

remain open and she will be afforded permission to insert a statement, which will be inserted in the record at this particular point.

(The statement had not been received by the time the hearing went to press.)

Mr. DINGELL. The Chair does feel compelled to make one announcement, and that is that the record will remain open for an appropriate period. I am not able to say precisely what that is, but it will be 30 days at least, for any person who desires to submit additional information and so forth for purposes of the record. Anyone who wishes to make a statement will have full opportunity to do so.

I think Mrs. Martha Reynolds has indicated she is in some haste. Mrs. Reynolds, would you like to come forward? The Chair also notes that you have several associates and staff members with you. If you would like to have them present with you at the witness table, we would be honored to have them.

Mrs. Reynolds, we are certainly happy to welcome you, speaking on behalf of the UAW for such statements to this committee as you feel appropriate.

#### STATEMENT OF MARTHA REYNOLDS, UNITED AUTO WORKERS OF AMERICA

Mrs. REYNOLDS. Representative Dingell, members of the Merchant Marine and Fisheries Subcommittee, and ladies and gentlemen, thank you, first of all, for allowing me to appear. Time is beginning to get pressed and I have to make my way up to Saginaw this evening.

I am here speaking on behalf of Olga Madar, vice president of the International Union, UAW and its members, and I am here to say that we support the proposed legislation which would extend to all citizens of this country the right to protect their environment through legal process of the court.

As you know, Mr. Dingell, because we have worked with you, the UAW has a long and consistent history of fighting for better health and safety standards within our plants—and, of course, we are going to continue to do this—but we find that we make little progress when our members leave the plants and return home and find that the communities in which they live are polluted. We are concerned about this, and we intend to pursue the struggle for health and safety in the community with the same vigor and tenacity that we have applied to the plant problem because our members have become increasingly concerned about the destruction of our natural resources and the environmental crises we face today. It is a crisis which has developed because our environment has been consistently compromised in the name of increased productivity and because of faulty economic theories. We have come to reject the false assumption that we have to choose between the right to a clean environmental and our right to full employment.

The UAW supports the basic principle that no one has a right to pollute our natural resources, and we feel that the passage of H.R. 5076 will provide the means through which individual citizens can express this principle and participate in the protection of its environment.

Citizen participation becomes increasingly urgent as we seek to implement and strengthen legislative and regulatory processes which determine our environmental destiny. In too many instances, environmental legislation has created agencies which have become a part of the problem rather than a part of the solution. The professional regulators are sometimes the most serious obstacles to environmental preservation because of their relationship to the regulated and because the individual and public interest is not often properly represented in the makeup of the regulatory agency and, incidentally, we are trying to do something about that in Michigan. The Court should provide a forum where the individual citizen can be heard on equal terms with those whose activities devour our natural resources and where the citizen's right to dignity and status as he seeks to protect the public interest is equal to that of those who represent private property.

Our courts have always been accessible to those who sue to protect private property rights, while those who seek relief on behalf of the public interest or public right to clean air and water have been denied the opportunity for justice.

Our union is pleased, Representative Dingell, that you have chosen to bring your committee to Michigan because we are proud of the fact that, as has been mentioned, our State was the first to achieve citizen suit legislation. The environmental protection law of Michigan was enacted because of overwhelming support by citizens. The UAW joined with many other organizations to work for its passage. Our members attended and testified at public hearings throughout the State. We wrote letters, circulated petitions and attended legislative sessions in great numbers as the legislators could tell you. We have encouraged our members in similar efforts in other States by sharing our experiences with them as they have attempted enactment of such legislation.

We know that our members all over the country will support your efforts to extend this protection to all of the citizens in the Nation.

Incidentally, ours is an international union and because the only boundary between Detroit and Canada is a very dirty river under very polluted air, which this country, incidentally, is chiefly responsible for, I am sure that wherever there is an opportunity to consider international cooperative action against pollution, our brothers and sisters there will also join us in its support.

It's been mentioned already that some critics of H.R. 5076 and H.R. 49 have contended that their passage would flood the courts with excessive litigation and frivolous suits and that regulatory agencies would be harrassed. Now, these statements are very familiar to those of us who worked for passage of the Michigan act. However, as Professor Sax and others have testified, only 12 cases have been filed since the law became effective in October of 1970 and that a third were, in fact, initiated by public environmental agencies.

Three cases were initiated by the Wayne County (Detroit area) *Air Pollution Control Commission v. Chrysler Corporation, McLouth Steel Company, and Edward Levy Co.* Each had long standing enforcement problems, according to the Commission. Chrysler installed pollution control equipment, but continued to operate when the equipment broke down; McLouth had been uncooperative in agreeing to a schedule for enforcement of control equipment; and the Levy Co. created uncontrolled dust problem by open storage of slag.

Michigan's attorney general has also invoked the new act, and is using it to intervene in a proceeding before the Public Service Commission to ask the Commission to order the gas company to amend and reorder its proposed categories and priorities in a manner that protects the air, water and other natural resources and the public trust therein from pollution.

One of the first cases filed challenged a small local government which was piping inadequately treated sewage more than a mile and dumping it into a watercourse just above the plaintiff's town and property owners' land.

A citizen sued the Secretary of State, the State highway department and the State to challenge their alleged inertia in developing a standard of coping with automobile air pollution.

Another privately initiated case, still pending, challenges the approach of the State water pollution agency to the use of streams and lakes for waste water assimilation.

Still at an early stage is a case seeking to enjoin the sale of detergents containing more than a specified amount of phosphates.

A suit was brought under the act last fall, with a State representative as a plaintiff, to challenge the procedures by which the State was leasing oil and gas lands.

A complete listing of these suits follows:

#### SUITS FILED UNDER THE MICHIGAN ENVIRONMENTAL PROTECTION ACT

(1) *Wayne County Department of Health v. Edward C. Levy Company*, C.A. 166224, Circuit Court, Wayne County, Mich.

(2) *Wayne County Department of Health v. Chrysler Corporation*, C.A. 166223, Circuit Court, Wayne County, Mich.

(3) *Wayne County Department of Health v. McLouth Steel Corp.*, C.A. 166222, Circuit Court, Wayne County, Mich.

(4) *In the matter of Michigan Consolidated Gas Company*, docket No. U-3802, Public Service Commission of Michigan (intervention of attorney general).

(5) *Lakeland Property Owners Association and Township of Hamburg v. Township of Northfield*, C.A. 1453, Circuit Court, Livingston County, Mich.

(6) *Roberts v. State of Michigan, Secretary of State and Director of State Department of Highways*, C.A. 12428-C, Circuit Court, Ingham County, Mich.

(7) *Marble Chain of Lakes Improvement Association v. Michigan Department of Natural Resources and Michigan Water Resources Commission*, file No. 235-70, Circuit Court, Branch County, Mich.

(8) *Davis v. State of Michigan, Department of Natural Resources*, No. 482, Circuit Court, Otsego County, Mich.

(9) *Brown v. Lever Bros. Co.*, C.A. 161228, Circuit Court, Wayne County, Mich.

(10) Intervention in case No. 2, above, by Joseph C. Nosal and 327 other citizens, granted Friday, March 30, 1971.

(11) *Leelanau Co. Bd. of Commissioners v. State of Michigan*, No. 510, Circuit Court, Leelanau County, Mich., filed March 1, 1971 (to restrain State from giving State park land to Federal Government, pending determination of effect of grantor's reverter clause; and to

determine whether transfer to Federal Government would impair State public trust obligation).

(12) *West Michigan Environmental Action Council v. Betz Foundry, Inc., and Michigan Air Pollution Control Commission*, No. 11409, Circuit Court, Kent County, Mich., filed March 12, 1971 (to require compliance with air pollution regulations and to force the commission to enforce air pollution regulations as to foundry defendant).

I included those because I wanted to, of course, illustrate that the Michigan courts have not been cluttered up with litigation and that these fears were unfounded. However, I do think that in addition to that, the cases served to point out that obtaining such information in Michigan was extremely difficult, since there is no central place where action brought under the statute is recorded, and we agree with Mr. Black, that language is needed in the proposed Federal legislation to provide for registration and filing with an appropriate agency all environmental suits initiated, pending or adjudicated under this act. Such reporting could serve to avoid duplications, could provide an informational resource and record precedents.

One of the deterrents to citizen suits for environmental protection is that of cost. Legislation, we feel, is ineffective if citizens or organizations are financially unable to have their day in court. Citizens who have, by their actions, prevented pollution of the environment must have assurances that financial penalties will not be imposed on them.

H.R. 5076 proposes that the court may award costs of litigation, including reasonable attorney and expert witness fees, to any party whenever the court determines such award is appropriate.

We agree with Professor Sax's testimony that the threat that plaintiffs might have awarded against them substantial attorney fees to compensate the defendants' lawyers could be a very severe impediment to the initiation of suits. Professor Sax has suggested alternative wording which is a significant improvement over this section and merits serious consideration by this committee.

Finally, we are also committed that wherever the term "unreasonable pollution" is used, the word "unreasonable" should be stricken. It seems to us, as we were involved in the Michigan attempt for legislation, that we decided all pollution, if it is, in fact, pollution, is unreasonable.

The effectiveness of a democratic society is measured by the extent of participation of its people in the decisions that affect their lives, and we urge that your committee process this legislation to help make that participation possible.

All of the technical information and all of the expertise that you have heard from other witnesses make me feel very proud that our organization is able to associate itself in these environmental problems with such minds and thoughts.

My reason for being here to represent my union is on the matter of people power. We would hope to offer you the use of that power to help pass the legislation and we will do that wherever we can.

Mr. DINGELL. Mrs. Reynolds, the committee expresses to you our sincere thanks for a very helpful statement. I hope you will convey my personal good wishes to Olga Madar and to my other friends at the UAW and that you will tell them that we on this committee intend to

move this as fast as we possibly can and we will lean very heavily upon them for their invaluable support in securing its enactment.

Mrs. REYNOLDS. We look forward to it.

Mr. DINGELL. It's been a privilage to work with you and we thank you very much.

There was a gentleman who had his hand up, indicating—your name, please, sir?

Mr. THOMAS DUSTIN. Thomas Dustin.

Mr. DINGELL. Mr. Dustin, we know you have a way to go. You are most welcome here. We will be most pleased to hear your statement. If you will come forward, identify yourself fully for purposes of the record, we will be most pleased to hear your statement.

**STATEMENT OF THOMAS E. DUSTIN, EXECUTIVE SECRETARY,  
INDIANA DIVISION, IZAAK WALTON LEAGUE OF AMERICA,  
INC.**

Mr. DUSTIN. Congressman Dingle, Mr. Goodling, and other members of the subcommittee, my name is Thomas E. Dustin of Huntertown, Ind., near Fort Wayne, and I am the State executive secretary of the Indiana Izaak Walton League.

I was rather pleased to hear Mr. Goodling make reference this morning to his affiliation with the York Chapter of the Izaak Walton League and, as such, we are rather colleagues in that sense.

I don't suppose that anyone from the York Chapter of the Izaak Walton League or the Pennsylvania division has ever been deprived of the sight of Harvey Adams passing out his Lebanon Bologna at the conventions of the league and we are looking forward to that once again at our national annual meeting in California, in July.

I would like to announce that I had conversed with Ted Black earlier and the public lawsuit bill has been enacted and signed into law in the State of Indiana and it is essentially patterned after the Michigan law, although there are some differences.

In the area of frivolity, when I appeared before the legislative committee down there, the most emotional argument against us was a rural State representative who was concerned that we would file a lawsuit after passing a chicken coop that smelled, so we assured him that we were not interested in that kind of frivolity.

The Indiana Izaak Walton League is a 5,600 members unit of a national environmental organization. Our interest in the proposed bills is that of a citizens organization with a half century of activity defending the rights of all citizens to a clean and diversified outdoor estate, and the ethic which regards all natural qualities as a heritage which must be perpetuated and restored.

We have long used the administrative and legislative processes as instruments for creating and improving public policy and stewardship on the natural estate. And we are acutely aware that while results from those instrumentalities are improving, access to the Judicial process is imperative if citizens and organizations such as ours are to seriously protect the public interest which has all too often been usurped by special interest. In a real sense, access to the judicial process will put our form of Government to the test, as to whether it is going to be able to respond to the growing public demand that the pub-