, and to bring that additional water down to the boundary from Lake Mead. In that event, a most dangerous condition would exist. I think the situation is such that the danger to the upper basin States is much greater than the danger to the lower basin States. It might be that the lower basin would provide a return flow of 1,500,000 acre-feet of water and would receive credit for it from the upper basin States. In that event, we might immediately find that the whole burden of furnishing 1,500,000 acre-feet of fresh water might fall upon the upper basin States. All those States are represented in the Senate by distinguished and able men; and, of course, it is not for me to fight the battle for those States, inasmuch as the Senators who represent them are very much better able to do so than I am.

Mr. President, another serious defect in the treaty, so far as I am concerned, has to do with the number of the Commissioners. As we know, the treaty now provides that there shall be a Commission which shall be composed of only two members. It seems to me that in consideration of the tremendous obligations and responsibilities which those Commissioners will have, the Commission should be increased to six members. I shall rely upon the very gracious statements made to me by the distinguished Senator from Kentucky [Mr. BARKLEY] and the distinguished Senator from Texas [Mr. CONNALLY], and hereafter I will pursue some kind of legislative process in an effort to see whether, by an additional treaty, we can increase the personnel of the Commission to six members.

Mr. President, what I am about to say may be considered by some Senators to be a utopian dream. I myself believe that in 20 or 30 years there will be such a scarcity of water in the Colorado River Basin that we shall find ourselves compelled to go out of that basin and into other basins in order to find additional water. During the course of the argument by the Senator from Wyoming [Mr. O'MAHONEY], I stated on the floor of the Senate certain figures, which are only approximations and general, but they convey the general idea. The Colorado River Basin, for example, has a drainage basin of about 243,000 square miles, as compared with 204,000 square miles for the Ohio. But the average annual run-off of the Ohio, which is 181,000,000 acre-feet, is over 10 times that of the Colorado. The Columbia, which has a basin of 259,000 square miles, has a run-off of about 200,000,000 acre-feet or well over 11 times that of the Colorado. Manifestly, because of a cooler climate and a greater precipitation in the Columbia Basin, they do not need water as badly as we do.

Looking into the future 25 or 50 years from now, I have no doubt that it will be a comparatively small and simple engineering problem to bring additional waters from some of the tributaries of the Columbia, or from the Columbia itself, to amplify the very small quantity of water in the Colorado Basin. It is my intention at the proper time to submit some kind of a resolution authorizing an investigation by the Bureau of Reclamation of the best method of amplifying the waters of the Colorado River.

Mr. President, I know that many intelligent and prudent men would hold up their hands in horror at the idea of conveying large quantities of water by aqueducts 500 or 1,000 miles in length. But if we consider for a moment the 5 greatest irrigation projects constructed in the United States—namely, the T. V. A., Boulder Dam, Bonneville Dam, Grand Coulee, and the Central Valley project of California—we will agree that the construction of all of them did not require more than 150,000 men over a period of 5 years.

Mr. President, if those projects had required the employment of 1,500,000

men, or even 2,000,000 or 3,000,000 men, we would, nevertheless, have desired the projects. No citizen in the great area from which the distinguished and beloved Senator who now presides comes would want to see the great T. V. A. project destroyed for $10,000,000,000, or 10 times what it cost.

While those great public projects may at times seem to have been costly, we know that we would not sacrifice them for many times their original cost. Consider, for example, the great Boulder Dam project, the construction of which was largely the result of the energy and vision of the beloved senior Senator from California [Mr. JOHNSON]. We in the Southwest would not willingly see that project destroyed for 10 times or a hundred times its cost.

Mr. President, if I may know the amount of time I have remaining, I will conclude.

The PRESIDENT pro tempore. The Senator has 27 minutes.

Mr. DOWNEY. I shall not speak further at this time.

Mr. CONNALLY. How much time have I remaining?

The PRESIDENT pro tempore. Thirty minutes.

Mr. CONNALLY. How much time has the Senator from California?

The PRESIDENT pro tempore. The Senator from California has 27 minutes.

Mr. DOWNEY. Mr. President, I shall be happy to yield additional time to the senior Senator from Texas. However, I wish to accommodate the Senator from New Jersey [Mr. HAWKES].

Mr. PEPPER. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield to the Senator from Florida.

The PRESIDENT pro tempore. How much time does the Senator from Florida desire?

Mr. PEPPER. Only 2 or 3 minutes. I wish to make what I believe will be a brief but fitting statement.

Mr. President, I wish to say a word in commendation of the valiant and able fight which has been made in respect to the improvement and clarification of this treaty by the able junior Senator from California [Mr. DOWNEY]. Being a lawyer myself, I have seen a great many advocates in forums where causes were being tried. Neither in my experience as a lawyer, nor as a Senator, have I ever seen an abler, a more gallant, a more valiant, and at the same time a more courteous and generous fight made in behalf of a cause than has been made in this debate by the able junior Senator from California.

I wish also to pay high tribute to the senior Senator from California [Mr. JOHNSON] for his diligence and his efforts under difficult circumstances.

I wish to assure the junior Senator from California that I have listened attentively to every word which I have been privileged to hear of his argument. I was very much impressed with the need which he indicated of a further study of the problem of amplifying the waters of the Colorado River Basin. I assure the junior Senator as well as his able senior colleague, that when he presents his resolution to the Senate he will find the junior Senator from Florida desirous of cooperating in every possible way. I foresee the day when all the arid lands in the great area of the West will be irrigated by the waters of the Colorado River. In order that we may keep our commitments to Mexico—and at the same time in order that there may be no limit to what we shall be able to do in the United States, I wish to help in every possible way in amplifying the Colorado River Basin waters.

Mr. President, I cannot take my seat without paying a compliment to the senior Senator from Texas, the distinguished chairman of the Foreign Relations Committee [Mr. CONNALLY]. He has carried a burden which has been almost back-breaking and heart-rending. He has carried a weight which would have bent the back of the strongest. He has carried on with patience, consideration, and generosity to

all. He enjoys the esteem and respect of the Members of the Senate for the way in which he has conducted his own gallant part in this debate.

Mr. CONNALLY. I thank the Senator from Florida for his sincerity.

Mr. President, in view of the fact that the proponents have rested, will the Senator from California now use some of his remaining time?

Mr. DOWNEY. Mr. President, I had thought that the reservations which were being handled by the senior Senator from New Jersey [Mr. HAWKES] would be acceptable to the other interested Members of the Senate, but apparently I am not correct. I ask him if he is now ready to proceed. If he is ready, and if it be agreeable to the senior Senator from

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Texas, I will yield to him the remainder of the time allotted to our side.

Mr. HAWKES. Mr. President, I thank the junior Senator from California. I have been waiting to see if some of us could reach an agreement with respect to certain matters. If that can be accomplished, it will save the time of the Senate. I refer to the reservation which I submitted the other day to the effect that nothing in the treaty should impair the rights and obligations of contracts which the United States Government has made with its citizens. I am not prepared at the moment to present the reservation.

Mr. CONNALLY. I suggest to the Senator that he proceed with his argument because it is not probable that an agreement will be reached. In the interest of the time of the Senate I think it would be well for him to proceed with the presentation of the reservation.

Mr. HAWKES. Mr. President, I have submitted two reservations. One of them deals with the question of the American section having the right to declare the existence of a drought. That question was virtually disposed of yesterday by the presentation of a similar reservation by the junior Senator from Nebraska [Mr. WHERRY]. I therefore withdraw that reservation.

But, Mr. President, I offer another reservation, which reads:

> That nothing in this treaty shall impair or require a violation of any valid compact or contract heretofore made by the United States with its States, public agencies, or citizens.

I realize that we are coming to a vote at 4 o'clock this afternoon, and therefore I shall try to be as brief as I can. I believe it is unnecessary for me to go over the various points I have previously made in the Senate on different days. I feel very definitely that, regardless of what may happen to the pending treaty, it has been substantially improved by the debate, by the better understanding Senators now have of it, and by the reservations which have already been adopted.

We are all familiar with the Colorado River compact involving seven States. I believe every Member of the Senate is familiar with the Boulder Dam Act, and with the fact, upon which I shall briefly touch, that when the Boulder Canyon bill came to the Senate from the House it was amended in the Senate so as to state definitely that the water to be conserved by Boulder Dam was for the exclusive use of the citizens of the United States. To me that meant something, and it should always mean something.

The distinguished Senator from Nevada [Mr. MCCARRAN] yesterday read into the RECORD the words of the late Senator Pittman at the time that amendment was discussed in the Senate. They were very prophetic words, because it seems that the Government of the United States and the Senate are about to do what Senator Pittman predicted could not be done or, at least, would not be done. I shall not take the time of the Senate to reread Senator Pittman's remarks, as I believe Senators are familiar with them.

Mr. President, I am one who believes very sincerely that this is a new pattern of a treaty, and I feel that no Senator

should fail to analyze the meaning of this new pattern of treaty which the United States Government is willing to make with a foreign nation, practically knowing at the time it is made that it will interfere with the rights and the property of people who have relied upon the contracts and the compacts which have been made by the Federal Government with the States, its agencies, and its citizens. It is my feeling that we cannot afford to let down our own citizens, and, so far as I am concerned, unless we can protect them in the things they have done and will do under contracts and compacts upon which they had a right to rely, there is not much hope of building that reverence for government which is required in the United States if we are to get back to sound moorings.

I have said before, but, at the expense of repetition, I should like to emphasize that 40 or 50 years is a very short time in the life of a great nation. Many Senators say to me, "Why are you worried about this treaty? The States which are affected cannot use the water now and they will not be able to use it for 40 or 50 years." I say to you, Mr. President, that 40 or 50 years in the life of a great nation such as the United States is a very short time. One of the best-known passages of the Bible is "For a thousand years in Thy sight are but as yesterday when it is past."

Fifty years in the life of this great Nation, I repeat, is an insignificant period and the fact that under this treaty additional water may not be needed by Western States during my lifetime or possibly during the lifetime of my children does not cause me for one moment to forget that we have a duty to future generations.

I know that there is not much chance of this reservation being adopted by the Senate. The votes yesterday on reservations equally important clearly indicate that the treaty is pretty well in the bag; but that does not relieve me of my responsibility to place myself on record as being in favor of protecting the rights of our American citizens and establishing some way by which their rights may be preserved, as they had a right to assume they would be when they undertook development work and spent hundreds of millions of dollars in building dams, aqueducts, and waterways.

Mr. President, regardless of my fervent hope and deep desire for peace on earth, I still believe that the representatives of the people and the Government of the United States as a whole owe first allegiance to our American citizens and the established agencies which have been built up by the authority of the people.

My real concern about this instrument is that it is a brand new pattern of treaty; and I caution my colleagues that, in my opinion, the people of the United States will ultimately expect protection of their valid rights by the Government.

There may be times when it is necessary for the peace of the world and in order to be a fair, just, and considerate neighbor to do things which may injure a few of our citizens, but when that becomes necessary in the interest of the welfare of all, then the Government, which is composed by all, should carefully consider the making of any treaty which, in advance, indicates that it will breach faith with the citizens of this country.

We should then weigh the importance of the two things, and if it is deemed that the treaty is more important than the protection of the rights of all of our citizens, we should make the treaty, knowing that we will be called upon to remedy the injury to the full extent of our ability.

This is the only kind of justice which will keep faith with our citizens. Unless we keep faith with our own citizens, no one in the world has a right to expect us to keep faith with them under a treaty or otherwise.

Peace cannot be purchased with money or gifts of natural resources, be-

cause the money and the gifts will not hold out long enough to make an enduring peace. Peace has to be in the hearts of the people of the world, and it can only result from the character of the individuals who seek it and through sacrifices which are sound enough and just enough to cause future generations to be willing to live with the bargains we create for them.

Mr. President, I think it is unnecessary for me to take any more time of the Senate in connection with the reservation I have proposed, but I do want a yea-and-nay vote on it. I am willing to try to answer any questions any Senator may desire to ask me as to why I take this position; but I must keep faith with myself in trying to see to it that the United States protects its citizens.

The PRESIDENT pro tempore. The reservation offered by the Senator from New Jersey will be stated.

The CHIEF CLERK. At the end of the resolution of ratification it is proposed to insert the following:

> With the understanding, as a part of this ratification—
>
> That nothing in this treaty shall impair or require violation of any valid compact or contract heretofore made by the United States, with its States, public agencies, or citizens.
>
> and that this understanding will be mentioned in the ratification of this treaty as conveying the true meaning of the treaty and will in effect form a part of the treaty.

Mr. O'MAHONEY. Mr. President, I rise to express my opposition to the reservation. I oppose it upon two grounds, first, that there is nothing in the treaty itself which makes necessary such a reservation. The treaty sets forth the manner in which any obligation we have to Mexico is to be distributed among the States. I regard it to be an obligation upon the entire Colorado River system.

The second reason is that it deals with a subject matter which should be handled solely by the States which entered into the Colorado River compact. There is no question in my mind that if a reservation of this kind were added to the treaty it would amount to prejudgment of an issue which might arise in the fu-

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ture among the States. It has nothing to do with the treaty with Mexico, as I see it.

The obligation we are assuming with respect to Mexico is to the advantage of all the States—California and Wyoming and all the other lower and upper basin States—because it stabilizes this river.

Any effort by a reservation to the treaty to lend extra validity or power or sanction to contingent contracts which may have been entered into by the Government of the United States, and the enforcement of which may be sought in the future, is, as I see it, altogether irrelevant, but the addition of such a reservation would lend color and force to the position of one side. I suggest to the Senator that a reservation of this kind, offered so shortly before the time agreed upon for a vote upon the treaty, deprives us of proper opportunity for consideration. The committee which considered the treaty did not approve the reservation.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. BARKLEY. As I understand it, the compact entered into among the Colorado River States anticipated an ultimate treaty between the United States and Mexico, and provision was made in the compact for such treaty as might be entered into. So that it seems to me it is possible that contracts may have been entered into under the compact which would be inconsistent with the treaty with Mexico, and that this reservation would have the effect of nullifying the treaty with Mexico, and preserving some arrangement among the States which they themselves might want to change, regardless of either the treaty or the compact, so long as it did not violate the treaty.

Have I interpreted the compact properly as it relates to the treaty with Mexico?

Mr. O'MAHONEY. The Senator has.

Mr. BARKLEY. This reservation, then, would in effect be an amendment of the treaty itself which would nullify the anticipation of the States in making the compact, looking forward to a treaty between the United States and Mexico?

Mr. O'MAHONEY. The Senator perceives the situation as it exists.

I wish to add that the Colorado River compact provides for the division of the waters of the river between the upper and lower basin. Article III, paragraph (a), provides:

> There is hereby apportioned from the Colorado River system in perpetuity to the upper basin and to the lower basin, respectively, the exclusive beneficial consumptive use of 7,500,000 acre-feet of water per annum.

In paragraph (b) it is provided:

> In addition to the apportionment in paragraph (a), the lower basin is hereby given the right to increase its beneficial consumptive use of such waters by 1,000,000 acre-feet per annum.

Then in paragraph (d) it is provided:

> The States of the upper division will not cause the flow of the river at Lee Ferry to be depleted below an aggregate of 75,000,000 acre-feet for any period of 10 consecutive years reckoned in continuing and progressive series beginning with the 1st day of October next succeeding the ratification of this compact.

Mr. President, what I desire to point out is that the upper basin States have been more than generous to the lower basin States. The upper basin States have contributed here, on the floor of the Senate, and on the floor of the House, to the building of works in the lower basin States, and I say respectfully to the author of the reservation, who is speaking on behalf of California, that he need have no fear of the desire for justice on the part of the upper basin States, and he can very properly and confidently remit any question which may be in his mind to the judgment of the States in the Colorado River basin. He should not attempt to foreclose any dispute which may arise among the States by adding a reservation of this kind to the treaty. It forecloses the judgment of the States. I regard it as an impairment of the Colorado River compact, and I hope the Senate will not agree to the reservation, or to any modification of it. It has no place in the treaty.

Mr. McFARLAND. Mr. President, will the Senator from Wyoming yield?

Mr. O'MAHONEY. I yield.

Mr. McFARLAND. As I understand the Senator from Wyoming, if a State or an individual were damaged, and the case were presented at the proper time and place, the Senator would be willing to vote to award damages?

Mr. O'MAHONEY. I should be very willing to consider any case which might be made out, but I do not want to be foreclosed, and I do not want anyone to ask the Senate to foreclose a dispute of that kind which may arise in the future and the character of which we know nothing about at this moment.

Mr. LUCAS. Mr. President, will the Senator from Wyoming yield?

Mr. O'MAHONEY. I yield.

Mr. LUCAS. From the hearings I understood that the Colorado River compact gave to the upper basin States a certain amount of firm water and to the lower basin States a certain amount of firm water. I am correct in that, am I not?

Mr. O'MAHONEY. The Senator is correct.

Mr. LUCAS. In addition to that, certain contracts were made by California with certain agencies of the Government, and under those contracts they got additional water over and above the amount they received under the Colorado River compact, but at the same time always taking into consideration in the contracts what the compact provided.

Mr. O'MAHONEY. The contracts were in effect contingent contracts, and the compact was the superior document.

Mr. LUCAS. The Senator is correct. In the event that this reservation shall be adopted by the Senate, we will give

color of validity to such contingent contract?

Mr. O'MAHONEY. Precisely.

Mr. LUCAS. That is exactly what we do not want to do, because, as I noted the testimony from time to time before the committee, it seemed to me that those contracts should never have been made and that some time, some place, the States affected are going to have litigation over their rights as a result of some of the contracts which have been made. I do not want to be a party in the United States Senate to voting for a reservation which will do something to give color of validity to a contract which, in my opinion, was dubious in the beginning.

Mr. O'MAHONEY. I thank the Senator from Illinois.

Mr. HAWKES. Mr. President, will the Senator yield?

Mr. O'MAHONEY. If the Senator will pardon me for a moment, I wish to add that this matter was before the Committee on Foreign Relations, the committee had ample opportunity to consider it, and the committee did not agree to the reservation. Had it been before the committee with any likelihood of being adopted, I should have been before the committee talking about it, as I do not want to be in the position, if I can avoid it, of being compelled, 40 minutes before the time we have agreed, under unanimous consent, on a vote on the treaty, to resist a reservation which prejudges a possible controversy, and I think the Senator from New Jersey should not ask the Senate to do that.

Mr. JOHNSON of Colorado. Mr. President, will the Senator from Wyoming yield to me?

Mr. O'MAHONEY. I yield.

Mr. JOHNSON of Colorado. I wish to associate myself with the argument and the contention being made by the Senator from Wyoming. The proposed reservation would certainly be an interference with the rights of the compact States, and with the compact to which they have agreed.

The Senator has no right, it seems to me, to bring a contentious matter of that kind into the consideration of the treaty at this late hour.

Mr. HAWKES. Mr. President, will the Senator yield?

Mr. CONNALLY. Mr. President, let me ask the Senator from New Jersey if he will not speak in his own time now?

Mr. HAWKES. Mr. President, I shall be glad to speak in my own time now.

I should like to say that I cannot follow the reasoning of the distinguished Senator from Wyoming [Mr. O'MAHONEY] or the distinguished Senator from Illinois [Mr. LUCAS], or my friend the distinguished Senator from Colorado [Mr. JOHNSON]. I do not think the reservation attempts in any way to determine whether a contract is good or valid, or what was done in the compact when the seven States reached their agreement. The reservation does not attempt to set forth what the Boulder Canyon Dam Act provides. It does not attempt to deal with the matters which were before the parties at all. It simply provides that nothing in the treaty shall impair or require violation of any valid compact or contract, and I emphasize the word "valid," heretofore made by the United States with its States, public agencies, or citizens.

Mr. President, I think it is most unfair for the distinguished Senator from Illinois, the distinguished Senator from Wyoming, or any other Member of the Senate to say that they are having to act upon this matter on 40 minutes'

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notice. I presented the reservation more than 3 days ago. I spoke on it in the Senate. The reservation was printed and has been lying on the table. I am daily asked to vote in the Senate on unprinted resolutions and bills and amendments. I do not like to do that. I think it is a very unsound method of legislating. But, Mr. President, I say that the Senators who have just spoken have known about this matter by reason of my discussion on the Senate floor and

from the fact that the reservation has been printed and distributed for more than 3 days. So I think it is almost an unfair insinuation for the Senator from Wyoming to intimate that I am bringing in a new issue and asking him to vote on it on 40 minutes' notice.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. HAWKES. I yield.

Mr. O'MAHONEY. I did not say that the Senator was bringing in any new issue which would require me or anyone else to talk about it within 40 minutes of time. I said that the issue is precipitated here after having been rejected by the committee. I am well aware that the reservation offered by the Senator was printed and was lying on the table.

Mr. HAWKES. If I may interrupt at that point, let me say that the reservation was never rejected by the Senate committee. Let us have this matter entirely clear. The subcommittee of the Senate Foreign Relations Committee, which was headed by the Senator from Georgia [Mr. GEORGE], said the reservation was not germane to the subjects which had been assigned to them, and therefore the subcommittee could not give it consideration. That is a vastly different thing from being rejected.

Mr. O'MAHONEY. Mr. President, I recognize and respect the good faith of the Senator from New Jersey, and I make no imputation whatsoever respecting what he is doing. I am merely pointing out that, while it may be true that the Foreign Relations Committee did not formally vote to reject this reservation, it did not act favorably on it, and I assumed, and I know that all Senators from the upper-basin States assumed, that it was not to be brought forward by the committee. It certainly does not have the approval of the Committee on Foreign Relations. I may say to the Senator from New Jersey that it does not have the approval of the Senators from the upper-basin States.

Mr. HAWKES. I understand that. If I may interpose at this point, let me inquire if the Senator from Wyoming was in the Senate Chamber when the Senator from Georgia [Mr. GEORGE] reported on this reservation? If the Senator from Wyoming was in the Chamber he will remember, if my recollection is correct, that the Senator from Georgia said that while the reservation was not germane to the issues which had been given to the subcommittee to consider, it was perfectly proper for me to offer the reservation on the floor and have it printed, and lie on the table.

Mr. O'MAHONEY. That is proper, certainly.

Mr. HAWKES. Yes, I know it is proper; but the point I am making is that if the Senator was present he certainly cannot say now that he has not had more than 40 minutes to think about it.

Mr. O'MAHONEY. I did not say that I had not had more than 40 minutes to think about it. I have had a long time to think about it, and my thought is such that I think the reservation should be rejected. What I say is that I have had only 40 minutes in which to explain my point of view to the Senate.

Mr. HAWKES. I may say to the distinguished Senator—and I have great respect for him—

Mr. O'MAHONEY. I thank the Senator.

Mr. HAWKES. I may say that some day I believe the people of the United States will be working together in the interest of the United States of America so that the United States can do its duty to the world. I think this thing has the earmarks of different basins fighting each other, and I believe some day they will regret that they are doing so. I believe some day they will have a very deep regret that they did not recognize the rights and interests of each other and work for the preservation of the golden water which is so important to the Senator's State of Wyoming. I know the Senator's State. I have been there many times. The Senator and I had the pleasure of being on the same platform in his State.

Mr. O'MAHONEY. And it was a very great pleasure, I will say to the Senator from New Jersey.

Mr. HAWKES. It was a great pleasure to me. We had the great pleasure of being there together. I say to the Senator from Wyoming that it is too bad that there is an insinuation all through this discussion that California is a culprit.

Mr. O'MAHONEY. No.

Mr. HAWKES. That California wants something she should not have. That she made the best of a bargain in time past. If we are to take everyone in the United States who ever honestly made the best of a bargain and then overturn it because they were ingenious and able enough to make a good bargain, we will have a very rough time in the United States.

Mr. O'MAHONEY. I will say to the Senator from New Jersey, Mr. President, that I would be the last person in the world to imply that California was a culprit. Certainly I have the deepest respect and admiration for the senior Senator from California [Mr. JOHNSON] whose courageous and effective service upon this floor I have been familiar with since the day he entered the Senate back in 1917. I was here when the Senator from California took the oath of office. I was proud to have the opportunity of seeing him take the oath of office. I cast no reflection upon anyone in California. I cast no reflection upon the California representation here. I would say the same thing about the junior Senator from Califorina that I have said with respect to the senior Senator from California. I cast no reflection on the Senator from New Jersey. I am merely saying that the upper basin States have an obligation which they have observed of supplying at least 75,000,000 acre-feet of water during a 10-year period. They will continue to observe that obligation.

The upper basin States have seen developments proceed in other States in the lower basin. They have watched them. Their representatives in the Senate have now agreed to this treaty which guarantees a certain supply of water to Mexico. We have supported that treaty because we want the situation stabilized. But, Mr. President, we do not want the treaty or any reservation to it to be used as the instrumentality of settling a controversy which ought to be settled among the States. We should not be foreclosed in this manner.

I thank the Senator from New Jersey for permitting me to intrude upon his time.

Mr. HAWKES. The Senator from Wyoming is entirely welcome. I only wish to say I do not think the reservation in any way precludes the States from settling their problems, and I emphasize again the point that the reservation deals only with valid compacts and contracts heretofore made by the United States with its States, public agencies, or citizens.

Mr. President, I have no desire to delay the proceedings. I ask for a yea-and-nay vote on my reservation.

Mr. BARKLEY. Mr. President, inasmuch as the unanimous-consent agreement provides for a vote to be taken at 4 o'clock, and inasmuch as I understand the Senator from Texas [Mr. CONNALLY] and one or two other Senators desire to discuss some features of the treaty before 4 o'clock, I suggest that the Senate begin voting at 4 o'clock, and vote on the reservation offered by the Senator from New Jersey first. In that way we will lose no time between now and 4 o'clock.

The PRESIDENT pro tempore. The Chair will state to the Senator from New Jersey that the first vote will come on his reservation.

Mr. HAWKES. So long as it is understood that my reservation is to be voted on separately, I am satisfied.

Mr. BARKLEY. Oh, yes; and I am willing to agree now that there be a yea-and-nay vote on the Senator's reservation.

Mr. HAWKES. I ask for the yeas and nays on my reservation.

The PRESIDENT pro tempore. Is there a sufficient number seconding the request of the Senator from New Jersey for the yeas and nays on his reservation?

The yeas and nays were ordered.

Mr. CONNALLY. Mr. President, I hope the Senator from California will use the remainder of his time, because the proponents of the treaty are entitled to the last word.

The PRESIDENT pro tempore. The Senator from California has 14 minutes, and the Senator from Texas has 16 minutes.

Mr. DOWNEY. Mr. President, I do not desire to consume any additional time. If any volunteer wishes to speak on behalf of the reservation, or against the treaty, I shall be glad to yield time.

The PRESIDENT pro tempore. Apparently there are no volunteers. Does the Senator from California yield his time to the Senator from Texas?

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Mr. DOWNEY. I shall be glad to do so, Mr. President, unless some new point should be injected into the debate. Unless I intervene, I shall be glad to yield the time to the Senator from Texas.

Mr. CONNALLY. Mr. President, after many days of discussion and consideration, we are approaching a vote on the pending reservation and on the treaty. I wish to thank Senators for the interest which they have manifested in the treaty and for the patience with which they have listened to those of us who have spoken on the subject.

Mr. President, I should like to be notified at the end of 8 minutes, because I wish to reserve some time for the Senator from Kentucky.

The pending reservation, offered by the Senator from New Jersey, is wholly unacceptable, not only to all members of the Foreign Relations Committee except two, but especially to Senators from the upper-basin States. They are bitterly opposed to it. It would be very deleterious to the treaty and might interfere with its acceptance by Mexico, because it is a variation of the terms of the treaty.

The purpose of the reservation is this: Originally the States of the upper basin and the States of the lower basin entered into what was called an interstate compact. Under that compact the States of the upper basin were to receive 7,500,000 acre-feet of water a year, and the States in the lower basin were to receive 8,500,000 acre-feet. Then came the Boulder Canyon Dam Act, which, in a way ratified and adopted the interstate compact between the States as the basis for the division of the water. It was also provided that the State of California should enact a statute accepting limitations on the amount of water which she should receive. The State of California, through its legislature, enacted such a statute.

Under the interstate compact between the States, California was allocated 4,400,000 acre-feet of water each year. She accepted the terms of that limitation by act of her own legislature, limiting her claim to that amount. Subsequently the Secretary of the Interior made certain so-called contracts with the users of the water which greatly increased the allotment to California. They provided more than 5,000,000 acre-feet for California. Those contracts were predicated upon the theory that the water would be available under the terms of the compact, under the terms of the Boulder Canyon Act, and under all laws and agreements relating thereto.

Mr. DOWNEY. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. DOWNEY. In the interest of accuracy, I think it should be stated that the Boulder Canyon Dam Act not only provided 4,400,000 acre-feet for California, but also one-half of the surplus in addition.

Mr. CONNALLY. The Senator is correct. Of course, so long as there is a surplus, no one complains.

Every one of the contracts to which I have referred had written into it the

provision that it was subject to the interstate compact. They are all subordinate to the interstate compact, and the solemn pledge of California herself, by an act of her own legislature, that she was entitled to only 4,400,000 acre-feet a year.

The effect of the pending reservation, if it could have any legal effect, would be to give color of validation to the so-called contracts in excess of 4,400,000 acre-feet. To that extent it would rob the other States in the lower basin and the States in the upper basin of their rights under the interstate compact, because the water which California gets must come either from the upper basin or from the lower basin.

If those contracts should be indirectly validated, as is sought to be done by the pending reservation, the result would be a rank injustice to all the other States within the Colorado River Basin. So I hope Senators will not be misled. I hope they will not be influenced to support this reservation on the theory that it is a protection of the legal rights of citizens. We have already, by suitable reservations, amply protected such rights. We have made it clear that the rights of citizens of the United States within United States territory shall not be impaired, but shall be under the control of our own constitutional processes, domestic laws, and regulations. That is sufficient. All the constitutional processes which are in force shall continue to be in force within the United States as to its citizens.

I appeal to Senators to vote against the pending reservation. If Senators want this treaty, they should not vote for the reservation, because the reservation would drive a dagger into the heart of the treaty.

Mr. President, how much time have I?

The PRESIDENT pro tempore. The Senator has 2 minutes.

Mr. CONNALLY. Two minutes out of the 8 minutes, at the end of which I asked to be notified by the Chair?

The PRESIDENT pro tempore. That is correct.

Mr. CONNALLY. Mr. President, this question has been engaging the attention of the two Governments for 30 or 40 years. There have been negotiations back and forth, with a claim on the part of Mexico that she was entitled to a much greater amount than is granted her under the pending treaty. In the course of the negotiations, Mexico contended that she was entitled to 3,600,000 acre-feet of water annually, whereas under the treaty she is given only 1,500,000—that, Mr. President, in the face of the fact that according to the testimony before the committee, Mexico is now using for beneficial purposes 1,800,000 acre-feet a year.

Mr. DOWNEY. Mr. President, will the Senator yield?

Mr. CONNALLY. Mr. President, I do not like to give up my time.

Mr. DOWNEY. I shall not ask the Senator to give up his time. I wish to give him some of my time. Unless some other Senator desires to speak in behalf of the reservation offered by the Senator from New Jersey [Mr. HAWKES], or against the treaty, I shall be glad to yield 10 minutes of our time to the Senator from Texas.

Mr. CONNALLY. I thank the Senator.

Mr. DOWNEY. We are being just as generous with our time as we were with our water.

The PRESIDENT pro tempore. The Senator's 8 minutes have expired. The Senator has 8 minutes more of his own time, and 10 minutes of the time of the opposition.

Mr. CONNALLY. I thank the Senator from California. If he had been as generous at the start of the hearings before the committee as he now is, we probably could have completed consideration of the treaty a little earlier. I am very happy to have had this experience, and to have had an opportunity to work with the Senator. I am very glad that he is approaching a vote on the treaty with so much equanimity and good nature.

Mr. DOWNEY. I am sure that if we had been more generous we could have completed consideration of the treaty before this, but we would not have had any water left.

Mr. CONNALLY. The treaty will give California more water. It provides for the building of the Davis Dam, below Boulder Dam. Davis Dam will catch and hold waters which are now being discharged from Boulder Dam, for the manufacture of electricity for the Senator and his constituents in San Diego, Los Angeles, and many other cities. That water now goes to waste. Ten million acre-feet, with the majesty of a torrent, tears down the Colorado River and wastes itself in the broad expanse of the Gulf of California.

We shall save that water, under this treaty, with Davis Dam; more water will be available than ever heretofore. The water will not be wasted simply because it has been expended in the manufacture of cheap electric power. I do not begrudge the State of California getting the power. All I ask is that California recognize the rights of other commonwealths. There are seven States in that basin. Five of them are enthusiastically supporting the treaty. They are doing so because they believe it is to the interest of that basin that the treaty be ratified.

A moment ago I said that Mexico is now using 1,800,000 acre-feet of water. Under the doctrine of prior beneficial use, a doctrine with which the lawyers from the West are familiar, and with which I am largely unacquainted, a State adjacent to a stream, which uses the water of the stream and appropriates it for beneficial usage, has an equitable claim to continue the use of that water for all time. Let us look at this picture. With the unrestrained flow of the river—10,000,000 acre-feet of water sweeping down the river—there is nothing to prevent Mexico, without a treaty, from vastly increasing the beneficial uses within her own country. If she does so, and if we have no treaty, the gates of international arbitration will stand wide open for her. We have a treaty with all the republics of the Western Hemisphere that we shall arbitrate questions and disputes which arise, whenever they cannot be settled by the Governments or by diplomatic means. If Mexico should increase her beneficial use of the waters of the Colorado River to 2,000,000, 3,000,000, or 4,000,000 acre-feet, and if we should

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then go to an arbitration tribunal, who can say that her claims would not be recognized on the basis of equity and on the basis of the precedents in international law involving the allocation of water rights and on the basis of the legal decisions of the courts in this country, as applied between State and State?

So, Mr. President, this treaty will not take away a drop of water from California. In the long run I believe this treaty will prove a blessing to California. If we have the treaty and if we limit the amount of water which Mexico can demand, we then will make it possible for the States in the upper basin and the States in the lower basin alike to know what their situation will be. They will be free to go ahead with the construction of adequate works, based upon accurate data, and to utilize the waters more fully than they now are doing.

Mr. President, if the treaty is ratified I doubt not that in the upper basin, upon various streams, there will be constructed additional reservoirs and additional retaining structures to save the waters and to use them for agriculture and then let them flow back into the rivers, and on, down, into the Colorado. That will take money. Investors do not care to invest money in projects of that kind unless they have assurance of stability and of soundness and that they will get their money back. If the treaty is ratified and if the Bureau of Reclamation and our engineering services are able to advise accurately as to what the prospects may be relative to the sources

and supplies of water, investors will not be hesitant to invest their funds in such projects.

Mr. President, the Boulder Canyon Dam has a possible capacity of 32,000,000 acre-feet of water. Its average holding is approximately 23,000,000 or 24,000,000 acre-feet of water. That is the normal condition at Boulder Dam in Lake Mead. In addition, as I pointed out a while ago, we shall construct Davis Dam, which will still further increase the supply of water available for use in the low periods. This treaty will serve to equate the flow of the Colorado River. Instead of pouring its valuable current of life and energy out into the Gulf of California, it will be conserved for the people of these seven States. We shall devote it to the uses about which Senators have been speaking. We shall convert it to the production of food. We shall be able to use it for the employment of labor in the construction of works. We shall perhaps use it for the generation of electricity, to bring comfort and convenience to the people of that whole area.

This treaty, when we look at it from a national standpoint, will be of tremendous value to the people of the United States, regarded as a whole. We are not simply dealing with a small portion of territory in southern California. We are dealing with all the seven States in that great basin. We are dealing with my own State, as it borders upon Mexico. The Rio Grande is an international stream. No dam can be built across it, no structure can be erected upon it, unless we have a treaty or agreement with Mexico. Today 4,000,000 acre-feet of water flow down the Rio Grande each year, out into the Gulf of Mexico, to waste itself amidst the briny waters of that ocean. The treaty will make it possible to harness those waters, to make them usable by Mexico and by Americans on our side of the border.

So, Mr. President, I earnestly appeal to the Senate to vote down this reservation. The Committee on Foreign Relations for 4½ weeks carefully, meticulously, and thoroughly examined every aspect of the treaty. Eighteen members out of 22 members of the committee voted to report the treaty favorably. Since that time 2 of the other Senators are supporting the treaty—making a total of 20 members out of 22. The Committee on Foreign Relations was not acting through pique. It was not acting through any particular affinity for any particular State or any particular section. Its members were acting as Americans; they were acting in an effort to carry out the high functions of the committee to consider all aspects and all angles of the problem.

I respectfully ask the Senate to ratify what was done by the Committee on Foreign Relations, to ratify this treaty in behalf of all the people of the United States.

I yield the balance of my time to the Senator from Kentucky.

Mr. BARKLEY. Mr. President, how much time have I?

The PRESIDENT pro tempore. The Senator has 6 minutes.

Mr. DOWNEY. Mr. President, unless there are other Senators who desire to be heard in favor of the reservation offered by the Senator from New Jersey or against the treaty, we will yield the additional time to the Senator from Kentucky.

The PRESIDENT pro tempore. Then the Senator from Kentucky has 12 minutes.

Mr. BARKLEY. I thank the Senator from California. That will consume the remainder of the time before the vote is taken.

Mr. President, in order that we may understand the connection between the reservation now under consideration, the Colorado River Compact, and the pending treaty, I wish to read three paragraphs of the Colorado River Compact. That compact was made in anticipation of a treaty between the United States and Mexico, and it provided that in the event it should become necessary to the extent described in these paragraphs, the

compact among the seven States should be modified. Article III, paragraphs (a) and (b), read as follows:

ARTICLE III. (a) There is hereby apportioned from the Colorado River system in perpetuity to the upper basin and to the lower basin, respectively, the exclusive beneficial consumptive use of 7,500,000 acre-feet of water per annum, which shall include all water necessary for the supply of any rights which may now exist.

(b) In addition to the apportionment in paragraph (a), the lower basin is hereby given the right to increase its beneficial consumptive use of such waters by 1,000,000 acre-feet per annum

So, under those two paragraphs the lower basin is allotted out of the waters of the Colorado River eight and a half million acre-feet annually, while the upper basin is allotted seven and a half million acre-feet annually.

Paragraph (c) of article III provides as follows:

(c) If, as a matter of international comity, the United States of America shall hereafter recognize in the United States of Mexico any right to the use of any waters of the Colorado River system, such waters shall be supplied first from the waters which are surplus over and above the aggregate of the quantities specified in paragraphs (a) and (b)—

Which I have just read—

and if such surplus shall prove insufficient for this purpose, then, the burden of such deficiency shall be equally borne by the upper basin and the lower basin, and whenever necessary the States of the upper division shall deliver at Lee Ferry water to supply one-half of the deficiency so recognized in addition to that provided in paragraph (d).

Mr. President, it may be that either in the upper or lower basin of the Colorado River contracts have been entered into which are not void per se, but may well be voidable or may become voidable in the event, and subject to the contingency, that a treaty shall be entered into between the United States and Mexico. That being true, the pending reservation seeks to freeze all the contracts made either in the upper basin or in the lower basin, regardless of the provisions of the compact between the States, and regardless of the provisions of the treaty.

The pending reservation seeks to modify not only the terms of the treaty upon which we are presently to vote but in effect it seeks to modify the terms of the compact entered into among the seven Colorado River Basin States. I do not believe there is any escape from that conclusion. Therefore, Mr. President, it seems to me that the Senate ought not to agree to this reservation.

In the few remaining moments which I have at my disposal I wish to say a word concerning the treaty as a whole. I think it is a reason for general congratulation and satisfaction that after nearly half a century of negotiations between the United States and the Republic of Mexico we have arrived at a juncture where a treaty between those two countries is to be voted upon by the United States Senate. I can well understand that the treaty may not satisfy everyone. I can well understand that if a committee of the Senate had written the treaty, it might have written it in different terms. I am not sure that it could have done a better job than has been done. It might have done a worse job. Perhaps we ourselves would have formulated a different structure if we had written the treaty.

In the process of treaty-making between our country and other nations it is obviously impossible for the Senate to write treaties, except insofar as it may be possible to send its representatives to conferences at which treaties may be drawn. As an example, I cite the conference which will take place in a few days at San Francisco. Members of this body are on a delegation to participate in writing a treaty. However, the Senate as a body cannot write a treaty. We must deal with treaties after they are submitted to us.

[p. 3490]

I think the reservations which have been agreed to have improved the treaty. I think some of them were unnecessary; but in order to endeavor to satisfy the fears, and suspicions—if I

may use such a word—expressed by some Members of the Senate, the reservations were agreed to, and they are now a part of the treaty.

Regardless of the war which now ravages the world, regardless of the work of the conference which will soon be held at San Francisco, and regardless of the form of any treaty which may be negotiated, entered into, and finally ratified at the end of the war, I think it is a happy omen that here in the Western Hemisphere we are now able to enter into a treaty with our nearest neighbor, with whom for more than a century we have had difficulties and controversies. I repeat, Mr. President, I think it is a happy omen. It would be so regardless of all the other circumstances which now beset the world.

I congratulate the senior Senator from Texas, the chairman of the committee on Foreign Relations [Mr. CONNALLY], for the patience, forbearance, and courtesy with which he has piloted this treaty to its present position.

I wish also to congratulate the junior Senator from Colorado [Mr. MILLIKIN], who, although not a member of the Committee on Foreign Relations, has given the Senate the benefit of his wise judgment. He has exhibited a masterly understanding of the terms of the treaty and all the conditions which brought it about.

I join in the tribute which was paid to the senior Senator from California [Mr. JOHNSON], to which he is entitled. We do not vote for the treaty because he objects to it; we vote for it in spite of his objection to it. We vote for it with regret on his account, but with the consciousness, after all, that it is the best treaty, under present conditions, which could be agreed to for our whole country in its relations with our next-door neighbor.

To the Junior Senator from California [Mr. DOWNEY], who has shown such diligence and industry, and who has exhibited rare patience with those of us who from the beginning felt that this treaty should be ratified, I pay my tribute of respect and admiration. He is one of the most industrious and able, and frequently one of the most eloquent, Members of the Senate in any controversy in which he takes part.

Mr. President, I hope that the treaty will receive the overwhelming ratification of the Senate. I also hope that the reservation offered by the Senator from New Jersey will be rejected. In its very terms, and I presume by its very intent, it would modify the treaty itself and would affect all the compacts which have been made, regardless of whether, as a matter of law, they were void or voidable.

The PRESIDENT pro tempore. The hour of 4 o'clock having arrived, under the agreement heretofore made, further debate is not in order, and the Senate will proceed to vote. The first vote will be on the reservation of the Senator from New Jersey [Mr. HAWKES]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

* * * * *

So Mr. HAWKES' reservation was rejected.

* * * * *

The PRESIDENT pro tempore. The question now is on agreeing to the resolution of ratification, with the reservations heretofore agreed to.

Mr. LUCAS. I ask for the "yeas" and "nays."

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll.

* * * * *

[p. 3491]

The PRESIDENT pro tempore. Two-thirds of the Senators present having voted in the affirmative, the Senate advises and consents to the treaty and to the protocol supplementary thereto, with reservations.

The resolution of ratification, with the reservations, is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive A, Seventy-eighth Congress, second session, a treaty between the United States of America and the United Mexican States, signed at Washington on February 3, 1944, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande from Fort Quitman, Tex., to the Gulf of Mexico, and Executive H, Seventy-eighth Congress, second session, a protocol, signed at Washington on November 14, 1944, supplementary to the treaty, subject to the following understandings, and that these understandings will be mentioned in the ratification of this treaty as conveying the true meaning of the treaty, and will in effect form a part of the treaty:

(a) That no commitment for works to be built by the United States in whole or in part at its expense, or for expenditures by the United States, other than those specifically provided for in the treaty, shall be made by the Secretary of State of the United States, the Commissioner of the United States section of the International Boundary and Water Commission, the United States Section of said Commission, or any other officer or employee of the United States, without prior approval of the Congress of the United States. It is understood that the works to be built by the United States, in whole or in part at its expense, and the expenditures by the United States, which are specifically provided for in the treaty, are as follows:

1. The joint construction of the three storage and flood-control dams on the Rio Grande below Fort Quitman, Tex., mentioned in article 5 of the treaty.

2. The dams and other joint works required for the diversion of the flow of the Rio Grande mentioned in subparagraph II of article 5 of the treaty, it being understood that the commitment of the United States to make expenditures under this subparagraph is limited to its share of the cost of one dam and works appurtenant thereto.

3. Stream-gaging stations which may be required under the provisions of section (j) of article 9 of the treaty and of subparagraph (d) of article 12 of the treaty.

4. The Davis Dam and Reservior mentioned in subparagraph (b) of article 12 of the treaty.

5. The joint flood-control investigations, preparation of plans, and reports on the Rio Grande below Fort Quitman required by the provisions of article 6 of the treaty.

6. The joint flood-control investigations, preparation of plans, and reports on the lower Colorado River between the Imperial Dam and the Gulf of California required by article 13 of the treaty.

7. The joint investigations, preparation of plans, and reports on the establishment of hydroelectric plants at the international dams on the Rio Grande below Fort Quitman provided for by article 7 of the treaty.

8. The studies, investigations, preparation of plans, recommendations, reports, and other matters dealing with the Tijuana River system provided for by the first paragraph (including the numbered subparagraphs) of article 16 of the treaty.

(b) Insofar as they affect persons and property in the territorial limits of the United States, the powers and functions of the Secretary of State of the United States, the Commissioner of the United States Section of the International Boundary and Water Commission, the United States Section of said Commission, and any other officer or employee of the United States, shall be subject to the statutory and constitutional controls and processes. Nothing contained in the treaty or protocol shall be construed as impairing the power of the Congress of the United States to define the terms of office of members of the United States Section of the International Boundary and Water Commission or to provide for their appointment by the President by and with the advice and consent of the Senate or otherwise.

(c) That nothing contained in the treaty or protocol shall be construed as authorizing the Secretary of State of the United States, the Commissioner of the United States Section of the International Boundary and Water Commission, or the United States Section of said Commission, directly or indirectly to alter or control the distribution of water to users within the territorial limits of any of the individual States.

(d) That "international dam or reservoir" means a dam or reservoir built across the common boundary between the two countries.

(e) That the words "international plants", appearing in article 19, means only hydroelectric generating plants in connection with dams built across the common boundary between the two countries.

(f) That the words "electric current", appearing in article 19, mean hydroelectric power generated at an international plant.

(g) That by the use of the words "The jurisdiction of the Commission shall extend to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary * * *" in the first sentence of the fifth paragraph of article 2, is meant: "The jurisdiction of the Commission shall extend and be limited to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary * * *."

(h) The word "agreements" whenever used in subparagraphs (a), (c), and (d) of article 24 of the treaty shall refer only to agreements

entered into pursuant to and subject to the provisions and limitations of treaties in force between the United States of America and the United Mexican States.

(i) The word "disputes" in the second paragraph of article 2 shall have reference only to disputes between the Governments of the United States of America and the United Mexican States.

(j) First, that the 1,700,000 acre-feet specified in subparagraph (b) of article 10 includes and is not in addition to the 1,500,000 acre-feet, the delivery of which to Mexico is guaranteed in subparagraph (a) of article 10; second, that the 1,500,000 acre-feet specified in three places in said subparagraph (b) is identical with the 1,500,000 acre-feet specified in said subparagraph (a); third, that any use by Mexico under said subparagraph (b) of quantities of water arriving at the Mexican points of diversion in excess of said 1,500,000 acre-feet shall not give rise to any future claim of right by Mexico in excess of said guaranteed quantity of 1,500,000 acre-feet of water.

(k) The United States recognizes a duty to require that the protective structures to be constructed under article 12, paragraph (a), of this treaty, are so constructed, operated, and maintained as to adequately prevent damage to property and lands within the United States from the construction and operation of the diversion structure referred to in said paragraph.

[p. 3492]

1.10 DISCLOSURE OF CONFIDENTIAL INFORMATION GENERALLY, AS AMENDED, 18 U.S.C. §1905 (1948)

[Referred to in 33 U.S.C. §§1160(f)(2), (k)(l); 1163(g)(3)]

(See, "General 1.16a–1.16a(3)(c)" for legislative history)

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than $1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment. June 25, 1948, c. 645, 62 Stat. 791.

1.11 CONVENTION ON THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE, ARTICLE XXIV, 15 U.S.T. 1612, 1613 (1958)

[Referred to in 33 U.S.C. §1161(a)(9)]

PART II
Contiguous Zone

Article 24

1. In a zone of the high sea contiguous to its territorial sea, the coastal State may exercise the control necessary to:

(a) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;

(b) Punish infringement of the above regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

3. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.

1.11a CONGRESSIONAL RECORD, VOL. 106 (1960)
May 26: Ratification Advised by Senate, pp. 11187, 11189–11192

LAW OF THE SEA CONVENTIONS

Mr. MANSFIELD. Mr. President, the conventions now before the Senate, Executives J to N, inclusive, 86th Congress, 1st session, codify existing international law and establish some new international law with respect to activities on the seas. An optional protocol provides for settlement of disputes concerning these matters. They were agreed upon at a United Nations conference in Geneva, February to April 1958, and were signed by the United States and 52 other nations.

The first convention is on the territorial sea and the contiguous zone. The convention codifies and settles questions of international law on measuring the belt of sea adjacent to a coast known as the territorial sea and the 12-mile zone beyond it called the contiguous zone. The rights of coastal states and visiting vessels in these areas, such as the right of innocent passage through the territorial sea, are defined.

The questions of the breadth of the territorial sea and the fishing rights of coastal states are not included in this agreement, but were discussed in a second conference in Geneva which ended this past month. As you are no doubt aware, the conference failed by only one vote to reach agreement on these vital matters.

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[p. 11187]

EXECUTIVE REPORT NO. 5—LAW OF THE SEA CONVENTIONS

The Committee on Foreign Relations, having had under consideration Executives J to N, inclusive, four conventions on the law of the sea, and an optional protocol concerning the settlement of disputes, reports the conventions and the protocol without objection and recommends that the Senate give its advice and consent to their ratification.

PURPOSE OF THE CONVENTIONS

The purpose of the four conventions and the optional protocol on the law of the sea is to codify existing international law and to establish additional international law in this field. The conventions are concerned with the rights and duties of states and vessels in the territorial sea, contiguous zone, and on the high seas, rights and responsibilities with regard to fishing and conservation on the high seas, and the formulation of "international law" with respect to the exploitation of the natural resources of the Continental Shelf. Not covered in these conventions are the questions of the breadth of the territorial sea and the extent of exclusive fishing rights of coastal states.

BACKGROUND

The International Law Commission of the United Nations at its first session in 1949 decided to study the law of the high seas and the law of the territorial sea with a view to codification. This was done at subsequent sessions, draft rules were prepared, and comments of governments were considered. The Commission completed its work at its eighth session (1956) and pursuant to General Assembly Resolution 899(IX) of December 14, 1954, the Commission grouped together in its report all the rules it had adopted concerning the high seas, the territorial sea, the Continental Shelf, the contiguous zone, and the conservation of the living resources of the sea.

The final report of the Commission stated that its draft rules on the law of the sea were a mixture of codification of existing international law and recommendations for the progressive development of international law and that it had been unable to separate the two. It therefore recommended that the United Nations General Assembly call an international conference to examine the law of the sea, and to try to reach agreement on appropriate international conventions.

The General Assembly, by Resolution 1105(XI) of February 21, 1957, provided terms of reference for an International Conference of Plenipotentiaries to examine the law of the sea, taking into account the legal, biological, economic, and political aspects of the problem. The General Assembly also recommended that the Conference study the question of free access to the sea of landlocked countries.

The United Nations Conference on the Law of the Sea was held at Geneva from February 24 to April 27, 1958, and resulted in the following four conventions and an optional protocol, dated April 29, 1958:

1. Convention on the Territorial Sea and the Contiguous Zone;
2. Convention on the High Seas;
3. Convention on Fishing and Conservation of the Living Resources of the High Seas;
4. Convention on the Continental Shelf; and
5. Optional Protocol of Signature Concerning the Compulsory Settlement of Disputes.

The conventions were signed on behalf of the United States of America on September 15, 1958, and have been signed by 52 states; some states not signing every convention.

While in some instances the proposed rules tend to clarify issues that have been in controversy in recent years, the greater part of the rules are declaratory of the present practices of states and may be considered accepted international law even without the conventions being ratified.

MAIN PROVISIONS

1. Convention on the Territorial Sea and the Contiguous Zone

The Convention on the Territorial Sea and the Contiguous Zone embodies those principles of international law that have specific reference to the status of these areas of the sea, their demarcation, and the rights and responsibilities of both the coastal state and the community of nations with respect to them. The first articles of the 32 contained in this convention reiterate the universally recognized principle of the sovereignty of the coastal state over its internal waters and the territorial seas, and that this right of sovereignty extends to the airspace over the territorial sea as well as to its bed and subsoil.

The convention recognizes two methods for determining the base line, that is, the line from which the territorial sea is measured. The first method, long recognized as the general rule, establishes as the base line the low water line following the sinuosities of the coast. The second method, which is an exception to the general rule, allows the use of straight base lines joining appropriate points where the coast line is deeply indented or where there is a fringe of islands along the coast in its immediate vicinity.

Where the straight base line is allowed it has the effect of bringing into the territorial sea areas of water heretofore considered high seas. Hence, where the straight base line is applied the coastal state must indicate the lines on published charts.

* * * * *

Article 24, which provides that in a zone of the high seas contiguous to its territorial sea —limited to 12 miles from the base line of the territorial sea—the coastal state may prevent

infringement of its customs, fiscal, immigration, or sanitary regulations and punish infringement of such regulations. Although it has become fairly common practice for the coastal state to exercise a special jurisdiction in a limited area of the high seas contiguous to the territorial sea, particularly in customs matters, no definite rule had been agreed upon. Article 24 confirms the practice followed by the United States of exercising customs jurisdiction over a zone outside of its territorial sea.

This convention does not fix the breadth of the territorial sea. This subject and the closely related one of the extent to which the coastal state should have exclusive fishing rights in the sea off its coast were hotly debated without any conclusion being reached. A U.S. proposal for a 6-mile territorial sea plus exclusive fishing rights for the coastal state in a contiguous 6-mile zone (subject to fishing rights of other states established through fishing over a 5-year period) received 45 votes in favor and 33 against, but failed to get the two-thirds required for adoption.

[p. 11189]

When the U.S. compromise failed, the chairman of the American delegation to the Conference, Arthur H. Dean, stated:

"Our offer to agree on a 6-mile breadth of the territorial sea, provided agreement could be reached on such a breadth under certain conditions, was simply an offer and nothing more. Its nonacceptance leaves the preexisting situation intact.

"We have made it clear from the beginning that in our view the 3-mile rule is and will continue to be established international law, to which we adhere. It is the only breadth of the territorial sea on which there has ever been anything like common agreement. Unilateral acts of states claiming greater territorial seas are not only not sanctioned by any principle of international law, but are indeed in conflict with the universally accepted principle of freedom of the seas."

He noted further that—

"We have made it clear that in our view there is no obligation on the part of the states adhering to the 3-mile rule to recognize claims on the part of other states to a greater breadth of the territorial sea. On that we stand."

The General Assembly of the United Nations has convened a second international conference for the further consideration of the questions of the breadth of the territorial sea and fishing rights in coastal waters. It opened at Geneva on March 17, 1960.

[p. 11190]

COMMITTEE ACTION

The four conventions and the optional protocol were transmitted to the Senate on September 9, 1959. The Committee on Foreign Relations held a public hearing on January 20, 1960, and the record was held open for 30 days thereafter. The principal executive branch witness was Mr. Arthur H. Dean, special consultant to the Department of State, who was chief of the U.S. delegation at the negotiations in Geneva which resulted in these conventions.

During the questioning of Mr. Dean, Senator MANSFIELD raised the question of the use of the high seas for the testing of nuclear or other dangerous weapons. Mr. Dean testified that when this general problem was raised during the Geneva Conference it was the consensus of the Conference that the matter should be referred to the General Assembly of the United Nations to be taken up at the Conference on Disarmament in Geneva.

During the questioning by Senator LONG, Mr. Dean made clear that the conventions do not affect the relative rights as between the several States of the United States and the Federal Government. The conventions only affect the rights of the United States as a sovereign state with respect to the rights of other sovereign states.

Mr. W. M. Chapman, representing the American Tunaboat Association, the California Fish Canners Association, and the Westgate California Corp. of San Diego, supported the ratification of these conventions. Mr. William R. Neblett, executive director of the National Shrimp Congress, Inc., testified that the groups he represented supported the conventions. Mr. Fred Myers, executive director of the Humane Society of the United States, gave the support of his organization for ratification of the conventions and urged the employment of humane methods of killing animals of the sea, especially whales, seals, and polar bears. Letters and telegrams received from numerous organizations representing the U.S. fishing industry were unanimous in urging approval of the conventions. No opposition was registered. On April 5, 1960, the committee voted without objection to report the conventions favorably to the Senate.

CONCLUSION

The Committee on Foreign Relations was impressed with the following list of benefits accruing to the United States pursuant to the law of the sea conventions, which was furnished by the Department of State:

"As a country which believes in the rule of law, any agreement on the rules of international law to which the United States can subscribe is of benefit to it. It is also of benefit to the United States as a principal maritime and naval power to have international agreement on the law of the sea. Aside from these benefits of a general nature, the following are some of the more specific benefits to the United States.

"In the Convention on the Territorial Sea and the Contiguous Zone, the articles on straight base lines, innocent passage and the contiguous zone are a marked advance in the content and formulation of international law. By restricting the use of the straight baseline method to certain exceptional geographic situations, its indiscriminate use to reduce to internal waters large areas heretofore regarded as high seas or territorial sea is prevented. This is in the interest of the United States which believes in the greatest possible freedom of the seas. The article defining passage as innocent so long as it is not prejudicial to the peace, good order, or security of the coastal state furnishes a clear, simple, and precise definition of innocent passage, something which has not heretofore existed in international law. It thus affords to maritime navigation the greatest freedom of movement consistent with the necessity of the coastal state to protect itself. Article 24 on the contiguous zone is of benefit to the United States since it confirms the practice followed by the United States of exercising customs jurisdiction over a zone outside of its territorial sea and also sanctions the exercise of similar jurisdiction for fiscal, immigration, and sanitary purposes in a contiguous zone, the outer limit of which is 12 miles from the coast.

* * * * *

[p. 11191]

The PRESIDING OFFICER. Under the unanimous consent agreement, the question will now be taken on advising and consenting to the resolution of ratification of Executive V. The resolutions of ratification of Executive J, Executive K, Executive L, Executive M, and Executive N will be deemed to have been respectively agreed to by the same vote.

The yeas and nays have been ordered, and the clerk will call the roll.

* * * * *

The PRESIDING OFFICER. On this vote, the yeas are 77, the nays are 4; and the respective resolutions of ratification are agreed to.

Without objection, the President will be immediately notified of the agreement to the respective resolutions of ratification.

[p. 11192]

1.12 INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION OF THE SEA BY OIL, 1954, ARTICLE IV, AS AMENDED, 17 U.S.T. 1528 (1954)

[Referred to in 33 U.S.C. §1161(b)(2)(A)]

INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION OF THE SEA BY OIL

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
A PROCLAMATION

WHEREAS a series of amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, [1] adopted by a Conference of Contracting Governments which convened at London from April 4 to April 11, 1962, was communicated to all Contracting Governments for their acceptance in accordance with paragraph (3) of Article XVI of that Convention;

WHEREAS the text of those amendments, in the English and French languages, as certified by the Secretary-General of the Inter-Governmental Maritime Consultative Organization, is word for word as follows:

ANNEX [1]

The following are the amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954:

1. The existing text of Article I of the Convention is replaced by the following:

ARTICLE I

(1) For the purposes of the present Convention, the following expressions shall (unless the context otherwise requires) have the meanings hereby respectively assigned to them, that is to say:

'The Bureau' has the meaning assigned to it by Article XXI;

'Discharge' in relation to oil or to oily mixture means any discharge or escape howsoever caused;

'Heavy diesel oil' means marine diesel oil, other than those distillates of which more than 50 per cent by volume distils at a temperature not exceeding 340° C. when tested by A.S.T.M. Standard Method D.86/59;

'Mile' means a nautical mile of 6,080 feet or 1,852 metres;

'Oil' means crude oil, fuel oil, heavy diesel oil and lubricating oil, and 'oily' shall be construed accordingly;

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[1] TIAS 4900; 12 UST 2989.

[1] The text of the amendments constituted the Annex to the Final Act of the Conference of Contracting Governments.

'Oily mixture' means a mixture with an oil content of 100 parts or more in 1,000,000 parts of the mixture;

'Organization' means the Inter-Governmental Maritime Consultative Organization;

'Ship' means any sea-going vessel of any type whatsoever, including floating craft, whether self-propelled or towed by another vessel, making a sea voyage; and 'tanker' means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

(2) For the purposes of the present Convention, the territories of a Contracting Government mean the territory of the country of which it is the Government and any other territory for the international relations of which it is responsible and to which the Convention shall have been extended under Article XVIII.

2. The existing text of Article II of the Convention is replaced by the following:

ARTICLE II

(1) The present Convention shall apply to ships registered in any of the territories of a Contracting Government and to unregistered ships having the nationality of a Contracting Party, except:

(*a*) tankers of under 150 tons gross tonnage and other ships of under 500 tons gross tonnage, provided that each Contracting Government will take the necessary steps, so far as is reasonable and practicable, to apply the requirements of the Convention to such ships also, having regard to their size, service and the type of fuel used for their propulsion;

(*b*) ships for the time being engaged in the whaling industry when actually employed on whaling operations;

(*c*) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of St. Lambert Lock at Montreal in the Province of Quebec, Canada;

(*d*) naval ships and ships for the time being used as naval auxiliaries.

(2) Each Contracting Government undertakes to adopt appropriate measures ensuring that requirements equivalent to those of the present Convention are, so far as is reasonable and practicable, applied to the ships referred to in subparagraph (*d*) of paragraph (1) of this Article.

3. The existing text of Article III of the Convention is replaced by the following:

ARTICLE III

Subject to the provisions of Articles IV and V:

(*a*) the discharge from a tanker to which the present Convention applies, within any of the prohibited zones referred to in Annex A to the Convention, of oil or oily mixture shall be prohibited;

(*b*) the discharge from a ship to which the present Convention applies, other than a tanker, of oil or oily mixture shall be made as far as practicable from land. As from a date three years after that on which the Convention comes into force for the relevant territory in respect of the ship in accordance with paragraph (1) of Article II, sub-paragraph (*a*) of this Article shall apply to a ship other than a tanker, except that the discharge of oil or of oily mixture from such a ship shall not be prohibited when the ship is proceeding to a port not provided with such facilities for ships other than tankers as are referred to in Article VIII;

(*c*) the discharge from a ship of 20,000 tons gross tonnage or more, to which the present Convention applies and for which the building contract is placed on or after the date on which this provision comes into force, of oil or oily mixture shall be prohibited. However, if, in the opinion of the master, special circumstances make it neither reasonable nor practicable to retain the oil or oily mixture on board, it may be discharged outside the prohibited zones referred to in Annex A to the Convention. The reasons for such discharge shall be reported to the Contracting Government of the relevant territory in respect of the ship in accordance with paragraph (1) of Article II. Full details of such discharges shall be reported to the Organization at least every twelve months by Contracting Governments.

4. The existing text of Article IV of the Convention is replaced by the following:

ARTICLE IV

Article III shall not apply to:

(*a*) the discharge of oil or of oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo, or saving life at sea;

(*b*) the escape of oil or of oily mixture resulting from damage to a ship or unavoidable leakage, if all reasonable precautions

have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;

(*c*) the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil, provided that such discharge is made as far from land as is practicable.

5. The existing text of Article V of the Convention is replaced by the following:

ARTICLE V

Article III shall not apply to the discharge from the bilges of a ship:

(*a*) during the period of twelve months following the date on which the present Convention comes into force for the relevant territory in respect of the ship in accordance with paragraph (1) of Article II, of oily mixture;

(*b*) after the expiration of such period, of oily mixture containing no oil other than lubricating oil which has drained or leaked from machinery spaces.

6. The existing text of Article VI of the Convention is replaced by the following:

ARTICLE VI

(1) Any convention of Articles III and IX shall be an offence punishable under the law of the relevant territory in respect of the ship in accordance with paragraph (1) of Article II.

(2) The penalties which may be imposed under the law of any of the territories of a Contracting Government in respect of the unlawful discharge from a ship of oil or oily mixture outside the territorial sea of that territory shall be adequate in severity to discourage any such unlawful discharge and shall not be less than the penalties which may be imposed under the law of that territory in respect of the same infringements within the territorial sea.

(3) Each Contracting Government shall report to the Organization the penalties actually imposed for each infringement.

7. The existing text of Article VII of the Convention is replaced by the following:

ARTICLE VII

(1) As from a date twelve months after the present Convention comes into force for the relevant territory in respect of a ship in accordance with paragraph (1) of Article II, such a ship shall be required to be so fitted as to prevent, so far as reasonable and practicable, the escape of fuel or heavy diesel oil into bilges, unless

effective means are provided to ensure that the oil in the bilges is not discharged in contravention of this Convention.

(2) Carrying water ballast in oil fuel tanks shall be avoided if possible.

8. The existing text of Article VIII of the Convention is replaced by the following:

ARTICLE VIII

(1) Each Contracting Government shall take all appropriate steps to promote the provision of facilities as follows:

(*a*) according to the needs of ships using them, ports shall be provided with facilities adequate for the reception, without causing undue delay to ships, of such residues and oily mixtures as would remain for disposal from ships other than tankers if the bulk of the water had been separated from the mixture;

(*b*) oil loading terminals shall be provided with facilities adequate for the reception of such residues and oily mixtures as would similarly remain for disposal by tankers;

(*c*) ship repair ports shall be provided with facilities adequate for the reception of such residues and oily mixtures as would similarly remain for disposal by all ships entering for repairs.

(2) Each Contracting Government shall determine which are the ports and oil loading terminals in its territories suitable for the purposes of sub-paragraphs (a), (b) and (c) of paragraph (1) of this Article.

(3) As regards paragraph (1) of this Article, each Contracting Government shall report to the Organization, for transmission to the Contracting Government concerned, all cases where the facilities are alleged to be inadequate.

9. The existing text of Article IX of the Convention is replaced by the following:

ARTICLE IX

(1) Of the ships to which the present Convention applies, every ship which uses oil fuel and every tanker shall be provided with an oil record book, whether as part of the ship's official log book or otherwise, in the form specified in Annex B to the Convention.

(2) The oil record book shall be completed on each occasion, whenever any of the following operations takes place in the ship:

(*a*) ballasting of and discharge of ballast from cargo tanks of tankers;

(*b*) cleaning of cargo tanks of tankers;
(*c*) settling in slop tanks and discharge of water from tankers;
(*d*) disposal from tankers of oily residues from slop tanks or other sources;
(*e*) ballasting, or cleaning during voyage, of bunker fuel tanks of ships other than tankers;
(*f*) disposal from ships other than tankers of oily residues from bunker fuel tanks or other sources;
(*g*) accidental or other exceptional discharges or escapes of oil from tankers or ships other than tankers.

In the event of such discharge or escape of oil or oily mixture as is referred to in sub-paragraph (*c*) of Article III or in Article IV, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

(3) Each operation described in paragraph (2) of this Article shall be fully recorded without delay in the oil record book so that all the entries in the book appropriate to that operation are completed. Each page of the book shall be signed by the officer or officers in charge of the operations concerned and, when the ship is manned, by the master of the ship. The written entries in the oil record book shall be in an official language of the relevant territory in respect of the ship in accordance with paragraph (1) of Article II, or in English or French.

(4) Oil record books shall be kept in such a place as to be readily available for inspection at all reasonable times, and, except in the case of unmanned ships under tow, shall be kept on board the ship. They shall be preserved for a period of two years after the last entry has been made.

(5) The competent authorities of any of the territories of a Contracting Government may inspect on board any ship to which the present Convention applies, while within a port in that territory, the oil record book required to be carried in the ship in compliance with the provisions of this Article, and may make a true copy of any entry in that book and may require the master of the ship to certify that the copy is a true copy of such entry. Any copy so made which purports to have been certified by the master of the ship as a true copy of an entry in the ship's oil record book shall be made admissible in any judicial proceedings as evidence of the facts stated in the entry. Any action by the competent authorities under this paragraph shall be taken as expeditiously as possible and the ship shall not be delayed.

10. The existing text of Article X of the Convention is replaced by the following:

ARTICLE X

(1) Any Contracting Government may furnish to the Government of the relevant territory in respect of the ship in accordance with paragraph (1) of Article II particulars in writing of evidence that any provision of the present Convention has been contravened in respect of that ship, wheresoever the alleged contravention may have taken place. If it is practicable to do so, the competent authorities of the former Government shall notify the master of the ship of the alleged contravention.

(2) Upon receiving such particulars, the Government so informed shall investigate the matter, and may request the other Government to furnish further or better particulars of the alleged contravention. If the Government so informed is satisfied that sufficient evidence is available in the form required by its law to enable proceedings against the owner or master of the ship to be taken in respect of the alleged contravention, it shall cause such proceedings to be taken as soon as possible, and shall inform the other Government and the Organization of the result of such proceedings.

11. The existing text of Article XIV of the Convention is replaced by the following:

ARTICLE XIV

(1) The present Convention shall remain open for signature for three months from this day's date and shall thereafter remain open for acceptance.

(2) Subject to Article XV, the Governments of States Members of the United Nations or of any of the Specialized Agencies or parties to the Statute of the International Court of Justice may become parties to the present Convention by:

(*a*) signature without reservation as to acceptance;

(*b*) signature subject to acceptance followed by acceptance, or

(*c*) acceptance.

(3) Acceptance shall be effected by the deposit of an instrument of acceptance with the Bureau, which shall inform all Governments that have already signed or accepted the present Convention of each signature and deposit of an acceptance and of the date of such signature or deposit.

12. The existing text of Article XVI of the Convention is replaced by the following:

ARTICLE XVI

(1) (*a*) The present Convention may be amended by unanimous agreement between the Contracting Governments.

(*b*) Upon request of any Contracting Government a proposed amendment shall be communicated by the Organization to all Contracting Governments for consideration and acceptance under this paragraph.

(2) (*a*) An amendment to the present Convention may be proposed to the Organization at any time by any Contracting Government, and such proposal if adopted by a two-thirds majority of the Assembly of the Organization upon recommendation adopted by a two-thirds majority of the Maritime Safety Committee of the Organization shall be communicated by the Organization to all Contracting Governments for their acceptance.

(*b*) Any such recommendation by the Maritime Safety Committee shall be communicated by the Organization to all Contracting Governments for their consideration at least six months before it is considered by the Assembly.

(3) (*a*) A conference of Governments to consider amendments to the present Convention proposed by any Contracting Government shall at any time be convened by the Organization upon the request of one-third of the Contracting Governments.

(*b*) Every amendment adopted by such conference by a two-thirds majority of the Contracting Governments shall be communicated by the Organization to all Contracting Governments for their acceptance.

(4) Any amendment communicated to Contracting Governments for their acceptance under paragraph (2) or (3) of this Article shall come into force for all Contracting Governments, except those which before it comes into force make a declaration that they do not accept the amendment, twelve months after the date on which the amendment is accepted by two-thirds of the Contracting Governments.

(5) The Assembly, by a two-thirds majority vote, including two-thirds of the Governments represented on the Maritime Safety Committee, and subject to the concurrence of two-thirds of the Contracting Governments to the present Convention, or a conference convened under paragraph (3) of this Article by a two-thirds majority vote, may determine at the time of its adoption that the amendment is of such an important nature that any Contracting Government which makes a declaration under paragraph (4) of this Article and which does not accept the amendment within a period of twelve months after the amendment comes into force,

shall, upon the expiry of this period, cease to be a party to the present Convention.

(6) The Organization shall inform all Contracting Governments of any amendments which come into force under this Article, together with the date on which such amendments shall come into force.

(7) Any acceptance or declaration under this Article shall be made by a notification in writing to the Organization which shall notify all Contracting Governments of the receipt of the acceptance or declaration.

13. The existing text of Article XVIII of the Convention is replaced by the following:

ARTICLE XVIII

(1) (*a*) The United Nations in cases where they are the administering authority for a territory or any Contracting Government responsible for the international relations of a territory shall as soon as possible consult with such territory in an endeavour to extend the present Convention to that territory and may at any time by notification in writing given to the Bureau declare that the Convention shall extend to such territory.

(*b*) The present Convention shall from the date of the receipt of the notification or from such other date as may be specified in the notification extend to the territory named therein.

(2) (*a*) The United Nations in cases where they are the administering authority for a territory or any Contracting Government which has made a declaration under paragraph (1) of this Article, at any time after the expiry of a period of five years from the date on which the present Convention has been so extended to any territory, may by a notification in writing given to the Bureau after consultation with such territory declare that the Convention shall cease to extend to any such territory named in the notification.

(*b*) The present Convention shall cease to extend to any territory mentioned in such notification one year, or such longer period as may be specified therein, after the date of receipt of the notification by the Bureau.

(3) The Bureau shall inform all the Contracting Governments of the extension of the present Convention to any territory under paragraph (1) of this Article, and of the termination of any such extension under the provisions of paragraph (2) stating in each

case the date from which the Convention has been or will cease to be so extended.

14. The existing text of Annex A to the Convention is replaced by the following:

ANNEX A

PROHIBITED ZONES

(1) All sea areas within 50 miles from the nearest land shall be prohibited zones.

For the purposes of this Annex, the term 'from the nearest land' means 'from the base-line from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958'.[1]

(2) The following sea areas, insofar as they extend more than 50 miles from the nearest land, shall also be prohibited zones:

(*a*) *Pacific Ocean*

The Canadian Western Zone

The Canadian Western Zone shall extend for a distance of 100 miles from the nearest land along the west coast of Canada.

(*b*) *North Atlantic Ocean, North Sea and Baltic Sea*

(i) *The North-West Atlantic Zone*

The North-West Atlantic Zone shall comprise the sea areas within a line drawn from latitude 38° 47′ north, longitude 73° 43′ west to latitude 39° 58′ north, longitude 68° 34′ west thence to latitude 42° 05′ north, longitude 64° 37′ west thence along the east coast of Canada at a distance of 100 miles from the nearest land.

(ii) *The Icelandic Zone*

The Icelandic Zone shall extend for a distance of 100 miles from the nearest land along the coast of Iceland.

(iii) *The Norwegian, North Sea and Baltic Sea Zone*

The Norwegian, North Sea and Baltic Sea Zone shall extend for a distance of 100 miles from the nearest land along the coast of Norway and shall include the whole of the North Sea and of the Baltic Sea and its Gulfs.

(iv) *The North-East Atlantic Zone*

The North-East Atlantic Zone shall include the sea

[1] TIAS 5639; 15 UST 1606.

areas within a line drawn between the following positions:

Latitude	*Longitude*
62° north	2° east,
64° north	00°
64° north	10° west,
60° north	14° west;
54° 30′ north	30° west,
53° north	40° west;
44° 20′ north	40° west,
44° 20′ north	30° west;
46° north	20° west, thence towards Cape Finisterre at the intersection of the 50-mile limit.

(v) *The Spanish Zone*

The Spanish Zone shall comprise the areas of the Atlantic Ocean within a distance of 100 miles from the nearest land along the coast of Spain and shall come into operation on the date on which the present Convention shall have come into force in respect of Spain.

(vi) *The Portuguese Zone*

The Portuguese Zone shall comprise the area of the Atlantic Ocean within a distance of 100 miles from the nearest land along the coast of Portugal and shall come into operation on the date on which the present Convention shall have come into force in respect of Portugal.

(c) *Mediterranean and Adriatic Seas*

The Mediterranean and Adriatic Zone

The Mediterranean and Adriatic Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coasts of each of the territories bordering the Mediterranean and Adriatic Seas and shall come into operation in respect of each territory on the date on which the present Convention shall have come into force in respect of that territory.

(d) *Black Sea and Sea of Azov*

The Black Sea and Sea of Azov Zone

The Black Sea and Sea of Azov Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coasts of each of the territories bordering the Black Sea and Sea of Azov and shall come into opera-

tion in respect of each territory on the date on which the present Convention shall have come into force in respect of that territory.

Provided that the whole of the Black Sea and the Sea of Azov shall become a prohibited zone on the date on which the present Convention shall have come into force in respect of Roumania and the Union of Soviet Socialist Republics.

(*e*) *Red Sea*

The Red Sea Zone

The Red Sea Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coasts of each of the territories bordering the Red Sea and shall come into operation in respect of each territory on the date on which the present Convention shall have come into force in respect of that territory.

(*f*) *Persian Gulf*

(i) *The Kuwait Zone*

The Kuwait Zone shall comprise the sea area within a distance of 100 miles from the nearest land along the coast of Kuwait.

(ii) *The Saudi Arabian Zone*

The Saudi Arabian Zone shall comprise the sea area within a distance of 100 miles from the nearest land along the coast of Saudi Arabia and shall come into operation on the date on which the present Convention shall have come into force in respect of Saudi Arabia.

(*g*) *Arabian Sea, Bay of Bengal and Indian Ocean*

(i) *The Arabian Sea Zone*

The Arabian Sea Zone shall comprise the sea areas within a line drawn between the following positions:

Latitude	*Longitude*
23° 33′ north	68° 20′ east,
23° 33′ north	67° 30′ east;
22° north	68° east,
20° north	70° east;
18° 55′ north	72° east,
15° 40′ north	72° 42′ east;
8° 30′ north	75° 48′ east,
7° 10′ north	76° 50′ east;
7° 10′ north	78° 14′ east,
9° 06′ north	79° 32′ east,

and shall come into operation on the date on which the present Convention shall have come into force in respect to India.

(ii) *The Bay of Bengal Coastal Zone*

The Bay of Bengal Coastal Zone shall comprise the sea areas between the nearest land and a line drawn between the following positions:

Latitude	*Longitude*
10° 15′ north	80° 50′ east,
14° 30′ north	81° 38′ east;
20° 20′ north	88° 10′ east,
20° 20′ north	89° east,

and shall come into operation on the date on which the present Convention shall have come into force in respect of India.

(iii) *The Malagasy Zone*

The Malagasy Zone shall comprise the sea area within a distance of 100 miles from the nearest land along the coast of Madagascar west of the meridans of Cape d'Ambre in the north and of Cape Ste. Marie in the south and within a distance of 150 miles from the nearest land along the coast of Madagascar east of these meridans, and shall come into operation when the present Convention shall have come into force in respect of Madagascar.

(*h*) *Australia*

The Australian Zone

The Australian Zone shall comprise the sea area within a distance of 150 miles from the nearest land along the coasts of Australia, except off the north and west coasts of the Australian mainland between the point opposite Thursday Island and the point on the west coast at 20° south latitude.

(3) (*a*) Any Contracting Government may propose:

(i) the reduction of any zone off the coast of any of its territories;

(ii) the extension of any such zone to a maximum of 100 miles from the nearest land along any such coast,

by making a declaration to that effect and the reduction or extension shall come into force after the expiration of a period of six months after the declaration has been made, unless any one of the Contracting Governments

shall have made a declaration not less than two months before the expiration of that period to the effect that it considers that the destruction of birds and adverse effects on fish and the marine organisms on which they feed would be likely to occur or that its interests are affected either by reason of the proximity of its coasts or by reason of its ships trading in the area, and that it does not accept the reduction or extension, as the case may be.

(*b*) Any declaration under this paragraph shall be made by a notification in writing to the Organization which shall notify all Contracting Governments of the receipt of the declaration.

(4) The Organization shall prepare a set of charts indicating the extent of the prohibited zones in force in accordance with paragraph (2) of this Annex and shall issue amendments thereto as may be necessary.

15. The following changes to be made in Annex B to the Convention:

1. Throughout the Annex replace the words 'Identity numbers of tank(s)' by 'Identity numbers of tank(s) concerned'.
2. In Form I(*a*) replace the words 'Place or position of ship' by 'Place or position of ship at time of discharge'.
3. In Form I(*d*) and Form II (*a*) and (*b*) replace the words 'Place or position of ship' by 'Place or position of ship at time of disposal'.
4. In Form I(*c*) add a new line 17 as follows: '17. Approximate quantities of water discharged' and re-number lines in (*d*) 18 to 20.
5. Delete the words 'from ship' in the headings of Forms I(*d*) and II (*b*).
6. In Form III replace the words 'Place or position of ship' by 'Place or position of ship at time of occurrence'.

WHEREAS the Senate of the United States of America by their resolution of February 25, 1964, two-thirds of the Senators present concurring therein, did advise and consent to the acceptance of the said amendments;

WHEREAS the amendments were duly ratified and accepted by the President of the United States of America on September 9, 1966, in pursuance of the advice and consent of the Senate;

WHEREAS it is provided in paragraph (4) of Article XVI of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, that any amendment communicated to Contract-

ing Governments for their acceptance under paragraph (3) of that Article shall come into force for all Contracting Governments, except those which before it comes into force make a declaration that they do not accept the amendment, twelve months after the date on which the amendment is accepted by two-thirds of the Contracting Governments;

WHEREAS instruments of acceptance of the said amendments were deposited with the Inter-Governmental Maritime Consultative Organization by Contracting Governments as follows: Poland, except as to the amendment to Article XIV, on January 28, 1963; France on April 29, 1963; Sweden on June 10, 1963; Canada on July 5, 1963; Kuwait on July 17, 1963; Norway on August 7, 1963; Liberia on August 21, 1963; the United Kingdom of Great Britain and Northern Ireland on August 28, 1963; the United Arab Republic on October 3, 1963; the Netherlands on December 23, 1963; Denmark on May 22, 1964; Ghana on October 19, 1964; Jordan on December 14, 1964; the Federal Republic of Germany on December 17, 1964; Malagasy Republic on June 21, 1965; Ireland on August 3, 1965; the Philippines on November 9, 1965; Belgium on February 10, 1966; Finland on March 14, 1966; Switzerland on May 11, 1966; Iceland on May 18, 1966; and Israel on June 28, 1966;

WHEREAS, as a consequence of the deposit by a Contracting Government (Iceland) of the twenty-first acceptance of the amendments to Articles I, II, III, IV, V, VI, VII, VIII, IX, X, XVI and XVIII and the amendments to Annexes A and B, two-thirds of the Contracting Governments to the Convention had accepted those amendments, which will accordingly come into force on May 18, 1967;

WHEREAS, as a consequence of the deposit on June 28, 1966 by a Contracting Government (Israel) of the twenty-first acceptance of the amendment to Article XIV, two-thirds of the Contracting Governments had accepted that amendment, which will accordingly come into force on June 28, 1967;

AND WHEREAS an instrument of acceptance of all of the aforesaid amendments was deposited by the Government of the United States of America on September 21, 1966;

NOW, THEREFORE, be it known that I, Lyndon B. Johnson, President of the United States of America, do hereby proclaim and make public the said amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, to the end that they shall be observed and fulfilled with good faith, on and after May 18, 1967 with respect to the amendments to Articles I, II, III, IV, V, VI, VII, VIII, IX, X, XVI, and XVIII and the amendments to

Annexes A and B, and on and after June 28, 1967 with respect to the amendment to Article XIV, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this seventh day of October in the year of our Lord one thousand nine hundred sixty-six
[SEAL] and of the Independence of the United States of America the one hundred ninety-first.

LYNDON B. JOHNSON

By the President:
NICHOLAS DEB KATZENBACH
Acting Secretary of State

1.12a CONGRESSIONAL RECORD, VOL. 110 (1964)

1.12a(1)(a) Feb. 25: Ratification Advised by Senate, pp. 3471–3472, 3496.

Mr. FULBRIGHT. Mr. President, Executive C, amends a convention approved by the Senate in 1961—the International Convention for the Prevention of Pollution of the Sea by Oil. The purpose of this convention was to regulate the discharge of oil and oily wastes on the high seas by tankers and other ships, in order to control the harmful effect of these discharges on beaches and coastal areas, birds, and other wildlife, and fish and marine resources. In general, the convention provided for a 50-mile zone around the coasts of all countries into which no oil or oily wastes could be discharged. It also provided for the maintenance and inspection of oil record books on all convention ships, and specified the ships to which the convention was to apply.

The committee recommended this convention to the Senate in 1961, but it did not gloss over its shortcomings which had kept the United States from signing the convention at the time it was negotiated in 1954. In fact, the Senate gave its advice and consent to ratification, subject to one understanding, two reservations, and five recommendations—all proposed by the Department of State—to deal with these shortcomings. By the same token, the committee shared the view of the Department that by becoming a party, the United States could be more effective in its efforts toward improving the convention and eliminating oil pollution. The amendments now before the Senate are largely the result of this effort. Many of the amendments were proposed by the United States, and all of them are considered improvements over the original provisions.

Briefly stated, the amendments strengthen the existing convention, first, by the addition of new categories of ships, both large and small, which must practice antipollution measures; second, by extending the system of prohibited zones from 50 to 100 miles from shores where pollution is particularly prevalent; and third, by amending the prescribed penalties and enforcement procedures.

[p. 3471]

The committee report contains a full description of all amendments.

There are several points that I might note in passing. One is that the revised convention makes the former understanding, reservations, and recommendations unnecessary. The new provisions eliminate the language that gave rise to them before. A second one is that the convention applies only to ships on the high seas. Within U.S. territorial waters, only U.S. laws apply —in this case, the Oil Pollution Acts of 1924 and 1961. The last point I wish to stress is the complete agreement by Government agencies, industry, and conservation groups on the merits of these amendments. This was disclosed at a public hearing on February 11.

The Committee on Foreign Relations feels that as a leading proponent of more effective antipollution measures, the United States should accept these amendments promptly. I ask that the Senate now give its advice and consent to their acceptance.

[p. 3472]

The PRESIDING OFFICER (Mr. McGOVERN in the chair). Two-thirds of the Senators present concurring therein, the resolution of ratification is agreed to.

[p. 3496]

1.13 GRANTING CLEARANCES, AS AMENDED, 46 U.S.C. §91 (1954)

[Referred to in 33 U.S.C. §1161(b)(5)]

§ 91.

The master or person having the charge or command of any vessel bound to a foreign port shall deliver to the collector of the district from which such vessel is about to depart a manifest of all the cargo on board the same, and the value thereof, by him subscribed, and shall swear to the truth thereof; whereupon the collecter shall grant a clearance for such vessel and her cargo, but without specifying the particulars thereof in the clearance, unless required by the master or other person having the charge or command of such vessel so to do. If any vessel bound to a foreign port (other than a licensed yacht or an undocumented American pleasure vessel not engaged in any trade nor in any way violating the customs or navigation laws of the United States) departs from any port or place in the United States without a clearance, or if the master delivers a false manifest, or does not answer truly the questions demanded of him, or, having received a clearance adds to the cargo of such vessel without having mentioned in the report outwards the intention to do so, or if the departure of the vessel is delayed beyond the second day after obtaining clearance without reporting the delay to the collector, the master or other person having the charge or command of such vessel shall be liable to a penalty of not more than $1,000 nor less than $500, or if the cargo consists in any part of narcotic drugs, on any spirits, wines, or other alcoholic liquors (sea stores excepted), a penalty of not more than $5,000 nor less than $1,000 for each offense, and the vessel shall be detained in any port of the United States until the said penalty is paid or secured: *Provided,* That in order that the commerce of the United States may move with expedition and without undue delay, the Commissioner of Customs is authorized to make regulations permitting the master of any vessel taking on cargo for a foreign port or for a port in noncontiguous territory belonging to the United States to file a manifest as hereinbefore provided, and if the manifest be not a complete manifest and it so appears upon such manifest, the collector of customs may grant clearance to the vessel in the case of an incomplete manifest, taking from the owner of the vessel, who may act in the premises by a duly authorized attorney in fact, a bond with security approved by the collector of customs in the penal sum of $1,000, conditioned that the master or someone for him will file a completed outward manifest not later than the fourth business day after the clearance of the vessel. In the event that the said

complete outward manifest be not filed as required by the provisions of this section and the regulations made by the Commissioner of Customs in pursuance hereof, then a penalty of $50 for each day's delinquency beyond the allowed period of four days for filing the completed manifest shall be exacted, and if the completed manifest be not filed within the three days following the four-day period, then for each succeeding day of delinquency a penalty of $100 shall be exacted. Suit may be instituted in the name of the United States against the principal and surety on the bond for the recovery of any penalties that may accrue and be exacted in accordance with the terms of the bond. R.S. § 4197; Aug. 5, 1935, c. 438, Title II, § 209, 49 Stat. 526; June 16, 1938, c. 476, § 1, 52 Stat. 758; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Sept. 1, 1954, c. 1213, Title V, § 501(a), 68 Stat. 1140.

1.13a CUSTOMS ENFORCEMENT ACT OF 1935

August 5, 1935, P.L. 74–238, Title II, §209, 49 Stat. 526

SEC. 209. Section 4197 of the Revised Statutes, as amended (U.S.C., title 46, sec. 91), is amended by striking out the second sentence and inserting in lieu thereof the following:

"If any vessel bound to a foreign port (other than a licensed yacht not engaging in any trade nor in any way violating the revenue laws of the United States) departs from any port or place in the United States, without a clearance, or if the master delivers a false manifest, or does not answer truly the questions demanded of him, or, having received a clearance adds to the cargo of such vessel without having mentioned in the report outwards the intention to do so, or if the departure of the vessel is delayed beyond the second day after obtaining clearance without reporting the delay to the collector, the master or other person having the charge or command of such vessel shall be liable to a penalty of not more than $1,000 nor less than $500, or if the cargo consists in any part of narcotic drugs, or any spirits, wines, or other alcoholic liquors (sea stores excepted), a penalty of not more than $5,000 nor less than $1,000, for each offense, and the vessel shall be detained in any port of the United States until the said penalty is paid or secured."

[p. 526]

1.13a(1) HOUSE COMMITTEE ON WAYS AND MEANS

H.R. REP. No. 868, 74th Cong., 1st Sess. (1935)

ANTISMUGGLING ACT

MAY 11, 1935.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

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Mr. DOUGHTON, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. R. 7980]

The Committee on Ways and Means, to whom was referred the bill (H.R. 7980) to protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting

the revenue, to prevent smuggling, to authorize customs-enforcement areas, and for other purposes, having had the same under consideration, report it back to the House without amendment and recommend that the bill do pass.

NECESSITY AND PURPOSE OF THE BILL

Evidence was presented to your committee at the hearings that a loss of revenue of millions of dollars annually is being occasioned since the repeal of the eighteenth amendment by the increased activity of smugglers in evading our revenue laws. This activity can be curbed by adequate remedial legislation. The bill is designed to accomplish this result by extending (within the limits authorized by international law) our customs jurisdiction, by providing more effective means of enforcing laws relating to smuggling, and, generally, by making smuggling unprofitable. The bill will not disturb our existing international relations, but rather is designed to clarify our position, and to strengthen the understanding between foreign nations and ourselves in dealing with smuggling; nor will it interfere with legitimate commerce.

The Secretary of the Treasury personally appeared before your committee and testified to the necessity of enacting this bill if rapidly increasing post-repeal smuggling activity and consequent frauds upon the revenue of the United States are to be checked.

Prior to prohibition this country was not troubled much with smuggling. During the 14 years of prohibition the business of smug-

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gling liquor into the United States from all parts of the world developed to very serious and troublesome proportions.

It was generally expected that with the repeal of prohibition liquor-smuggling operations and frauds on our revenue would be materially reduced. For a time after repeal such proved to be the case, but, commencing with the spring of 1934, liquor smugglers again appeared along our coasts, and their operations have now increased to alarming proportions. Thus, in March 1934, only two smuggling vessels were observed off the coast, but by February of this year this number had increased to 22. Thirty-nine foreign vessels are presently known to the Coast Guard to be regularly engaged in the illicit-liquor traffic. Inasmuch as these vessels are hovering beyond our customs waters, they are not subject to seizure under existing laws, and hence they carry on their smuggling operations almost with impunity.

Alcohol constitutes almost the entire cargo of these vessels. This is due to several things. It is very cheap. It can be produced

abroad at costs ranging from 20 to 50 cents a gallon. It is highly concentrated. Two and one-half gallons of whisky can be made from a gallon of alcohol. It enjoys a large price differential due to the customs duties and internal-revenue taxes, which amount to $13.30 on a gallon of 190°proof.

A summary of the movements of known alcohol smugglers for the last 4 months of 1934 indicates an outward movement from the principal ports of supply to the coast of the United States of over three-quarters of a million gallons of alcohol. At this rate there would be an annual movement of over 2¼ million gallons. The annual internal-revenue loss on this amount of alcohol, at $3.80 per gallon, would be almost $9,000,000; the loss in customs duties, at $9.50 per gallon, would be over $21,000,000, making a total loss of over $30,000,000.

The practical difficulties in checking smuggling can hardly be exaggerated. Our 10,000-mile coastline with the many opportunities it affords for concealment, our comparatively small Coast Guard force of about 10,000 men, the seamanship and daring of the rumrunners, and the highly efficient and well-financed smuggling organizations that have grown up since the advent of prohibition, are all prime factors in making the smuggling problem one difficult of solution. Another, and not the least important factor, is the inadequacy of existing antismuggling legislation. The ineffective legislative weapons at present at our disposal for this work have time and time again permitted the escape from punishment of vessels which were violating every principle behind our customs-enforcement laws, vessels, in fact, which had never earned an honest dollar in their entire seagoing lives, but had been designed, built, and used exclusively for smuggling into the United States.

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EXPLANATION OF THE BILL

Section 209 amends section 4197 of the Revised Statutes by imposing certain additional requirements with regard to clearance of vessels for foreign ports (master must truly answer all questions asked of him, must notify the collector if he adds to the cargo after receiving clearance, or if he delays leaving more than 2 days after obtaining clearance) and penalizing false statements in connection with such clearances. The penalty is made more severe if the cargo is in part composed of liquors or prohibited merchandise.

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1.13a(2) SENATE COMMITTEE ON FINANCE

S. REP. No. 1036, 74th Cong., 1st Sess. (1935)

ANTISMUGGLING ACT

MAY 13 (calendar, day, JULY 10), 1935.—Ordered to be printed

Mr. KING, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 7980]

The Committee on Finance, to whom was referred the bill (H.R. 7980) to protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting the revenue, to prevent smuggling, to authorize customs-enforcement areas, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

NECESSITY AND PURPOSE OF THE BILL

A loss of revenue of millions of dollars annually is being occasioned since the repeal of the eighteenth amendment by the increased activity of smugglers in evading our revenue laws. This activity can be curbed by adequate remedial legislation. The bill is designed to accomplish this result by extending (within the limits authorized by international law) our customs jurisdiction, by providing more effective means of enforcing laws relating to smuggling, and, generally, by making smuggling unprofitable. The bill will not disturb our existing international relations, but rather is designed to clarify our position and to strengthen the understanding between foreign nations and ourselves in dealing with smuggling; nor will it interfere with legitimate commerce.

The Secretary of the Treasury personally appeared before the Ways and Means Committee of the House and testified to the necessity of enacting this bill if rapidly increasing post-repeal smuggling activity and consequent frauds upon the revenue of the United States are to be checked. The House hearings are available in printed form.

Prior to prohibition this country was not troubled much with smuggling. During the 14 years of prohibition the business of

smuggling liquor into the United States from all parts of the world developed to very serious and troublesome proportions.

[p. 1]

It was generally expected that with the repeal of prohibition liquor-smuggling operations and frauds on our revenue would be materially reduced. For a time after repeal such proved to be the case, but, commencing with the spring of 1934, liquor smugglers again appeared along our coasts, and their operations have now increased to alarming proportions. Thus, in March 1934, only 2 smuggling vessels were observed off the coast, but by February of this year this number had increased to 22. Thirty-nine foreign vessels are presently known to the Coast Guard to be regularly engaged in the illicit-liquor traffic. Inasmuch as these vessels are hovering beyond our customs waters, they are not subject to seizure under existing laws, and hence they carry on their smuggling operations almost with impunity.

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ing every principle behind our customs-enforcement laws, vessels, in fact, which had never earned an honest dollar in their entire seagoing lives, but had been designed, built, and used exclusively for smuggling into the United States.

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1.13a(3) CONGRESSIONAL RECORD, VOL. 78 (1935)

1.13a(3)(a) June 11: Amended and passed House, p. 9077
[No Relevant Discussion on Pertinent Section]

1.13a(3) (b) July 26: Passed Senate, p. 11939
[No Relevant Discussion on Pertinent Section]

1.13b 1938 AMENDMENTS TO §§91, 92 OF TITLE 46 U.S.C.

June 16, 1938, P.L. 75-656, §1, 52 Stat. 758

AN ACT To amend section 4197 of the Revised Statutes, as amended (U.S.C., 1934 edition, title 46, sec. 91), and section 4200 of the Revised Statutes (U.S.C., 1934 edition, title 46, sec. 92), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4197 of the Revised Statutes of the United States (U.S.C., 1934 edition, title 46, sec. 91), be amended to read as follows:

"The master or person having the charge or command of any vessel bound to a foreign port shall deliver to the collector of the district from which such vessel is about to depart a manifest of all the cargo on board the same, and the value thereof, by him subscribed, and shall swear to the truth thereof; whereupon the collector shall grant a clearance for such vessel and her cargo, but without specifying the

particulars thereof in the clearance, unless required by the master or other person having the charge or command of such vessel so to do. If any vessel bound to a foreign port (other than a licensed yacht not engaging in any trade nor in any way violating the revenue laws of the United States) departs from any port or place in the United

[p. 758]

States without a clearance, or if the master delivers a false manifest, or does not answer truly the questions demanded of him, or, having received a clearance adds to the cargo of such vessels without having mentioned in the report outwards the intention to do so, or if the departure of the vessel is delayed beyond the second day after obtaining clearance without reporting the delay to the collector, the master or other person having the charge or command of such vessel shall be liable to a penalty of not more than $1,000 nor less than $500, or if the cargo consists in any part of narcotic drugs, or any spirits, wines, or other alcoholic liquors (sea stores excepted), a penalty of not more than $5,000 nor less than $1,000 for each offense, and the vessel shall be detained in any port of the United States until the said penalty is paid or secured: *Provided,* That in order that the commerce of the United States may move with expedition and without undue delay, the Secretary of Commerce is hereby authorized to make regulations permitting the master of any vessel taking on cargo for a foreign port or for a port in noncontiguous territory belonging to the United States to file a manifest as hereinbefore provided, and if the manifest be not a complete manifest and it so appears upon such manifest, the collector of customs may grant clearance to the vessel in the case of an incomplete manifest, taking from the owner of the vessel, who may act in the premises by a duly authorized attorney in fact, a bond with security approved by the collector of customs in the penal sum of $1,000, conditioned that the master or someone for him will file a completed outward manifest not later than the fourth business day after the clearance of the vessel. In the event that the said complete outward manifest be not filed as required by the provisions of this section and the regulations made by the Secretary of Commerce in pursuance hereof, then a penalty of $50 for each day's delinquency beyond the allowed period of four days for filing the completed manifest shall be exacted, and if the completed manifest be not filed within the three days following the four-day period, then for each succeeding day of delinquency a penalty of $100 shall be exacted. Suit may be instituted in the name of the United States against the principal and surety on the bond for the recovery of any penalties that may accrue and be exacted in accordance with the terms of the bond."

[p. 759]

1.13b(1) HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

H.R. REP. No. 2521, 75th Cong., 3rd Sess., (1938)

EXPEDITING CLEARANCE OF VESSELS

MAY 31, 1938.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

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Mr. BLAND, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 10672]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 10672) to amend section 4197 of the Revised Statutes, as amended (U.S.C., 1934 ed., title 46, sec. 91), and section 4200 of the Revised Statutes (U.S.C., 1934 ed., title 46, sec. 92), and for other purposes, having had the same under consideration report it back to the House without amendment and recommend that the bill do pass.

R.S. 4197 is derived from the act of March 2, 1799, and provides that the master of a vessel bound to a foreign port shall deliver to the collector of customs a manifest of all cargo on board and the value thereof, verified by oath; whereupon the collector of customs is directed to grant a clearance for the vessel and her cargo. This section of the revised statutes is amended by section 1 of the bill which provides that the Secretary of Commerce may formulate regulations permitting the vessel to clear upon the filing of an incomplete manifest and the posting of a bond in the penal sum of $1,000 upon the condition that a complete manifest will be filed not later than the fourth business day after the clearance of the vessel. Appropriate penalties are provided for failure to file a complete manifest within the time allowed. This amendment will enable commerce of the United States to move without undue delay and with maximum expedition.

R.S. 4200 is derived from the act of February 10, 1820, and provides that before a clearance shall be granted for any vessel on a voyage to a foreign port, the owners, shippers, or consignors of the

cargo carried by the vessel shall deliver to the collector of customs manifests (export declarations) of the cargo, verified by oath. This statute is amended by section 2 of the bill in practically the same manner as section 4197 of the Revised Statutes is amended by section [p. 1] 1 above; namely, by authorizing the Secretary of Commerce to formulate regulations permitting a vessel to clear without the filing of shippers' manifests or export declarations upon the condition that the shippers post a $1,000 bond maturing, if the proper manifests are not filed, within 4 days after the clearance of the vessel. Appropriate penalties are also provided for in this section, the express purpose of the amendment being in the interest of the expeditious movement of commerce of the United States.

Section 3 of the bill preserves intact the existing provisions of law "with respect to the necessary papers, documents, or licenses required to be produced by the master, owner, operator, or consignor, relating to the required prerequisites for the granting of clearance for a cargo destined to foreign ports or to a port in noncontiguous territory belonging to the United States.

This legislation was recommended for enactment by the Acting Secretary of Commerce to the Speaker of the House of Representatives in a letter dated May 16, 1938. The amendments merely make legal practices which have existed for many years but which have been questioned slightly in the last few months. The proposed legislation will remove all possibility of doubt or question by anyone. The practice previously pursued and removed from the possibility of question by this bill is needed to meet the increasing competition and exigencies of modern maritime business practices.

The proposal involves no extra expense on the Treasury, and your committee is advised that it also meets with the approval of the Bureau of the Budget.

The following report of the Acting Secretary of Commerce, recommending the enactment of the legislation, sets out in detail the situation complained of and the customs regulations involved. Your committee concurs in the view of the Acting Secretary of Commerce and recommends the enactment of the legislation proposed.

The letter referred to follows:

DEPARTMENT OF COMMERCE,
Washington, May 16, 1938.

HON. S. O. BLAND,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: In accordance with our conversation this morning, I am forwarding in quadruplicate proposed amendments to sections 4197 and 4200, Revised Statutes, the proposed changes to the present law being in italic.

As will be noted from the amendatory language these proposed amendments, are only for the purpose of securing statutory authority to do that which is now being done by regulation for which there is no apparent warrant of law.

In addition to the proposed amendments, I am transmitting memoranda which I believe fully set forth the purpose of the desired amendments.

Cordially yours,

J. M. JOHNSON,
Assistant Secretary of Commerce.

[p. 2]

1.13b(2) SENATE COMMITTEE ON COMMERCE

S. REP. No. 2020, 75th Cong., 3rd Sess. (1938)

AMENDING SECTION 4197 OF THE REVISED STATUTES AS AMENDED (U.S.C., 1934 ED., TITLE 46, SEC. 91), AND SECTION 4200 OF THE REVISED STATUTES (U.S.C., 1934 ED., TITLE 46, SEC. 92)

JUNE 7 (calendar day, JUNE 8), 1938.—Ordered to be printed

Mr. COPELAND, from the Committee on Commerce, submitted the following

REPORT

[To accompany H.R. 10672]

The Committee on Commerce, to whom was referred the bill (H.R. 10672) to amend section 4197 of the Revised Statutes, as amended (U.S.C., 1934 ed., title 46, sec. 91), and section 4200 of the Revised Statutes (U.S.C., 1934 ed., title 46, sec. 92), and for other purposes, having considered the same report favorably thereon with the recommendation that the bill do pass.

The House report follows:

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 10672) to amend section 4197 of the Revised Statues, as amended (U. S. C., 1934 ed., title 46, sec. 91), and section 4200 of the Revised Statutes (U. S. C., 1934 ed., title 46, sec. 92), and for other purposes, having had the same under consideration, report it back to the House without amendment and recommend that the bill do pass.

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cargo. This section of the revised statutes is amended by section 1 of the bill which provides that the Secretary of Commerce may formulate regulations permitting the vessel to clear upon the filing of an incomplete manifest and the posting of a bond in the penal sum of $1,000 upon the condition that a complete manifest will be filed not later than the fourth business day after the clearance of the vessel. Appropriate penalties are provided for failure to file a complete manifest within the time allowed. This amendment will enable commerce of the United States to move without undue delay and with maximum expedition.

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Section 3 of the bill preserves intact the existing provisions of law "with respect to the necessary papers, documents, or licenses required to be produced by the master, owner, operator, or consignor, relating to the required prerequisites for the granting of clearance for a cargo destined to foreign ports or to a port in noncontiguous territory belonging to the United States.

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The proposal involves no extra expense on the Treasury, and your committee is advised that it also meets with the approval of the Bureau of the Budget.

The following report of the Acting Secretary of Commerce, recommending the enactment of the legislation, sets out in detail the situation complained of and the customs regulations involved. Your committee concurs in the view of the Acting Secretary of Commerce and recommends the enactment of the legislation proposed.

The letter referred to follows:

DEPARTMENT OF COMMERCE,
Washington, May 16, 1938.

HON. S. O. BLAND,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: In accordance with our conversation this morning, I am forwarding in quadruplicate proposed amendments to sections 4197 and 4200, Revised Statutes, the proposed changes to the present law being in italic.

As will be noted from the amendatory language these proposed amendments, are only for the purpose of securing statutory authority to do that which is now being done by regulation for which there is no apparent warrant of law.

In addition to the proposed amendments, I am transmitting memoranda which I believe fully set forth the purpose of the desired amendments.

Cordially yours,

J. M. JOHNSON,
Assistant Secretary of Commerce.

[p. 2]

1.13b(3) CONGRESSIONAL RECORD, VOL. 83 (1938)

1.13b(3)(a) June 6: Passed House, p. 8226
[No Relevant Discussion on Pertinent Section]

1.13b(3)(b) June 13: Passed Senate, p. 8942
[No Relevant Discussion on Pertinent Section]

1.13c 1946 REORGANIZATION PLAN NO. 3, §§101–104

May 16, 1946, 11 Fed. Reg. 7875, 60 Stat. 1097

PART I. DEPARTMENT OF THE TREASURY

Section 101. *Functions transferred to the United States Coast Guard.*—(a) There are hereby transferred to the Commandant of the Coast Guard those functions of the bureau, offices, and boards specified in the first sentence of section 104 of this plan, and of the Secretary of Commerce, which pertain to approval of plans for the construction, repair, and alteration of vessels; approval of materials, equipment, and appliances; classification of vessels; inspection of vessels and their equipment and appliances; issuance of certificates of inspection, and of permits indicating the approval of vessels for operations which may be hazardous to life or property; administration of load line requirements; enforcement of other provisions for the safety of life and property on vessels; licensing and certificating of officers, pilots, and seamen; suspension and revocation of licenses and certificates; investigation of marine casualties; enforcement of manning requirements, citizenship requirements, and requirements for the mustering and drilling of crews; control of log books; shipment, discharge, protection, and welfare of merchant seamen; enforcement of duties of shipowners and officers after accidents; promulgation and enforcement of rules for lights, signals, speed, steering, sailing, passing, anchorage, movement, and towlines of vessels and lights and signals on bridges; numbering of undocumented vessels; prescription and enforcement of regulations for outfitting and operation of motorboats;

licensing of motorboat operators; regulation of regattas and marine parades; all other functions of such bureau, offices, and boards which are not specified in section 102 of this plan; and all other functions of the Secretary of Commerce pertaining to those functions of the agencies abolished under section 104 of this plan which are not specified in section 102 of this plan, including the remission and mitigation of fines, penalties and forfeitures incurred under the laws governing these functions and those incurred under the Act of December 17, 1941, 55 Stat. 808, as amended.

(b) The functions relating to the award of numbers to undocumented vessels vested by law in the Collectors of Customs are hereby transferred to the Commandant of the Coast Guard.

SEC. 102. *Functions transferred to Bureau of Customs.*—There are hereby transferred to the Commissioner of Customs those functions of the bureau, offices, and boards specified in the first sentence of section 104 of this plan, and of the Secretary of Commerce, which pertain to registry, enrollment, and licensing of vessels, including the issuance of commissions to yachts, the assignment of signal letters, and the preparation of all reports and publications in connection therewith; measurement of vessels, administration of tonnage duties, and collection of tolls; entry and clearance of vessels and aircraft, regulation of vessels in the coasting and fishing trades, and limitation of the use of foreign vessels in waters under the jurisdiction of the United

[p. 1097]

States; recording of sales, conveyances, and mortgages of vessels; protection of steerage passengers; all other functions of such bureau, offices, and boards which were performed by the Bureau of Customs on behalf thereof immediately prior to the effective date of Executive Order No. 9083 of February 28, 1942 (7 F.R. 1609); and the power to remit and mitigate fines, penalties and forfeitures incurred under the laws governing these functions.

SEC. 103. *Powers of the Secretary of the Treasury.*—The functions transferred by sections 101 and 102 of this plan may be performed through such officers and employees of the United States Coast Guard and the Bureau of Customs, respectively, as may be designated by the Commandant of the Coast Guard and the Commissioner of Customs, respectively, and shall be performed subject to the direction and control of the Secretary of the Treasury except as otherwise required by law with respect to the United States Coast Guard whenever it operates as a part of the Navy.

SEC. 104. *Abolition of agencies.*—The Bureau of Marine Inspection and Navigation, the office of the director thereof, the offices of supervising inspectors, principal traveling inspectors, local inspectors,

assistant inspectors, shipping commissioners, deputy shipping commissioners, and the Board of Supervising Inspectors, the Boards of Local Inspectors, the Marine Casualty Investigation Board, and the Marine Boards are hereby abolished. The Secretary of the Treasury shall provide for winding up those affairs of the said abolished agencies which are not otherwise disposed of herein.

[p. 1098]

1.13d CUSTOMS SIMPLIFICATION ACT OF 1954

September 1, 1954, P.L. 83–768, Title V, §501(a), 68 Stat. 1140

TITLE V—CUSTOMS ADMINISTRATIVE PROVISIONS

SEC. 501. (a) The parenthetical matter first appearing in the second sentence of section 4197 of the Revised Statutes, as amended (U.S.C., 1952 edition, title 46, sec. 91), is amended to read as follows: "(other than a licensed yacht or an undocumented American pleasure vessel not engaged in any trade nor in any way violating the customs or navigation laws of the United States)".

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[p. 1140]

1.13d(1) HOUSE COMMITTEE ON WAYS AND MEANS

H.R. REP. No. 2453, 83rd Cong., 2d Sess. (1954)

CUSTOMS SIMPLIFICATION ACT OF 1954

JULY 22, 1954.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. REED of New York, from the Committee on Ways and Means submitted the following

REPORT

[To accompany H.R. 10009]

The Committee on Ways and Means, to whom was referred the bill (H.R. 10009) to provide for the review of customs tariff schedules, to improve precedures for the tariff classification of unenumerated articles, to repeal or amend obsolete provisions of the customs laws, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

H.R. 10009 is intended to continue the program of customs simplification and management improvement in accordance with the recommendation of the President's message to the Congress on foreign economic policy of March 30, 1954. This bill, the Customs Simplification Act of 1954, is a further development and continuation of the program initiated by the Customs Simplification Act of 1953. The present bill will accomplish the following purposes:

1. Begin the work necessary to bring about a revision of the tariff classification schedules, a job which has not been done since the enactment of the Tariff Act of 1930, and also the procedures for the classification of unenumerated articles pending an overall revision of the tariff;

2. Make certain procedural changes in the Antidumping Act, 1921, which will permit more efficient consideration and determination of dumping cases;

3. Eliminate certain inconsistencies in the present law relating to the application of duties to products of our insular possessions;

4. Repeal a number of obsolete provisions relating to the customs service; and

[p. 1]

5. Adopt a number of procedural changes designed to permit the Bureau of Customs to enforce the customs laws more effectively.

GENERAL STATEMENT

H.R. 9476 was introduced in this session of Congress based on suggestions by the Treasury Department and designed to carry out certain recommendations of the President's message of March 30 on foreign economic policy. This committee held extensive public hearings on H.R. 9476. After consideration in executive session, H.R. 10009 was introduced to embody the committee's decisions on the questions involved.

The committee was gratified to note the statement of the Assistant Secretary of the Treasury during the public hearings that the enactment of the Customs Simplification Act of 1953, sponsored by your committee during the last session of Congress, has been largely instrumental in bringing about a substantial decrease in the backlog of uncompleted customs work. This reversed a trend which had been uninterrupted since the end of the war. The committee believes that the enactment of this bill will aid the Treasury Department and the Bureau of Customs further to increase efficiency.

[p. 2]

1.13d(2) SENATE COMMITTEE ON FINANCE

S. REP. No. 2326, 83rd Cong., 2d Sess. (1954)

CUSTOMS SIMPLIFICATION ACT OF 1954

AUGUST 6 (legislative day, AUGUST 5), 1954.—Ordered to be printed

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Mr. MILLIKIN, from the Committee on Finance submitted the following

REPORT

[To accompany H.R. 10009]

The Committee on Finance, to whom was referred the bill (H.R. 10009) to provide for the review of customs tariff schedules, to improve procedures for the tariff classification of unenumerated articles, to repeal or amend obsolete provisions of the customs laws, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

[p. 1]

TITLE V—CUSTOMS ADMINISTRATIVE PROVISIONS

Section 501

Section 501 of the bill would amend existing provisions of law so as to exempt undocumented pleasure vessels of the United States from the present requirements of entry and clearance and to remove the present requirement that yachts of over 15 gross tons make formal entry upon arrival from foreign ports .

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[p. 6]

1.13d(3) CONGRESSIONAL RECORD, VOL. 100 (1954)

1.13d(3)(a) July 26: Passed House, p. 12036

[No Relevant Discussion on Pertinent Section]

1.13d(3)(b) Aug. 12: Amended and passed Senate, p. 14264

[No Relevant Discussion on Pertinent Section]

1.13d(3)(c) Aug. 16: House concurs in Senate amendments, p. 14631

[No Relevant Discussion on Pertinent Section]

1.14 OUTER CONTINENTAL SHELF LANDS ACT, 43 U.S.C. §1331 ET. SEQ. (1953) [Referred to in 33 U.S.C. §1161(i)(2)]

§ 1331. Definitions

When used in this subchapter—

(a) The term "outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 1301 of this title, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(b) The term "Secretary" means the Secretary of the Interior;

(c) The term "mineral lease" means any form of authorizaton for the exploration for, or development or removal of deposits of, oil, gas, or other minerals; and

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation. Aug. 7, 1953, c. 345, § 2, 67 Stat. 462.

§ 1332. Congressional declaration of policy; jurisdiction; construction

(a) It is declared to be the policy of the United States that the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this subchapter.

(b) This subchapter shall be construed in such manner that the character as high seas of the waters above the outer Continental Shelf and the right to navigation and fishing therein shall not be affected. Aug. 7, 1953, c. 345, § 3, 67 Stat. 462.

§ 1333. Laws and regulations governing lands—Constitution and United States laws; laws of adjacent States; publication of projected States lines; restriction on State taxation and jurisdiction

(a) (1) The Constitution and laws and civil and political jurisdiction of the United States are extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: *Provided, however,* That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this subchapter.

(2) To the extent that they are applicable and not inconsistent with this subchapter or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State as of August 7, 1953 are declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

(3) The provisions of his section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

Jurisdiction of United States district courts

(b) The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing or transporting by pipeline the natural resources, or involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent State nearest the place where the cause of action arose.

Applicability of Longshoremen's and Harbor Workers' Compensation Act; definitions

(c) With respect to disability or death of an employee resulting from any injury occurring as the result of operations described in subsection (b) of this section, compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

(1) the term "employee' does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations; and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and artificial islands and fixed structures thereon.

Applicability of National Labor Relations Act

(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island or fixed structure referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the adjacent State nearest the place of location of such island or structure.

Coast Guard regulations; marking of islands and structures; offenses and penalties

(e) (1) The head of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the islands and structures referred to in subsection (a) of this section or on the waters adjacent thereto, as he may deem necessary.

(2) The head of the Department in which the Coast Guard is operating may mark for the protection of navigation any such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof. Any person, firm, company, or corporation who shall fail or refuse to obey any of the lawful rules and regulations issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation shall continue shall be considered a new offense.

Prevention of obstruction to navigation by Secretary of the Army

(f) The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is extended to artificial islands and fixed structures located on the outer Continental Shelf.

Provisions as non-exclusive

(g) The specific application by this section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and the artificial islands and fixed structures referred to in subsection (a) of this section or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such islands and structures, acts, or offenses of any other provision of law is not intended. Aug. 7, 1953, c. 345, § 4, 67 Stat. 462.

§ 1334. Administration of leasing—Rules and regulations; amendment; cooperation with State agencies; violation and penalties; compliance with regulations as condition of lease

(a) (1) The Secretary shall administer the provisions of this subchapter relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the owner Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this subchapter. In the enforcement of conservation laws, rules, and regulations the Secretary is authorized to cooperate with the conservation agencies of the adjacent States. Without limiting the generality of the foregoing provisions of this section, the rules and regulations prescribed by the Secretary thereunder may provide for the assignment or relinquishment of leases, for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value, and, in the interest of conservation, for unitization, pooling, drilling agreements, suspension of operations or production, reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas in any of said submerged lands, and drilling or other easements necessary for operations or production.

(2) Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary for the prevention of waste, the conservation of the natural resources, or the protection of correlative rights shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $2,000 or by imprisonment for not more than six months, or by both such fine and im-

prisonment, and each day of violation shall be deemed to be a separate offense. The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease under the provisions of this subchapter shall be conditioned upon compliance with the regulations issued under this subchapter and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 1337 of this title, or with the regulations issued under the provisions of section 1335(b) (2) of this title if the lease is maintained under the provisions of section 1335 of this title.

Cancellation of lease; judicial review

(b) (1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 1337 of this title, or of the regulations issued under the provisions of section 1335(b) (2) of this title, if the lease is maintained under the provisions of section 1335 of this title, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in section 1337(j) of this title, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 1337 of this title, or of the regulations issued under the provisions of section 1335(b) (2) of this title, if the lease is maintained under the provisions of section 1335 of this title, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 1333(b) of this title.

Pipeline rights-of-way; forfeiture of grant

(c) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this subchapter, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location and width thereof as may be prescribed

by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said submerged lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed thereunder shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of section 1333(b) of this title. Aug. 7, 1953, c. 345, § 5, 67 Stat. 464.

§ 1335. Validation and maintenance of prior leases—Requirements for Validation

(a) The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from August 7, 1953, or within such further period or periods as provided in section 1336 of this title or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in section 1336 of this title hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and August 7, 1953, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after August 7, 1953, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 1338 of this title;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on August 7, 1953;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and August 7, 1953 and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on August 7, 1953;

(10) such lease will terminate within a period of not more than five years from August 7, 1953 in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents

in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirement' 'he Secretary may deem necessary to protect the inte' the United States.

Conduct of operations unc sulphur rights

(b) Any person holding a mine se, which as determined by the Secretary meets the requiren. s of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8)–(10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from August 7, 1953 equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extension renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 1334 of this title prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: *Provided, however,* That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of this subsection unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: *Provided further,* That if sulphur is being produced in paying quantities on such date, then such rights shall continue to be maintained in accordance with such lease and the provisions of this subchapter: *Provided further,* That, if the primary term of a lease being maintained under this subsection has expired prior to August 7, 1953 and oil or gas is being produced in paying

quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from August 7, 1953 and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

Non-waiver of United States claims

(c) The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to August 7, 1953.

Judicial review of determination

(d) Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

Lands beneath navigable waters

(e) In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in subchapters I and II of this chapter, as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf. Aug. 7, 1953, c. 345, § 6, 67 Stat. 465.

§ 1336. Controversies over jurisdiction; agreements; payments; final settlement or adjudication; approval of notice concerning oil and gas operations in Gulf of Mexico

In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this subchapter, the Secretary is authorized, notwithstanding the provisions of section 1335(a) and (b) of this title, and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee respecting the issuance or nonissuance of new mineral leases pending the settlement or

adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this subchapter. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 1335(a) (4) of this title. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this subchapter, the lessee, if he has not already done so, shall comply with the requirements of section 1335(a) of this title, and thereupon the provisions of section 1335(b) of this title shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950 (15 F.R. 8835), as amended by the notice dated January 26, 1951 (16 F.R. 953), and as supplemented by the notices dated February 2, 1951 (16 F.R. 1203), March 5, 1951 (16 F.R. 2195), April 23, 1951 (16 F.R. 3623), June 25, 1951 (16 F.R. 6404), August 22, 1951 (16 F.R. 8720), October 24, 1951 (16 F.R. 10998), December 21, 1951 (17 F.R. 43), March 25, 1952 (17 F.R. 2821), June 26, 1952 (17 F.R. 5833), and December 24, 1952 (18 F.R. 48) ; respectively is approved and confirmed. Aug. 7, 1953, c. 345, § 7, 67 Stat. 467.

§ 1337. Grant of leases by Secretary—Oil and gas leases; award to highest bidder; method of bidding.

(a) In order to meet the urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance, oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meetings the requirements of section 1335(a) of this title. The bidding shall be (1) by sealed bids, and (2) at the discretion of the Secretary, on the basis of a cash bonus with a royalty fixed by the Secretary at not less than 12½ per centum in amount or value of the production saved, removed or sold, or on the basis of royalty, but at not less than the per centum above mentioned, with a cash bonus fixed by the Secretary.

Terms and provisions of oil and gas leases

(b) An oil and gas lease issued by the Secretary pursuant to this section shall (1) cover a compact area not exceeding five

thousand seven hundred and sixty acres, as the Secretary, may determine, (2) be for a period of five years and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, (3) require the payment of a royalty of not less than 12½ per centum, in the amount or value of the production saved, removed, or sold from the lease, and (4) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.

Sulphur leases; award to highest bidder; method of bidding

(c) In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of section 1335(a) of this title, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

Terms and provisions of sulphur leases

(d) A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

Other mineral leases; award to highest bidder; terms and conditions

(e) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for

such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

Publication of notices of sale and terms of bidding

(f) Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

Disposition of revenues

(g) All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 1338 of this title.

Issuance of lease as non-prejudicial to ultimate settlement or adjudication of controversies

(h) The issuance of any lease by the Secretary pursuant to this subchapter, or the making of any interim arrangements by the Secretary pursuant to section 1336 of this title shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

Cancellation of leases for fraud

(i) The Secretary may cancel any lease obtained by fraud or misrepresentation.

Judicial review of cancellation of lease; petition within sixty days

(j) Any person complaining of a cancellation of a lease by the Secretary may have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition for review within sixty days after the Secretary takes such action. Aug. 7, 1953, c. 345, § 8, 67 Stat. 468.

§ 1338. Disposition of revenues

All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts. Aug. 7, 1953, c. 345, § 9, 67 Stat. 469.

§ 1339. Refunds; filing time limitation; certification of repayment; necessity of report to Congress

(a) Subject to the provisions of subsection (b) of this section, when it appears to the satisfaction of the Secretary that any person has made a payment to the United States in connection

with any lease under this subchapter in excess of the amount he was lawfully required to pay, such excess shall be repaid without interest to such person or his legal representative, if a request for repayment of such excess is filed with the Secrtary within two years after the making of the payment, or within ninety days after August 7, 1953. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such repayments out of any moneys in the special account established under section 1338 of this title and to issue his warrant in settlement thereof.

(b) No refund of or credit for such excess payment shall be made until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts upon which the determination of the Secretary was made is submitted to the President of the Senate and the Speaker of the House of Representatives for transmittal to the appropriate legislative committee of each body, respectivly: *Provided,* That if the Congress shall not be in session on the date of such submission or shall adjourn prior to the expiration of thirty days from the date of such submission, then such payment or credit shall not be made until thirty days after the opening day of the next succeeding session of Congress. Aug. 7, 1953, c. 345, § 10, 67 Stat. 469.

§ 1340. Geological and geophysical explorations

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this subchapter, and which are not unduly harmful to aquatic life in such area. Aug. 7, 1953, c. 345, § 11, 67 Stat. 469.

§ 1341. Reservation of lands and rights—Withdrawal of unleased lands by President

(a) The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

First refusal of mineral purchases

(b) In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase

at the market price all or any portion of any mineral produced from the outer Continental Shelf.

National security clause

(c) All leases issued under this subchapter, and leases, the maintenance and operation of which are authorized under this subchapter, shall contain or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after August 7, 1953, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

National defense areas; suspension of operations; extension of leases

(d) The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

Source materials essential to production of fissionable materials

(e) All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are hereby reserved for the use of the United States.

Helium ownership; rules and regulations governing extraction

(f) The United States reserves and retains the ownership of

and the right to extract all helium, under such rules and regulations as shall be presented by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this subchapter, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas. Aug. 7, 1953, c. 345, § 12, 67 Stat. 469.

§ 1342. Prior claims as unaffected

Nothing herein contained shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this subchapter and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however,* That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this subchapter or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained. Aug. 7, 1953, c. 345, § 14, 67 Stat. 470.

§ 1343. Annual report by Secretary to Congress

As soon as practicable after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing the amounts of all moneys received and expended in connection with the administration of this subchapter during the preceding fiscal year Aug. 7, 1953, c. 345, § 15, 67 Stat. 470.

1.14a OUTER CONTINENTAL SHELF LANDS ACT

August 7, 1953, P.L. 83–212, §§2–15, 67 Stat. 462

AN ACT To provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act".

SEC. 2. DEFINITIONS.—When used in this Act—

(a) The term "outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, Eighty-third Congress, first session), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(b) The term "Secretary" means the Secretary of the Interior;

(c) The term "mineral lease" means any form of authorization for the exploration for, or development or removal of deposits of, oil, gas, or other minerals; and

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

SEC. c. JURISDICTION OVER OUTER CONTINENTAL SHELF.—(a) It is hereby declared to be the policy of the United States that the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act.

(b) This Act shall be construed in such manner that the character as high seas of the waters above the outer Continental Shelf and the right to navigation and fishing therein shall not be affected.

SEC. 4. LAWS APPLICABLE TO OUTER CONTINENTAL SHELF.—(a) (1) The Constitution and laws and civil and political jurisdiction of the United States are hereby extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: *Provided, however,* That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this Act.

(2) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal

laws of each adjacent State as of the effective date of this Act are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any

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purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

(b) The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing or transporting by pipeline the natural resources, or involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent State nearest the place where the cause of action arose.

(c) With respect to disability or death of an employee resulting from any injury occurring as the result of operations described in subsection (b), compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

(1) the term "employee" does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations; and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and artificial islands and fixed structures thereon.

(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island or fixed structure referred to in subsection (a) shall be deemed to have occurred within the judicial district of the adjacent State nearest the place of location of such island or structure.

(e) (1) The head of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the islands and structures referred to in subsection (a) or on the waters adjacent thereto, as he may deem necessary.

(2) The head of the Department in which the Coast Guard is operating may mark for the protection of navigation any such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof. Any person, firm, company, or corporation who shall fail or refuse to obey any of the lawful rules and regulations issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation shall continue shall be considered a new offense.

(f) The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is hereby extended to artificial islands and fixed structures located on the outer Continental Shelf.

(g) The specific application by this section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and the artificial islands and fixed structures referred to in subsection (a) or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such islands and structures, acts, or offenses of any other provision of law is not intended.

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SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) (1) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all

operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of conservation laws, rules, and regulations the Secretary is authorized to cooperate with the conservation agencies of the adjacent States. Without limiting the generality of the foregoing provisions of this section, the rules and regulations prescribed by the Secretary thereunder may provide for the assignment or relinquishment of leases, for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value, and, in the interest of conservation, for unitization, pooling, drilling agreements, suspension of operations or production, reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas in any of said submerged lands, and drilling or other easements necessary for operations or production.

(2) Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary for the prevention of waste, the conservation of the natural resources, or the protection of correlative rights shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $2,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, and each day of violation shall be deemed to be a separate offense. The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6 (b), clause (2), hereof if the lease is maintained under the provisions of section 6 hereof.

(b) (1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6 (b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in section 8 (j), if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of

section 6 (b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

(c) Rights-of-way through the submerged lands of the outer Con-

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tinental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location and width thereof as may be prescribed by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said submerged lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed thereunder shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

SEC. 6. MAINTENANCE OF LEASES ON OUTER CONTINENTAL SHELF.—(a) The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this Act, or within such further period or periods as provided in section 7 hereof or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdic-

tion over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in section 7 hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after the effective date of this Act, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 9 of this Act;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on the effective date of this Act;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

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(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and the effective date of this Act and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on the effective date of this Act;

(10) such lease will terminate within a period of not more than five years from the effective date of this Act in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

(b) Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8), (9) and (10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 5 of this Act prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: *Provided, however,* That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of such subsection (b) unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: *Provided further,* That if sulphur is being produced in paying quantities on such date, then such rights shall continue to be maintained in ac-

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cordance with such lease and the provisions of this Act: *Provided further,* That if the primary term of a lease being maintained under

subsection (b) hereof has expired prior to the effective date of this Act and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from the effective date of this Act and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

(c) The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to the effective date of this Act.

(d) Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

(e) In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act, as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf.

SEC. 7. CONTROVERSY OVER JURISDICTION.—In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this Act, the Secretary is authorized, notwithstanding the provisions of subsections (a) and (b) of section 6 of this Act, and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this Act. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 6 (a) (4) hereof. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands

subject to the provisions of this Act, the lessee, if he has not already done so, shall comply with the requirements of section 6 (a), and thereupon the provisions of section 6 (b) shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950 (15 F. R. 8835), as amended by the notice dated January 26, 1951 (16 F. R. 953), and as supplemented by the notices dated February 2, 1951 (16 F. R. 1203), March 5, 1951 (16 F. R. 2195), April 23, 1951 (16 F. R. 3623), June 25, 1951 (16 F. R. 6404), August 22, 1951 (16 F. R. 8720), October 24, 1951 (16 F. R. 10998), December 21, 1951 (17 F. R. 43), March 25, 1952 (17 F. R. 2821), June 26, 1952 (17 F. R. 5833), and December 24, 1952 (18 F. R. 48), respectively, is hereby approved and confirmed.

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SEC. 8. LEASING OF OUTER CONTINENTAL SHELF.—(a) In order to meet the urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance, oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be (1) by sealed bids, and (2) at the discretion of the Secretary, on the basis of a cash bonus with a royalty fixed by the Secretary at not less than 12½ per centum in amount or value of the production saved, removed or sold, or on the basis of royalty, but at not less than the per centum above mentioned, with a cash bonus fixed by the Secretary.

(b) An oil and gas lease issued by the Secretary pursuant to this section shall (1) cover a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, (2) be for a period of five years and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, (3) require the payment of a royalty of not less than 12½ per centum, in the amount or value of the production saved, removed, or sold from the lease, and (4) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.

(c) In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of com-

petitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of subsection (a) of section 6 of this Act, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

(d) A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

(e) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

(f) Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

(g) All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 9 of this Act.

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(h) The issuance of any lease by the Secretary pursuant to this Act, or the making of any interim arrangements by the Secretary pursuant to section 7 of this Act shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

(i) The Secretary may cancel any lease obtained by fraud or misrepresentation.

(j) Any person complaining of a cancellation of a lease by the Secretary may have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition

for review within sixty days after the Secretary takes such action.

SEC. 9. DISPOSITION OF REVENUES.—All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

SEC. 10. REFUNDS.—(a) Subject to the provisions of subsection (b) hereof, when it appears to the satisfaction of the Secretary that any person has made a payment to the United States in connection with any lease under this Act in excess of the amount he was lawfully required to pay, such excess shall be repaid without interest to such person or his legal representative, if a request for repayment of such excess is filed with the Secretary within two years after the making of the payment, or within ninety days after the effective date of this Act. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such repayments out of any moneys in the special account established under section 9 of this Act and to issue his warrant in settlement thereof.

(b) No refund of or credit for such excess payment shall be made until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts upon which the determination of the Secretary was made is submitted to the President of the Senate and the Speaker of the House of Representatives for transmittal to the appropriate legislative committee of each body, respectively: *Provided,* That if the Congress shall not be in session on the date of such submission or shall adjourn prior to the expiration of thirty days from the date of such submission, then such payment or credit shall not be made until thirty days after the opening day of the next succeeding session of Congress.

SEC. 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS.—Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area.

SEC. 12. RESERVATIONS.—(a) The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

(b) In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.

(c) All leases issued under this Act, and leases, the maintenance and operation of which are authorized under this Act, shall contain or

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be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after the effective date of this Act, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

(d) The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

(e) All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are hereby reserved for the use of the United States.

(f) The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this Act, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

SEC. 13. NAVAL PETROLEUM RESERVE EXECUTIVE ORDER REPEALED.—Executive Order Numbered 10426, dated January 16, 1953, entitled "Setting Aside Submerged Lands of the Continental Shelf as a Naval Petroleum Reserve", is hereby revoked.

SEC. 14. PRIOR CLAIMS NOT AFFECTED.—Nothing herein contained

shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this Act and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however,* That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this Act or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained.

SEC. 15. REPORT BY SECRETARY.—As soon as practicable after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing the amounts of all moneys received and expended in connection with the administration of this Act during the preceding fiscal year.

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1.14a(1) HOUSE COMMITTEE ON THE JUDICIARY

H.R. REP. No. 413, 83rd Cong., 1st Sess. (1953)

AMENDING SUBMERGED LANDS ACT

MAY 12, 1953.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. REED of Illinois, from the Committee on the Judiciary submitted the following

REPORT

[To accompany H.R. 5134]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5134) to amend the Submerged Lands Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

LEGISLATIVE HISTORY OF H.R. 5134

The provisions contained in H.R. 5134 are substantially identical with the provisions of title III in the bill H.R. 4198 as it originally

passed the House on April 1, 1953. These provisions had been considered by the Committee on the Judiciary during the course of its hearings and executive sessions on over 40 bills dealing with the overall question of the submerged lands.

When the bill, H.R. 4198, was considered by the Senate, it was amended by striking out all after the enacting clause and inserting new provisions which were similar to those contained in titles I and II of the House version. The Senate amendment, however, omitted title III.

H.R. 4198 is cited as the Submerged Lands Act and contains two titles. Title I contains the basic definitions of various terms used throughout the bill. Title II deals with the rights and claims by the States to the lands and resources beneath navigable waters within State boundaries.

Title III as contained in the bill, H.R. 4198, as it passed the House, dealt with the seabed and the natural resources therein of the outer Continental Shelf seaward and beyond State boundaries and recognizes that that area and the resources therein appertain to the United

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States and are subject to its jurisdiction and control. These same provisions are now contained in this bill, H.R. 5134.

PURPOSE OF THE BILL

The purpose of H.R. 5134 is to amend the Submerged Lands Act in order that the area in the outer Continental Shelf beyond boundaries of the States may be leased and developed by the Federal Government. At the present time the Submerged Lands Act merely established that the seabed and subsoil in the outer Continental Shelf beyond State boundaries appertained in the United States and was subject to its jurisdiction and control.

There are no provisions for the leasing and development of the area by the Federal Government nor are provisions made for the exchange of State leases for Federal leases in the same area.

This bill contains provisions to accomplish those very objectives.

OUTER CONTINENTAL SHELF OUTSIDE STATE BOUNDARIES

What is the Continental Shelf?

Continental shelves have been defined as those slightly submerged portions of the continents that surround all the continental areas of the earth. They are a part of the same continental mass that forms the lands above water. They are that part of the continent temporarily (measured in geological time) overlapped by the oceans. The outer boundary of each shelf is marked by a sharp increase in the

slope of the sea floor. It is the point where the continental mass drops off steeply toward the ocean deeps. Generally, this abrupt drop occurs where the water reaches a depth of 100 fathoms or 600 feet, and, for convenience, this depth is used as a rule of thumb in defining the outer limits of the shelf.

Along the Atlantic coast, the maximum distance from the shore to the outer edge of the shell is 250 miles and the average distance is about 70 miles. In the Gulf of Mexico, the maximum distance is 200 miles and the average is about 93 miles. The total area of the shelf off the United States is estimated to contain about 290,000 square miles, or an area larger than New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, and Kentucky combined. The area of the shelf off Alaska is estimated to contain 600,000 square miles, an area almost as large as Alaska itself.

That part of the shelf which lies within historic State boundaries, or 3 miles in most cases, is estimated to contain about 27,000 square miles or less than 10 percent of the total area of the shelf. The principal purpose of title III is to authorize the leasing by the Federal Government of the remaining 90 percent of the shelf.

Necessity for legislation

Representatives of the Federal departments, the States, and the offshore operators all urged the importance and necessity for the enactment of legislation enabling the Federal Government to lease for oil and gas operations the vast areas of the Continental Shelf outside of State boundaries. They were unanimously of the opinion, in which this committee agrees, that no law now exists whereby the Federal Government can lease those submerged lands, the development and operation of which are vital to our national economy and security. It

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is, therefore, the duty of the Congress to enact promptly a leasing policy for the purpose of encouraging the discovery and development of the oil potential of the Continental Shelf.

The committee is also of the opinion that legislative action is necessary in order to confirm and give validity to Presidential Proclamation 2667 of September 8, 1945, wherein the President, by Executive declaration asserted, in behalf of the United States, jurisdiction, control, and power of disposition over the natural resources of the subsoil and seabed of the Continental Shelf. Many other nations have made assertions to a similar effect with respect to their continental shelves, and the committee believes it proper and necessary that the Congress make such an assertion in behalf of the United States.

H.R. 5134 does not vest in the States the power to take or dispose of the natural resources of the parts of the Continental Shelf outside the original boundaries of the States. That power is vested by H.R. 4198 in the Secretary of the Interior even though some States have extended their boundaries as far as the outer edge of the shelf. Section 9(a) of H.R. 5134 asserts as against the other nations of the world the claim of the United States to the natural resources in the Continental Shelf. This Nation's claim to the natural resources was strengthened by the earlier action of some of the States in leasing, and consequently bringing about the actual use and occupancy of the Continental Shelf. The benefits flowing to the United States from such State action was recognized by the Supreme Court in the Louisiana case, for it said:

> So far as the issues presented here are concerned, Louisiana's enlargement of her boundary emphasizes the strength of the claim of the United States to this part of the ocean and the resources of the soil under that area, including oil.

Under the provisions of section 9(a), the Secretary of the Interior is given discretionary power to administer the provisions of this title and to adopt such regulations as are not inconsistent with Federal law for the entire area.

ANALYSIS OF THE BILL

Section 1 of the bill, H.R. 5134, amends section 2 of the Submerged Lands Act by adding thereto four new paragraphs. Subsection (i) defines the term "outer Continental Shelf" as those submerged lands which lie outside of seaward of lands beneath navigable waters as defined in section 2 of that act, and of which the subsoil and natural resources appertain to the United States. The term "Secretary" is defined as the Secretary of the Interior. The term "lease" is also defined, as is also the term "Mineral Leasing Act."

The above terms are added to section 2 of the Submerged Lands Act since they refer exclusively to the area in the outer Continental Shelf beyond State boundaries.

Section 2 of the bill further amends the Submerged Lands Act by striking out therefrom sections 9, 10, and 11. Section 9 of the Submerged Lands Act constitutes a legislative confirmation of jurisdiction over the natural resources of the seabed and subsoil of the Continental Shelf seaward of the original State boundaries, which was asserted in the Presidential proclamation of 1945. The need for this section is obviated by the addition of title III which deals specifically with the same area, particularly with regard to the new matter set forth in section 9(a) of the bill H.R. 5134. Section 10

of the Submerged Lands Act is also made unnecessary by the new

matter being added to the act as specifically contained in section 19.

The provisions of section 11 which is stricken from the Submerged Lands Act by this bill are exactly the same as contained in section 21 of H.R. 5134. In this regard the bill merely transposes the section from one title to another title and is a clarifying amendment to that extent.

Title III relates solely to the outer Continental Shelf outside of State boundaries.

Section 9(a) constitutes a legislative confirmation of the jurisdiction of the United States over the natural resources of the subsoil and seabed of the outer Continental Shelf outside State boundaries. It makes applicable to that area Federal laws and authorizes the Secretary of the Interior to administer the provisions of this title and to adopt such rules and regulations as are not inconsistent with Federal laws to apply therein.

The Secretary of the Interior is also given the discretionary power to adopt the laws of coastal States, if the State so provides, to be applicable to that portion of the area which would be within the boundaries of the State should such boundaries be extended seaward to the outer margin of the Continental Shelf. In this regard, the Secretary determines and publishes the lines limiting each such area.

Provision is made, however, that State taxation laws cannot apply in these areas. But provision is made for reimbursement of abutting States for the reasonable cost of the administration of such laws.

The further provision is made that this act should be construed so that the character of these waters above the shelf as high seas and the right of free navigation and navigational servitude shall not be affected. Under subsection (b), provision is made that the oil and gas deposits in the area should be controlled and disposed of in accordance with the provisions of this act.

Section 10 provides for the leasing of the outer Continental Shelf area. Under subsection (a) the Secretary of the Interior may, when there is a demand for the purchase of leases, offer for sale on competitive sealed bidding oil and gas leases on the unleased areas of the outer Continental Shelf. The sale of the leases are to be made to the responsible and qualified bidder bidding the highest cash bonuses per leasing unit. Thirty-day notice of sale is to be given by the Secretary which shall describe the tract to be leased, the minimum bonus per acre acceptable for each leasing unit, the amount of royalty, the rental per acre per annum, and the time and place for opening the bids in public.

Subsection (b) requires the leasing units to be reasonably compact in form and to contain not more than 640 acres if located within the known geologic structure of a producing oil or gas field, and not more

than 2,560 acres if outside a known geologic structure of a producing oil or gas field.

Subsection (c) fixes the term of the lease as a primary term of 5 years which shall continue so long thereafter as oil or gas is produced in paying quantities therefrom. Further provision is made that each lease shall contain a provision requiring the exercise of reasonable diligence in the operation of the lease and to conduct his operations in a sound and efficient oilfield practice so as to prevent waste therein.

Subsection (d) provides that on or after the discovery of gas or oil, the royalty shall be fixed at a minimum at 12½ percent in the amount

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or value of the production saved, removed, or sold from the leasing unit, and in any event a minimum of $1 per acre per annum in lieu of rental for each lease year commencing after discovery, in addition to any taxes imposed by Congress. It further imposes conditions for operations under the lease with regard to the renewal of drilling operations and the payments due thereunder.

Subsection (e) provides that if at the end of the primary term oil or gas is not being produced in paying quantities on the leasing unit and drilling operations are started not less than 180 days before the end of the primary term, and such operations have been and are being diligently prosecuted, and all other obligations have been performed by the lessee, the lease shall remain in force so long as these conditions are continued.

Under subsection (f) provision is made for the cancellation of any lease for the failure to comply with the provisions of this title. It requires the Secretary to give the lessee 20 days notice by registered mail at his last known address of the claim defaults. If, at the end of that period, the defaults are not cured, the Secretary may proceed to cancel the lease, and the person complaining may have such action reviewed in the United States District Court for the District of Columbia. These provisions would cover a situation where the lease or any interest therein is owned or controlled directly or indirectly in violation of any of the provisions of this act, and a person so owning or controlling can be compelled to dispose of such interest in appropriate court or proceeding.

Under subsection (g) nine provisions of the Federal Mineral Leasing Act are made applicable insofar as they are not inconsistent with the terms of this act.

Under subsection (h) the Secretary of the Interior is authorized to use his discretion regarding the use of facilities available in adjacent States and their leasing agencies. It is further provided that a lease may contain such of the terms and provisions as are consistent

with the provisions of the act which the Secretary may prescribe. The Secretary of the Interior is also empowered to delegate his authority herein to officers and employees of the Department of the Interior, and he may authorize subdelegation to the extent he deems proper.

Under subsection (i) the Secretary of the Interior may deny an application for a lease should it appear that any interest therein would be owned or controlled by the citizen of another country wherein a similar privilege is denied to citizens or corporations of this country. If such a condition arises after the granting of a lease, it may be canceled, but in no event can it be held for more than 2 years should such interest have been acquired by design, will, judgment, or decree. Provision is also made that such lands cannot be leased in any way that violates the antitrust laws.

Subsection (j) permits the Secretary to invalidate any lease obtained by fraud or misrepresentation subject to the right of judicial review.

Section 11 of this title deals with the exchange of existing State leases in the outer Continental Shelf for Federal leases. The committee is of the opinion that the holders of these State leases are entitled as a matter of equity and right to the issuance by the Federal Government of exchange leases for the State leases in accordance with the provisions set forth herein.

Under subsection (a), the Secretary is authorized and directed to issue a lease in exchange for a lease covering lands in these areas which

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was issued prior to December 21, 1948, and would have been in force and effect on June 5, 1950, had the issuing State such paramount rights and dominion over the areas as it had assumed when it issued the lease. Such an exchange lease shall be from the effective date thereof for a term equal to the unexpired term. Provision is made that the leases shall be in accordance with the terms and provisions except as modified in regard to the payment of additional royalties as later set forth. Provision is made that if oil and gas was not being produced under the old lease on or before December 11, 1950, the new lease shall be for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the terms and conditions of the old lease and it shall cover the same resources and same portion of the area as the old lease and shall provide for payment to the United States of the same rentals, royalties, and other payments as set forth in the old lease. However, a sum may be charged as an additional royalty equal to any severance

tax charged by an abutting State in addition to any taxes imposed by Congress. These leases may also contain such other terms and provisions as the Secretary may prescribe so long as they are consistent with the terms of this act. If fraud or misrepresentation was involved in a lease it shall not be accepted for exchange. Refusal on the part of the Secretary to so exchange the lease is subject to judicial review in the United States District Court for the District of Columbia.

Subsection (b) provides that no exchange lease shall issue unless (1) the application, accompanied by a copy of the old lease, is filed with the Secretary of the Interior within 6 months from the effective date of this act or as later provided in section 18 hereof or as the Secretary may fix from time to time; (2) the applicant must state that the lease applied for shall be subject to the same royalty obligations as the lease issued by the State in addition to any taxes imposed by Congress; (3) the applicant pays the United States all rentals, royalties, and other sums payable after June 5, 1950, which have not been paid to the lessor or to the Secretary of the Interior under the old lease; (4) furnishes surety bond as the Secretary may require and complies with such reasonable requirements as the Secretary deems necessary to protect the interest of the United States; and (5) files with the Secretary a certificate issued by the State official or agency having jurisdiction which shows that the old lease was in force and effect in accordance with its terms and provisions in the laws of the issuing State on the applicable date as set forth in subsection (a) of this section. In the absence of such certificate the applicant may file other evidence setting forth such facts.

Subsection (c) provides that where a lease overlaps the areas under State control and those in the outer Continental Shelf beyond State boundaries, the provisions of this section shall be applicable only to the lease insofar as it covers the lands of the outer Continental Shelf.

Section 12 provides that all rentals, royalties, and other sums payable under any lease on the outer Continental Shelf from the period of June 5, 1950, to date and thereafter shall be deposited in the Treasury of the United States.

Section 13 merely provides for the jurisdiction and venue in a United States district court in legal proceedings involving a lease or the rights thereunder in the outer Continental Shelf.

Section 14 authorizes refunds to be paid when the Secretary determines that an excess of the amount lawfully required to be paid

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has been paid. Such request for repayments must be filed within 2

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years after the issuance of the lease or the making of the payment.

Section 15 provides a waiver of liability for a State or its political subdivision for past operations in the outer Continental Shelf prior to June 5, 1950. It is the opinion of the committee that under this section the waiver is limited to proprietary claims of the United States in these areas, but in no case shall the waivers be effective if it is determined that fraud has been practiced in obtaining or operating under the lease.

Section 16 deals with the powers reserved to the United States. Subsection (a) provides that in time of war or for necessary national defense, or when so prescribed by Congress or the President, the United States retains in addition to all other rights it may have under the law, the right of first refusal to buy any of the oil or gas being produced from the area, to terminate any lease or to suspend operations under any lease, in which event the United States shall become the owner of the wells, fixtures, and improvements located in the area for which it shall pay just compensation. In the event operations are suspended under any lease, the United States shall be liable for such compensation as it must pay under the Constitution of the United States. Also, the payment of rentals and royalties, shall likewise be suspended during any period wherein operations are suspended and the term of the suspended lease shall be extended by adding to it any suspension period. Subsection (b) provides that the Secretary of Defense, with the approval of the President, shall have the power to prohibit any operations in those areas of the shelf which are needed for navigational purposes, or for the purpose of national defense. Subsection (c) provides for the retention of the ownership and the right to extract helium from all gas produced on the outer Continental Shelf under such rules and regulations as prescribed by the Secretary.

Section 17 relates to the exploration of the area and recognizes the right of any person, subject to applicable provisions of law, as well as any agency of the United States to conduct geological or geophysical explorations in the outer Continental Shelf area so long as they do not interfere with or endanger any lease issued pursuant to this act.

Section 18 sets forth in detail the interpleader and interim arrangements involving legal determinations regarding leases and actions filed in the United States District Court for the District of Columbia.

Title IV contains three general provisions which are set forth as a separate title for perfecting and clarifying purposes only.

Section 19 revokes the Executive Order No. 10426, dated January 16, 1953, which set aside the submerged lands of the Continental Shelf as a petroleum reserve. That order had been revoked insofar

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