## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA GREENSBORD DIVISION

G. C. SIMKINS, JR., ET AL., )

Plaintiffs )

v.

No. C-57-G-69

MOSES H. CONE MEMORIAL HOSPITAL, ET AL.,

Defendants

United States, Applicant for Intervention

## MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO INTERVENE

- 1. The Complaint herein (paragraph IV) challenges the constitutionality of Section 622(f) of the Hospital Survey and Construction Act of 1946 (42 U.S.C. 291e(f)).
- 2. The Hospital Survey and Construction Act of 1946 established a program of federal grants to the States for the construction of public and other nonprofit hospitals and, as indicated by its statement of purposes (Section 601; 42 U.S.C. 291), it is an act affecting the public interest.
- 3. Neither the United States nor any of its agencies or employees is a party to this action.
- 4. Accordingly, pursuant to 28 U.S.C. 2403 and Rule 24(a) of the Federal Rules of Civil Procedure, the United States is entitled, as of right, to intervene in this proceeding. See

Garment Workers v. Donnelly Co., 304 U.S. 243 (1938); Smolowe v. Delendo Corporation, 36 F. Supp. 790 (S.D.N.Y. 1940), affirmed, 136 F. 2d 231 (C.A. 2, 1943), cert. denied, 320 U.S. 751 (1943); Walker v. Reynolds Metals Co., 87 F. Supp. 283 (D. Ore. 1949); Commentary, 4 F.R. Serv. 911. Cf. S.E.C. v. United States Realty and Improvement Co., 310 U.S. 434 (1940).

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