or that the smallest of the Gulf states will some day be absorbed by their larger neighbors, whatever we do. But our only real interest is to promote conditions that will let the oil flow with as little interruption as possible. It is very unlikely that actually increasing the level of arms in the area—and thus the intensity and damage of any fighting that does take place—will help to promote that objective. Certainly, as part of our concern with oil and with reducing Arab hostility over our role in the Arab-Israeli conflict, we will gain little in the long-term from continuing to appear as the enemy of internal change in the Arab world, whatever short-term benefits we might gain, say, in Saudi Arabia.

Thus, to refrain from selling arms to the Gulf states will not end our difficulties in the region, or ensure the flow of oil. But the reverse also promises no lasting solution, and contains far higher risks of open warfare and of our own direct involvement. Whatever benefit we might gain by selling arms to help our balance of payments could be wiped out by the extra trouble we would be buying. At the very least, we should depend on diplomacy, before reflexively reaching once again for military instruments of policy that have served us so poorly in other parts of the developing world.

DILLON GRAHAM

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 30, 1973

Mrs. BOGGS. Mr. Speaker, I feel ambivalent about joining my colleagues in paying tribute to Dillon Graham of the Associated Press as he leaves Capitol Hill after 25 years.

We cannot help but feel joy that he is moving to well deserved rest and recreation in Myrtle Beach; but at the same time, we feel a sense of loss at losing someone who has been such an integral part of the Hill scene for a quarter of a century.

His dry wit, his pleasant manner—and primarily, his unflappable demeanor—have added to the professionalism which he brought to every task. He has truly appreciated and practiced the highest tenets of journalism in recording the triumphs and failures of the politicians he covered. Not only have they held him in honor, but he has also held the respect of his fellow journalists who have often referred to him as a "reporter's reporter."

We welcome his successor, Bill Chaze, to the regional staff of the Associated Press on Capitol Hill and hope that Dillon's new spectator sport overlooking the golf course at Myrtle Beach will prove as satisfying as spectating on the workings of Congress.

CONGRATULATIONS TO WEST HIGH SCHOOL WARRIOR BAND

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 31, 1973

Mr. BELL. Mr. Speaker, I am proud to announce that the West High School Warrior Band of Torrance, Calif. has been invited by the city of Geneva, Switzerland to be the U.S. representative at the internationally renowned "Fete de Geneve" in August 1973. The Warrior Band received this invitation because of their outstanding achievement in major band reviews and concert work this past year.

The 150 young people in the band will make a concert tour of Europe playing in Lucerne, Innsbruck, Florence, and Paris, in addition to being the only performing group from the Western Hemisphere playing at the silver anniversary of the "Fete de Geneve."

I think that Warrior Band Director, Ron Large, deserves special praise for his efforts. Mr. Speaker, most importantly, I would like to commend the members of the West High School Warrior Band on this great honor and express my heartfelt wishes for their future success.

DILLON GRAHAM

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1973

Mr. BLACKBURN. Mr. Speaker, today, our friend Dillon Graham will retire from the Associated Press after a 25-year assignment to the Capitol and after 45 years of continuous service with Associated Press.

I would like to take this opportunity to pay personal tribute to Dillon for his outstanding professional performance.

It has been my honor to know and work with Dillon since I first came to the House in 1967. He has always represented the finest aspects of a reporter and has been consistently fair and accurate in his reporting.

Mr. Speaker, I would like to personally congratulate Dillon on his well-earned retirement and wish him and his wife, Gigi, good luck. He will be sorely missed in the legislative branch of the U.S. Government.

DILLON GRAHAM RETIRES

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 31, 1973

Mr. DUNCAN. Mr. Speaker, today Mr. Dillion Graham, a reporter for the Associated Press, will retire after 25 years of service as a Capitol Hill correspondent. His dedicated years as a member of the Capitol Press Corps has been but a part of 44 years of continuous service with AP.

Dillion Graham certainly will be missed in the House of Representatives, for men with his fine capabilities and his dedication to his work are always needed. I join with my colleagues in wishing Mr. Graham and his wife many happy years of retirement and in thanking him for a job well done.

SENATE—*Friday, June 1, 1973*

The Senate met at 11 a.m. and was called to order by Hon. WALTER F. MONDALE, a Senator from the State of Minnesota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, as our fathers trusted in Thee and were not confounded or put to shame, may that faith which supported them in trial and tribulation be sufficient to sustain us in our time of troubles. Grant us the courage to acknowledge and correct our defects. Give us also the grace to cherish and to cultivate the virtues and values tested and confirmed in the crucible of life's daily struggle. Give us a part in the recovery of confidence in the government of free men and in the redemption and renewal of America's moral and spiritual life. Make us fit servants of the common good. By Thy grace enable us hour by hour to make a faithful and heroic effort for a social order of personal discipline, of self-denial, of partnership and cooperation for peace and justice in our time.

Hear us in the name of the Lord of Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 1, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WALTER F. MONDALE, a Senator from the State of Minnesota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. MONDALE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 31, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with "New Reports," will be stated.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The second assistant legislative clerk read the nomination of Gloria E. A. Toote, of New York, to be an Assistant Secretary.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF THE TREASURY

The second assistant legislative clerk read the nomination of James E. Smith, of Virginia, to be Comptroller of the Currency.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

FEDERAL RESERVE SYSTEM

The second assistant legislative clerk read the nomination of Robert C. Holland, of Nebraska, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1964.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

SECURITIES AND EXCHANGE COMMISSION

The second assistant legislative clerk read the nomination of John R. Evans, of Utah, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1978.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

FEDERAL HOME LOAN BANK BOARD

The second assistant legislative clerk read the nominations in the Federal Home Loan Bank Board, as follows:

Thomas R. Bomar, of Maryland, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1974.

Grady Perry, Jr., of Alabama, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1973, and for the term of 4 years expiring June 30, 1977.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nominations in the Department of Justice, as follows:

Harold O. Bullis, of North Dakota, to be U.S. attorney for the district of North Dakota for the term of 4 years.

Brian P. Gettings, of Virginia, to be U.S. attorney for the eastern district of Virginia for the term of 4 years.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 167, and then Calendars Nos. 170 through 175.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE U.S. FISHING INDUSTRY

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 11) to express a national policy with respect to support of the U.S. fishing industry, which had been reported from the Committee on Commerce with an amendment, on page 3, at the beginning of line 3, strike out "fishing." and insert "fishing, and further that the Congress is fully prepared to act immediately to provide interim measures to conserve overfished stocks and to protect our domestic fishing industry."

Mr. GRIFFIN. Mr. President, I ask unanimous consent that a statement by the distinguished Senator from Alaska (Mr. STEVENS) be printed in the RECORD.

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

STATEMENT BY SENATOR STEVENS

U.S. FISHERY NEEDS OUR FULL SUPPORT

Mr. President, as a Congressional advisor to the Law of the Sea Conference, and as a Senator representing a fisheries state, I am deeply troubled by the disintegration of our nation's commercial fisheries effort.

This industry is attempting to withstand adversity on all fronts. Operating costs have compounded; vessels and gear are outmoded; and productivity has lagged. These are economic problems which cannot be solved in one grand gesture, and, the fact is, they cannot be solved at all without the continuing support of Congress when proposed legislative solutions come before us. Senate Concurrent Resolution 11 establishes a conducive climate for such occasions.

Even more immediate and critical, because it threatens the basic resources itself, is the wide-ranging, efficient, growing fishing effort of foreign governments off North American shores. This continuing onslaught creates a serious dilemma for the United States. On the one hand our delegation to the U.N. Law of the Sea Conference is negotiating with over 120 nations, large and small, new and old, in quest of lasting agreements affecting not only fishing but also the numerous other perplexities involved in assuring equitable, intelligent use of that 70% of our planet's surface covered by the ocean. Such matters take time and our negotiators strongly believe U.S. activity in fisheries jurisdiction prior to completion of their work would prove chaotic—particularly if they pick the form of the present dispute off Iceland.

On the other hand, destruction of one or more North American fish species during these years in which the treaties are being ground out is quite possible. Right now, for example, U.S. halibut fishermen who operate in the North Pacific and Bering Sea are witnessing a rapid decline in the resource despite a long-standing international convention intended to provide conservation measures when necessary.

In an attempt to call attention to the urgency of this situation, I recently wired the National Oceanic and Atmospheric Administration asking for immediate high level negotiations to halt the Japanese take of under-sized halibut in the Bering Sea. In part, my wire said "I fully appreciate the importance and sensitivity of Law of the Sea negotiations, but believe you must likewise recognize that depletion of one more species such as the halibut could create overwhelming demands for the strongest of unilateral actions." In other words, I agree that unilateral action should be avoided if at all possible—preferably through international interim agreements—but U.S. unilateral action will be necessarily forced if resources face destruction during the period lasting protective measures are being worked out.

I refer to the halibut problem because it is happening now and because it is closest home to me. However, similar frequent statements by my colleagues from every coastal region of the United States point to excessive foreign fishing activity as an on-going national problem.

Nearly half the members of the Senate have co-sponsored Senate Concurrent Resolution 11. I urge 100% support by my colleagues. This legislation will serve to, at last, help reassure our beleaguered fishing industry that its government cares about what is happening and is ready to assist even to the point of adopting interim protective measures. Simultaneously, Senate Concurrent Resolution 11 relates the same message to our delegation to the Law of the Sea Conference.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was amended.

The amended concurrent resolution, with its preamble, as amended, reads as follows:

Whereas the position of the United States in world fisheries has declined from first to seventh place among the major fishing nations;

Whereas there has been a continuing decline in domestic production of food fish and shellfish for the last five years;

Whereas our domestic fishing fleet in many areas has become obsolete and inefficient;

Whereas intensive foreign fishing along our coasts has brought about declines in stocks of a number of species with resulting economic hardship to local domestic fishermen dependent upon such stocks;

Whereas rising costs and extremely high insurance rates have made fishing uneco-

nomic in some areas even when stocks of fish and shellfish are at normal levels;

Whereas assistance to fishermen is very limited as contrasted to Federal aid to industrial, commercial, and agricultural interests;

Whereas United States fishermen cannot successfully compete against imported fish products in the market because a number of foreign fishing countries subsidize their fishing industry to a greater extent;

Whereas some 60 per centum of the seafood requirements of the United States is being supplied by imports;

Whereas the United States fisheries and fishing industry is a valuable natural resource supplying employment and income to thousands of people in all of our coastal States;

Whereas international negotiations so far have proved incapable of obtaining timely agreement on the protection of threatened species of fish;

Whereas our fisheries are beset with almost insurmountable production and economic problems; and

Whereas certain of our coastal stocks of fish are being decimated by foreign fishing fleets: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring). That it is the policy of the Congress that our fishing industry be afforded all support necessary to have it strengthened, and all steps be taken to provide adequate protection for our coastal fisheries against excessive foreign fishing, and further that the Congress is fully prepared to act immediately to provide interim measures to conserve overfished stocks and to protect our domestic fishing industry.

SEC. 2. The Congress also recognizes, encourages, and intends to support the key responsibilities of the several States for conservation and scientific management of fisheries resources within United States territorial waters; and in this context the Congress particularly commends Federal programs designed to improve coordinated protection, enhancement, and scientific management of all United States fisheries, both coastal and distant, including presently successful Federal-aid programs under the Commercial Fisheries Research and Development Act of 1964, and the newly developing Federal-State fisheries management programs.

REYNALDO CANLAS BAECHER

The bill (S. 67) for the relief of Reynaldo Canlas Baecher, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Reynaldo Canlas Baecher shall be held and considered to be the natural-born alien son of Donald Leslie Baecher, a citizen of the United States. The natural parent, brother or sister of the said Reynaldo Canlas Baecher, by virtue of such relationship, shall not be accorded any right, privilege, or status under the Immigration and Nationality Act.

MICHAEL KWOK-CHOI KAN

The bill (S. 227) for the relief of Michael Kwok-choi Kan, was considered ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Michael Kwok-choi Kan shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditions entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203 (a) of the Immigration and Nationality Act.

MRS. STEFANIE MIGLIERINI

The bill (S. 339) for the relief of Mrs. Stefanie Miglierini, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mrs. Stefanie Miglierini, the widow of Ambrose Miglierini, a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of said Act shall not be applicable in this case.

ROSITA E. HODAS

The Senate proceeded to consider the bill (S. 155) for the relief of Rosita E. Hodas, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Rosita E. Hodas, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case.

The amendment was agreed to.

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

ELSA BIBIANA PAZ SOLDAU

The Senate proceeded to consider the bill (S. 315) for the relief of Elsa Bibiana Paz Soldau, which had been reported from the Committee on the Judiciary with an amendment on page 1, after line 11, strike out:

SEC. 2. That, in the administration of section 101(b) visas and conditional entries which are made available to natives of the country of the alien's birth under paragraph (1) through (8) of section 203(a) of the Immigration and Nationality Act.

And, in lieu thereof, insert:

SEC. 2. That, in the administration of section 101(b)(1) of the Immigration and Nationality Act, Elsa Bibiana Paz Soldan shall be deemed to be a child.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212 (a)(19) of the Immigration and Nationality Act, Elsa Bibiana Paz Soldan may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of such Act: *Provided,* That this exemption shall apply to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

SEC. 2. That, in the administration of section 101(b) visas and conditional entries which are made available to natives of the country of the alien's birth under paragraph (1) through (8) of section 203(a) of the Immigration and Nationality Act.

SEC. 2. That, in the administration of section 101(b)(1) of the Immigration and Nationality Act, Elsa Bibiana Paz Soldan shall be deemed to be a child.

The amendment was agreed to.

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

MRS. HANG KIN WAH

The Senate proceeded to consider the bill (S. 529) for the relief of Mrs. Hang Kin Wah, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Mrs. Hang Kin Wah, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act, and the provisions of section 204 of such Act shall not be applicable in this case.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

OVERSEAS MILITARY BASES

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Bring Our Bases Home," written by the distinguished Senator from Iowa (Mr. HUGHES), and published in Progressive magazine for June 1973.

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

BRING OUR BASES HOME

(By Senator HAROLD HUGHES)

Right now, more than one U.S. soldier in every four is still stationed overseas. Over 600,000 men and women in the armed forces, plus about 450,000 of their dependents, are scattered among 322 major bases and over 3,000 minor facilities around the globe.

Yet while the Pentagon slashes at domestic troop levels, it plans to bring home only 4,000 of the 500,000 troops in areas excluding Southeast Asia. Allegedly, these domestic base reductions are being made to save about $400,000,000 per year. If that is the goal, then why don't we bring home and deactivate just one of our divisions in Europe and save $580,000,000 per year? According to official Defense Department figures, the two recent dollar devaluations alone have increased U.S. operating costs by more than the $400,000,000 projected savings from domestic base closings.

Proof that our NATO allies view today's threat differently can be found in the fact that they have never met their assigned quotas for NATO and that they continue to spend only about half as much of their Gross National Product on defense as does the United States.

Costs are a major factor for the United States as well. The direct costs of maintaining 300,000 plus U.S. troops in Europe is over four billion dollars per year. Counting

the forces kept in the United States to meet NATO contingencies, the yearly cost of the NATO commitment ranges from an officially-estimated seventeen billion to nearly thirty billion, according to analysts at the Brookings Institution.

Put another way, this thirty billion dollars for the NATO commitment is almost as much as the Federal Government will spend this year on health, education, and manpower. Even the seventeen billion official estimate is more than the President has budgeted for all Federal programs in natural resources and the environment, agriculture and rural development, and community development housing.

Isn't it time we brought our bases home? Not all of them, of course, but a substantial number, in keeping with current threat and our domestic needs. Our improved rapid deployment capability now enables us to transport substantial forces abroad in the event of war in a very short time.

Why should we bear such a heavy burden in Europe when our allies themselves want to ease up? Why do we still need 60,000 troops in strong and self-reliant Japan, or 40,000 in quiet Korea, or 9,000 on Taiwan, a thorn in the side of China? Why should we keep 43,000 troops in Thailand or 15,000 in the Philippines, unless we are willing to be drawn into "another Vietnam" as the insurgencies in those countries grow?

We can meet all our defense objectives and commitments without such reliance on overseas bases.

BOMBING IN CAMBODIA

Mr. MANSFIELD, Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Despite Truce, Agents of United States in Vietnam Help Pick Cambodia Targets," published in the Wall Street Journal of June 1, 1973; and an article entitled "Cambodia Bombing: A Constitutional Expert Calls It a Presidential Power Grab," written by Arthur S. Miller, and published in the Los Angeles Times of June 1, 1973.

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

[From the Wall Street Journal, June 1, 1973]

SPILLING OVER: DESPITE TRUCE, AGENTS OF UNITED STATES IN VIETNAM HELP PICK CAMBODIA TARGETS

(By Peter R. Kann)

SAIGON.—Some American intelligence agents in South Vietnam are involved in the process by which targets are selected for U.S. aircraft that are bombing southeastern border regions of Cambodia.

There is nothing particularly startling about this; indeed, it seems logical that there would be some degree of involvement here. But it does indicate how the continued U.S. military activity in Cambodia tends to spill over into Vietnam, where Americans presumably are no longer supposed to be actively involved in the war. (In Washington yesterday, the Senate voted to deny the administration any further funds for bombing in Cambodia or Laos. See story on page 3.)

The secretiveness of the apparently small-scale American involvement here is something of an irony, given the fact that the three Vietnamese signatories to the Paris peace agreement have been blatantly violating the accord for the past four months.

In general, the Vietnam-based U.S. agents may be acting mainly as conduits, passing military intelligence from the South Vietnamese army on to U.S. military officers at Nakhon Phanom. This is the tightly guarded air base in Thailand that is U.S. Seventh Air Force headquarters for the controversial Cambodian bombing campaign.

A MORE ACTIVE ROLE

In other instances, however, American operatives in Vietnam have played a more active role: pressing South Vietnamese officers for potential bombing targets, encouraging South Vietanamese commandos to engage in cross-border intelligence collection, and working closely with South Vietnamese army intelligence officers to try to plot potential cross-border targets. The final targets, of course, are decided at Nakhon Phanom.

The Americans involved are some Central Intelligence Agency operatives working at the regional and provincial level and certain civilians working for the defense attache's office. Some sources say the operatives are working under direct command from U.S. military men in Nakhon Phanom.

In the view of some Western diplomats here, the bombing involvement by Vietnam-based Americans would be contrary to the spirit, if not the letter, of the Paris peace agreement.

The agreement doesn't prohibit U.S. intelligence gathering and doesn't cover the contingency of American civilians working with the South Vietnamese army to expedite the Cambodian air war. Some diplomatic observers, however, contend that the spirit of the agreement clearly rules out active military functions by Americans stationed in Vietnam.

AN AMBIGUOUS VIOLATION

In any case, the bombing involvement here appears to be, at worst, a small and ambiguous violation of the spirit of an accord that continues to be openly violated by its other signatories. The Vietcong and the South Vietnamese army are still engaged in considerable combat, and the North Vietnamese continue to move men and supplies into South Vietnam. And in Cambodia, the war isn't over even on paper.

Some sources here thus say that as long as America is bombing Cambodia, the targets should be plotted on the basis of the best intelligence available. And, in the case of Communist staging areas and other sites near the Vietnam border, the best intelligence obviously would be accumulated in Vietnam, with a degree of American participation. (In addition to the intelligence gathered here, the bombing planners at Nakhon Phanom presumably have enemy radio intercepts—picked up in Vietnam and elsewhere—and aerial photographs on which to base their final bombing targets.)

The Washington-Saigon cooperation on target selection appears to be a two-way street. In some cases, the South Vietnamese have been approaching Americans to try to get B52 and F111 air strikes on cross-border enemy concentrations that may pose a threat to South Vietnam.

But in other cases, the impetus has come from the Americans, who have been anxious to protect the Mekong River supply route to Phnom Penh, Cambodia's sporadically besieged capital. Orders from Washington to U.S. officials in Saigon have emphasized that the Mekon convoys must get through.

THE U.S. INITIATIVE

In one case, U.S. operatives approached a South Vietnamese general requesting that he agree to an American-inspired operation in which a helicopter, presumably Vietnamese, would cross the border into Cambodia and snatch up some Communist cadre, or perhaps Cambodian civilians, who could then be pumped for timely intelligence for air-strike targets. It isn't known whether the operation went off as planned.

In another case, South Vietnamese army intelligence officers, under pressure from U.S. agents to provide rapidly some potential bombing targets along the Mekong River corridor, warned these Americans that bombing might be risky because of poor intelligence and the bossibility of Cambodian civilians in the area. The Americans contnued to press for some likely target "boxes."

These and other stories indicate that intelligence on Communist concentrations and movements in southeastern Cambodia is surprisingly skimpy. Some sources say that the U.S. lacks any reliable network of local agents in these areas of Cambodia near the Vietnam border. The Cambodian government of Marshal Lon Nol doesn't have any troops in the areas. And the South Vietnamese, who also don't have any troops there, apparently are relying largely on occasional prisoners and defectors for their information. Most prisoner and defector intelligence, however, is a week or more old and is thus of dubious accuracy.

Some sources here say that while the intelligence being passed from Vietnam to Nakhon Phanom is of doubtful quality, it is better than none. Others argue that poor intelligence is worse than none because it gives a false sense of bombing accuracy.

One problem with Washington-Saigon coordination is that each has different priorities. The U.S. is primarily interested in plotting targets to protect the Mekong corridor. The South Vietnamese army is less interested in the corridor and the problems of Phnom Penh than it is in getting air strikes plotted against cross border staging areas endangering Vietnam. Thus, some South Vietnamese target requests have been rejected or ignored.

So was a South Vietnamese request several weeks ago that Saigon units engaged in a major battle with enemy troops around Hong Ngu, a small town near the Cambodian border, be put in direct radio contact with U.S. aircraft, which would bomb enemy troops on the Cambodian side of the border. American officials apparently decided that such a move would constitute a violation of the Paris agreement.

The Cambodian bombing has caused some internal problems for the U.S. mission here. It is understood that at one point, Charles S. Whitehouse, the acting ambassador, cabled Washington requesting that Vietnam visits by ranking U.S. military officers from Thailand should at least be cleared through the U.S. embassy here. There have been a number of such visits by such officers, including at least one general, to consult with South Vietnamese commanders, in part at least about Cambodian bombing. (It is also understood that American officials in Vietnam arranged for several senior South Vietnamese military men to be flown to Nakhon Phanom for consultations involving the Cambodian bombing.)

A further complication here is that it is difficult for anyone, even within the mission, to know who is really working for what agency. The present mission organization includes, among others, regular State Department officers, including some 50 Foreign Service officers doing political reporting in the provinces, and about 50 official military attaches, doing military reporting and directing the activities of some 1,000 Defense Department civilian employes. There are also an unknown number of CIA operatives.

The Defense Department civilians are largely engaged in logistical functions. But certain of these civilians, with military backgrounds, are also engaged in intelligence work, including that relating to the Cambodian bombing. So are some of the CIA agents. And it appears that some Defense Department civilians are working under CIA cover while some CIA agents are working under Defense Department cover.

[From the Los Angeles Times, June 1, 1973]

CAMBODIA BOMBING: A CONSTITUTIONAL EXPERT CALLS IT A PRESIDENTIAL POWER GRAB

(By Arthur S. Miller)

In his raw grab for power, President Nixon has been stopped by some lower federal courts on the question of impounding funds

appropriated by Congress, and the Watergate scandal has caused him to retreat from his unprecedented assertion of executive power.

But his exercise of power in bombing Cambodia is another and ultimately more crucial matter. Its eventual resolution may settle, once and for all, the question of which branch of government has control over going to war.

The bombing could be stopped. Congress need only order a cutoff of all funds for the Indochina military adventure. The order can be given and, presumably, the President would obey, if Congress has the courage and the staying power to stare down a Chief Executive who is making the most complete grab for the actual power of governance in American history.

Continued bombing in Cambodia simply cannot be legally justified. It is based solely on presidential order and is more an exercise of raw power than legal authority.

Now, emboldened perhaps by Watergate, Congress has begun a reversal of its supine acquiescence in the war by presidential fiat in Vietnam.

Already the House of Representatives has voted against transferring Pentagon funds to pay for the bombing. Thursday the Senate passed an even stronger measure which faces major difficulty when a conference committee tries to blend the House and Senate versions. A probable additional step will be for Congress to prohibit the use of armed force anywhere in Cambodia (and perhaps all of Indochina).

A few weeks ago, Congress finally pried from Secretary of State William P. Rogers two legal "justifications" for the present bombing. First and foremost, Rogers said, the President was justified because he is commander in chief of the armed forces.

Such an assertion is, by any criterion, too weak a reed to uphold the power to bomb Cambodia. The President as commander in chief merely means that he has tactical command of troops in the field—once hostilities have begun. Emphatically, it does not mean that he can declare a war. Bombing Cambodia is really the *beginning* of a new war, not the continuation of an old one.

Even the "old" Vietnam conflict can no longer be legally justified under either constitution or international law. After Congress repealed the Gulf of Tonkin Resolution—the only legal basis for the "war" that was even partially tenable—the only activities the President could legally pursue were to protect troops stationed in Vietnam and to get the prisoners home. Both tasks now having been done, any semblance of constitutional authority has been erased.

The point of all this was succinctly stated by Justice Robert Grier in the *Prize cases* (1863), which upheld President Lincoln's blockade of Southern ports: The President "has no power to initiate or declare a war against a foreign nation or a domestic state . . . If a war is made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force."

That is still the law. Only if there is an actual threat to the physical security of the nation or a threat to its troops can the President act without congressional sanction.

To be sure, the Supreme Court has never directly ruled on the question, although it did outlaw President Truman's seizure of the steel mills during the Korean "war."

Justice Hugo Black said the President's powers, speaking generally, must flow from either the Constitution or a statute—something not present then and something not present now.

There is simply no legislation which could "serve as a valid assent to the (Vietnam) war," the U.S. Court of Appeals for the District of Columbia (next to the Supreme Court, the most important court in the country) said in early 1973. (The court sidestepped ruling on the constitutionality of the Vietnam "war" by calling it a "political question.")

In sum, in order to commit American military forces in situations such as the one in Cambodia, the President, to be constitutionally proper, *must* have express congressional approval.

Rogers' second legal "justification" was Article 20 of the Vietnam "peace" agreement of Jan. 28, 1973. Under it, foreign armed forces must be withdrawn from Laos and Cambodia and their neutrality respected.

That, too, is rather weak as a means of validating the bombing of Cambodia. Nowhere in the agreement is it written that one side (here, the United States) can use violence to enforce the meaning of Article 20. (For that matter, because of widespread secrecy, no one can state definitely that North Vietnamese troops are, in fact, in Cambodia and, if so, what their purposes there are.)

Further, Article 20 states that "foreign countries shall put an end to all military activities in Cambodia and Laos"—precisely what the United States, by bombing, is not doing.

Of even more importance, the Paris agreement is an "executive agreement," not a treaty approved by the Senate. Any first-year law student knows better than to say, as did Secretary Rogers, that the Executive, having done something in the past on his own authority, can now use that action to buttress his legal position for continuing military action. The law simply does not work that way.

If the law does not support the bombing, can such military action be justified as being in the "national interest"? Hardly. Even Rogers did not attempt to make that self-serving argument.

Possibly he avoided making such a statement because he knows that the American people have learned that they have been gulled too long to believe unsupported assertions that armed violence in Indochina is in our national interest.

The incipient recognition of China buries, finally and completely, the notion that the Chinese will tumble the nations of Southeast Asia like a row of dominoes.

For some reason, the President and the Pentagon cannot cut loose from a long and bloody conflict, even though it has brought death to more than 50,000 Americans and several hundred thousand Asians. He continues to bomb part of the region—without legal authority.

For Congress, the American people, this has a portentous meaning. If permitted to continue, it means that Congress cannot stop a rampaging President. Unless and until it halts the growth of executive power, Congress will surely be a poor, pitiful, helpless giant.

BAD PUN DEPARTMENT

Mr. SCOTT of Pennsylvania. Mr. President, in the bad pun department, I note that the Senate has just confirmed the nomination of Gloria E. A. Toote, of New York, to be an Assistant Secretary of Housing and Urban Development. I suppose the action of the Senate thereby can be called a tout a' fait—we have done the deed.

A PLEASANT WEEKEND TO ALL

Mr. SCOTT of Pennsylvania. Mr. President, today is Friday. We come near the end of the week, and the sun is shining, for those who have the chance to get outside and see it. We have endured unpleasant weather virtually every weekend, as many of us can remember. Perhaps we will, for the first time in a long while, be able to enjoy a sunny weekend. This will be very pleasant for all of us, because we have evidence, notwithstanding what may be happening on this "rolling ball," that God is in his heaven and all is right with the world, and the Senate has been conducting its business in its usual fashion.

The Government is strong, and the executive and legislative departments are tending to their business. Perhaps the good Lord has thought that by now we deserve pleasant weekends.

So being aware of the evanescence of the weather's condition. I speak chiefly for the purpose of wishing all Members of the Senate a very pleasant, sunny weekend. If this may seem a trivial comment, I think there is a lesson underneath, and that is there are many things we cannot control; and that as to the things we can control we are doing our level best.

LEAVE OF ABSENCE

Mr. GRIFFIN. Mr. President, the Senator from Wyoming (Mr. HANSEN) will be absent on Monday, and he will be absent from a portion of the session on Tuesday next, because of attendance in committee hearings. I ask unanimous consent that he be granted leave of the Senate on official business during those absences.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes each.

Is there morning business?

Mr. SCOTT of Pennsylvania. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. MONDALE) laid before the Senate the following letters, which were referred as indicated:

SUPPLEMENTAL SUMMARY OF THE BUDGET

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a supplemental summary of the budget, for the year 1974 (with an accompanying document). Referred to the Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PROXMIRE:

S. 1933. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by State and local governments, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE:

S. 1933. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by State and local governments, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

BILL TO PERMIT COMMERCIAL BANKS TO UNDERWRITE STATE AND LOCAL REVENUE BONDS

Mr. PROXMIRE. Mr. President, I introduce for appropriate referral a bill to permit commercial banks to underwrite and deal in revenue bonds issued by State and local governments. The Glass-Steagall Act prohibits commercial banks from underwriting corporate or foreign securities but does permit banks to underwrite general obligation bonds issued by State and local governments. Specific authority to underwrite revenue bonds was not included since at the time of the Glass-Steagall Act, revenue bonds were rarely used as an instrument of municipal finance.

Since the time of the Glass-Steagall Act, revenue bonds have become a major source of capital for our State and local governments. New municipal bond issues in 1972 totaled approximately $23 billion of which 35 percent or $8.1 billion were revenue bonds. In some years, revenue bonds have accounted for as much as 45 percent of the municipal bond market. Thus, it is clear that the municipal revenue bond market is one of the major money markets in this country.

Congress permitted commercial banks to continue underwriting and dealing in general obligation issues of State and local governments in order to assist these governments in raising capital. There is no evidence that the banks have abused this privilege in the 40 years since the Glass-Steagall Act was originally enacted. The availability of bank underwriting has enabled municipalities to secure the most favorable rate on their general obligation borrowing.

There is no real distinction between revenue bonds and general obligation bonds. Both are issued by State and local governments; both are of roughly comparable quality. General obligation bonds are backed by the full faith and credit of the issuing municipality, whereas revenue bonds are secured by revenues from the project they finance. However, this distinction is of little practical significance, since no municipality can afford to permit a default on its revenue bond issues without seriously jeopardizing its general bond rating. Aside from a few turnpike bonds issued by special authorities, the default rate on revenue bonds issued by municipalities has been practically infinitesimal. Moreover, the legislation I am introducing would apply only to those revenue bonds eligible for direct purchase by commercial banks. Under current bank regulatory procedures, this means the bond must be of Baa quality or better.

By excluding commercial banks from the revenue bond underwriting market, the Glass-Steagall Act stifles competition in this market and causes municipalities to pay a higher rate of interest on their revenue bond issues. Commercial banks compete vigorouly with investment banking firms in underwriting general obligation bonds. This competition is not present in the revenue bond market and, as a result, interest rates paid by municipalities are higher than they otherwise might be.

Various studies prepared for the use of the Senate Banking Committee in 1967 indicated a measurable lack of competition in the revenue bond market:

More than 99 percent of general obligation bonds were awarded through competitive bidding, whereas only 81 percent of revenue bonds were subject to competitive bids;

Revenue bonds awarded through competitive bidding received an average of 1.64 fewer bids than general obligation bonds;

After taking into account differences in investment quality and maturity, revenue bonds still paid an interest rate which was one-tenth of 1 percent higher than the comparable rate paid on general obligation bonds.

A difference of only one-tenth of 1 percent may not sound like much. However, it can cost municipalities as much as $100 million a year by 1975. Some, or all, of this difference could be eliminated if banks were permitted to compete in the revenue bond market the same way they compete in the general obligation bond market.

In 1967 I introduced similar legislation which had the strong support of the National League of Cities. This legislation was approved by the Senate Banking Committee and passed by the full Senate. Unfortunately, no action was taken on the bill by the House Banking Committee. However, the House of Representatives did approve an amendment to the 1968 Housing Act authorizing commercial banks to underwrite and deal in investment quality housing, university, and dormitory revenue bonds. This amendment was accepted by the Senate in conference and was enacted into law. The legislation I am introducing today would build upon this precedent and permit commercial banks to underwrite and deal in all types of revenue bonds regardless of the purpose for which they are issued.

The bill I am introducing also contains various safeguards to guard against any potential conflicts of interest and to prevent any unsound banking practices.

First, the bill permits banks to underwrite and deal only in those revenue bonds which are eligible for purchase by commercial banks. This will preclude banks from dealing in risky or speculative issues:

Second, the bill limits total bank investment in revenue bonds in all of its accounts to not more than 10 percent of its total capital;

Third, the bill prohibits a bank acting as an underwriter or dealer from selling revenue bonds to any of its trust accounts unless lawfully directed by court order;

Fourth, the bill prevents any member of an underwriting syndicate from selling bonds to the trust department of any other bank which is a member of the syndicate until the syndicate has closed;

Fifth, any sales of revenue bonds by a bank to any of its depositors, borrowers or correspondent banks must be accompanied by a statement disclosing the fact that the bank is acting as an underwriter or dealer;

Sixth, banks are prohibited from transferring revenue bonds which it purchased as an underwriter to its investment account during the underwriting period;

Seventh, the authority to underwrite revenue bonds would not be extended to industrial revenue bonds secured by rental payments from a corporate entity. This exclusion is consistent with the philosophy of the Glass-Steagall Act which calls for a strict separation between commercial banking and the underwriting of corporate securities;

Eighth, the legislation calls for annual reports from the Secretary of the Treasury on the distribution of underwriting business in the revenue bond market between commercial banks and investment banking firms.

Mr. President, I am fully aware of the strong opposition to this legislation which may be expected from the investment banking firms. The principal argument advanced to keep commercial banks out of the revenue bond underwriting field is to prevent a conflict of interest from arising. Commercial banks act in a fiduciary capacity in a variety of ways with respect to their depositors, borrowers, trust customers and correspondent banks. It is argued that commercial banks might abuse this position of trust if they are permitted to act as a dealer and underwriter of municipal revenue bonds. According to this argument, it was this type of abuse which led Congress to separate investment banking from commercial banking when it passed the Glass-Steagall Act in 1933.

I believe these arguments will have to be carefully weighed by the Senate Banking Committee when it holds hear-

ings on the legislation and considers the bill. I would only emphasize two points at this time: First, commercial banks have underwritten general obligation bonds for 40 years since the passage of the Glass-Steagall Act and no abuses have been documented—the abuses which led Congress to separate investment banking from commercial banking were primarily in the area of corporate and foreign securities. Second, the bill contains numerous procedural safeguards, which I have already described, to prevent these alleged abuses from occurring.

It is certainly not my intention to put investment banking firms out of business or to increase economic concentration in the banking industry. I do not believe that either of these results will occur if banks are permitted to underwrite municipal revenue bonds. Various studies on State and local capital needs have shown a tremendous demand for capital by state and local governments. This type of borrowing may be expected to expand at a rate much faster than the economy as a whole. Under these circumstances, I do not believe bank entry into the revenue bond underwriting market will unduly jeopardize the existence of investment banking firms. Given the expected growth in the market, there should be enough business for both investment banking firms and commercial banks. I do not believe that competition, in the long run, is harmful to any industry including the investment banking industry.

Whatever impact bank competition may have on the investment banking business, I believe Congress must give primary consideration to the public benefits resulting from increased competition. In this particular case, a persuasive argument was made during the 1967 hearings that bank competition would lower the interest rate on revenue bonds and save municipalities millions of dollars a year in interest payments.

The benefits to municipalities from increased competition seem fairly certain while the alleged adverse effects resulting from a conflict of interest seem speculative, conjectural, and contrary to the experience recorded in the general obligation bond market. For these reasons I believe the entry to banks into the revenue bond underwriting market is in the public interest.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD following my remarks.

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

S. 1933

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That paragraph Seventh of section 5136 of the Revised Statutes of the United States, as amended (12 U.S.C. 24), is hereby amended by adding the following new sentences at the end of such paragraph: "The limitations and restrictions contained in this paragraph as to dealing in and underwriting investment securities shall not apply to all other nongeneral obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or agency of a State or any political subdivision thereof (except special assessment obligations and industrial revenue bonds) which are at the time eligible for purchase by a national bank for its own account, except that (1) no association shall hold such obligations of any one obligor or maker as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, (2) the purchase of such obligations by a national bank as fiduciary from such bank as an underwriter or dealer shall not be permitted unless lawfully directed by court order, (3) no asssociation may purchase such obligations as fiduciary from a member of a syndicate in which such association is participating until the syndicate has closed as to underwriting, (4) any sales of such obligations by an association to any of its depositors or borrowers or to any correspondent bank (whether for such bank's own account or as trustee) must be accompanied by a disclosure in writing to the purchaser that the association is selling as an underwriter or dealer, and (5) the purchase, during the underwriting period, of any such obligations by an association for its own investment account, from such association's own account acting as underwriter, dealer, or trader, or from any entity affiliated with such association within the meaning of subsection (b)(1) of section 2 of the Banking Act of 1933, as amended (12 U.S.C. 221a(b)(1)), shall not be permitted: *Provided,* That this restriction shall not apply to any purchases by an association for its investment account or accounts of any such obligations (A) it alone has underwritten or (B) directly from the underwriting syndicate or member thereof in which it is a participant, or to associations not in the underwriting syndicate. For purposes of this paragraph, the term 'industrial revenue bond' shall mean an obligation, not secured by the full faith and credit of the issuer, payable solely from the rentals received by the issuer from private entities."

SEC. 2. The Secretary of the Treasury shall submit an annual report to the Congress showing the extent to which the business of underwriting and dealing in State and local obligations is being carried on by commercial banks as compared with other banking institutions with a view to determining the effect of the amendment made by the first section of this Act on the institutional distribution of such business. As used herein, the term "State and local obligations" means obligations issued or guaranteed by or on behalf of a State, political subdivision of a State, or an agency of a State or political subdivision thereof.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 752

At the request of Mr. SCOTT of Pennsylvania, the Senator from New Hampshire (Mr. COTTON) was added as a cosponsor of S. 752, to establish the Pop Warner Little League.

S. 1475

At the request of Mr. PEARSON, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 1475, allowing a double investment credit for property in rural areas providing new employment opportunities.

SENATE JOINT RESOLUTION 103

At the request of Mr. HUMPHREY, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of Senate Joint Resolution 103, to direct the Secretary of Transportation to make an investigation and study of the condition and adequacy of farm-to-market roads, railroad beds, and availability of operational rail lines serving rural areas in the United States.

EMERGENCY PETROLEUM ALLOCATION ACT OF 1973—AMENDMENTS

AMENDMENT NO. 166

(Ordered to be printed, and to lie on the table.)

Mr. PEARSON. Mr. President, I submit an amendment to S. 1570 which addresses itself to the specific problem of providing adequate fuel supplies for all farmers and to the special characteristics of the farm fuel supply and distribution system.

Any allocation program should seek to the practical extent possible to assure that all distributors receive a proportionate share of the available fuels, but this must be tempered with the need to meet priority uses. Equal allocation to all distribution points will not assure equal availability to consumers, nor would such an across-the-board allocation meet the special needs of certain sectors of the economy. This is particularly true in regard to farm consumers.

In the Midwest area a major portion of fuels used by farmers are supplied by relatively small independent refiners, both cooperative and privately owned. In Kansas and Nebraska, for example, inland cooperative refineries supply almost 50 percent of the farm fuel needs.

In the past, these inland refiners have had some excess fuel production and this has been sold to unaffiliated jobbers on a nonpermanent contract basis in urban areas, with the product being sold by these distributors to nonfarm customers. This year, however, there is no such excess. Because of greater acreage planted and because of adverse weather conditions, farm demand is up substantially.

On the other hand, the independent inland refiners have suffered a shortage of crude oil and, therefore, have not been able to maintain former production levels. Many of the independent refineries have been running only 70 to 80 percent of capacity. This has been the case, because independent refiners have not been able to trade their import quota tickets with the major oil companies in exchange for domestic crude, as in former years.

Because of this situation, these refineries have, in some instances, had to terminate their sales to unaffiliated jobbers in order to continue to supply their affiliated distributors in the rural areas. Because of this, an allocation program which required them to allocate their limited production to all distributors regardless of market area or type of customer, the supply of refined fuel to farmers would necessarily be diminished even further.

Mr. President, this amendment addresses itself to this particular problem and specifies that refiners first must meet the needs of farm customers prior to any further allocation of supply.

AMENDMENT NO. 167

(Ordered to be printed, and to lie on the table.)

Mr. BAYH submitted an amendment, intended to be proposed by him, to the bill (S. 1570) to authorize the President

of the United States to allocate energy and fuels when he determines and declares that extraordinary shortages or dislocations in the distribution of energy and fuels exist or are imminent and that the public health, safety, or welfare is thereby jeopardized; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes.

AMENDMENT NO. 168

(Ordered to be printed, and to lie on the table.)

Mr. HUMPHREY (for himself and Mr. JACKSON) submitted an amendment, intended to be proposed by them, jointly, to the amendments in the nature of a substitute proposed by Mr. JACKSON (for himself and Mr. RANDOLPH) to Senate bill 1570, supra.

AMENDMENTS NOS. 169 THROUGH 171

(Ordered to be printed, and to lie on the table.)

Mr. HUMPHREY submitted three amendments, intended to be proposed by him, to the amendments in the nature of a substitute proposed by Mr. JACKSON (for himself and Mr. RANDOLPH) to Senate bill 1570, supra.

AMENDMENT NO. 172

(Ordered to be printed, and to lie on the table.)

Mr. BIDEN submitted an amendment, intended to be proposed by him, to the amendment (No. 145), in the nature of a substitute, proposed by Mr. JACKSON (for himself and Mr. RANDOLPH) to Senate bill 1570, supra.

EXTENSION OF AGRICULTURAL ACT OF 1970—AMENDMENTS

AMENDMENT NO. 173

(Ordered to be printed and to lie on the table.)

CONSUMER AND MARKETING RESERVE AMENDMENT TO S. 1888

Mr. HUMPHREY. Mr. President, I am submitting today an amendment to S. 1888, the Agriculture and Consumer Protection Act of 1973, which would establish—as a matter of national policy—a reserve inventory of wheat, feed grains, and soybeans. I am introducing this amendment today so that all members of the Senate will have an opportunity to study and examine it prior to consideration of S. 1888, which I now understand will begin next Tuesday, June 5.

This amendment is designed to protect both the farmers and the consumers of this Nation against severe or total depletion of these commodities.

If anyone had any reservations about the merits of this proposal before, the current supply situation relating to these commodities should certainly remove such doubts. Had we adopted such a proposal earlier, we would not be in the critically short supply situation regarding these commodities that we are in today.

Today, poultry, hog, dairy, and beef producers are paying 3 to 4 times what they were paying last year at this time for their feed rations. Increasingly, many of these producers are finding it impossible to meet their feed needs at any price because effective available supply of these rations is at or near zero. USDA's Commodity Credit Corporation today is completely out of these grains, and of those amounts that are in the hands of producers or the trade much of it is not available for sale because of its location, or the difficulty in getting rail cars to move it where it is needed. Such a situation, of course, is directly related to increasing the costs of livestock producers and subsequently increasing the costs to the American consumer. In short, I believe our National Government—and I include both the Congress and the Executive—has failed to provide adequately supply protection to our own domestic consuming public concerning these essential food and feed grains.

While record harvests of wheat, feed grains, and soybeans are expected this fall, USDA also is projecting record sales of these commodities both here and in foreign markets.

Given the type of marketing and sales system we rely upon in this Nation to market these commodities, our supplies of these can be nearly or totally depleted without any protection for our own domestic users. Furthermore, without such a reserve system of the type I am proposing, major crop failures here or in foreign countries can place our Nation almost overnight in a tight or totally depleted supply situation, thereby sending prices through the roof.

While I will have more to say about my amendment when it is considered during next week's debate on S. 1888, I urge every Member of the Senate in the meantime to carefully study and review it. Adoption of this amendment is not only a responsible action for Congress to take, but also is essential to the future welfare of the 210 million people of this Nation.

Mr. President, I ask unanimous consent that the full text of my amendment be printed at this point in the RECORD.

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

On page 46, line 19, strike out "title is" and insert in lieu thereof "titles are".

On page 51, line 15, strike out the quotation marks.

On page 51, between lines 15 and 16, insert the following:

"TITLE XI—CONSUMER AND MARKETING RESERVES

"SEC. 1101. (a) Effective only with respect to the 1974 through 1978 crops of wheat, corn, grain sorghum, barley, oats, rye, and soybeans, the third sentence of section 407 of the Agricultural Act of 1949, as amended, is amended by striking out the third proviso (relating to the minimum price at which certain grains in the stocks of the Commodity Credit Corporation may be sold) and inserting in lieu thereof the following: '*And provided further*, That the Commodity Credit Corporation shall not sell any of its stocks of wheat, corn, grain, sorghum, barley, oats, or rye, respectively, at less than the so-called established price applicable by law to the crop of any such commodity, or any of its stocks of soybeans at less than 150 per centum of the current national average loan rate for such commodity, adjusted (in the case of all such commodities) for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate, if the Secretary determines that the sale of such commodity will (1) cause the estimated carryover of such commodity at the end of the current crop year for such commodity to fall below six hundred million bushels in the case of wheat, forty million tons in the case of corn, grain sorghum, barley, oats, and rye, or one hundred and fifty million bushels in the case of soybeans, or (2) reduce the Corporation's stocks of such commodity below two hundred million bushels in the case of wheat, fifteen million tons in the case of corn, grain sorghum, barley, oats, and rye, or fifty million bushels in the case of soybeans; and in no event may the Corporation sell any of its stocks of any such commodity at less than 115 per centum of the current national average loan rate for the commodity, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges.'

"(b) Section 407 of such Act is further amended by adding at the end thereof the following: 'In any year in which the Secretary estimates that the carryover stocks of wheat will be less than six hundred million bushels, the carryover stocks of feed grains will be less than forty million tons, or the carryover stocks of soybeans will be less than one hundred and fifty million bushels, the Secretary is authorized and directed, at any time that the market price falls to 125 per centum of the announced nonrecourse loan level for the commodity concerned, to purchase a quantity of such commodity sufficient to bring the total reserve stocks of the commodity to six hundred million bushels in the case of wheat, forty million tons in the case of feed grains, and one hundred and fifty million bushels in the case of soybeans. Notwithstanding any other provision of law, the price support loan on any quantity of wheat, feed grains, or soybeans stored under seal on the farm or in private commercial facilities shall be extended, at the option of the producer, for a period of two years with the condition that any such loan may be called in at any time by the Secretary prior to the expiration of the two-year period if the Secretary determines that the projected carryover stocks of the commodity concerned for the current year will drop below six hundred million bushels in the case of wheat, forty million tons in the case of feed grains, or one hundred and fifty million bushels in the case of soybeans. As used in the two preceding sentences, the term "feed grains" means corn, grain sorghum, barley, oats, and rye."

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 158 TO S. 1888

At the request of Mr. HART, the Senator from Pennsylvania (Mr. SCOTT) was added as a cosponsor of amendment No. 158, intended to be proposed by Mr. HART to S. 1888, the Agriculture and Consumer Protection Act of 1973.

ADDITIONAL STATEMENTS

CAMPAIGN FINANCING REPORT

Mr. SCOTT of Pennsylvania. Mr. President, the Senate Commerce Committee has ordered reported a bill to set overall spending limits for Federal election campaigns. Attached to that bill is an amendment to create an independent Federal Elections Commission to not only monitor campaign spending, but to enforce the law as well. I am delighted that the text of this amendment substantially tracks the language of my own bill to create such a commission, S. 1094.

WMAL radio, here in Washington, recently endorsed this proposal. I ask

unanimous consent to have the editorial printed in the RECORD.

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

CAMPAIGN FINANCING REFORM

MAY 9, 1973.

Aroused by the Watergate scandal, Congress appears to be in a mood to enact tougher campaign spending legislation.

A host of reform bills has been introduced. We look with favor on one sponsored by Republican Senators Hugh Scott of Pennsylvania and Charles Mathias of Maryland.

It would create a blue-ribbon federal elections commission empowered to investigate, subpoena, and prosecute. It would also establish a central place where financial campaign disclosure reports could be sent, thus eliminating the present procedure whereby reports can be filed in numerous places.

No one underestimates the difficulties involved in getting campaign reforms instituted.

Indeed, before April 7, 1972, the effective date of a strict new federal law, the only related law on the books was one dating to 1925.

Susan King, of an independent citizens' group that lobbied for three years to get the 1972 reforms enacted, thinks the climate is right this year for further reforms.

She said, "It's discouraging that it takes a scandal to produce reform, but that's a healthy sign—it means the system does react to abuse."

Americans should insist that Congress tighten controls over campaign spending. In so doing, Congress can help mend the fabric of trust in government, which has been so ruthlessly torn by events surrounding Watergate.

PERSISTENCE OF SOVIET EMIGRATION BARRIERS

Mr. JACKSON. Mr. President, I would like to share with my colleagues a letter to the U.S. Congress from 309 Soviet Jews deprived of their right to emigrate on so-called secrecy grounds. The existence of such a letter addressed both to Representative WILBUR MILLS and to me, as the sponsors of the East-West trade and freedom of emigration amendment in the House and the Senate, was reported by the western press in early March, but it has just reached my office through the National Conference on Soviet Jewry in New York.

Although the letter deals in part with the now-suspended head tax on emigration, it is nevertheless timely because it exposes the sham "secrecy" argument which Soviet authorities have found so convenient an excuse for denying emigration in the absence of the tax. The letter points out that if there are precise regular criteria for determining "secrecy" restrictions, they are themselves secret and can be applied as broadly or as narrowly as the Soviet authorities choose.

The writers' apprehension that "our situation is becoming worse" and that "further repressive measures" might be employed against Soviet Jews has, unfortunately, been proven to be well-founded. In this connection, I would like to call the attention of the Senate to another letter, which was written by an American recently returned from the Soviet Union and which appeared in the New York Times on May 16. The author of the letter stresses the need "to destroy the 'straw dog' of the education tax and to point out that the real issue is that Jews who seek visas to leave the Soviet Union are denied them in most cases."

Mr. President, I ask unanimous consent to print this material in the RECORD.

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

[Translated from Russian]

To the Congress of the United States:

We, the Jews of the USSR fighting for their repatriation to Israel, hereby appeal to the Congress of the USA because in our eyes it is not only the highest legislative organ but also the body expressing public opinion in the country.

The ever growing attention of the public and of the Congress of the USA to the problem of the free choice of one's country of residence and, in particular to the problem of the repatriation of Soviet Jews to Israel testifies to their profound understanding of this question that is of vital importance to us and to their interest in a just and humane solution of the problem.

This is the reason why we would like to make a brief description of the existing situation in the matter of the repatriation of Jews. This is particularly necessary at present because lately unconscientious propaganda has been trying to create the illusion that there has been some sort of a positive progress in the matter. However, nothing like this has been taking place.

What is the aim of our struggle?

We demand the recognized and guaranteed by law right for every Jew who so wishes to go to Israel. The handouts, distributed from case to case in accordance with the political situation, cannot satisfy us, the Jews of the USSR, and they should not mislead our friends. It is this basic right that we are denied. We have only the right to petition for emigration. The decisions of the Authorities remain absolutely arbitrary, but, in order to create an appearance of respectability in the eyes of the public opinion in the West, the refusals are given an imaginary legal basis.

Thus, in the interview given by the Deputy Minister Shumilin, on December 22, 1972, it was stated that the limitations on the right to emigrate are applied only to those who by the character of their activities had been connected with work involving interests of State. On the basis of this provision, the great majority of scientists and qualified specialists in the spheres of physics, chemistry, electronics, calculating machines and other spheres of science and technology, as well as a number of economists, historians, jurists and journalists, who had worked in absolutely open and ordinary establishments, get refusals, which are unlimited by time and which are based on reasons of "having information" or "secrecy".

It should be stressed that the concept of "having information" or of "secrecy" has nothing in common with the concept accepted in the West, where secret work, access to secret information and the obligations undertaken. In connection with this cause a temporary limitation of certain civil rights are clearly defined. In the USSR, however, it is a matter of indefinite regulations, that have not been made public anywhere.

In a country where even access to a number of foreign publications is not open to all citizens, the argument of "secrecy" is very convenient in order to refuse whomever one wants.

In addition, the so-called "registered access" merely means that the person concerned had been checked and can be permitted to read material of confidential nature. This does not mean, however, that he had in fact carried out secret work or that he is informed of State secrets. Quite often, the "secret" work, which serves as an obstacle for emigration, concerns matters that had taken place ten or fifteen years ago, or even during the Second World War. This is in spite of the fact that it is well known that even the gravest secrets are outdated in two or three years. In giving refusals, the Authorities also refer to the presence of "a high informative potential". Nobody knows exactly what this is. Evidently this means having a wide mental outlook, which permits the person detained to judge the standard of science or technology in his sphere.

References are even made to the possession of access to secret information on the part of relatives who remain in the USSR and who have no intention of leaving the country.

In the light of the above it becomes clear that it would be difficult to find a person, working in the sphere of science or of industry, who could not be refused, if so desired, an emigration permit on the basis of one of the points mentioned above. The official and public statement of the Deputy Minister Shumilin to the effect that it is even a secret to explain to the person interested the essence of his "secrecy" and the length of its effectiveness is a good illustration of the atmosphere of arbitrariness that exists in the matter.

The arbitrariness and the groundlessness of these pretexts are clearly demonstrated by the fact that a number of persons, who had allegedly also had high "secrecy" and had had their emigration permits refused for this reason, were suddenly given emigration permits in October 1972.

In addition to the argument of "secrecy", the Soviet Authorities also make use of the prohibitive tax on education for the purpose of limiting the emigration of specialists. Certain persons in the West might get the impression that the new and widely publicized changes in the instructions for exacting payment of the education tax have greatly eased the situation. This would be a great error. In reality, the tax is contrary to Statute 121 of the Constitution of the USSR [which insures "free education in all schools"] and to the Universal Declaration of Human Rights and is applied retroactively to persons who had received their education long before this normative act was adopted. In addition, in the calculation of the sum of this tax, the expenditure for education has been over-estimated to twice its amount and the period of repayment has been made five times as great. Exemption from the tax has been given only to part of the invalids and of the pensioneers, depriving them at the same time of their life-term pension.

However, these changes have had almost no effect on the great majority of persons with higher education (the average age of the repatriates is 27). In the future a young specialist with a university diploma will have to put aside the money for the ransom (with the officially recognized in the USSR rate of savings—6% of the salary) not for 125 years as before, but only for 90.

All the above stated clearly shows that there has been no improvement in the basic two obstacles on the way of the repatriation of the Jews. And, in spite of a certain quantitative growth of the number of repatriates, connected in particular with the increase in the number of persons applying for issue of exit visas, the policy of the Authorities towards those who insist on their right to emigrate, has considerably harshened.

As before, the Jews who have applied for emigration, are forced as a rule to leave their jobs or are dismissed. In such a case a specialist is forced to look for any kind of work, including unqualified physical labour. Frequently he is deprived of that work as well and is afterwards persecuted as an idler.

Cases of judicial and extra-judicial persecution are becoming more frequent and more and more harsh. These cases include prison sentences for collective appeals to Soviet Authorities, arrests of Jews without reason or explanation, etc.

This happened first during President Nixon's visit to Moscow and since then it became a sorry tradition and an integral part

of holidays or of solemn occasions in the Soviet capital.

Of particular concern are the unceasing trials of Jews who wish to go to Israel. In 1972 eight persons were convicted. In February of 1973 Lazar Lubarsky was sentenced to four years. Isak Shkolnik is now awaiting trial. [Shkolnik has since been sentenced to 10 years imprisonment.]

This great and tragic subject deserves fuller explanation. Therefore in this letter we shall not dwell on it.

The Amnesty, declared on the occasion of the Fiftieth Anniversary of the USSR, has freed scores of thousands of thieves and hooligans, but it has not touched a single one of the Jews convicted in connection with their desire to go to Israel.

Our situation is becoming worse. Further repressive measures might be taken against us, even though the Authorities know very well that we have no underground activities or secret plans, we have no secret organizations, we have only the desire to go to Israel and the resolve to fight for the realization of this desire.

We think that the public and the Congress of the USA should know the truth about the problem for which they evince interest and understanding.

Signatures: Moscow—115, Kiev—17; Leningrad—34; Riga—57; Kishinev—38; Vilnius—33; Minsk—5; Kharkov—4; Odessa—3; Tbilisi—3.

[From the New York Times, May 16, 1973]

KREMLIN VERSUS JEWS: THE TAX IS NOT ALL

To the EDITOR:

I have just returned from the Soviet Union, where I had the privilege of meeting with many of the activists who are struggling for emigration to Israel. In behalf of these beleaguered people, I urge The Times to destroy the "straw dog" of the education tax and to point out that the real issue is that Jews who seek visas to leave the Soviet Union are denied them in most cases. The lifting of the education tax, be it lasting or not, will in no way ease the obtaining of visas for Soviet Jews.

What is the situation for visa applicants? Needed letters of invitation from relatives in Israel are "lost" by the postal authorities; visa applicants require the consent of parents when the applicant may be old enough to be a parent himself; fellow employes are needed to give character references, exposing the applicant to threats and intimidation because of his "anti-Soviet position"; scientists are told that they are too valuable to the state to be allowed to leave but are fired from their jobs almost immediately upon application for an exit visa; those fired from their jobs are accused of "parasitism" and can be forced to accept manual labor; children of applicants are forced out of school and threatened with the draft; telephones are perfunctorily cut off; homes are searched.

The myth of secret work is being used as a reason for holding many of the scientists. One scientist I met was told by the visa authorities that, although he did not know it, the committee had said that his work had been of a secret nature. He asked to meet with the committee since he knew that his work was not secret. He was told that the membership of the committee was secret and therefore he could not meet with it. He was advised to take other work (he had been fired from his job) for five years and at the end of that time he would be allowed to leave if this new work was not secret. Of course, he would not be advised about the secrecy of the work till the end of the five years. Heller's "Catch-22" and Kafka's "The Trial" come to mind.

The Russians advise us that the number of Jews applying to emigrate to Israel is small. What they neglect to say is that the harassment of those who do apply for exit visas is used as a whip to hold others back.

It is indeed a strange feeling to sit in a living room in Moscow and hear the Jackson amendment spoken of in reverential terms by a group of Soviet Jews. This amendment, which would make tariff concessions conditional on the abolition of all barriers to emigration, is their only hope for exodus to Israel. The abolition of the education tax alone will not help these martyrs in any substantial way. [Editorial May 5.]

GEORGINE SACHS SALOM,
NEW YORK, May 6, 1973.

ELLSBERG HARDLY A MARTYR

Mr. SCOTT of Pennsylvania. Mr. President, James J. Kilpatrick in the Sunday Philadelphia Bulletin characterizes Daniel Ellsberg as a "bafflegab artist, recently shingled by a second rate school of law." Moreover, Kilpatrick states that despite the fact that his trial was dismissed, "the question of his guilt or innocence remains unanswered." What also remains unanswered by the courts is the question of whether, as Ellsberg asserts, his notion that he was doing the "right" thing in making secret documents public does in fact make the act itself "right." This is a question which each one of us must determine for himself. I commend this article by Mr. Kilpatrick to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

ELLSBERG HARDLY A MARTYR

(By James J. Kilpatrick)

WASHINGTON.—Daniel Ellsberg, the chief purloiner of the Pentagon Papers, turned up in Washington last Sunday as a guest on "Meet the Press." Carl Stern of NBC and David Kraslow of The Washington Star-News promptly took him over the jumps on the matter of morality, high and low.

It was an interesting exhibition. Mr. Ellsberg repeatedly balked, refused, and ran around the gates. Some of us had come to the studio expecting to encounter a philosopher of noble purpose, a licensed and certified martyr. We left with the impression of a bafflegab artist, recently shingled by a second-rate school of the law.

He would not grapple with the questions that mattered. It was as if the sainted Joan, tied to the stake, had demanded a stay of execution by virtue of the law that prohibits open-air fires before five o'clock.

FACTS NOT IN DISPUTE

The essential facts of the Ellsberg case are not in dispute, Ellsberg gained surreptitious access to a set of the famous Pentagon Papers, a top secret study of the U.S. role in Indochina. He sneaked off to a Xerox machine, copied the papers, and two years ago gave them to The New York Times.

Subsequently he was indicted, and after a fiasco of a trial—a trial aborted by the Government's criminal bungling—he went scot free. The question of his guilt or innocence remains unanswered.

What of the moral issue? Ellsberg conceded, in response to a question, that he thought he was breaking a law when he first took the papers and began making copies of them. He then assumed, as almost all of us did at the time, that the U.S. Criminal Code contained some simple statute declaring it a felony to make public, without proper authorization, a top secret document.

TRIED FOR ESPIONAGE

It wasn't until later that it turned out, to Ellsberg's relief and the Government's chagrin, that no such law existed. He had to be tried under the old Espionage Act, a gauzy statute with holes as big as barn doors. The important thing is that Ellsberg, in doing "what I thought was right," thought he was doing an unlawful act. He did it anyway, in response to "his own compelling obedience to a higher law."

Stern and Kraslow gave him a hard time. How could an orderly government function, asked Kraslow, if every person with access to top secret documents obeyed the same inner voices? Ellsberg responded irrelevantly that a government that sanctioned the Watergate offenses was disorderly and didn't deserve to operate.

Stern got no better responses.

PUBLIC FUNDING FOR ELECTION CAMPAIGNS

Mr. HART. Mr. President, on March 6 when I introduced S. 1103, a bill to provide public funding for election campaigns for the Senate and House of Representatives, I was sure that this is the direction in which we should be moving. Even having reached that conclusion last year, I knew there would have to be a great deal of groundwork done before many would support it.

My hunch is that that still is the case. However, with the continuing revelations of laundered money, suitcases bulging with cash, purchase of expensive wiretap equipment—all tumbling out of the Watergate investigations—an ever-growing group of people see the elimination of private fundraising as one answer to needed political reform.

The case for this approach was made by the New York Times on its editorial page May 29, and I ask unanimous consent that the editorial be printed in the RECORD.

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

DOLLAR-FREE POLITICS

If there is one subject that has been studied, argued and microscopically analyzed for decades, it is the reform of American political campaign financing. It does not need another commission to start from scratch and come up with a report for stimulating Congressional action, especially in the full tide of Watergate.

President Nixon would have the question included on the agenda of a commission he proposes setting up to deal with the whole broad question of electoral reform. But a spate of pertinent bills is already pending in Congress, which rightly show little interest in Mr. Nixon's proposal for a new study group. Three of these measures, introduced jointly by Republican Senators Scott of Pennsylvania and Mathias of Maryland, would centralize administration of the Federal Election Campaign Act of 1971 under an independent commission with full power to investigate and prosecute violations. The bills also would repeal the broadcasting "equal time" requirements, which now seriously inhibit campaign debating by television, and allow candidates several political mailings at reduced postage rates.

Senator Pastore, Democrat of Rhode Island, would make similar changes and extend present limits on campaign spending, now confined to the media, to all forms of campaign expenditure. House bills are similar in nature, some going further to strengthen those disclosure provisions which have already served to trip up leading figures in the Republican Committee for the Re-Election of the President.

All these legislative efforts are commendable as logical extensions of the 1971 law, which went in the right direction if not the

necessary distance. But, even without the new rash of scandals, more and more authorities in the field have been approaching the belief that reform cannot be carried much further as long as the electoral system rests on the financial bedrock of private campaign contributions. In its very nature this system breeds the kind of bribery and extortion that flowers in "laundered" money bags, higher milk prices in exchange for financial gifts from dairymen and interventions with regulatory agencies for the benefit of fat-cat contributors.

Senator Hart, Democrat of Michigan, has zeroed in on the subject with a bill that makes precisely this approach to the problem, though regrettably not on the Presidential level. He would try it out first on candidates for Congress. His bill is tentative in other respects as well. It would not preclude private campaign money altogether, but merely give a candidate the option of being financed by the Treasury, on certain conditions, or getting his campaign funded in the traditional manner. Among the stipulations would be an over-all spending ceiling for recipients of Government funds, regardless of whether or not legislation is passed to impose such limits generally.

Despite its modest scope, the measure is highly significant. A tax check-off now permits citizens to direct a tiny fraction of their payment into electoral channels; the Hart bill would guarantee to a candidate, out of public funds, an amount adequate to conduct a full-blown Congressional election campaign. There is need, however, for clearer answers on how to iron out the constitutional problems, not to mention the equities, involved in discriminating between major and minor parties and in fixing standards that candidates would have to meet to qualify for public financing of a primary campaign.

We are convinced, nevertheless, that the hope for a cleaner politics lies in this direction. Presidents since Theodore Roosevelt have endorsed the concept of public subsidies for election campaigns, none more eloquently than Lyndon B. Johnson, who rightly thought the whole sordid process of begging and wooing by would-be Presidents demeaning to the office. Worse than demeaning, it is corrosive, as recent events have all too persuasively demonstrated. Sooner rather than later, American campaigning must be freed from the corrupting influence of private money.

TOWER PROPOSAL TO PROBE POW TREATMENT COMMENDED

Mr. GRIFFIN. Mr. President, we are all heartened by the return of our prisoners of war, and, I believe, we are all grateful to the President for his courageous and daring actions which resulted in the return of these men. Recently, the senior Senator from Texas (Mr. TOWER) introduced a resolution to authorize the Armed Services Committee to investigate their confinement in Indochina. Several newspapers carried stories on the resolution, and I have one of them, an editorial in the May 22 edition of the Abilene Reporter News, that I would commend to the reading of all my colleagues. I ask unanimous consent that the editorial be printed in the RECORD.

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

TOWER PROPOSAL TO PROBE POW TREATMENT TIMELY

Senator John Tower has introduced a resolution in the U.S. Senate calling for its Armed Services Committee, of which he is a member, to make a complete investigation of the treatment of American prisoners of war by the North Vietnamese.

He suggests three specific areas of inquiry:

The extent to which North Vietnam violated the terms and provisions of the Geneva Convention on the treatment of POWs.

The effect of visits by American civilians and other non-North Vietnamese on the treatment of prisoners;

The effect of prior survival and other training on the stamina and the will to resist of the prisoners.

The committee also should be left free to look into any other relevant subject directly or indirectly related to the confinement of the POWs, Sen. Tower said.

While various returned prisoners have told their own experiences of torture and abuse connected with visits of U.S. anti-war activists, Tower wants the public fully and officially informed by a Senate hearing.

"I am deeply concerned that the full story of their captivity will not otherwise become a matter of public record, and I feel that it certainly should be," he said.

Tower says he is especially bothered by "what was the real effect on the captives of visits to Hanoi by American civilians and other outsiders . . . I'm convinced that we need an in-depth study of these so-called 'peace' visits to the capital of a hostile country during times of conflict. Is it possible that we need to pass new legislation with regard to such acts in the future?"

He feels "it equally important that the world be informed of the hypocrisy with which the North Vietnamese treated the prisoner of war question."

He questions whether the Hanoi Hilton, which was shown foreign visitors in North Vietnam, was typical of camps in North Vietnam, and whether the condition of its prisoners was typical as well.

"We have been given staged pictures and staged events by the other side," Sen. Tower said. "Behind these, however, lie the beatings, the pain, the anguish inflicted by a cruel and barbarous captor who portrays himself as a liberator from a nation of peace and freedom-loving people."

The investigation Sen. Tower suggests is not only appropriate, but urgent. The men are entitled for their stories to be known, and their bravery appreciated. Hanoi's brutality in the face of the Geneva Convention needs to be bared to the world. And most compelling of all, there should be new legislation passed which will prevent American citizens from aiding and abetting the enemy in any future conflicts.

RISING FOOD PRICES

Mr. HUMPHREY. Mr. President, the rise in the cost of living is the No. 1 issue amongst the American people. The annual cost of a family food basket is of primary concern. Recent reports demonstrate that the annual cost of a typical family's market basket of food has reached a new high.

I ask unanimous consent that a news article entitled "Market Basket Cost Rises to New Record" be printed in the RECORD.

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

[From the Washington Post, May 26, 1973]

MARKET BASKET COST RISES TO NEW RECORD

The annual cost of a typical family's market basket of food rose 1.6 per cent to a record $1,480 in April. But the gain, less than half the March rise, was the smallest since the current food price boom began four months ago, an Agriculture Department report showed yesterday.

The report also showed that for the first time in six months, most of the retail price hike was due to higher charges by middlemen rather than farmers, whose returns rose more slowly. Returns to farmers for beef and pork in the market basket fell last month, although higher middleman charges pushed retail beef prices to another new record and left consumers only a fractional drop for pork.

The market basket is a collection of U.S.-raised farm foods needed for a theoretical "average household" of 3.2 persons. Its $1,480 annual rate cost in April was 1.6 per cent, or $22, above the $1,458 rate in March; 10.7 per cent ($142) above last December's rate of $1,338; and 14.3 per cent ($184) above the April, 1972 rate, of $1,298.

The 1.6 per cent April increase compared with gains of 3.5 per cent in March, 2.5 per cent in February and 2.7 per cent in January.

The April slowdown came on the heels of administration claims that a long-predicted levelling off of food prices is now under way.

CHALLENGE FOR THE AIRLINES

Mr. FANNIN. Mr. President, it is with some regret that I note that air fares are being boosted considerably today for youth and those traveling under family fare discount plans. A year from today, under the ruling by the Civil Aeronautics Board, all such discounts are to be eliminated.

This phaseout starts at an unfortunate time just before the close of the college semester and at the start of the summer vacation season. It also occurs at a time when we have a serious gasoline shortage and we should be encouraging families to use public transportation rather than automobiles, especially on long trips.

There are, however, some encouraging signs.

Airlines are in the process of drawing up new discount programs within CAB guidelines which would provide even more inexpensive air travel than we have had in the past.

Trans World Airlines has announced its demand scheduling for flights between selected cities. It is my understanding that TWA is working on expansion of this program, and that other airlines are seeking new concepts to provide an economical means of air transportation which at the same time will be profitable to the air carriers.

The CAB has ruled that the discount fares now being phased out were discriminatory. The Board said that in effect the full fare passengers were being illegally charged to subsidize lower fares youth and family cut-rate fares.

There has been an understandable outcry by groups who feel that they are being adversely affected by the CAB ruling.

This has led to a drive to pass legislation which would make legal what the CAB has ruled illegal.

It is my conclusion, however, that this would be unwise at this time.

The airline industry has made it clear that innovative programs catering to the economy-minded travelers are being drawn up. The CAB ruling could be a blessing rather than a setback for not only students and families, but for individual travelers of all ages. It all depends on how the airlines move to serve

the needs of the public which depends so heavily on this form of transportation in today's America.

The airlines know that the Congress and the public will be watching them closely in the coming months to see how they perform in this regard.

I believe that we should give the industry a chance to show its initiative and devise new programs to serve the needs of our people.

Premature action by Congress could be detrimental to the very people we want to help—those who feel that they cannot afford full fares. Given the incentive of the CAB ruling, these may be the people who will ultimately benefit, and greatly.

If the airlines do not meet this challenge, then Congress may have to act. We should in the meantime give the airlines encouragement and support in their efforts to solve the problem in the best tradition of the free enterprise system.

POSSIBLE IMPERFECTION OF GENOCIDE CONVENTION IS NO ARGUMENT AGAINST RATIFICATION

Mr. PROXMIRE. Mr. President, the United Nations Convention on Genocide has been the subject of criticism from many sincere men. The late Secretary of State, John Foster Dulles, had grave reservations about the real efficacy of the Convention on Genocide.

I do not dismiss this criticism or skepticism. But if the U.S. Senate waited for the perfect law without any flaw or shortcoming, the legislative record of any Congress would be a total blank. The Genocide Convention is not a perfect document. It is a treaty which like all treaties is not written by our prescription alone but is negotiated. And as negotiated, it reaches a very important concern: the mass extermination of people for their racial, religious, and ethnical views. The final compromise which was reached, while not perfect, imperils nothing which is sacred to the American people. It guarantees and embodies much that we do hold dear, the right to life for all people.

When the Genocide Convention was submitted to the Senate 25 years ago only five nations had ratified it. Since then another 70 nations have ratified the Genocide Convention, but not the United States.

We are conspicuous for our remarkable national record in the struggle for human rights. We are just as conspicuous for our international absence in the ratification of the Genocide Convention. We should resolve without further hesitation or excuse this hypocritical inconsistency between domestic achievement and international indifference. Seventy-five other nations have recognized this elementary fact and have chosen to ratify the Convention on Genocide. I am certain that if these nations had wished they could have found phrases not to their national taste in this document, but they perceived a larger responsibility—a responsibility to mankind—to individually and collectively condemn inhuman barbarism.

Mr. President, the Nixon administration has joined the Johnson, Kennedy, and Truman administrations in calling for ratification of this convention and it seems to me the Senate should perceive that same obligation and move quickly to ratify the Genocide Convention at last.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that, according to current Census Bureau approximations, the total population of the United States as of today, June 1, 1973, is 210,740,591. In spite of the widely publicized reductions in our fertility levels, this represents an increase of 1,582,609 since June 1, 1972. It also represents an increase of 96,171 in just the last month.

Over the year, therefore, we have added enough additional people to fill three cities the size of Seattle, Wash., and in just 1 short month, we have added about the equivalent of Ann Arbor, Mich.

NAVY TO QUIT USING CULEBRA

Mr. HUMPHREY. Mr. President, recently the outgoing Secretary of Defense Elliot Richardson announced that the United States would halt the use of Culebra, a little island off Puerto Rico, as a Navy firing range. This is a long overdue and welcome decision.

Earlier this year I had joined with Senator BAKER in introducing a bill to compel the Navy to quit using the island for a firing range by 1975. That will now be accomplished by the decision of the Department of Defense. I have also introduced legislation cosponsored by Senators BAKER, KENNEDY, and JACKSON authorizing the Navy to prepare an alternative site and to repair whatever damages had been inflicted on Culebra.

I ask unanimous consent to have printed in the RECORD a recent editorial in the Washington Post entitled "On Culebra, a Promise Redeemed."

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

ON CULEBRA, A PROMISE REDEEMED

In acting to halt the use of Culebra—a little island off Puerto Rico—as a Navy firing range, outgoing Defense Secretary Elliott Richardson has done one of those small and decent but difficult and important things which governments all too often fail to do. In brief, he perceived the wrong in bombing an inhabited island, a part of the American dependency of Puerto Rico, and he perceived the risk that continued bombing and shooting would further exacerbate Puerto Rico-U.S. relations, undercut Puerto Rico moderates, and thereby jeopardize Navy access to *any* Puerto Rican firing range. Mr. Richardson then got a considerable number of bobbing ducks in a row and made his move.

Recall that his Pentagon predecessor, Melvin Laird, had defaulted under Navy pressure last December on an earlier pledge to close the Culebra range by 1975. Instead, said Mr. Laird, the firing would go on until 1985. Understandably enough, the Puerto Ricans went up in smoke. The political atmosphere there had to be calmed before San Juan could take the necessary step of finding a satisfactory alternative range and offering assurances of its permanent use. This has evidently been done. The new range, to be opened in 1975, will be on the *uninhabited* islands of Desecheo and Monito at the opposite (western) end of Puerto Rico.

On its part, the Navy had to reach a better understanding that, while custom and convenience dictated continued use of Culebra, the Navy's own interest in maintaining a Puerto Rican bombing range and the larger American interest in solidifying ties with San Juan made it necessary to stop pounding the island. To its credit, the Navy now does seem prepared to shift to Desecheo and Monito, where, its own studies show, its important operational requirements can adequately be met.

Some members of the House may not yet have seen the advantages of bending to the storm over Culebra. Senator Howard Baker (R-Tenn.) set a powerful and useful example last January, however, by introducing a bill to compel the Navy to quit the island by 1975; a similar bill was entered in the House. Presumably, those legislators who wanted the Navy to stop bombing Culebra will support the modest appropriation needed to prepare Desecheo and Monito as replacements. We hope that Defense Secretary-designate James Schlesinger will want to start his Pentagon term right by speaking out clearly and promptly for the move.

The Baker bill charged the country with "a breach of faith with the people of Puerto Rico." For all that the Navy has done to make its bombing safer for the people of Culebra and to assist them with jobs, water and so on, this is the essence of the matter. The United States promised to stop bombing the island, and it broke its promise. One cannot help thinking that the United States would not so easily have ignored a similar promise to a group or nation considered to have more clout than Puerto Rico, of which Culebra is part. "The decision of Secretary Richardson is warmly welcomed by all Puerto Ricans," the commonwealth's resident commissioner, Jaime Benitez said. "It reinforces our faith in the basic integrity of the American system with its profound commitment to the fulfillment of understandings reached in good faith and in the pursuit of human values."

SENATOR MONDALE SPEAKS IN SPRINGFIELD, MO.

Mr. EAGLETON. Mr. President, on May 12, 1973, the Democrats of Missouri gathered at Springfield for the annual Jackson Day events. The culmination of the weekend was the banquet on Saturday night at which almost 800 Missourians had the privilege of hearing Senator WALTER MONDALE, of Minnesota, deliver an inspirational and perceptive speech concerning the basic tenets of our political system.

Because Senator MONDALE's comments were so well received and those who heard his speech were so enthusiastic about having the opportunity to hear him, I ask unanimous consent that Senator MONDALE's remarks be printed in the RECORD.

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

REMARKS OF SENATOR WALTER F. MONDALE

Three years from now, we will observe the 200th anniversary of our beloved country. We have every right to use this occasion to celebrate our magnificent national accomplishments. But, if that celebration is to have real meaning, it must be accompanied by a deep concern with where we are heading as a free society. We must use the experience of these 200 years to look at ourselves and our nation to determine—and halt—those dangers which threaten us in a fundamental and even frightening way.

Recently, we have seen these dangers more clearly than ever—dangers which reduce the

value of our vote—dangers which undermine our Constitution and system of laws—dangers which threaten to repeal our shared commitment to social justice—dangers to the value of our money—and perhaps most fundamental of all, dangers to our reliance on truth as the foundation of our mutual trust.

The American people sense these dangers. They encounter them almost every day. And as a result, they have expressed a very understandable, but frightening, distrust of their government and its leaders.

In 1964, a cross-section of American voters was asked, "How often can you trust the government?" Two-thirds responded that they could trust the government "most of the time". Last fall—eight years later—the same question was asked again, and this time less than half—only 45%—gave the same response.

And according to a Harris Poll conducted last November, only 27% of the American people have "a great deal of confidence" in the executive branch of the government—a drop from 41% in 1966.

Public trust in government and its free institutions is the most essential ingredient of our democracy. "With public sentiment, nothing can fail," Lincoln said, "without it, nothing can succeed." The less confidence people have in the institutions of government which are supposed to serve them, the more vulnerable those institutions are to demagogues who will try to persuade us to follow some other route.

Most people in this country are very discerning. They understand human nature, and they are not easily fooled or misled. They will draw reasonable inferences from known facts. Not even Madison Avenue—with all of its talents and resources—can for long make the truth out of a lie. People have a sense for the truth in this country, and that is why public trust cannot be bought or swindled—it can only be earned.

The first fundamental reason why public trust in our electoral system is being threatened is because the value of the vote itself is being threatened. It is being eroded and undermined by a massive infusion into our political system of special interest money—money which makes it possible for those with great wealth to lose an election but still own a government.

The average American cannot compete with this Buy America strategy, and he knows it. These special interests are buying favors and influence at his expense, and he knows that, too. This knowledge more than anything else helps explain the growing feeling of powerlessness—and even cynicism—with which many people regard their government. "What difference does it make who wins the election," they may say, or "All politicians are the same, so why bother getting involved in politics". You've heard it all.

It is estimated that in 1972 candidates for public office spent four hundred million dollars on their campaigns. All of that money came from private sources. Most of that money, we hope, was honest money—but too much of it was not. Even when money is given without commitments, however, it creates special advantages for the contributor—even if they are only psychological advantages—and everyone knows it. No one really doubts why ITT and Mr. Vesco contributed so generously.

This situation is not getting any better: It is getting much worse. The four hundred million dollars spent in 1972 was one-third more than the amount spent just four years ago in 1968. The cost of campaigns is rising dramatically and, with it, the cost of buying influence in the government. These high costs have vastly increased the incentives of those in government to compromise their responsibility and the temptation to permit this system to continue.

Don't misunderstand me. I believe most politicians are honest, and I am convinced that the system itself is more honest than many people might believe. But surely the time is overdue for revamping our system of financing our campaigns, to protect the integrity not only of the government but of the political process which makes free government possible. The way to do this in my judgment is to get money off the backs of the American political process and return government to the people where it belongs through public financing of political campaigns.

The value of our vote is in danger of being diminished in another way. It is threatened by the police state tactics which distort truth during the campaign, which disrupt decent condidates in the conduct of their campaigns, and which—through espionage, sabotage and other illegal acts—deprive the American people of an ingredient essential to the value of their votes—a tough, competitive, but fair, campaign.

Stewart Alsop said the other day that the tactics used in 1972 were not the tactics of politics, but the tactics of war . . . and he was right. In fact, many of those techniques—many of them borrowed from the CIA and many of them even carried out by former CIA agents—were carbon copies of Cold War tactics used abroad against countries and political leaders thought to be our enemies. For the first time in American political history, the abilities to sponsor deceit, to create disruption, to spy on one's opponents, and to undertake an assortment of other illegal activities were abilities deliberately sought and employed in a Presidential election.

The second danger we face is that which threatens to undermine respect and obedience for our Constitution and our system of laws. In many ways, that is the most serious threat in the entire Watergate Affair.

When each of us is elected, we must take a solemn oath to obey and uphold the law. The President, too, took this oath. He swore to "faithfully uphold and execute the laws of the land". We found out later that he took the word "execute" literally—he meant to kill. In a cynical and contemptuous manner, the President and his people took the position that they were above the law; that they could readily ignore those laws which they didn't like. There were over 100 of them; programs for rural electrification, programs for highways, programs for disaster loans, education, poverty, health, hospitals, senior citizens, housing—the list goes on. But efforts to point out that he was violating the law were only met with contempt.

He has shown the same kind of contempt for the law in foreign affairs. Even as we meet tonight, the President is carrying on a totally illegal bombing war in Cambodia. Contrary to what this President thinks, the power of the President to conduct war is not personal to him. If the Constitution means anything, it requires that our involvement in war must have a legal basis. The other day, the House of Representatives refused to grant the Administration money to carry on this illegal war. Yet, on the eve of the vote, the Administration had the arrogance to say "We don't care, we will get the money elsewhere".

Both Tom Eagleton and I have spent many years as law enforcement officers. Both of us served as Attorney General of our states and we know there is another way to destroy respect for the law. That is to use the law enforcement machinery for political purposes. People understand how harsh criminal laws are—that is why we have independent judges and citizen juries. But respect for our laws is inevitably diminished when they are used corruptly or politically. No doubt, much of the public's confidence in J. Edgar Hoover stemmed from a feeling of trust that he kept politics out of the FBI.

And, of course, the entire Watergate incident stands in contempt of respect for our laws. We must assume that the President didn't know, but so many around him were engaged in widespread violations of the law—the obstruction of justice—that there had to have been an attitude that the law that applies to most people does not apply to those in power. Of course, if that is correct, then there is no law at all. Our law and our Constitution must be obeyed by *all* people, as the President and his closest associates are now finding out.

The third and perhaps the most immediate danger in our society is that to the value of our money.

If you earned $10,000 twenty years ago . . . or if you had put away $10,000 in your savings account . . . you would need $15,000 today to buy what the $10,000 would have bought you twenty years ago.

And inflation has gotten dramatically worse in the last six months. Prices are now going up at their fastest rate since the Korean War.

This kind of runaway inflation can undermine the very basis of a society. Relationships which depend on trust and confidence and the sense of fairness are eroded. Those who cannot keep up with inflation grow resentful of those who can. Citizen is pitted against citizen as each tries to "beat" inflation at the other's expense. And the trust and confidence of people in their government declines as they see that nothing is being done to halt the inexorable rise in prices.

In the 1930's, Germany faced a runaway inflation which led rapidly to economic chaos and social disintegration. German workers and shopkeepers saw their wages and their businesses and their life savings disappear while the government floundered and did nothing. Out of this chaos and suspicion and mistrust and resentment, Hitler rose to power. Germany was captured by fascism and in a few short years the world was plunged into war. It is a lesson we cannot forget.

President Nixon claims that he is doing everything possible to keep prices under control, yet in his four years in office he has fueled inflation with total budget deficits of nearly eighty billion dollars—higher than all the deficits of Presidents Truman, Eisenhower, Kennedy and Johnson put together. Nearly a quarter of the entire Federal debt has been added during President Nixon's time in office.

Much of that deficit spending is due to the more than ten billion dollars spent each year on foreign aid, and to the nearly thirty billion dollars more spent to support U.S. troops abroad—more than 600,000 of them at 2,000 bases in more than 40 foreign countries.

Inflation here at home and bloated military spending abroad have so undermined the value of the dollar that it has been devalued twice in little more than a year.

This country had its first trade deficit in this century in 1971 and an even bigger one last year—nearly seven billion dollars. We cannot allow this to continue.

We need a tough wage and price control program that applies fairly to everyone. The American people will not and should not tolerate a program that keeps workers' wages down while allowing prices and profits and executive salaries to go soaring through the roof.

And we must put a lid on Federal spending by cutting back on foreign aid to military dictatorships, wasteful military spending, and huge subsidies to big business.

Only in this way can people be assured that government is operating fairly, and honestly, and in their interest. Only in this way can trust and confidence be restored.

Fourth, we are endangered by a threat to the basic standards of truthfulness. What we in Missouri and Minnesota call a lie is known in Washington as a "credibility gap". It would be better if we just called it a lie.

What was said for years to describe our intentions as well as our activities in Vietnam was tainted with dishonesty.

When 8,000 sheep were killed in Idaho by the use of military gas warfare, it took the Pentagon two years to admit it lied to the people.

When we were told the U.S. was not shipping arms to Pakistan for use against the Bangladesh, the government *was* shipping arms, and it knew it.

While we were boasting of our loyal allies in the Vietnam war, our government knew—but wouldn't admit—that many of them were in fact paid mercenaries.

And now, after nearly a year of denials of any wrongdoing by the highest officials in our government concerning the Watergate affair, the American people find that many of them were deeply involved in what the President himself now describes as a "sordid affair".

The public sees all of this. They know when they are being lied to. They realize that too much deceit is being practiced on them and at their expense. They have a right to insist that some old-fashioned principles of basic honesty be restored to American government—to *their* government—and I hope they will insist that it is.

The fifth danger to our society is the new philosophy we hear from this Administration to forget the poor and to diminish our national commitment to opportunity for those who start life's race with unfair and cruel disadvantages.

One of the greatest of all American values has been our shared commitment to human justice. I'm not talking about comforting the lazy—I'm talking about giving people a fair chance to share in the fullness of American life if they want to make the effort—in short, I'm talking about justice.

We have never believed in the caste system in this country; we have never admired the selfish in America. Instead, we have always had a special admiration for those who tried to help others have a fair chance. That is why most of us supported Roosevelt, Truman, Kennedy and Johnson. They asked us to be generous and helpful to those who needed it: To educate our children, to help the handicaped and the ill, to ensure retirement with security and dignity, to provide jobs for those who couldn't get them, to help farmers earn a decent living. This is what the American Dream is all about, in my judgment: It is giving each individual the opportunity to succeed to the extent of his own abilities without being held back by obstacles beyond his control.

But now we are hearing a different philosophy, one which calls for comforting the comfortable. In 1960, John Kennedy asked us to think not of ourselves but of our country. In 1972, Richard Nixon, clearly intending to contrast his views with Kennedy's, asked us to think of what we could do for ourselves.

And he has lived up to his new philosophy. He has sought to undo our housing and urban programs, to eliminate most of our rural programs, to end efforts to reduce poverty, to slash health research, to halt the drive for health insurance and welfare reform, to add one billion dollars for hospital charges under Medicare and Medicaid, to cut education funds, to make it harder for young people to go on to college or vocational school, to end mental health programs, and more . . . much more.

The New York Times in a recent editorial put it this way:

"The tide of reaction that is sweeping across America is more than a Republican effort to cancel out the remnants of Johnsonian egalitarianism. It is rather a break with more than forty years of an essentially liberal momentum, supported by the dominant elements in both parties, that has carried this nation forward to a more just and humane society within the framework of enlightened capitalism."

Another measure of justice in American society is reflected in the fairness of our tax laws. Today those laws reward capital and punish work. We know that we need incentives for investment, but we know also that we need incentives for work. It is increasingly easier in this country for those of great wealth to largely—and in some cases, completely—escape Federal taxes through loopholes—loopholes which simply aren't available to the average worker or farmer.

In 1971, there were 276 individuals in this country who had incomes of over $100,000, but who didn't pay a dime in Federal income taxes. The same year nearly 24,000 Americans received an average of $166,000 each in virtually tax-free income by using special loopholes. That's simply not fair. We all know it's not fair, and yet it continues. It continues because the President has gone out of his way to prevent significant tax reform which would ensure that the average American is asked to pay only his fair share of the burden and is not asked to subsidize those better able to bear the burden. This, too, contributes to a sense of unfairness and injustice in our land.

Americans have always had great affection for their country in large part because of our commitment to justice and opportunity. Everyone in America—regardless of color, wealth, religion or background—was to have the same chance to succeed and was to be treated fairly. Because this was true—and because we all had a real stake in the system—we all pulled together to make it work.

The system *has* worked, but now the foundations of that system are being threatened—the foundations of truth, social and economic justice, the vote, and respect for the law. These foundations together spell trust—public trust—the most indispensable element in the entire system.

But that trust—now more than ever—must be earned. It must be earned by each of us in public office by offering the kind of leadership that the system expects and that the people demand. It must be earned by offering the kind of leadership that is based on a deep respect for our values and a fundamental commitment to a better life for all Americans.

It was Harry Truman who said:

"Men make history and not the other way around. In periods where there is no leadership, society stands still. Progress occurs when courageous, skillful leaders seize the opportunity to change things for the better."

Now is such an opportunity. There has seldom been a greater need for the kind of courageous and skillful leadership that Harry Truman spoke of than there is in 1973. If the American people insist on this kind of leadership—and if they insist on leadership that is based on *mutual* trust—then we can once again hope to change things for the better.

POSTCARD REGISTRATION OF VOTERS

Mr. HART. Mr. President, one of the concerns expressed frequently in this Chamber, and one that I have heard in Michigan on occasion, as we debated S. 352, which would provide for postcard registration of voters is that it would lead quickly to mass fraud. The distinguished senior Senator from Wyoming explained the safeguards in the bill and they appear to be adequate. Earlier this month we passed S. 352.

But sincere reservations continue: Will voters really try to register from several different addresses and ultimately destroy the political process? I have always doubted that that was a strong argument. And now I find considerable proof that even in a situation that could lend itself to dual voting, it has not happened.

Senator Milton Zaagman, chairman of the Michigan Senate Elections Committee, has reported on an investigation of more than 700 students of Michigan State University who were registered in their college town, East Lansing. Of this group, 52 were registered in their hometown as well as in East Lansing. Not one, Senator Zaagman reports, voted twice.

Some will say this is too limited a test. But it is a straw in the wind.

The report of this investigation was printed in the Flint Michigan Journal of May 4. Mr. President, I ask unanimous consent to have this article printed in the RECORD.

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

SENATE PROBERS FAIL TO UNCOVER ANY DUAL VOTING

(By Robert H. Longstaff)

LANSING.—Some university students, who were registered in both their college town and back home, had the chance to vote twice in last year's election—but they didn't.

That is the conclusion of Sen. Milton Zaagman, R-Grand Rapids, chairman of the Senate Elections Committee, after an investigation of alleged dual voting.

The investigation covered 706 students of Michigan State University who lived in voting precincts of Ingham County. Their home towns are scattered through 60 of Michigan's 83 counties. Of the total, 52 persons (7.4 per cent) were registered to vote in two places.

No one was found to have voted twice, Zaagman declared.

Zaagman said the investigation was made because of allegations that many students had been involved in a dual-voting scheme.

"I am delighted and enthused that our results were positive," he said. "My confidence in the electorate and especially the newly enfranchised young people has been reassured."

However, the study did turn up a problem which may require legislation, he said.

The problem is one of "administrative inconsistencies" by city or township clerks in not clearing the rolls when a person changes voter registration to another location.

"These problems are yet to be ironed out," he said, "but I am satisfied that there were no fraudulent irregularities in the election as was suspected."

Examples of the administrative inconsistencies are cases where the clerk failed to notify the election clerk in the person's previous residence or sent the notification to the wrong place.

Zaagman said he is the sponsor of a bill to require a person's social security number be included as part of the information needed to register to vote. The information, he said, would be fed into computers so that dual registration could be identified immediately.

HILL-BURTON EXTENSION

Mr. HUMPHREY. Mr. President, there has been a great deal of argument pro and con about the President's decision to end the Hill-Burton hospital construction program. As in so many instances, the generalities do not relate to the specifics. A recent editorial in the Minneapolis Tribune of May 20 gives some of the specifics as to the meaning of the ending of Hill-Burton construction funds. It is quite obvious that there is a need for continued funding. The editorial suggests that at least a 1-year

extension of Hill-Burton funding should be granted. During this time there could be a complete review of the Hill-Burton program.

I ask unanimous consent that the editorial be printed in the RECORD.

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

HILL-BURTON EXTENSION

When President Nixon said in his 1974 budget message that the Hill-Burton hospital-construction program is among "sacred cows" that should be dropped because it has fulfilled its purpose of ending the shortage of hospital beds, the explanation was deceptively oversimplified. What Mr. Nixon failed to point out was that only 4 percent of Hill-Burton funds now go to new hospital construction—the rest is for modernization of existing facilities.

As Sen. Mondale said in a letter to the Tribune several weeks ago, the fact that Hill-Burton has achieved its original purpose has "nothing whatever to do with the continuing and serious crisis in obsolete hospitals and in long-term care facilities." He said Minnesota has a backlog of $192 million of hospital needs. Hill-Burton statisticians say the figure is $12.7 billion nationwide.

Hill-Burton is due to end June 30 unless a one-year extension (already approved by the Senate) is passed by Congress and President Nixon does not veto it. Caspar Weinberger, secretary of health, education and welfare, said federal money would still be available for hospital construction and renovation because Medicare and Medicaid reimburse hospitals for depreciation expenses (amounting to $800 million a year) as do insurance companies (another $1 billion).

But Dr. Leo Gehrig, head of the American Hospital Association's Washington office, was quoted by Congressional Quarterly: "We deny that these (reimbursement) funds can be used for generating new capital." He said reimbursement funds are not based on replacement costs and do not provide as much money as hospitals need for renovation. The accuracy of Weinberger's figures also was put into question by a Blue Cross Association spokesman's statement to Congressional Quarterly that the association does not even keep national data on the annual amount its insurers reimburse hospitals for depreciation.

We agree with Mr. Nixon that the need for new hospitals (except in some isolated areas and in some sections of large cities) does not justify continuation of Hill-Burton. But the question of whether hospitals would be able to carry out needed modernization without Hill-Burton seems to us to require more debate. Further, the administration does not seem to have demonstrated that those areas that do need new hospitals would be able to raise needed funds without federal help. The administration may be able to prove its points, but we think they should be thoroughly aired before there is a sudden cutoff of the program on June 30. The one-year extension, during which there would be a complete review of Hill-Burton, seems to be the answer.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

ALLOCATION OF CRUDE OIL AND REFINED PETROLEUM PRODUCTS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, S. 1570, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1570) to authorize the President of the United States to allocate energy and fuels when he determines and declares that extraordinary shortages or dislocation in the distribution of energy and fuels exist or are imminent and that the public health, safety, or welfare is thereby jeopardized; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is under control, with 1 hour on amendments, except for the Curtis-Talmadge amendment, on which there is no time limitation; 30 minutes on amendments in the second degree, debatable motions or appeals; 3 hours on the bill, to be equally divided between and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Moss amendment now pending to S. 1570 be withdrawn and that immediately after the Jackson-Randolph substitute amendment is offered to S. 1570, the Moss amendment be immediately offered to S. 1570, the Moss amendment be immediately offered thereto, notwithstanding that the time on the Jackson-Randolph substitute has not expired.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum; with the time not taken out of either side, pending the arrival of the distinguished Senator from Washington (Mr. JACKSON), the chairman of the committee, and the distinguished Senator from Arizona (Mr. FANNIN), the ranking Republican member of the committee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 145

Mr. JACKSON. Mr. President, I call up my amendment No. 145, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk proceeded to read amendment No. 145.

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

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

Amendment No. 145 is as follows:

On page 1, line 3, strike out all after the enacting clause and insert the following: That this Act may be cited as the "Emergency Petroleum Allocation Act of 1973".

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress hereby determines that the extraordinary shortages of crude oil (including natural gas liquids) and refined petroleum products (including liquid petroleum gas), caused by unprecedented demand, inadequate domestic production of crude oil and refined petroleum products. Environmental constraints and the unavailability of imports sufficient to satisfy domestic demand, now exist or are imminent. The Congress further determines that such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods. The Congress further determines that such hardships and dislocations jeopardize the normal flow of commerce and constitute a national energy crisis that is a threat to the public health, safety, and welfare and can only be averted or minimized through prompt action by the executive branch of Government.

(b) The purpose of this Act is to grant to the President of the United States temporary authority to deal with a national energy crisis involving extraordinary shortages of crude oil and petroleum products or dislocations in their national distribution system. The authority granted under this Act shall be exercised for the purpose of dealing with said national energy crisis by minimizing the adverse impacts of such fuel shortages or dislocations on the American people and the domestic economy and achieving the objectives set forth in section 102.

OBJECTIVES

SEC. 102. In implementing the authority granted under this Act the President shall take such actions as are necessary to achieve the following specific objectives—

(a) protection of public health, safety, and welfare;

(b) maintenance of all public services;

(c) maintenance of essential agricultural operations, including crop plantings, harvesting; and transportation and distribution of food and livestock;

(d) preservation of an economically sound and competitive petroleum industry, including the competitive viability of the independent producing, refining, marketing, distributing, and petrochemical sectors of that industry;

(e) equitable distribution of fuels at equitable prices among all regions and areas of the United States and all classes of consumers;

(f) economic efficiency; and

(g) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

AUTHORITY

SEC. 103. (a) The President may delegate all or any portion of the authority granted under this Act to the Secretary of the Interior or to the head of any other Federal agency he deems appropriate.

(b) The authority granted under this Act shall terminate on September 1, 1974.

(c) The President shall designate an agency to supervise compliance with the requirements of this Act and promulgate regulations hereunder. The head of such agency shall have authority to require periodic reports from the producers, importers, refiners, dealers, and all others subject to the requirements of this Act in such form as may be necessary to determine whether the requirements of this Act have been or are being met.

(d) The head of an agency exercising authority under this Act, or his duly authorized agent, shall have authority, for any purpose related to this Act, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this Act shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena

served upon any person under the provisions of this Act, the head of the agency authorizing such subpena, or his delegate, may resuest the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents before the agency.

(e) Whenever it appears to the head of the agency exercising authority under this Act, or to his delegate, that any individual or organization has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of this Act, or any order or regulation thereunder, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any individual or organization to comply with this Act, or any order or regulation thereunder.

(f) The provisions of this Act, and the authority granted therein, shall take precedence over any program for the emergency allocation of crude oil or petroleum products established by any State or local government, and any conflict between such a program and any program, plan, regulation, or order established pursuant to this Act shall be resolved in favor of the latter.

FUELS ALLOCATION

SEC. 104. (a) Within sixty days of the date of enactment of this Act, the President shall after due notice and public hearings cause to be prepared and published, priority schedules, plans, and regulations for the allocation or distribution of crude oil and any refined petroleum product which is or may be in short supply nationally or in any region of the United States in accordance with the objectives of this Act.

(b) In order to accomplish the objectives of section 102 of this Act, and subject to the provisions thereof, the President is hereby authorized to allocate or distribute or cause to be allocated and distributed, pursuant to the schedules, plans, and regulations required by subsection (a) hereof, any liquid fuel, whether crude or processed, and whether imported or domestically produced, currently or prospectively in extraordinarily short supply nationally or in any region of the United States.

(c) The regulations required by subsection (a) herein shall include standards and procedures for determining or reviewing prices of fuels allocated by the President under the provisions of this Act to prevent (1) appropriation of private property without due compensation or (2) exorbitant price increases reflecting temporary shortage conditions.

(d) The President is hereby directed to use his authority under this Act and under existing law to assure that no petroleum refinery in the United States is involuntarily required to operate at less than its normal full capacity because of the unavailability to said refinery of suitable types or grades of crude oil.

SALES TO INDEPENDENT REFINERS AND DEALERS

SEC. 105. (a) DEFINITIONS.—For the purpose of this section, (1) the "base period" is the period from October 1, 1971, to September 30, 1972, inclusive; (2) "nonaffiliated" refers to a buyer (seller) who has no substantial financial interest in, is not subject to a substantial common financial interest of, and is not subject to a substantial common financial interest with, the seller (buyer) in question; (3) "independent refiner" means a refiner who produced in the United States less than thirty thousand barrels per day of petroleum products during the base period; (4) "independent dealer" means a terminal operator, jobber, dealer, or distributor, at wholesale or retail, who obtains refined petroleum products either on term contract or in spot markets, and who purchased during the base period at least half of such products from nonaffiliated sellers.

(b) In order to achieve the objectives of this Act, (1) any producer or importer of crude petroleum and/or natural gas liquids who produced in the United States and/or imported more than two hundred thousand barrels per day of crude oil and natural gas liquids during the base period shall sell or exchange to nonaffiliated independent refiners or to any other reasonable and appropriate class of refiners established by regulation, in the aggregate during each quarter during the effective term of this Act a proportion of his domestic production and imports no less than the proportion he sold or exchanged to such refiners during the corresponding quarter of the base period; and (2) any refiner of petroleum products who produced in the United States and/or imported more than thirty thousand barrels per day of refined petroleum products including residual fuel oil during the base period shall sell or exchange to nonaffiliated independent dealers or to any other reasonable and appropriate class of purchasers established by regulation, in the aggregate in each quarter during the effective term of this Act, a proportion of his refinery production and imports of said products no less than the proportion he sold or exchanged to such dealers during the corresponding quarter of the base period.

(c) The allocation program established pursuant to this section may be replaced or amended by, or incorporated into, the priority schedules, plans, and regulations promulgated under section 104 hereof.

REPORTS TO CONGRESS

SEC. 106. (a) The President shall submit to both Houses of Congress, and cause to be published in the Federal Register any schedules, plans, and regulations promulgated for implementing the provisions of this Act.

(b) The President shall make to the Congress quarterly reports, and upon termination of authority under this Act a final report, including a summary and description of all actions taken under the authority of this Act, an analysis of their impact, and an evaluation of their effectiveness in implementing the objectives of section 102 hereof.

SEC. 107. All actions duly taken pursuant to clause (3) of the first sentence of section 203(a) of the Economic Stabilization Act of 1970, as amended, in effect immediately prior to the date of enactment of this Act, shall continue in effect until modified and rescinded by or pursuant to this Act.

Mr. JACKSON. Mr. President, I shall defer my opening statement on the bill and the amendment in the nature of a substitute in order that the Senator from Utah (Mr. Moss) can offer his amendment to my amendment in the nature of a substitute.

I yield to the Senator from Arizona (Mr. FANNIN).

Mr. FANNIN. Mr. President, I shall defer my opening statement to accommodate the distinguished Senator from Utah and will make my statement later.

Mr. JACKSON. Mr. President, I ask unanimous consent that Mr. William Van Ness, Mr. Arlon Tussing, Mr. Grenville Garside, Mr. Jerry Verkler and Ms. Suzanne Reed, professional staff members of the Senate Committee on Interior and Insular Affairs, be granted privilege of the floor during consideration of S. 1570, the "Emergency Petroleum Allocation Act of 1973."

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I ask unanimous consent that Mr. Stang and Mr. Jenckes of my office be permitted floor privileges during the debate on the bill as well as when votes occur.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I ask unanimous consent that Mr. Edward Merlis and Mr. Henry Lippek of the Commerce Committee staff be granted the privilege of the floor during the consideration and the vote on amendment No. 159.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent to be able to call up my amendment at the completion of the amendment being offered by the Senator from Utah.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 159

Mr. MOSS. Mr. President, first I wish to thank the chairman of the Committee on Interior and Insular Affairs and the ranking minority member of that committee for proceeding in the manner they have done here by calling up the substitute and deferring opening statements. Pursuant to the unanimous consent agreement obtained by the majority leader, my amendment to the substitute will be called up now even though the time has not yet run out on that substitute. I think that is the substance or the order.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Does the Senator wish his amendment stated at this time?

Mr. MOSS. Yes. I call up my amendment No. 159 and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Utah to the amendment of the Senator from Washington in the nature of a substitute will be stated.

The legislative clerk proceeded to read amendment No. 159.

Mr. MOSS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I will explain it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Amendment No. 159 to amendment No. 145 in the nature of a substitute is as follows:

At the end of the bill add three new sections as follows:

GENERAL PROVISIONS

SEC. 108. (a) SHORT TITLE.—Sections 108 through 110 may be cited as the "Fair Marketing of Petroleum Products Act".

(b) DEFINITIONS.—As used in this Act—

(1) "Commerce" means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

(2) "Base period" means the period from October 1, 1971, to September 30, 1972.

(3) "Franchise" means any agreement or contract between a petroleum refiner or a petroleum distributor and a petroleum retailer or between a petroleum refiner and a petroleum distributor under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned

by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or the sale for purposes other than resale of petroleum products.

(4) "Market area" means any State or any area so defined by the Secretary of the Interior.

(5) "Notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of section 109 of this Act.

(6) "Person" means an individual or a corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

(7) "Petroleum distributor" means any person engaged in commerce in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(8) "Petroleum refiner" means any person engaged in the importation or refining of petroleum products.

(9) "Petroleum product" means any liquid refined from petroleum and usable as a fuel.

(10) "Petroleum retailer" means any person engaged in commerce in the sale of any petroleum product for purposes other than resale in any State, either under a franchise or independent of any franchise or who was so engaged at any time after the start of the base period.

(11) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any organized territory or possession of the United States.

PROTECTION OF DEALERS

SEC. 109. (a) PROHIBITED CONDUCT.—Except as otherwise provided pursuant to this Act, the following conduct is prohibited:

(1) A petroleum refiner or a petroleum distributor shall not deliver or tender for delivery in any quarter to any petroleum distributor or petroleum retailer a smaller quantity of petroleum products than the quantity of such products delivered by him or his predecessor or predecessors during the corresponding quarter in the base period, unless he delivers to each petroleum distributor or petroleum retailer doing business in commerce the same percentage of the total amount as is delivered to all such distributors or retailers in the market area who are supplied by such refiner or distributor.

(2) A petroleum refiner or a petroleum distributor shall not sell petroleum products to a nonfranchised petroleum distributor or petroleum retailer at a price, during any calendar month, which is greater than the price at which such petroleum products are sold to a franchised petroleum distributor or petroleum retailer in the market area except that a reasonable differential which equals the value of the goodwill, trademark, and other protections and benefits which accrue to franchised distributors or retailers is not prohibited.

(b) REMEDY.—(1) If a petroleum refiner or a petroleum distributor engages in prohibited conduct, a petroleum retailer of a petroleum distributor may maintain a suit against such refiner or distributor. A petroleum retailer may maintain such suit against a petroleum distributor whose actions affect commerce and whose products he purchases or has purchased, directly or indirectly, and a petroleum distributor may maintain such suit against a petroleum refiner whose actions affect commerce and whose products he purchases or has purchased.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of such prohibited conduct, including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and punitive damages where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

(c) PROCEDURE.—A suit under this section may be brought in the district court of the United States for any district in which the petroleum distributor or the petroleum refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be brought by any person unless he has furnished notice of intent to file such suit by certified mail at least ten days prior thereto with (1) each intended defendant, (2) the attorney general of the State in which the prohibited conduct allegedly occurred, and (3) the Secretary of the Interior.

PROTECTION OF FRANCHISED DEALERS

SEC. 110. (a) PROHIBITED CONDUCT.—The following conduct is prohibited:

(1) A petroleum refiner or a petroleum distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each petroleum distributor or petroleum retailer affected. Such notification shall be in writing and shall be accomplished by certified mail to such distributor or retailer; shall be furnished not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated; and shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this Act together with a summary of the provisions of this section.

(2) A petroleum refiner or a petroleum distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the petroleum retailer or petroleum distributor whose franchise is terminated failed to comply substantially with essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

(b) REMEDY.—(1) If a petroleum refiner or a petroleum distributor engages in prohibited conduct, a petroleum retailer or a petroleum distributor may maintain a suit against such refiner or distributor. A petroleum retailer may maintain such suit against a petroleum distributor whose actions affect commerce and whose products he sells or has sold under a franchise and against a petroleum refiner whose actions affect commerce and whose products he sells or has sold, directly or indirectly, under a franchise. A petroleum distributor may maintain such suit against a petroleum refiner whose actions affect commerce and whose products he distributes or has distributed to petroleum retailers.

(2). The court may grant an award for actual damages resulting from the cancellation, failure to renew, or termination of a franchise together with such equitable relief as is necessary, including declaratory judgments and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief and punitive damages where indicated in suits under this section, and may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

(c) PROCEDURE.—A suit under this section may be brought in the district court of the United States for any district in which the petroleum distributor or the petroleum refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No suit shall be maintained under this section unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

Mr. MOSS. Mr. President, the pending amendment, No. 159, simply stated, is to provide to the people who distribute and sell refined petroleum products the type of insurance which we are offering in other sections of S. 1570 to people who use refined petroleum products.

Joining me as cosponsors of the amendment are Senators KENNEDY, SAXBE, MAGNUSON, PASTORE, CANNON, STEVENSON, and RIBICOFF.

Although S. 1570 establishes a program requiring appropriate action necessary to protect the public health, safety, and welfare and to maintain public services and agricultural operations, by insuring supplies of petroleum products to priority users, additional assistance is needed in this legislation to insure supply to dealers in petroleum products.

The amendment which we offer would do just that. First, I might note that this amendment is an amalgam of three bills, S. 1599, S. 1694, and S. 1723 on which the Senate Commerce Committee has completed 4 days of hearings in Washington and in other cities. Joining as cosponsors of the amendment are Senators KENNEDY and SAXBE, sponsors of two of the bills on which we have held hearings in the Commerce Committee and several other members of the Commerce Committee who have expressed concern about this problem.

The amendement provides that petroleum refiners and petroleum distributors may not deliver or offer for delivery a smaller percentage quantity of petroleum products than the quantity which they delivered in any quarter of the period of October 1, 1971, to September 30, 1972. If it is necessary for a petroleum distributor or petroleum retailer to curtail deliveries due to the unavailability of petroleum products, or other requirements of S. 1570, then he must curtail deliveries by the same percentage to each distributor or retailer. In this time of constraint all marketeers would face the problem equally and none would have an unfair advantage. Additionally, consumer access to products would be widespread, even though the quantity available from each customary source might be somewhat reduced.

It is particularly important that adequate supplies of refined petroleum products be widely distributed to all segments of the marketing community. Consumers having made use of particular dealers for years should not be forced to switch in order to find fuels for their vehicles, for home heating, or for recreational use.

The amendment also provides that during this time of constraint, all sales of fuels be kept on an even level for franchised and nonfranchised dealers alike. There is a proviso, however, that nonfranchised dealers, those who do not have the protection of the good will, trademark and other benefits which accrue to a franchised dealer, may be sold their supplies at a small reduction, the differential being equal to the value of the protection afforded to the franchised

dealer through trademark and other rights.

This requirement will serve several objectives. First, it is necessary for a competitive marketplace to exist. If the economies of scale and service can be translated into lower costs for the consumer that option should remain. Additionally, a course of supply for independents is useless if the price charged to independents is excessive. By instituting this control, we will insure that equitable prices exist among all dealers of petroleum products in this time of shortage.

To remedy violations of the amendment, we have provided for suits to be brought against refiners or distributors who engage in the conduct prohibited by the amendment. It is not envisioned that many suits will occur since compliance with this kind of program is usually quite high. However in those cases where there is a lack of compliance, where there is discrimination, the ability of a dealer to bring a suit should serve as a deterrent. Furthermore, the suit itself and the potential for injunctive relief will insure that marketers will remain in business.

Considering that most dealers have very short time fuses on their product supply, it is imperative that immediate action be obtainable, and immediate action can only be obtained through the judicial process.

Several safeguards have been put into the amendment to insure against improper actions. The amendment provides that a notice of intent to file a suit under the provisions of this legislation be sent, at least 10 days prior to the filing of the suit, to the prospective defendants, to the attorney general of the State in which the violation allegedly occurred, and to the Secretary of the Interior. This notice provision, and the 10-day time lapse prior to the filing of a suit should insure that suits will not be brought in cases of inadvertent errors. We firmly believe that this notice provision should eradicate even more the likelihood that suits will arise.

Additionally, damages are not a remedy available for a violation. As a result, the only effect of a suit would be continuation of supply. We would not want people buying up abandoned dealerships for the sole purpose of filing suits and collecting damages. Thus, the injunctive relief remedy is the principle objective if a violation should occur.

In addition to providing for nondiscriminatory treatment to independent dealers, it is necessary to develop protection for branded dealers from arbitrary termination, cancellation, or failure to renew their leases or franchise agreements. Similar protection was provided to automobile dealers more than 16 years ago with the passage by the Congress of automobile dealers day-in-court legislation.

The amendment provides that petroleum distributors and petroleum refiners may not arbitrarily cancel, fail to renew, or terminate a franchise unless several conditions are met. These are: First, that the franchise failed to comply substantially with the essential and reasonable requirements of the franchise; second, that the franchisee failed to act in good faith in carrying out the terms of the franchise; and third, that the franchisor no longer is engaged in the sale of the products in question for resale.

The amendment is not designed, however, to insulate franchises in perpetuity. There are set forth appropriate defenses which will permit the franchisor to terinate the agreement when there is just cause.

Mr. President, the protections which the amendment provides are necessary protections. The hearing record and the experience of each of us is replete with examples of arbitrary cutoffs, unilateral price increases, and terminations of franchises. These problems, at a time of shortage, further compound the problems of the user and makes a difficult situation even worse.

Testimony has been received concerning the plight of the independent marketer. Eight jobbers in the Chicago area told of how they had been cutoff from their supplies. This represented 58,600,000 gallons of gasoline in their marketing area, 4,600,000 gallons of diesel, and 9,700,000 gallons of fuel oil. These jobbers represented more than 100 years of service in the area, 77 service stations, 275 commercial accounts, 611 farm accounts, and 3,500 residential accounts. Everyone of these would be out of business and along with them 286 families directly working for or supplied by these jobbers would be unemployed. These were branded jobbers.

Another situation was presented to the committee by the president of Romaco Petroleum, an independent in Montgomery, Ala. Romaco, by the end of the week will have closed 209 service stations which provides service in a wide ranging area, both urban and rural, in the Southeastern United States; 800 families would find their breadwinners unemployed as a result of the Romaco closing.

The toll in hardship and unemployment which would result were this amendment not adopted is of great magnitude.

While I have already discussed why this amendment would not burden the courts, I would like to specifically review the litigation that has been brought under the "Automobile dealers day in court" legislation which the Congress passed 16 years ago. The National Automobile Dealers Association reports that on the average, 25 cases are reported each year. Considering that there are more than 30,000 auto dealers to whom this legislation applies, it appears that actions are brought in only one-tenth of 1 percent of the eligible cases. This kind of record over a long period of time demonstrates that the remedies proposed in the amendment will not present any burden on the courts.

Mr. President, a vote for this amendment is a vote for continued source of supply for the small businessman, and a vote against discrimination in the marketplace.

Mr. President, I understand, and a folder came to my attention this morning, that some oil industry representatives have prepared arguments concerning the amendment that was offered. Unfortunately, however, they have directed their arguments toward amendment No. 140. The amendment pending before the Senate this morning is amendment No. 159 which has been revised over a period of time in consultation with the chairman of the Interior Committee, with the staff of the Commerce Committee, and the observations and suggestions made have been adopted into the amendment.

As far as I can see, the objections offered have all been remedied in the text that is incorporated into amendment No. 159.

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

Mr. MOSS. I yield.

Mr. JACKSON. Mr. President, as the Senator from Utah has mentioned, I have been working with him in making certain revisions in the proposed amendment. My staff from the Committee on Interior and Insular Affairs has been working with the Commerce Committee staff on this amendment.

Mr. President, I believe this is a good amendment.

It does get at a very serious problem, and it strengthens the bill, the basic problem being discrimination in the area of supply and price. It helps to protect the branded dealer as well as the independent dealer.

I believe it makes a lot of sense, and I think it should help to bring us through a very difficult period, Mr. President, when we are trying to find equitable and fair ways, in effect, to ration shortages.

The burden under the Moss amendment, of course, runs to the petroleum refiner and the petroleum distributor to insure that the dealers, both the branded and the independent dealers, can get a fair shake on supply and on price.

I believe, Mr. President, that it is most important that we have a strong, viable, and competitive petroleum industry in this country. I, and I know the distinguished Senator from Utah as well, are not trying to work a hardship on any one segment of energy enterprise. I know he wants to be fair, as I want to be fair, to all elements that make up the enormous energy system in this country as it affects petroleum operations. So I compliment the distinguished Senator from Utah, who has been working on consumer problems for a long time, and has been a real leader in the Committee on Commerce and the Senate for what I think is a strengthening of the bill. His effort will make it a better bill.

I strongly support the amendment.

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

Mr. MOSS. I will in just a moment.

Mr. President, I compliment my colleague from Washington, the chairman of the Committee on Interior and Insular Affairs. His analysis of the purpose of the amendment is precisely what we are trying to do.

We have built up a great distribution system, over the years, in the petroleum industry. What we are saying is that that system shall remain intact and continue to operate, even though we have switched from a surplus situation to one with shortages; one that does not quite measure up to the amount of supply we had before to meet the demands.

This is all we are trying to accomplish, just to keep the distribution system in business by saying that if there is any shortage, everyone has to share the shortage in proportionate amounts.

I am happy to yield to the Senator from Ohio.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. I believe that on the amendment, the time on behalf of the proponent is under the control of the Senator from Utah, and the time in opposition would be under the control of the Senator from Arizona.

The PRESIDING OFFICER. The Sentor from Utah has only 1 minute remaining; 11 minutes remain to the other side, in opposition.

Mr. FANNIN. Mr. President, I yield the Senator from Ohio 2 minutes.

Mr. SAXBE. As a cosponsor of this amendment, I wish to state that while it is not entirely in keeping with the bill that I proposed and on which I have some 30 cosponsors, it goes a long way toward satisfying my main point, which is a fair distribution of the available gasoline so that it is not just sent out to the company stations, but will enable the independent jobbers and independent station owners to stay in operation. I think this is extremely important. Supporting this bill today stems from the immediate need to begin finding solutions to our present fuel problems.

I have agreed to combine my bill, S. 1599, with those of Senators KENNEDY and Moss because we must begin to conserve and allocate our petroleum products as soon as possible. It is my hope that we shall continue to seek even more effective remedies to our pending energy crises.

This bill would have more teeth if authority was given to the Federal Trade Commission because they are better equipped to enforce any alleged violations. For a refiner to refuse to sell to independent marketers a percentage of his total sales to all retail outlets during a given month would be a prima facie violation of the Federal Trade Commission Act. This measure will prevent the leveling of tremendous pressure, allowing the major companies to do as they will with the market. I believe, and my bill so stated, that the authority should have been under the Federal Trade Commission. This measure does not permit that, but it goes a long way toward giving a right of complaint and action. I am working on an even further development along that line, which would give power to a central agency to control. Allowing a dealer or jobber to seek a remedy in court, including an injunctive relief, may result in increased confusion and impede the effectiveness of the nationally coordinated effort which we seek.

I am sure that the cosponsors of my bill will go along with this amendment. I believe that the amendment does a great deal toward accomplishing what we tried to do. However, there is still more to be done, and I believe that we will have to introduce something to make it even stronger, to put more teeth in it. This is a good attempt, but I am not at all satisfied that it is going to succeed. It will indicate, however, the will of Congress that these independent jobbers and independent station operators be kept in the market.

We have had experiences out in Ohio where as many as 50 out of 80 stations of 1 independent have been closed, and I am sure there are a great many others.

Mr. FANNIN. Mr. President, I yield myself 5 minutes.

I rise in opposition to this amendment because I feel it is inconsistent with section 109 of the Jackson substitute bill.

Section 109, which is designated "Protection of Dealers," requires a petroleum refiner or distributor to deliver in any quarter to a distributor or retail customer a quantity of petroleum products not less than that delivered during the corresponding quarter in the period from October 1, 1971, to September 30, 1972, unless he delivers to each distributor or retailer an equal percentage of the total delivered to all distributors or retailers in the marketing area. This section further provides that sales to unbranded distributors or retailers shall be at a price no greater than the price charged branded distributors or retailers less a reasonable differential for goodwill, trademark, credit card, advertising, and other benefits accrued to branded distributors or retailers.

My comment is that the allocation provisions of section 109 create substantial conflicts with the allocation procedures contemplated in section 105 of the bill—Jackson amendment. The formula for determining the sales price to unbranded accounts is not susceptible to precise quantification and undoubtedly will spawn substantial controversy and litigation. That is what I am most vitally concerned about.

Moreover, it would create a discriminatory preference in favor of unbranded dealers since competitive factors between branded and unbranded dealers will be much different in periods of shortage than was the case in earlier periods.

Section 110, styled "Protection of Franchise Dealers," would create a Federal "dealer's day in court" law which would restrict a supplier's right to cancel, not renew or otherwise terminate a lease or sales agreement unless it could be shown that the retailer or distributor had failed to "comply substantially with essential and reasonable requirements" of the agreement or failed to act in "good faith."

What might be deemed to be the "essential and reasonable" provisions of the franchise agreement is anyone's guess. In any event, distributors and retailers are independent businessmen who are free to conduct their business without their activities being under the direct guidance and control of their supplier. Specific dealer performance standards are not customarily written into the sales or lease agreement. This bill is contrary to the best interests of the U.S. motoring public in that it would prevent a supplier from replacing an inefficient and mediocre dealer who is rendering shoddy service to gasoline consumers. In addition, it is anticompetitive in that it would block new entrants into the service station business—an attractive opportunity for small businessmen with limited capital—by giving the existing group of dealers a permanent hold on existing station sites, regardless of the number of customer complaints which they may generate, petroleum refiners have a strong economic interest in retaining good dealers to protect their service station investments—in many instances in excess of $250,000 per station. Dealers doing a good job in servicing the motoring public need not fear unjust cancellation or termination. Legislation of this type can only push suppliers into directly operating their own stations, thereby reducing opportunities for independent businessmen.

There are also other legal issues. This amendment creates several new causes of action and extends the jurisdiction of Federal district courts by eliminating the amount in controversy requirement.

Accordingly, this legislation should be also considered by the Judiciary Committee.

Moreover, section 110 by granting lessee-dealers what amounts to a right of lifetime tenure and occupancy deprives petroleum companies of an interest in their station properties without compensation and, therefore, results in a denial of due process under the U.S. Constitution.

I feel that this amendment would result in an invasion of the rights of the people involved, and that the amendment would cause considerable unnecessary controversy. Certainly, it is unneeded and would be unfair to our free enterprise system.

Mr. President, I withhold the remainder of my time.

Mr. JACKSON. Mr. President, I ask unanimous consent that the senior Senator from Washington (Mr. MAGNUSON), and the senior Senator from Connecticut (Mr. RIBICOFF) be added as cosponsors to my amendment in the nature of a substitute, No. 145.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

Mr. MOSS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute remains to the Senator from Utah.

Mr. MOSS. That is not very much time.

Mr. President, I ask unanimous consent that a section-by-section analysis of my amendment be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

GENERAL PROVISIONS

Section 108. Subsection (a) provides that the short title of sections 108 through 110 be the "Fair Marketing of Petroleum Products Act."

Subsection (b) establishes the definitions to be used in sections 108 through 110. "Commerce" is defined as meaning commerce among the States, with foreign nations, in any State, or between any State and foreign nation. The broad definition is intended to permit extensive authority to bring actions under this Act. Thus practices which may appear local in character but have an adverse impact upon interstate commerce would be subject to the provisions of the Act.

"Base period" is defined as the period from October 1, 1971 to September 30, 1972. This time period is consistent with the base period.

Used in other sections of S. 1570, "Franchise" is defined as an agreement or con-

tract between a petroleum refiner or a petroleum distributor, under which a retailer or a distributor is granted authority to use the trademark, trade name, service mark or other identifying symbols or name owned by the franchisor. Additionally, a "franchise" would be any type of agreement or contract between or among the aforementioned parties which grants authority to a petroleum retailer or petroleum distributor to occupy premises which are owned, leased, or in any way controlled by the refiner or distributor or other parties to the lease, for the purpose of selling at retail or wholesale the petroleum products produced by the refiner or distributor owning the lease or controlling the property. A franchise would also include a situation whereby a retailer leases to a distributor or refiner space or facilities on the retailers premises to market the petroleum products of the distributor or refiner. This situation exists in a number of locations where chain stores or single unit stores lease to a refiner or distributor. In this situation, the lessor is in reality the retailer and the lessee is the distributor for the purposes of sections 109 and 110.

"Market area" as used in this title means any State or any area defined as a "market area" by the Secretary of the Interior. A "market area" would be a geographic region in which there are smaller marketing characteristics. A "market area" might include the entire area served by one or several petroleum refineries, or, a "market area" might be the geographic region served by a distributor or a number of petroleum distributors headquartered in a metropolitan area.

"Notice of Intent" is defined as a written statement of the alleged facts which, if proven, would constitute a violation of section 109 of the Act.

"Person" is defined in paragraph (7) to mean an individual, corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

"Petroleum distributor" is defined as being any person engaged in commerce in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or any way controls such outlets. This definition would include, but is not limited to, terminal operators, jobbers, and any other person involved in the distribution of petroleum products who does not sell at retail. It is intended that an inter-refiner exchange be considered as a refiner-distributor transaction.

"Petroleum refiner" is defined as any person engaged in the importation or refining of petroleum products. Neither the definition of "refiner" nor "distributor" is intended to mean that the terms are mutually exclusive. There are refiners who are also engaged in commerce as distributors and would thus be liable to the provisions of the Act at both levels.

"Petroleum product" is defined in paragraph (10) as a liquid refined from petroleum to be used as a fuel. It is the purpose of this definition to preclude other refined petroleum products, such as asphalt, which are not used as a fuel or are not liquid.

"Petroleum retailer" is defined as being any person engaged in commerce in the sale of petroleum products for purposes other than resale in any State. The term is designed to apply to persons both under a franchise agreement or independent of a franchise agreement who were engaged in the sale of petroleum products at any time after October 1, 1971.

"State" as defined in paragraph (12) includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and other territories or possessions of the United States.

Subsection (a) establishes the conduct which is not permitted under this section. There is a condition, however, that conduct which is prohibited by section 109 is permissable if performed in order to fulfill other provisions of the Emergency Petroleum Allocation Act. Thus, a defense of prohibited conduct is that the head of the agency supervising compliance with Emergency Petroleum Allocation Act directed the offending party to commit the prohibited act in order to carry out his responsibilities as enumerated or as directed pursuant to this Act.

Subsection (a) (1) prohibits the delivery or the offering or tendering for delivery of smaller quantities of petroleum products during any quarter, than the quantities of these products delivered by a petroleum refiner or a petroleum distributor during the corresponding quarter of the period October 1, 1971 to September 30, 1972, unless the total amount of petroleum product available for delivery by a petroleum distributor is less than the amount delivered during the base period. If quantities available for delivery are reduced the petroleum refiner or petroleum distributor must deliver or offer for delivery to each petroleum distributor or petroleum retailer doing business in commerce the same percentage of the total amount available as is delivered to all distributors or retailers in the market area who are supplied by the subject refiner or distributor. It is intended that the tendering for delivery of no petroleum product is to be considered the tendering for delivery of a smaller quantity and thus would constitute prohibited conduct.

A petroleum distributor may deliver a smaller quantity of petroleum products to a petroleum retailer if the petroleum distributor similarly delivers the same percentage of the amount that he delivered to all retailers in the market area during the corresponding quarter of the base period, October 1, 1971 to September 30, 1972.

The same obligation to deliver similar percentages holds for deliveries from a petroleum refiner to a petroleum distributor, or in an inter-refinery exchange.

The subsection might operate in this manner: Petroleum refiner A delivered 10 million gallons of gasoline to various petroleum distributors during the first quarter of the base period. Petroleum refiner A have available 8 million gallons of gasoline during the current corresponding quarter. Petroleum refiner A must offer for delivery to each petroleum distributor with whom he has done business in commerce during the first quarter of the base period, 80% of the quantities delivered by him during the corresponding base period quarter. Petroleum refiner A may not offer for delivery less than 80% of the quantity delivered during the base period to any individual distributor.

The subsection does not require adjustments to the quantity offered for delivery if an individual distributor does not take advantage of the tender. For example, petroleum refiner A, having available only 80% of the quantity of gasoline which was available during the corresponding base period quarter must make available to each petroleum distributor with whom he did business during the base period 80% of the amount sold to each petroleum distributor during the corresponding quarter of the base period. If petroleum distributor B decides not to take advantage of this offer, the petroleum refiner may dispose of the allocation offered to petroleum distributor B in a manner of the refiner's choosing.

A similar responsibility holds for the relationship among petroleum distributors and between petroleum distributors and petroleum retailers. Thus petroleum distributor C who has available for delivery 75% of the quantity of gasoline available for delivery in the first quarter of the base period may not make available for delivery to other petroleum distributors or petroleum retailers with whom he has done business during the corresponding quarter of the base period less than 75% of the gasoline which is available during the current corresponding quarter.

In short, subsection (a) (1) requires petroleum refiners and petroleum distributors to make available to petroleum distributors and petroleum retailers the same amount of petroleum products as were delivered during the base period for each corresponding quarter. If it is necessary for a petroleum refiner or a petroleum distributor to make available less of the petroleum product during any corresponding quarter, then he must make available to each petroleum distributor or petroleum retailer the same percentage of the total amount that he delivers to all petroleum distributors or petroleum retailers in the market area. The concept of market area is included in order to enable those engaged in national operations to cope with widespread geographic constraints. For instance, if petroleum refiner C has refineries in two separate market areas and one market area can match the delivery requirements of the base period and the other refinery cannot, then petroleum refiner C must deliver in the former case the same quantity to all distributors in his market area as was delivered during the corresponding base period quarter and must deliver a reduced amount to all petroleum distributors in the market area for which he does not have available product. The reduced amount available for delivery must then be apportioned to all to whom the distributor sold during the corresponding quarter of the base period in a non-discriminatory manner.

Subsection (a) (2) describes conduct concerning price which is prohibited. The subsection prohibits refiners and distributors from selling petroleum products to petroleum distributors or petroleum retailers who are not franchised at a greater price during any calendar month than the refiner or distributor sells to distributors or retailers who operate under his franchise. The subsection also permits petroleum refiners and petroleum distributors to subtract from the price at which petroleum products are offered to petroleum distributors and petroleum retailers operating under franchise, a reasonable differential when offering petroleum products to petroleum distributors and petroleum retailers who are not under franchise. The differential which is subtracted from the price paid by franchised dealers shall be equal to the value of the goodwill, trade mark, and other protections and benefits which accrue to franchised distributors or retailers.

In calculating the differential, refiners and distributors would calculate the benefits of trade mark protection which include in part advertising territorial protection, branded tires, batteries, and accessories, marketing assistance from the franchisor, and credit card rights. The refiner or distributor would then subtract the dollar value of the benefit from the price at which petroleum products are offered to petroleum distributors or petroleum retailers who operate independently of a franchise agreement.

It is intended that price be net price included temporary or permanent competitive allowances, rebates on leases, discounts on branded tires, batteries and accessories which are offered, to the franchised dealer. No subsidy in any form, such as differing payment terms, may be offered in an attempt to alter the actual price which a franchised distributor or retailer pays if when compared with the actual price which the non-franchised distributor or retailer pays, the effect of the subsidy is to reduce the price to the franchised retailer or distributor.

Subsection (b) (1) provides that a petroleum retailer or petroleum distributor may maintain a suit against a petroleum refiner or petroleum distributor who engages in prohibited conduct. A petroleum retailer may maintain such a suit against a petroleum distributor whose actions affect commerce and whose products he purchases or has pur-

chased directly or indirectly. A petroleum distributor may maintain such a suit against a petroleum distributor or a petroleum refiner whose actions affect commerce and whose products he purchases or has purchased. To the extent that a petroleum refiner may also be a petroleum distributor, the language of this subsection is not intended to preclude suits by petroleum retailers against petroleum refiners.

Subsection (b) (2) provides that the court shall grant equitable relief as is necessary to remedy the effects of prohibited conduct. The relief set forth in this subsection is limited to declaratory judgment and mandatory or prohibitive injunctive relief. Additionally, the court is authorized to grant interim equitable relief and punitive damages where indicated in suits arising under Section 109. Unless a suit is frivolous, the court may direct that costs, including reasonable attorney's fees be paid by the defendant. It is the intent of the remedy subsection to maintain supply of refined petroleum products for petroleum distributors and petroleum retailers. Actual damages are not provided for since it is the objective of this section to prevent the prohibited conduct, and where prohibited conduct has taken place, to grant as expeditiously as possible, appropriate relief so that petroleum distributors and petroleum retailers may continue to market petroleum products. Injunctive relief is designed as a remedy which can provide quick relief from prohibited conduct.

Subsection (c) establishes a procedure permitting suits under Section 109 to be brought in the district court of the United States for any district in which the petroleum distributor or the petroleum refiner who is alleged to have engaged in prohibited conduct resides, is found, or is doing business, without regard to the amount in controversy. The subsection further provides that prior to bringing such a suit the person intending to bring the suit must furnish a notice of intent to file the suit by certified mail, at least ten days in advance, with each intended defendant, the Attorney General of the State in which the prohibited conduct allegedly occurred, and the Secretary of the Interior. It is the intention of the notice requirement to forestall, wherever possible, litigation which may arise due to misunderstanding, clerical errors, or inadvertent temporary conditions which may have caused apparent violations of section 109.

PROTECTION OF FRANCHISED DEALERS—(SECTION 110)

Subsection (a) establishes the conduct which is not permitted under this section.

Subsection (a) (1) prohibits a petroleum distributor or a petroleum refiner from arbitrarily cancelling, failing to renew, or terminating a franchise without having furnished notification in writing, by certified mail to the retailer or distributor operating under a franchise that the franchise will be cancelled, not renewed, or otherwise terminated, at least 90 days prior to the date on which the franchise was or will be cancelled, not renewed, or otherwise terminated. The notification, must include a statement of the intention to cancel, not to renew, or to terminate together with the reasons for such proposed cancellation, failure to renew, or terminate, the date on which this action will take effect and a statement of the remedy available to the retailer or distributor under this Act together with a summary of the provisions of this section. It is envisaged that under these circumstances, there will always be a minimum of 90 days prior to cancellation, termination, or nonrenewal during which the disputes between the parties can be satisfactorily resolved or litigation commenced.

Subsection (a) (2) prohibits the cancellation, failure to renew or otherwise terminate a franchise unless the petroleum distributor or petroleum retailer whose franchise was terminated or will be terminated failed to comply substantially with the essential and reasonable requirements of the franchise or failed to act in good faith in carrying out the terms of the franchise agreement, unless the refiner or distributor has withdrawn or plans to withdraw entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

Subsection (b) provides that a petroleum retailer or a petroleum distributor may maintain a suit against a petroleum refiner or a petroleum distributor who engages in prohibited conduct. A petroleum retailer may bring such a suit against a petroleum distributor whose actions affect commerce and whose products he sells or has sold under franchise and against a petroleum refiner whose actions affect commerce and whose products he sells or has sold. A petroleum distributor may maintain such a suit against a petroleum refiner whose actions affect commerce and whose products he distributes or has distributed to petroleum retailers.

Subsection (b) (2) provides that the court may grant an award for actual damages resulting from the cancellation, failure to renew, or termination of the franchise, together with such equitable relief as is necessary including declaratory judgments and mandatory or prohibitive injunctive relief. The court is authorized to grant interim equitable relief and punitive damages where indicated in suits under this section. The court may, unless the suit is frivolous, direct that costs, including reasonable attorney's fees, be paid by the defendant.

Subsection (c) provides that a suit under this section may be brought in the district court of the United States for any district in which the petroleum distributor or the petroleum refiner against whom the suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. This subsection provides for a statute of limitations of three years. A suit may not be brought under this section unless it is commenced within three years of the cancellation, failure to renew, termination of the franchise, or modification of the franchise agreement. It is intended that renewable franchise agreements be considered as modified, and therefore subject to a suit, with each succeeding renewal. Thus, if a distributor or retailer has held a periodically renewable franchise for the past ten years, a suit may be brought under this section for cancellation, failure to renew or termination of the franchise if the franchise agreement has been modified within three years of the failure to renew, termination or cancellation.

In summary, Section 110 provides that franchises of petroleum distributors or petroleum retailers may not be terminated, not renewed, or cancelled except when appropriate notice is furnished 90 days in advance of the date of the termination, cancellation, or failure to renew, and only if the franchisee has failed to comply substantially with essential and reasonable requirements of the franchise or the franchisee has failed to act in good faith in carrying out the terms of the franchise. A petroleum refiner or a petroleum distributor may cancel, terminate, or fail to renew a franchise if the refiner or distributor withdraws entirely from the sale other than resale of petroleum products in the United States.

If a petroleum distributor or a petroleum refiner fails to fullfill his responsibilities with regard to franchise terminations, then a franchisee may maintain a suit for actual damages and equitable relief as set forth in the section.

Mr. MOSS. Mr. President, what I should like to point out in the time remaining to me is that the dealers day in court is modeled largely on the automobile dealers day in court. As I pointed out before, they have averaged at most 25 cases a year filed. But it is the accessibility of this remedy that causes the dealership business in automobiles to work so well. This is what we are providing here for service stations and jobbers. Already many of them are going out of business. Hundreds have gone out of business in just a short time. I cited other examples of how the squeeze is on.

If we do not have this, or something akin to it, we will have a concentration of dealerships down to those with integrated oil companies and the independent will be gone, the franchisee will be gone, and the distribution system will all be set awry in the country. It would be a damaging thing.

This is in the interest of the consumer. That is how we got hold of it in the first place and began to work on it in committee as a consumer matter, because it affects everyone who uses petroleum products whether or not there is a distribution system in existence that he can use. The independent must be preserved. The franchisee must be preserved. The public still has to have a choice. There must be some measure of competition, even though we have come upon a shortage of supply of petroleum products.

Therefore, Mr. President, I strongly urge that the amendment be adopted.

Mr. FANNIN. Mr. President, there are many problems with this amendment. In trying to solve them, we will be creating new problems. There is nothing in the amendment to prevent the independent dealer from raising prices. If the Senator from Utah says that this will protect the consumer, that would certainly be a consideration, but if we look into all the problems involved, I believe it would be unwise to accept the amendment because it is so much at variance with the pending bill.

I feel confident that when Senators look into what is wrong with the amendment, if it is agreed to, it will far outweigh the benefits that would accrue.

Therefore, Mr. President, I urge rejection of the amendment.

Mr. President, how much time remains to me?

The PRESIDING OFFICER. Two minutes.

Mr. FANNIN. Well then, Mr. President, just to conclude with my objections to the amendment, granting lessee dealerships, what amounts to writing a lifetime tenure for workers, would deprive the companies of an interest in their station properties without compensation. This is unjust. Here we are talking about continuing in one area and cutting off in another. I feel that this denial of due process under the Constitution is absolutely wrong and I trust Senators will consider what is involved.

Mr. MONDALE. Mr. President, in the 3 weeks since the President announced a voluntary allocation plan for gasoline and other petroleum products, we have all hoped that this plan would produce quick results. In spite of the grave reservations which I and others have held regarding the anticompetitive nature of such a voluntary plan, we felt a strong need to get adequate supplies to refiners and dealers and others facing supply problems. We have given this voluntary plan a decent interval during which to prove its worth.

Unfortunately, there are many indications that the voluntary plan simply is not working. In Minnesota, over 150 independent service stations have closed, and the number that have been able to reopen since the voluntary plan went into effect has been small. A significant number of major Minnesota trucking firms have been told that their fuel supply contracts have been terminated, and some of them have been unable to negotiate new contracts. Major oil suppliers, including Gulf and Sun Oil have indicated their desire to pull out of the Minnesota market, and are now staying in the State on only a temporary basis.

But perhaps most damaging, farmers in Minnesota—and elsewhere in the Midwest—simply are not getting the fuel supplies they will need throughout the summer and fall if we are to avert major price increases in food supplies.

Just last week, I received a telegram from the President of Midland Cooperatives, a major farm cooperative organization which serves tens of thousands of farm families throughout the upper Midwest. Midland owns a refinery in Cushing, Okla., which has a crude oil refinery capacity of about 19,000 barrels per day. Yet this refinery for months has been unable to operate at full capacity because of their inability to obtain crude oil. They expected that the voluntary allocation system would help, but thus far it has produced no results.

Mr. President, I ask unanimous consent that the telegram from Mr. Sigved Sampson, president of Midland Cooperatives, be inserted in the RECORD at this point.

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

MINNEAPOLIS, MINN., *May 25, 1973.*

Hon. WALTER F. MONDALE,
Senate Office Building,
Washington, D.C.

I talked with your assistant, Mr. Colloff, this morning and related to him our position on crude oil. We placed a good deal of confidence in Mr. Simon's announcement of May 10 of the voluntary allocation program of petroleum products. We have sent the following telegram to all historic suppliers during the base period: "In accordance with the voluntary allocation program announced May 10th we request a statement from blank on the amount of crude oil we may expect to receive. Our records indicate during the base period of 10–1–71 through 9–30–72 you supplied Midland blank barrels or an average of blank bpd. We are in short supply of crude oil and will be forced to shut our refinery down in early June. We will appreciate receiving a reply on our request as soon as possible."

These historic suppliers are: Kerr-McGee Corporation, Oklahoma City, Okla.; Sun Oil Company, Philadelphia, Pa.; Mobil Oil Corporation, Dallas, Texas; and Continental Oil Company, Houston, Texas.

To date there has been no response in the way of "wet barrels" at our Cushing refinery. We have been getting considerable conversation but no indication that these companies will honor the program, in spite of public announcements by some of the companies to this effect.

We have also applied for Federal royalty oil which was announced to be available to interior refineries in March. We filed our application on 3–15–73. We have been verbally assured that 11,400 barrels a day would be made available to us. There has been one delay after another as far as positive action on this award has been concerned. If our refinery is forced to close because of the lack of crude oil, we will be unable to furnish our members with their product needs this summer and fall.

We appreciate the many efforts you have made in our behalf. We hope the situation will materialize in such a way that we will not have to call upon you so often.

SIGVED SAMPSON,
President and General Manager.

Mr. MONDALE. If the voluntary allocation system is to work at all, it should be working for Midland Cooperatives. Here is a supplier of farm families—which, according to the allocation guidelines should be getting top priority—which for 3 weeks has been unable to translate public assurances of support into firm commitments.

This is a situation which must not be allowed to continue. We cannot have farmers, municipal governments, and transit and trucking companies unable to obtain the vital fuels they need to continue operation in our State and other States experiencing supply difficulties.

This problem, of course, is not a new one. As long ago as last September, I wrote to the Office of Emergency Preparedness warning of a shortage in fuel oil during the 1972–73 winter. Their response, as has continually been the case, was to downplay the importance of the situation. Additional letters and telegrams in December and January produced no results. On February 15 I sent a telegram to President Nixon, requesting him in the most urgent terms possible to use the allocation powers which I believe he possesses under the Defense Production Act.

Mr. President, I ask unanimous consent that this telegram be printed in the RECORD at this point.

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

FEBRUARY 15, 1973.

Hon. RICHARD M. NIXON,
President of the United States,
The White House, Washington, D.C.

MR. PRESIDENT: In view of the worsening fuel oil supply situation in the state of Minnesota in the upper Midwest, I urge immediate action on your part to exercise powers available to you under the Defense Production Act.

It is clear that the crisis in Minnesota is on the verge of affecting the national security. When factories employing thousands of workers in production of defense-oriented material are within days of closing, the national defense has clearly been affected, and your power to act under the Defense Production Act is clear.

In particular, I strongly urge you, under authority vested in you by 50 U.S.C. section 2071(a) to take two immediate actions: first, the 60 to 90 day supply of fuel—amounting to hundreds of millions of gallons—which the Defense Department has in storage must be released for civilian use, and a substantial portion of this fuel allocated to those states like Minnesota where the crisis is gravest. If this does not occur, a survey conducted by Minnesota Civil Defense officials indicates that at the end of February we can expect heat to be shut off to 105,000 homes, 18,000 stores, and 540 factories. Clearly, such a development impacts immediately on the national defense, and action must be taken without delay.

Second, under authority of 50 U.S.C. 2071 (a)(1), I urgently request that you shift those contracts which have already been arrived at for allocation of fuel oil and require that those contracts necessary to alleviate the crisis shall take immediate preference over any existing contracts. In particular, I urge you to exercise your statutory power "to require acceptance and performance of such contracts in preference to other contracts" to provide immediate fuel needs in my state.

For example, the government of Minnesota has been unable to attract any bids for fuel for use by the state government on the wholesale contract. The state's current contract expires at the end of February, and should they be unable to secure sources of supply, the entire operation of state government in Minnesota will be threatened. Surely, this also impacts on the national defense in a most dangerous manner.

The power to take these actions is clearly vested in you by statute. I urge you to take these and whatever other actions necessary to head off a major crisis which will cause tragic consequences if it is not corrected immediately.

Senator WALTER F. MONDALE.

Mr. MONDALE. The response to this telegram was perfunctory. As many people predicted, the fuel oil crisis of this past winter quickly began to change into a gasoline crisis this spring. Still, Government and industry officials continued to tell us that there would be no major problems over the course of the spring and summer.

Once again, they have been proven wrong. Once again, we have seen the independent segment of the petroleum industry hit hardest—just as they were last winter. And once again, we should ask why this is being allowed to happen.

As occurred this past winter, the major oil companies have continued to use the shortage situations which they themselves have helped create as the excuse to force the independent segment of the industry to its knees. As the Federal Trade Commission recently stated, there is the strong possibility "that major oil company control of refinery capacity and pipelines has contributed in a major way" to the shortages of gasoline we are now experiencing. To those in the industry, this should come as no great surprise.

And recent figures clearly illustrate that the majors are doing everything in their power to continue the squeeze on independent refiners, wholesalers, and dealers. A special report of the National Petroleum Refiners Association dated May 17, while arguing for relaxation of environmental restrictions on processing of "sour" crude, in fact revealed that there is at the present time 117,000 barrels per day of unused refinery capacity which could be used by smaller, independent refiners if the majors would sell them adequate sweet crude.

These figures are shocking. They clearly reveal that the major oil companies, while continually stating that they are attempting to help the independent refiners, are in fact withholding significant amounts of sweet crude which independents could refine, and in place of which the majors—and only the majors—could refine sour crude with no loss in total crude runs.

In addition, there have been indications in recent weeks that the administration is preparing to relax still further the price controls ostensibly put on the industry in March. Under these controls, oil companies are permitted to raise

prices up to an average of 1.5 percent if the increases can be justified on the basis of increased costs.

Yet, under this seemingly stringent guideline, prices for fuel products have soared—and so have oil company profits. In April, wholesale prices for gasoline jumped an incredible 13.8 percent, a yearly rate of increase of 165.6 percent. Also, retail prices of gasoline and motor products rose at an unadjusted rate of 1.5 percent or an annual increase of 18 percent.

Both of these figures are startling. Together, they pose a major problem for the months ahead. These increases were put into effect in spite of the Cost-of-Living Council guidelines. But perhaps most interestingly, the glaring discrepancy between wholesale and retail price increases suggests that the major oil companies which control supply are loading their principal price increases into the wholesale sector, where they affect independents most drastically. While some of the discrepancy between wholesale and retail price increase reflects the usual lag between these two indices, the magnitude of the difference suggests that the majors are attempting to put the bulk of their price increases in that sector of the market which will hurt the independents most severely.

And while these price increases are occurring, oil company profits are soaring. Even before the huge price increases of April, oil industry profits for the first quarter of 1973 rose by almost 30 percent. Some of the individual increases ranged as high as 49 percent and 52 percent.

So the situation we find ourselves in is one in which the independent segment of the industry is being choked, farmers and governmental units are unable to get adequate fuel, and the major oil companies are reporting record profits.

In this context, I heartily endorse the efforts of the Senator from Washington (Mr. JACKSON) in getting Senate consideration of amendment No. 145 to S. 1570. I believe this legislation, as a result of the careful redrafting process which has gone into it, will do much to solve the problems which we have been experiencing. In particular, I am pleased that it gives high priority to "maintenance of essential agricultural operations" and "maintenance of all public services," two areas vitally important to Minnesota and the upper Midwest.

The features which it contains to guard against unwarranted price increases and underutilization of refinery capacity are most welcome. Its requirement of action within 60 days promises quick response from the President to begin to solve this pressing problem—and mandates such action, which seems now to be vitally necessary.

Its provisions to help maintain the independent sector of the industry at the refinery, wholesale and retail level are vitally needed.

In addition, I strongly support the amendment offered by the Senator from Utah (Mr. Moss). This amendment I believe to be absolutely necessary, and compatible with the essential purposes of amendment No. 145. In this regard, I wish to note the leadership of the Senator from Minnesota (Mr. HUMPHREY) in bringing many of these severe problems into clear focus.

Under the amendment, jobbers, dealers, and terminal operators are provided with allocation formulas for products not allocated under amendment No. 145. This will provide valuable additional protection at the local level. In addition, this amendment gives retailers and distributors recourse in the courts—including injunctive relief—in case of arbitrary lease cancellation or violation of the fuel allocation formula.

Both of these provisions are desperately needed to insure adequate fuel supplies during the coming season.

I hope and believe that the machinery established by the amendment of the Senator from Washington (Mr. JACKSON) and the Senator from Utah (Mr. Moss) will enable us to turn the corner on the terrible fuel supply problems we have been experiencing, and assure Minnesota and the other States in which these shortages are being felt most drastically of relief over the near term.

The PRESIDING OFFICER. All time on this amendment has now expired.

The question is on agreeing to the amendment of the Senator from Utah (Mr. Moss), No. 159.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from North Carolina (Mr. ERVIN), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. METCALF), and the Senator from Georgia (Mr. NUNN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness. The Senator from Maine (Mr. MUSKIE) is absent because of death in family.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Washington (Mr. MAGNUSON), the Senator from California (Mr. TUNNEY), and the Senator from Iowa (Mr. HUGHES) would each vote "yea."

Mr. GRIFFIN. I announce that the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senators from Oklahoma (Mr. BARTLETT and Mr. BELLMON), the Senators from Maryland (Mr. BEALL and Mr. MATHIAS), the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from New York (Mr. BUCKLEY) and the Senator from New Mexico (Mr. DOMENICI) are absent by leave of the Senate on official committee business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Illinois (Mr. PERCY) is absent on official committee business.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate on official business.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 44, nays 12, as follows:

[No. 164 Leg.]

YEAS—44

Abourezk	Gurney	Pastore
Aiken	Hart	Pearson
Bayh	Hartke	Pell
Bentsen	Hatfield	Proxmire
Biden	Humphrey	Randolph
Brooke	Jackson	Ribicoff
Byrd, Robert C.	Mansfield	Roth
Case	McClellan	Saxbe
Chiles	McGee	Schweiker
Clark	McGovern	Scott, Pa.
Dole	McIntyre	Sparkman
Eagleton	Mondale	Stevenson
Fulbright	Montoya	Symington
Gravel	Moss	Williams
Griffin	Packwood	

NAYS—12

Byrd, Harry F., Jr.	Hansen	Scott, Va.
Curtis	Helms	Tower
Eastland	Hruska	Young
Fannin	Johnston	
	Long	

NOT VOTING—44

Allen	Domenici	McClure
Baker	Dominick	Metcalf
Bartlett	Ervin	Muskie
Beall	Fong	Nelson
Bellmon	Goldwater	Nunn
Bennett	Haskell	Percy
Bible	Hathaway	Stafford
Brock	Hollings	Stennis
Buckley	Huddleston	Stevens
Burdick	Hughes	Taft
Cannon	Inouye	Talmadge
Church	Javits	Thurmond
Cook	Kennedy	Tunney
Cotton	Magnuson	Weicker
Cranston	Mathias	

So Mr. Moss' amendment (No. 159) to Mr. JACKSON'S amendment (No. 145) in the nature of a substitute, as amended, was agreed to.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McINTYRE. Mr. President, I ask unanimous consent that T. J. Oden, a member of my staff, may be permitted the privilege of the floor during the consideration of the bill.

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

Mr. RIBICOFF. Mr. President, I call up my amendment No. 164 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. RIBICOFF. 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, ordered to be printed in the RECORD, is as follows:

At the end of section 103 insert following:

"(f) OFFICE OF EMERGENCY FUEL ALLOCATION.—An office shall be established within the Federal agency designated pursuant to section 103(a) to receive complaints from officers of State and local governmental units who cannot obtain supplies of gasoline or fuel oil or whose supplies have been substantially reduced or prices increased in violation of this Act. The Office shall be authorized to act in emergency situations where communities are threatened with the disruption of essential public services. The Office shall be empowered to order that adequate supplies be made available to these communities."

Following subsection (f) add original subsection (f) and change to (g).

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. RIBICOFF. I yield.

Mr. ROBERT C. BYRD. Mr. President, would the distinguished Senator be willing to reduce the time limitation on this amendment so that all Senators will be on notice?

Mr. RIBICOFF. I am willing to reduce the time to 5 minutes on a side. I will take only 3 minutes.

Mr. JACKSON. That is fine with me.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the amendment be limited to 10 minutes, with the time evenly divided as in the original agreement.

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

Mr. RIBICOFF. Mr. President, this amendment is designed to insure that cities, towns, counties, and States will be able to get enough gasoline and fuel oil to provide essential services to their citizens.

No fuel allocation program, no matter how skillfully constructed, will be able to take care of all the emergency situations which will inevitably arise when governmental units are unable to obtain gasoline for their ambulances, fire trucks, or police vehicles.

Already last winter schools were closed because of a lack of heating oil. Already cities and towns are finding it difficult to secure dependable sources of gasoline for their official vehicles.

My amendment would create a special Office of Emergency Fuel Allocation within the agency set up under this act. This Office would deal solely with State, municipal, and county officials who cannot obtain enough fuel to provide essential services to their communities.

Recently a number of towns in my own State of Connecticut have been faced with imminent cutoffs of fuel supplies. So far I have been able to be of help to them. But the problem is snowballing and can only get worse.

In the most recent instance, the city manager of the town of Plainville, Conn., informed me that all of its invitations for bids on the town's fuel needs for police, fire, public works and other municipal vehicles had been declined. When its existing supplier also refused to bid, the town asked me if I could help. I was able to enlist the cooperation and speedy action of Mr. William Simon, Deputy Secretary of the Treasury and Chairman of the President's Oil Policy Committee. He contacted the previous supplier and shortly thereafter a new fuel arrangement was negotiated by the town of Plainville.

I realize, however, that Mr. Simon himself cannot deal with all such situations that will arise in Connecticut, much less the entire Nation. Clearly there has to be some entity established to do this with an emphasis on speed and simplicity if similar complaints and emergencies are to be taken care of.

My amendment establishes an office to receive complaints from State and municipal officials whose governmental units cannot obtain sufficient supplies of gasoline or fuel oil, or whose prices have been increased in violation of this act.

Where communities are thus threatened with the disruption of essential public services, this Office will be empowered to order that adequate fuel supplies be made available.

No matter what the reasons for the present shortages, we must not permit schools and hospitals to go without heat and ambulances, and fire trucks to have empty gas tanks. This Office will operate at a level where the need is most immediately felt and bypass the inevitable redtape and bureaucratic delays which the implementation of an allocation program will inevitably produce.

I am particularly pleased that the distinguished chairman of the Interior Committee has indicated his approval of my amendment. His leadership and guidance in all facets of the energy crisis is worthy of the highest commendation.

I urge all of my colleagues to support this needed amendment.

Mr. President, I have discussed this amendment with the Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN), who have done outstanding work in their field. They feel that this is a necessary amendment.

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

Mr. RIBICOFF. I yield.

Mr. JACKSON. Mr. President, I compliment the senior Senator from Connecticut for offering what I think is a highly sensible amendment to the bill, the establishment of an Office of Emergency Fuel Allocation to deal with these special problems affecting State and local governments. I think it is extremely helpful. It strengthens the bill. I commend the Senator, and I urge Senators to support the amendment.

Mr. FANNIN. Mr. President, I, too, would like to commend the distinguished Senator from Connecticut. This amendment is something that strikes at what could be a great problem. I feel the amendment will be beneficial. It provides that our very essential municipal governments will continue to operate and not have these problems.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the name of the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the amendment.

The senior Senator from West Virginia, over the years, has consistently exercised a leadership role in the Congress on energy policy issues facing our country. In 1959, he proposed creation of a Joint Committee on Energy. More recently, in 1971, my distinguished colleague authored, with the able Senator from Washington (Mr. JACKSON), Senate Resolution 45 establishing the Senate's national fuels and energy policy study. This study is now being conducted by the Committee on Interior and Insular Affairs, with ex officio members from the Committees on Public Works and Commerce, and the Senate membership of the Joint Committee on Atomic Energy.

I am pleased that my colleague, the Senator from West Virginia (Mr. RANDOLPH), has chosen to cosponsor this amendment with me.

Mr. RANDOLPH. The distinguished senior Senator from Connecticut is generous in his remarks concerning my activities relating to fuels and energy. In 1969, when I proposed a Presidential Commission on Fuels and Energy, he joined me as a cosponsor on that legislation which was turned into Senate Resolution 45 of the 92d Congress.

Over the years, we have demonstrated together a deep awareness of the need for a national energy policy. More recently, he has served a leadership role in dealing with the current fuels situation. Pending energy shortages pose an immediate threat of disruption of essential public services. This concern is reflected in Senator RIBICOFF's amendment 164 to S. 1570. This legislation empowers an Office of Emergency Fuel Allocation to assure adequate energy supplies to communities where essential public services are threatened. The amendment also provides a focal point within the Federal Government for State and local governments to direct complaints when they cannot obtain adequate supplies of gasoline or fuel oil. I commend his interest in and aggressive espousal of these urgently needed provisions.

As the Senator from Connecticut has noted, the maintenance of public services is essential to the operation of State and local communities. For, when such services are threatened, so is the economy of a region.

I am pleased to join the distinguished Senator as a cosponsor of his amendment.

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

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. JACKSON. I yield back the remainder of my time.

Mr. FANNIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Connecticut (Mr. RIBICOFF). The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. METCALF), and the Senator from Georgia (Mr. NUNN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness. I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of death in family.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. TUNNEY), and the Senator from Iowa (Mr. HUGHES) would each vote "yea."

Mr. GRIFFIN. I announce that the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senators from Oklahoma (Mr. BARTLETT and Mr. BELLMON), the Senators from Maryland (Mr. BEALL and Mr. MATHIAS), the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from New York (Mr. BUCKLEY) and the Senator from New Mexico (Mr. DOMENICI) are absent by leave of the Senate on official committee business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Illinois (Mr. PERCY) is absent on official committee business.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate on official business.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 56, nays 0, as follows:

[No. 165 Leg.]

YEAS—56

Abourezk	Gurney	Moss
Aiken	Hansen	Packwood
Bayh	Hart	Pastore
Bentsen	Hartke	Pearson
Biden	Hatfield	Pell
Brooke	Helms	Proxmire
Byrd, Harry F., Jr.	Hruska	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Case	Jackson	Roth
Chiles	Johnston	Saxbe
Clark	Long	Schweiker
Curtis	Magnuson	Scott, Pa.
Dole	Mansfield	Scott, Va.
Eagleton	McClellan	Sparkman
Eastland	McGee	Stevenson
Fannin	McGovern	Symington
Gravel	McIntyre	Tower
Griffin	Mondale	Williams
	Montoya	Young

NAYS—0

NOT VOTING—44

Allen	Domenici	McClure
Baker	Dominick	Metcalf
Bartlett	Ervin	Muskie
Beall	Fong	Nelson
Bellmon	Fulbright	Nunn
Bennett	Goldwater	Percy
Bible	Haskell	Stafford
Brock	Hathaway	Stennis
Buckley	Hollings	Stevens
Burdick	Huddleston	Taft
Cannon	Hughes	Talmadge
Church	Inouye	Thurmond
Cook	Javits	Tunney
Cotton	Kennedy	Weicker
Cranston	Mathias	

So Mr. RIBICOFF's amendment to the Jackson amendment in the nature of a substitute, as amended, was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I send to the desk two amendments which are technical in nature and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER (Mr. FANNIN). The clerk will report the amendments.

The assistant legislative clerk read as follows:

On page 9, line 18, after the word "modified", delete the word "and" and insert the word "or".

Redesignate subsection 104(d) as subsection 105(a) and redesignate the subsections of section 105 accordingly.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Washington? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, one amendment is to correct a typographical error, and the other is to readjust a section in the bill.

I have taken the amendments up with the distinguished Senator from Arizona and he is in accord.

Mr. FANNIN. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. HART. Mr. President, will the Senator from Washington yield for a brief question?

Mr. JACKSON. Mr. President, I yield 2 minutes to the Senator from Michigan.

Mr. HART. Mr. President, I rise to make an inquiry with respect to the intentions of the Senator from Washington in connection with section 102(b). As I understand it, the grant of power which the Senator proposes to give the President will include action that the President regards as necessary to achieve among other objectives the maintenance of all public services. I am sure it is not unique in Michigan that the taxicab serves a very keen role in many of the regions of the State.

I would assume this is true elsewhere. It serves in the delivery of drugs, and certainly during off-service hours, it is the only vehicle available for public transportation. I need not list the many ways in which the taxicab serves the public.

Mr. JACKSON. It also serves as an emergency vehicle in addition.

Mr. HART. As the Senator from Washington (Mr. JACKSON) no doubt is aware, among those being cut off from their traditional gasoline supply these days are taxi companies. As I understand it, the voluntary program of allocation which the administration has underway does not give a priority ranking to taxi companies so that they may be assured supply.

In many areas of the country—certainly in several parts of Michigan—taxis are not only an alternative means of transportation but for many hours of the day, the only public transportation. In addition to transporting those who need emergency treatment, or to get to employment—which may be essential—they also do such services as deliver whole blood to hospitals.

Is it the purpose of the Senator from Washington that we understand that in section 102(b) the maintenance of all public services is to include the role of the taxicab?

Mr. JACKSON. Mr. President, as the author of the pending bill, it is my intent—and I know it is the intent of the committee—that section 102(b), Maintenance of All Public Services, definitely includes taxicab services. I would also say that it is governed in part under section 102(a), Protection of Public Health, Safety, and Welfare, since there are indeed emergency public services performed by the taxicab industry.

I point out that in an effort to cut down on the traffic and the consumption of fuel, one of our policies should and must be the utilization of taxicabs in local transit systems, particularly within our large metropolitan areas. Our experience during taxi strikes tells us that when cabs are not available, many commuters who ordinarily use public transit bring their own cars downtown, increasing both congestion and gasoline demand. Taxicabs supply a very important public service role, as well as a vital role involving the public health, safety, and welfare.

Mr. HART. Mr. President, I thank the Senator from Washington. His answer

reflects again the thoroughness with which he prepares himself.

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

Mr. JACKSON. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, section 104(b) of the bill as we considered it in the Committee on Interior and Insular Affairs, grants to the President, as I understand it, the discretionary authority to implement and to allocate the schedule which is authorized in section 104(a). That was my understanding in the committee, and I ask the question in view of the fact that the report indicates that the authority of the President to allocate is mandatory, rather than discretionary.

Is it the understanding of the distinguished Senator from Washington that the President's authority in the bill in its present form is discretionary or mandatory?

Mr. JACKSON. Mr. President, I believe that the provision in section 104(b) is ambiguous on this matter. The intent was to make it discretionary.

The Senator from Delaware (Mr. BIDEN) will offer an amendment on Monday to substitute the word "shall" so that on line 14 it would read:

The President shall allocate or distribute . . .

I would support that amendment, because the objective here should be to make it mandatory.

Mr. JOHNSTON. I understand that that amendment will be introduced, and I can understand the arguments that can be advanced to make it mandatory, but I think the language is rather clear in section 104(b) that the President is authorized to allocate, and not required to do so.

I think the discussion in the committee was rather clearly in favor of giving him that authority, that discretion, and not requiring him to do so. As I recall, that very point came up in the committee; and in discussing the bill yesterday with some of the staff members, it was indicated by the staff that that was their understanding of it, and that the ambiguity was on page 6 of the report, and not in section 104(b) of the bill itself.

This has no reference to whether it is a good idea or not a good idea to make it mandatory, but just a question of what the intent of the committee was and what the intent of the bill itself is.

Mr. JACKSON. The Senator may well be correct as to this particular section. It was my intent, however, that the program should be mandatory, and if, as the Senator says, section 104(b) as it is at the moment leaves it discretionary, I think it would strengthen what we are trying to do to make it mandatory, and that the word "shall" should be substituted instead of "is hereby authorized." That is my personal feeling.

I must say, of course, that I am not sure to what extent constitutionally we can direct the President on some of these things, but it is a matter that I hope can be made clear in conference.

Mr. JOHNSTON. In other words, if the Senate should fail to agree to the Biden amendment, it would be discretionary; so Senators who wish to make it mandatory should vote for the Biden amendment, and Senators who wish to make it discretionary should vote to leave the bill as it is.

Mr. JACKSON. I think that is a fair assessment.

(Mr. JOHNSTON assumed the chair as Presiding Officer at this point.)

Mr. FANNIN. Mr. President, I yield the Senator from Wyoming whatever time he may require.

Mr. HANSEN. Mr. President, I thank my distinguished colleague for yielding me time. I call to the attention of Senators and others who may read the RECORD that I believe the summary at the conclusion of my prepared statement is particularly relevant.

Before proceeding, I ask unanimous consent that the minority views with respect to this bill be printed in the RECORD.

There being no objection, the minority views from the committee report were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATORS FANNIN, HANSEN, HATFIELD, BUCKLEY, MCCLURE, AND BARTLETT

WHY S. 1570 IS UNESSENTIAL

Section 101(a) of the reported bill differs markedly from the bill as introduced. In the original bill, introduced on April 13, 1973, authority was to be delegated to the President to make a finding if he wished to do so "that an extraordinary shortage or dislocation in the distribution of particular fuels exists or is imminent."

Five days later the President in his energy message to the Congress said that:

"* * * we are facing a vitally important energy challenge. If present trends continue unchecked, we could face a genuine energy crisis. But that crisis can and should be averted, for we have the capacity and the resources to meet our energy needs if only we take the proper steps—and take them now."

Yet, scarcely three weeks later section 101 (a) of the bill was amended to include an express finding of an extraordinary shortage. Although the committee has received evidence that gasoline supplies will be unusually tight this summer, it is doubtful that the country is on the verge of such a national emergency as the amended bill would purport to remedy.

We do not question that shortages exist. We question, however, the wisdom of the Congress imposing a hastily and arbitrarily drafted rationing scheme without first adequately ascertaining the extent of the shortage or how the rationing system would operate in practice to provide workable, equitable and effective relief from the current shortages.

Less than three weeks ago the Congress passed the Economic Stabilization Act Amendments of 1973.

In relevant part the Act declares:

"In order to maintain and promote competition in the petroleum industry and assure sufficient supplies of petroleum products to meet the essential needs of various sections of the Nation, it is necessary to provide for the rational and equitable distribution of those products."

It therefore authorized the President to:

"* * * provide after public hearing, conducted with such notice, under such regulations and subject to such review as the exigencies of the case may, in his judgment, make appropriate for the establishment of priorities of use and for systematic allocation of supplies of petroleum products including crude oil in order to meet essential needs of various sections of the Nation and to prevent anticompetitive effects resulting from shortages of such products."

The Administration believes that it has sufficient authority under the above quoted provisions of the Act to deal with the fuel shortage situation and that further legislation is unnecessary.

In fact, the Administration has already implemented a voluntary program that should allow an equitable redistribution of crude oil and products to independent refiners, marketers and priority classes of customers. The Oil Policy Committee will soon initiate hearings, under authority of the above quoted provisions of the Economic Stabilization Act Amendments of 1973, to receive comments on the program and to determine if a mandatory program is required. Thus, if the Administration's voluntary program fails, it will be in a proper position to institute a mandatory compliance program.

In short the machinery to deal with the fuels shortage problem has been initiated by the Administration. The Economic Stabilization Act Amendments provide the Administration with the authority to institute a mandatory allocation program if needed.

To disassemble the system which is now being initiated to provide relief for the nation's fuel shortage and cause it to be reconstituted under the provisions of S. 1570 would only delay implementation of a plan already underway.

For reasons which we outline below, we are persuaded that not only would S. 1570 aggravate present fuel shortages, but it would also impair an effective remedy.

In addition, we note here that the reason minority members agreed to report S. 1570 was to accommodate the Chairman's wish that the bill would receive full discussion on the Senate floor.

THE PUZZLING LEGISLATIVE HISTORY OF S. 1570

When S. 1570's sponsor introduced the bill, he stated that implementation of the authority granted the President in the bill would be discretionary, and that the specific standards which would constitute any allocation formula would be left to the President to determine. It was then stated that ". . . the President *may* allocate, ration, or distribute a fuel, or any form of energy, which is or may become, in extraordinary short supply . . ."

The bill was clearly intended to give the President broad discretion in establishing standards under the act and broad discretion regarding their implementations. Further, during the hearing Administration witnesses were asked to advise the committee on what allocation standards would be appropriate.

But without further consultation with the Administration, the bill was amended not only to impose arbitrary standards on the President, but to require that their implementation be made mandatory.

The Administration's proposed allocation system was made available to the committee the morning it was released, which was the day the committee met in executive session to consider the bill. No comparison was made of the amendment to the Administration's plan.

SECTION 105: S. 1570'S FUELS ALLOCATION FORMULA

This amendment which now constitutes section 105, significantly changes the entire thrust of the bill. No hearings were held on it. In fact, the committee's discussion of the amendment in executive session was hurried and vague.

No one knows the total extent of the inequities which could result if the provisions of section 105 became law. Further, it is in conflict with Section 104 as hereinafter discussed.

How section 105 harms American farmers

The majority report states that the bill especially recognizes the fuel needs of the

farmer and contains provisions to ensure his protection.

Activities related to agriculture are singled out . . . because the access by farms and rural areas to gasoline, diesel fuel, heating oil and LPG is among the most vulnerable points in the fuels economy. In view of the crucial role of food prices in accelerating the current inflation, and because of the enormous crop damage in the recent Mississippi basin floods, it is particularly urgent that the nation's farmers and the nation's food supply not suffer the additional handicap of unavailable fuel.

Clearly the intent was to protect farmers. Yet the language of the section 105 amendment in fact discriminates against farmers. Several independent refiners which almost exclusively serve farmers are excluded from the protection of the allocation system contained in section 105. This section defines independent refiners as those "who produced in the United States less than thirty thousand barrels per day of petroleum products during the base period."

Agway, Inc., a farmers' cooperative refinery located in Texas City, Texas has a capacity of 60,000 barrels a day. It would be deprived of the protection of section 105 allocation formula.

Farmland Industries, Inc., which operates farmers' cooperative refineries in Kansas and Nebraska, has a capacity of 55,000 barrels a day. It would be deprived of the protection of section 105 allocation formula.

The National Cooperative Refinery Association, a farmers' cooperative located in Kansas, has a capacity of 46,000 barrels a day. It too would be deprived of the protection of the section 105 allocation formula.[1] Other crude short farmers' cooperatives might be similarly deprived of the protection of the section 105 allocation formula.

Elsewhere in the bill farmers are discriminated against. Section 105(a)(2) defines "non-affiliated" as:

"* * * a buyer (seller) who has no substantial financial interest in, is not subject to a substantial common financial interest of, and is not subject to a substantial common financial interest with, the seller (buyer) in question . . ."

Section 105(a)(4) defines an "independent dealer" as:

"* * * a terminal operator, jobber, dealer, or distributor, at wholesale or retail, who obtains refined petroleum products either on term contract or in spot markets, and who purchased during the base period at least half of such products from non-affiliated seller."

Thus, an independent marketer of gasoline to qualify for product sharing rights under section 105(b)(2) of the bill must fall within the definitions of "non-affiliated" and "independent dealer".

Commissioned distributors, as known in the petroleum industry, are engaged primarily in supplying fuel oil to rural households and farms. Although they usually own their own trucks, hire and fire their own personnel, their accounts receivable are usually handled by their suppliers. This latter arrangement could easily result in the exclusion of the commissioned distributor from the protection afforded "non-affiliated independent dealers." If they are so excluded then the farmers whom they serve would certainly suffer.

Additionally, although the report expresses that "a buyer's assignment of accounts receivable to a seller" is "not in itself a financial interest", it is not clear that commissioned distributors are protected by the bill, or that a court construing the bill would determine that a financial interest does not exist between commissioned distributors and their suppliers.

Thus, the problem of the commissioned distributors provides another example of how section 105 could operate against the best interests of the American farmer.

How section 105 protects some oil industry giants and punishes others

The report language states that independents must be protected from the self-serving practices of the larger companies, because such companies "understandably protect their own interests first."

Yet section 105 as drafted would provide benefits under the allocation scheme to large companies. Total, a U.S. subsidiary of a large multinational French oil company, has a refinery capacity of 29,000 barrels a day. If its imports were less than 1,000 barrels a day, it could demand from its competitor producers that they supply it with crude, without any burden of having to share with small companies the product it refined from the crude.

Dow Chemical, one of the nation's largest petrochemical companies with a refinery capacity of 17,000 barrels a day and imports of 5,000 barrels a day, would be able to claim the same rights without suffering any product sharing burden.

Hunt Oil Company, an aggressive integrated oil company with a 15,000 barrels a day refinery capacity and imports of 6,313 barrels a day, would be able to claim similar benefits and be free of any section 105 product sharing burden.

Swift and Company, a large conglomerate with a subsidiary refinery, Bell Oil & Gas, has a 29,500 barrel a day capacity. If its imports were less than 500 barrels a day, it also would be able to claim benefits without any section 105 product sharing burden.[2]

No one knows how many other large companies could realize windfall gains without suffering any concomitant burden.

With further reference to likely inequities which could result from application of section 105 if enacted as law, several examples present themselves as self-evident.

Section 105 crude sharing inequities

Section 105(b)(1) requires that:

"* * * any producer or importer of crude petroleum and/or natural gas liquids who produced in the United States and/or imported more than two hundred thousand barrels per day of crude oil and natural gas liquids during the base period (i.e., July 1, 1971 to June 30, 1972) shall sell or exchange to non-affiliated independent refiners (refiners whose daily throughput is less than thirty thousand barrels per day) or to any other reasonable and appropriate class of refiners established by regulation, in the aggregate during each quarter during the effective term of this Act a proportion of his domestic production and imports no less than the proportion he sold or exchanged to such refiners during the base period * * *"

Under the provisions of this section the following sixteen companies would be included as producers whose production and imports exceed 200,000 barrels a day: Ashland Oil, Atlantic Richfield, Cities Service, Continental Oil, Exxon, Gulf, Marathon, Mobil, Phillips Petroleum, Shell, Standard Oil of California, Standard Oil (Indiana), Standard Oil (Ohio), Sun Oil, Texaco, and Union Oil of California.

Thus, the entire burden of crude sharing would be placed on these sixteen companies. Nine large companies whose production and imports falls short of 200,000 barrels a day but exceeds 100,000 barrels a day include Amerada Hess (119,204 b/d), American Petrofina (123,409 b/d), Clark Oil (114,084 b/d), Coastal States (139,094 b/d), Crown Central Petroleum (110,197 b/d), Getty Oil (187,705 b/d), Koch Industries (103,854 b/d), Tenneco (111,547 b/d), and Union Pacific Corporation (170,897 b/d).

These companies would not be required under the bill to share their crude with independent refiners.

Many of the independent refiners as defined in the bill, including most farmers' cooperatives, obtain a large portion of their crude not only from the nine companies listed above, but from many other independent producers who, too, are exempted from the duty of sharing their crude. Thus, arbitrarily selecting companies whose crude supply exceeds 200,000 barrels a day would result in less than adequate relief to the independent refiners. To arbitrarily change the crude sharing requirement to a different number of barrels of daily crude supply could lead to similarly undesirable consequences. Thus, these facts underpin the necessity of delegating to the President sufficient authority to determine a practicable system for crude sharing which will in fact provide protection to independent refiners.

Section 105 product sharing inequities

Section 105(b)(2) requires that:

"* * * any refiner of petroleum products who produced (sic) in the United States and/or imported more than two hundred thousand barrels per day of refined petroleum products including residual fuel oil during the base period shall sell or exchange to non-affiliated independent dealers or to any other reasonable and appropriate class of purchasers established by regulation, in the aggregate in each quarter during the effective term of this Act, a proportion of his refinery production and imports of said products no less than the proportion he sold or exchanged to such dealers during the base period."

The seventeen companies falling within the 105(b)(2) include Texaco, Exxon, Shell, Standard of Indiana, Standard of California, Gulf, Mobil, Atlantic Richfield, Sunoco, Union of California, Standard of Ohio, Phillips, Ashland, Continental Oil, Cities Service, Getty, and Marathon.

Excluded from the product sharing requirement of section 105(b)(2) are eleven large companies whose refinery capacity and imports are less than 200,000 b/d but significantly greater than 30,000 b/d. These are: Union Pacific's Champlin Petroleum Company (137,000 b/d), Coastal States (135,000 b/d), American Petroleum (108,500 b/d), Clark Oil (104,500 b/d), Amerada Hess (98,500 b/d), Crown Central (95,000 b/d), Koch Industries (87,900 b/d), Tenneco (87,000 b/d), Monsanto (77,000 b/d), Charter International (70,000 b/d), and Murphy Oil (68,000 b/d).

The independent marketing sector which these eleven companies serve is as nearly dependent upon them for product as they are upon the seventeen companies required under section 105(b)(2) of the bill to share their products.

The independent marketing sector is not only dependent upon the seventeen companies falling within the bill's requirements, and the eleven large companies excluded from the bill's requirements, but also upon smaller refiners whose product also is very much needed by the independent marketers. Approximately one third of U.S. petroleum products are manufactured by companies excluded from the product sharing requirements of section 105(b)(2).

To arbitrarily change the product sharing requirements of the section 105(b)(2) of the bill to a different number of barrels of daily refinery output could lead to similarly undesirable consequences.

Thus, these facts too underpin the necessity of delegating to the President sufficient authority to determine a practicable system for the refinery product sharing which will in

[1] Data regarding the refinery capacity of Agway, Farmland, and the National Cooperative Refinery Association was taken from "U.S. Refining Capacity," a report of the National Petroleum Refiners Association, Aug. 7, 1972.

[2] Production, imports and refinery capacity statistics concerning Total, Dow, Hunt, and Swift and other oil companies hereinafter discussed are approximations and were taken from Interior Department Office of Oil and Gas import allocation schedules and from Bureau of Mines refinery capacity data.

fact provide protection to independent marketers.

The fact that section 105(b) permits alternative categories of producers and importers and refiners to be established by administrative regulation appears to reflect a doubt of the wisdom, usefulness, and viability of the definitions included in the bill. If alternative definitions can be established by regulation, what usefulness does section 105 serve?

How section 105 fails to anticipate the evils it could cause

The amendment appearing as section 105 of the bill leaves many issues unresolved. The bill simply defines who must comply with the allocation formula without any proviso for changes in circumstances involving sale or acquisition of production, refinery, transportation, and marketing facilities during or after the base period. Nor does the bill contain any provisos pertaining to emergencies, accidents, and disasters under which persons subject to the Act would be unable to perform their statutory obligations.

For example, Phillips Petroleum has withdrawn from New England as a marketing area and thus is without facilities to continue supplying customers it supplied during the base period. Is Phillips nevertheless required to serve its former New England customers? Are Phillips' successors in interest to the facilities sold subject to the bill's requirements?

British Petroleum sold its Port Arthur, Texas, refinery to American Petrofina. Petrofina has no historical obligations with respect to the Port Arthur refinery and B.P. has obligations but no Port Arthur facility with which to meet them. Who is liable to whom for what? The bill is silent regarding such transactions.

The Administration is receiving royalty payments from Outer Continental Shelf producers in the form of crude, rather than cash, in order to help supply crude short refiners. The bill is silent as to whether the crude turned over to the government as royalty payments counts a part of their production under the bill or is deducted from it. If the Federal government's receipts of OCS crude exceed 200,000 barrels a day, is it to be considered a producer under the bill?

Several of our nation's refineries are jointly owned. Thus, under the 105(a)(3) definition of "independent refiner" and the 105(b)(2) provision pertaining to refiners "who produced (sic) in the United States and/or imported more than two hundred thousand barrels per day of refined petroleum products" how are the refinery capacity calculations to be tabulated? By the extent of the refinery's throughput? By the extent of the property interest any owner has in a given refinery's throughput?

Under the Administration's voluntary allocation program the base period used is the fourth quarter of 1971 and the first three quarters of 1972. The section 105 base period is the last two quarters of 1971 and the first two quarters of 1972. This discrepancy in the base period could create administrative havoc insofar as calculations of production, imports refinery runs, and other factors are concerned. Furthermore, it could cause allocation awards under the Administration program to be negated or withdrawn and new allocation awards established. In the midst of a fuels shortage such uncertainties should not be risked.

S. 1570 fails to deal with the issue of Federal preemption. Nowhere in its language does it prohibit a state from imposing a contradictory allocation formula on sectors of the petroleum industry located within its jurisdiction.

S. 1570 contains no provision for a public hearing for any regulation to be established under its provisions and therefore is in conflict with the requirements of the Economic Stabilization Act Amendments of 1973.

S. 1570 provides no criteria for finding which fuels are in short supply and which should be regulated.

S. 1570 provides no criteria for finding when allocations are no longer necessary and for removing controls prior to termination of authority in September 1974.

S. 1570 provides no criteria for establishing what constitutes an "exorbitant price increase" which would be unlawful under the bill.

S. 1570 is ambiguous with regard to an effective date. Regulations, plans, and priority schedules must be published within 60 days from enactment of the act. But section 106(a) states that the schedules, plans, and regulations must be submitted to both houses of Congress. It is unclear whether such a submission is for information purposes only, or whether Congressional approval of the submitted schedules, plans and regulations would be required.

Section 105 is discriminatory since it requires allocation only by large companies supplying in excess of 200,000 barrels per day of fuels. We believe the bill could be challenged in court on this issue resulting in delayed implementation of the bill. The bill is also ambiguous since it specifies two separate programs of allocation. Section 104 grants broad authority to the President to allocate any type fuel under any type allocation scheme, or to any priority customers or class of customers, with no restrictions on the class or size of suppliers to which the allocations may be applied. In contrast, section 105 is a narrow allocation program that specifies allocating supplies on a historical basis from suppliers with volumes exceeding 200,000 barrels per day. The narrow limitations and restrictions of the allocation scheme spelled out in section 105 raise questions concerning the intent of section 104. The inclusion of two separate allocation schemes in the same bill leads to ambiguity that could cause court litigation and delay implementation of the bill.

The specification of the term "extraordinary shortages" in the bill, "crude oil (including natural gas liquids) and refined petroleum products (including liquid petroleum gas)," is inadequate. If this legislation is to be enacted, familiar wording that has been used by the Administration in the past, such as "crude oil, finished products and unfinished oils" should replace the language in the bill in order to establish greater precision about the resources to be allocated.[3]

This bill will allow the modification of existing contracts. The abrogating of contracts, in any way, merits careful consideration. Without the solid base that contracts provide, the availability of financing necessary for most businessmen would become questionable.

All of these issues present serious problems not even contemplated under the bill, let alone resolved.

CONCLUSION

For the above stated reasons we believe S. 1570 is unnecessary and could cause a worsening of, rather than relief from, the nation's current fuels shortage.

PAUL J. FANNIN.
CLIFFORD P. HANSEN.
MARK O. HATFIELD.
JAMES L. BUCKLEY.
JAMES A. MCCLURE.
DEWEY BARTLETT.

ADDITIONAL VIEWS OF JAMES L. BUCKLEY

While I have signed, and in general support the Minority Views, I believe one or two additional points should be made.

S. 1570 would serve to increase the power of government to interfere with the mechanisms of the marketplace in the allocation of scarce energy resources. Yet there is ample reason to believe that governmental interference with market forces in the past is in large part responsible for the shortages we now experience.

Evidence presented to this committee suggests, for example, that our inadequate refinery capacity is the result of regulation or disincentives directly related to the import quota system. The shortage of natural gas has been attributed by witnesses before this committee to inappropriate FPC regulation which has kept the price of natural gas artificially low thus inhibiting the development of new sources to meet current shortages. Finally, the shortages of fuel oil last winter reflected the effects on refinery "mix" of the freezing of prices on refinery products at a

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[3] NOTE: For example, under Interior Department oil import regulation the following terms are contained within the definition section:

(A) "Crude Oil" means a mixture of hydrocarbons that existed in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating processes (and are not natural gas products) and the initial liquid hydrocarbons (at atmospheric conditions) produced from tar sands, gilsonite, and oil shale:

(B) "Finished products" means any one or more of the following petroleum oils, or a mixture or combination of such oils, which are to be used without further processing except blending by mechanical means:

(1) the following liquefied gases, namely ethane, propane, butanes, ethylene, propylene and butylenes, which are derived by refining or other processing of natural gas, crude oil, or unfinished oils;

(2) gasoline—a refined petroleum distillate which, by its composition, is suitable for use as a carburant in internal combustion engines;

(3) jet fuel—a refined petroleum distillate used to fuel jet propulsion engines;

(4) naphtha—a refined petroleum distillate falling within a distillation range overlapping the higher gasoline and the lower kerosenes;

(5) fuel oil—a liquid or liquefiable petroleum product burned for lighting or for the generation of heat or power and derived directly or indirectly from crude oil, such as kerosene, range oil, distillate fuel oils, gas oil, diesel fuel, topped crude oil, residues;

(6) lubricating oil—a refined petroleum distillate or specially treated petroleum residue used to lessen friction between surfaces;

(7) residual fuel oil—(i) topped crude oil or viscous residuum which has a viscosity of not less than 45 seconds Saybolt universal 100°F. and (ii) crude oil which is to be used as fuel without further processing other than by blending by mechanical means.

(8) asphalt—a solid or semi-solid cementitious material which gradually liquefies when heated, in which the predominating constituents are bitumins, and which is obtained in refining crude oil;

(9) natural gas products—means liquids (under atmospheric conditions) including natural gasoline, which are recovered by a process of absorption, adsorption, compression, refrigeration, cycling, or a combination of such processes, from mixtures of hydrocarbons that existed in a vaporous phase in a reservoir and which, when recovered and without processing in a refinery, otherwise fall within any of the definitions of products contained in clauses (2) through (5), inclusive, of this paragraph (g);

(C) "Unfinished oils" means one or more of the petroleum oils listed in paragraph (g) of this section, or a mixture or combination of such oils which are to be further processed other than by blending by mechanical means.

moment in time when the margin of profit on fuel oils happened to be low.

Given this past experience, I think the Congress should be very cautious about imposing still more rigid public controls over the distribution of fuels in the absence of far more compelling reasons than have thus far been presented to this Committee.

JAMES L. BUCKLEY.

ADDITIONAL VIEWS OF SENATOR JAMES A. M'CLURE

It is with extreme reluctance that I support the reporting of S. 1570, because I do not believe it will solve the immediate or the long range problems of energy supply or distribution. Undoubtedly, immediate action is needed, but all that we can honestly claim for the measure is that without it the intermediate-term problems could be worse. As regards the immediate problems of gasoline shortages, the bill does not provide adequate direction for meeting the needs of farmers, transporters, and other essential users, who are facing curtailment of their operations today. The sixty-day provision precludes any hope of immediate assistance to them from this bill.

Looking ahead, the bill creates a different type of problem for possible future shortages of both gasoline and fuel oil. The bill does not provide adequate protection against the dangers of Government interference in the essential operations of the petroleum industry. The uncertainties and problems of the present voluntary allocation program should serve as an excellent example of the inability of the Federal Government. In this, the Congress must bear an appreciable share of the responsibility. But, as we have seen in the past, the first answer proposed for solving the problems created by misuse of Government authority and control is to give the Government even more authority and control. The result is inevitably a worsening of the problem. The plight of our Nation's railroads stands as just one sorry example.

S. 1570, then, is not an adequate answer to either the immediate shortage of gasoline or to the expected future shortages of gasoline, fuel oil, and other petroleum substances. It does provide, however, for the preparation of priority schedules, plans, and regulations for allocation or distribution. The present situation concerning the voluntary allocation program demonstrates the need for such action. If for no other reason, the preparation will necessitate a thorough, detailed analysis of the intricacies of the petroleum industry in the United States. I am hopeful that this improved understanding will create a more cautious approach by those individuals who urge imposition of the Federal bureaucracy, with all its attendant delays, inefficiencies, and political abuses, onto this complex, vital industry. Simultaneously, this improved understanding could provide the basis for modification of existing Federal and State controls, such as unreasonable fuel sulphur restrictions and price controls, which have contributed to the creation of the national fuels shortage.

There are two areas, however, which cannot wait for a more comprehensive program of action: agriculture and transportation Farmers cannot delay their spring planting, nor will they be able to delay fall harvesting. The Administration's voluntary allocation program has wisely placed agriculture at the top of the priority list. I have been informed that the voluntary program will indeed end fuel shortages presently being experienced by farmers in several states. I do warn, however, that this action must occur within the next few days—not weeks, and certainly not two months, as called for by S. 1570. If the Administration cannot meet the immediate needs of the farmer and the transportation industry, then some type of limited mandatory Federal rationing program will have to be implemented. Due to the built-in delays of the recent amendment to the Economic Stabilization Act, which requires public hearings, such a program would most likely have to be implemented under the Defense Production Act emergency provisions. I hope that such an extreme measure can be avoided. The importance, however, of the nation's agriculture and transportation cannot be overestimated. Nothing less than this degree of national emergency could justify the expropriation of private property or the violation of contractual rights which could be required, if the voluntary program fails.

I have recently received a telegram from Mr. John L. Hampsten, of American Falls, Idaho, expressing his alarm at the possibility of government controls, implied by S. 1570. Mr. Hampsten said "As a small oil jobber I am alarmed at the possibility of government controls such as Senate Bill 1570 over my affairs. Everyone is aware of the fact that we have a fuel shortage, but I don't believe that the free enterprise system and actions of those involved in the oil business is the way to solve the problem." In addition, the President of the National Oil Jobbers Council, Mr. Robert B. Greenes sent me a telegram stating his deep concern, saying: "On behalf of the National Oil Jobbers Council, we wish to express our deep concern over the oil allocation bill, S. 1570, sponsored by Senator Jackson and soon to be considered by the full Senate. While we support much that Senator Jackson espouses, we are worried that Senate approval of the bill, at this time, will create confusion and undercut the commendable efforts of the Deputy Secretary of the Treasury Simon to establish a voluntary fuel allocation system. That system appears to be working. Independents in many regions of the country have, in recent days, received assurances that deliveries of petroleum products will be resumed. Mr. Simon should be given a chance. If this program is not working by June 1, then Congress should act promptly. A further concern about the Jackson bill is that unlike the Simon program and other measures pending in Congress, it does not guarantee a restoration of suppliers to any specific region or to any individual petroleum marketers. Under the Jackson bill, the major oil company suppliers would be free to ignore the essential needs of any region and of any segment of the independent petroleum market.

These two messages reinforce my own belief that the imposition of Federal rationing would create a continuing crisis, of ever-increasing shortages and exorbitant black-market prices. Under the provisions of existing law, the Federal government should work with State and local governments to alleviate the present crisis facing agriculture and transportation, while beginning to remove or change those controls which prevent the necessary increases in supply. The provisions of S. 1570 calling for the preparation of priority schedules, plans, and regulations could help create the basic understanding and knowledge required for major Congressional and Administration action, in order to guarantee that the present energy crisis will not become chronic, nor will spread to other vital segments of our society.

JAMES A. MCCLURE.

Mr. HANSEN. Mr. President, the Senate Interior Committee was authorized in May 1971 by Senate Resolution 45 to conduct a study of national fuels and energy policy. Ex officio members of that study which is continuing at this time are the Joint Committee on Atomic Energy, the Commerce and Public Works Committees.

During the more than 40 days of hearings that have been held pursuant to the study, witnesses representing all segments of the energy industries, consumer groups, environmentalists, universities, independent consultants, economists, professional associations such as the American Association of Petroleum Geologists and others have been heard.

Many volumes of the transcript of those hearings have been printed and others are in the process. A number of staff papers have been published and further hearings are scheduled.

Although only one interim report or recommendation has been approved by the committee, the voluminous testimony suggests that the energy crisis the Nation suddenly finds itself in has been building for at least 10 years and that both the Congress and the executive branch have had warnings and, in fact, a few in both the Congress and the executive branch have not only warned of, but predicted the situation in which the United States now finds itself.

Although S. 1570 addresses itself only to the allocation of crude oil—including natural gas liquids—and refined petroleum products, natural gas which furnishes some 34 percent of the Nation's energy is inextricably interwoven in the Nation's energy picture and the causes for present shortages. S. 1570 does not address the gas supply and allocation problem because of Federal Power Commission jurisdiction under the Natural Gas Act and the oversight responsibility of the Commerce Committee. Also, the Federal Power Commission has published a statement of policy—January 8, 1973—on priorities-of-deliveries by jurisdictional pipeline companies during periods of curtailment such as those experienced last winter. At the same time the Commission issued a notice of proposed policy statement pertaining to the priorities of usage of natural gas supplies.

However, in assessing the causes of the overall energy crisis as mainly exhibited through present shortages of crude oil, natural gas liquids and refined petroleum products, natural gas plays a prominent, if not dominant role. The gas shortage has been in the making for several years. S. 1570 does nothing to rectify this situation.

Since the Supreme Court decision of 1954 that empowered the Federal Power Commission to dictate the price a producer could receive for his gas at the wellhead, the handwriting was on the wall. Exploration for both oil and gas has declined since the peak year of 1956. Additions to gas reserves through new discoveries have been at a far lesser rate for several years than the rate of usage, while demand has continued to rise rapidly. S. 1570 does nothing to rectify this situation.

Natural gas, the least polluting and most convenient of all fuels and the only fuel under price control until phase II price controls, has also been the cheapest on a Btu basis of any fuel and as a consequence has been in high demand for industrial use, particularly as a boiler fuel for the generation of electricity.

Much of the gas burned for such purposes is used in the State in which it is produced and, therefore, not subject to FPC control. An example is one of the Nation's largest gas producing areas, the Permian Basin of west Texas.

In 1966, over 80 percent of new Per-

mian Basin gas was sold to interstate pipelines; by the end of the first 6 months of 1970 the proportion of new gas being committed to interstate as opposed to intrastate markets had been reversed. In the first 6 months of 1970, 90 percent of new Permian Basin gas was being sold to intrastate consumers while less than 10 percent was connected to interstate pipelines. Interestingly enough, the most dramatic change in the pattern of gas commitment took place in 1968 following a Supreme Court decision affirming the FPC's Permian Basin area rate decision.

Although the FPC has done away with the area rate concept and allowed producers and interstate purchasers to negotiate higher rates, interstate natural gas is still priced on the average at about one-third the price of crude oil on a Btu basis. S. 1570 does nothing to rectify this situation.

A recent Federal appeals court decision upheld the FPC's new pricing procedure in Louisiana which produces about one-third of the gas going into interstate pipelines. The court said the higher rates were necessary if Louisiana producers were to continue to supply its share of national gas production, it must have incentives to encourage development of its resources.

The court estimated that the higher producer prices allowed by FPC for Louisiana gas would amount to about 60 cents per month for the average New York City consumer.

Although the average wellhead price of natural gas in 1972 was 21 cents per thousand cubic feet at the wellhead and about 45 cents delivered to the utility gate in New York City, liquified natural gas was being unloaded in New York City at about $1.25 per thousand cubic feet and contracts have been signed by several companies with the Algerian national petroleum company, Sonatrach, for LNG that will cost even more. And there are negotiations under way for Russian LNG at equivalent prices. S. 1570 does nothing to rectify this situation.

It is, however, encouraging to note that exploratory drilling for gas in the fourth quarter of 1972 was up substantially and, hopefully, reflected FPC allowed increases in wellhead prices of up to 26 cents per thousand cubic feet from an average in 1970 of 16 cents. Gas well exploratory footage in the fourth quarter increased over the same period a year earlier by 69 percent and gas wells completed was up by 42 percent. Oil well completions, however, were down by 19 percent. Gasoline is made from oil. Gasoline is in short supply. S. 1570 does nothing to increase gasoline supply.

Exploration for domestic crude oil has followed a similar decline for several years and we have been using crude at a higher rate than the rate of addition to reserves. S. 1570 does nothing to rectify this situation.

Part of the differential in domestic production and consumption was made up by imports under the Mandatory Oil Import program which was initiated in 1959 as a national security measure. As usage increased at a higher rate than added production, what little excess producing capacity remaining in Texas and Louisiana was put on stream more than a year ago and imports have also increased sharply.

We are presently importing about one-third of what we use to fill the domestic production gap. If this trend continues, the National Petroleum Council estimates that U.S. oil imports will increase from a current rate of some 6 million barrels a day to about 19 million barrels in 1985, 60 percent of total usage. At that rate of imports, even at current crude prices, the U.S. balance-of-trade deficit in energy could reach $30 billion a year. S. 1570 does nothing to rectify this situation.

As to the causes of the continuing decline in domestic oil exploration and development, the late Dr. William Pecora testified before this committee and warned that steps must be taken to assure the consumer that adequate domestic oil and gas reserves will be available. Dr. Pecora said that the potential oil and gas resources remaining to be found and developed would meet our 1971 needs almost 100 times over. S. 1570 does nothing to increase oil and gas production.

Last August, the American Association of Petroleum Geologists testified in hearings before the committee on the declining trend in domestic oil and gas exploration.

AAPG President James E. Wilson told the Committee in summary:

> The geologists most familiar with our provinces see a future potential reserve of a magnitude comparable with our known reserves. The industry has technical and operating staff of great skill and know-how. Our technology is of a high order—most promising and still improving. The time lag between initiation of exploration and the availability of significant production—assuming a good degree of luck—is uncomfortably long with respect to increasing demand. An early policy announcement for a schedule of offshore lease sales is imperative. Incentives in the financial realm should be invoked as soon a possible. It is difficult to visualize this country again self-sufficient in petroleum in view of the greatly increasing demand. But it is within our technical capabilty to explore and develop a very subtantial part of our resource base provided incentives commensurate with the cost and uncertainties are made available.

S. 1570 does nothing to increase energy production.

Another major cause of our energy dilemma is environmental restraints.

Not only have Federal, State and local air and water quality laws added to powerplant and refinery siting problems as well as construction of deep sea ports necessary to accommodate the more economical super-tankers, but the restriction on the use of coal has resulted in conversion to natural gas and low sulfur residual oil, both in short supply. S. 1570 does nothing to provide relief from the excesses of environmentalists.

Even the supply problem of distillates such as No. 2 home heating oil and diesel fuel have been aggravated by the use of No. 2 oil to blend down high sulfur residual oil to acceptable standards. S. 1570 does nothing to rectify this situation.

According to the Independent Refiners Association, there is now a deficit of over 300,000 barrels a day of sweet crude for inland refiners because a number of large coastal refiners are not able because of State air quality laws to use sour crude They have the capability of using sour crude but most inland refiners do not. S. 1570 does nothing to rectify this situtaion.

This shortfall could be more than made up if the coastal refiners were allowed to use sour crude and make the sweet crude available to those refineries that are running under capacity. S. 1570, however, would not permit this.

Gen. George Lincoln, formerly director of the Office of Emergency Preparedness, testified before this committee last January 10 that present auto emission standards probably cost us 300,000 barrels of crude oil daily and will probably cost 2 million barrels daily by 1980. That is the eventual capacity of the Alaska pipeline. S. 1570 provides no help here, either.

And, of course, the proposed Alaska pipeline is a classic example of environmental constraint. Five years after discovery of the largest single oil discovery in the United States, not a drop of oil has been moved from the giant field nor will it be, even if approved this year, for at least another 3 years. The potential 2 million barrels a day from Alaska could reduce U.S. imports by that amount and lessen our dependence on foreign sources.

Deferment of secondary air quality standards until stack gas cleaning technology is perfected on a commercial scale could save electric utilities much wasted capital, bolster coal production, and lessen oil import requirements. S. 1570 provides no relief here, either.

The failure of nuclear power to live up to earlier expectations as a major supplier of electrical energy is not altogether the result of environmental constraints, but siting problems both for nuclear power plants and refineries have also contributed to delays. Nuclear energy now contributes but 1 percent of total energy requirements and only about 4 percent of total electrical energy.

Inadequate refinery capacity is the result of nearsighted oil import policy as well as opposition by environmentalists to location of new or expanded refinery capacity on the east coast where it is needed most, as are deep-water ports to accommodate the mounting flood of imported oil. East coast States have been opposed to such ports as well as offshore exploration of areas considered by the U.S. Geological Survey as likely to yield oil and/or gas. S. 1570 provides no help to solve this problem.

These and other factors, including a reduction in oil and gas depletion allowance from 27½ percent to 22 percent by the Tax Reform Act of 1969, have discouraged investments in high-risk exploration for oil and gas, a business that has become more and more expensive as such ventures went deeper and into even more costly offshore and Arctic operations. S. 1570 is also silent on this issue.

The price of crude oil and refined products have lagged behind the general commodity index as inflation drove up

prices and costs. During the last decade the average price of a barrel of crude oil at the wellhead rose about 50 cents or just over 17 percent. During the same period, cost of drilling rose at more than double the increase in crude prices. Also during the past 10 years, the U.S. consumer use of energy increased by 50 percent. S. 1570 does not rectify this situation. Worse yet, amendments proposed would further exacerbate the problem.

In summary, the principal causes of the energy gap are:

First. Federal control of natural gas producers.

Second. Overly optimistic predictions made in the 1960's of nuclear power and the resultant retrenchment in the coal industry.

Third. Environmental constraints on the use of high-sulfur fuels, automobile emission controls and powerplant, refinery and pipeline siting restraints and environmental opposition to offshore drilling.

Fourth. Increasing costs and taxes on the petroleum industry.

Fifth. Inadequate return on investment and consequent reduction of investment incentives.

The purpose of S. 1570 is to grant the President additional temporary authority to allocate the extraordinary shortages of crude oil and petroleum products. S. 1570 does not increase supply. It merely spreads the shortage around.

The point I am making and will repeat for emphasis' sake is that regulatory rationing of short supplies of fuels is not a cure. It only spreads the pain around.

The cure lies in increasing supplies. The cure lies in recognizing the causes of the shortages.

The cure lies in removing the obstacles which prevent supply from increasing.

The cure lies in admitting that increased production of energy will be necessary.

The cure lies in realizing that increased energy production requires digging holes in the ground for oil and gas and geothermal steam; strip mining coal; digging for oil shale; building refineries; constructing new powerplants; laying pipelines.

The cure lies in prices high enough to encourage the industry to go do the job and high enough to encourage the consumer to use less energy, to eliminate waste and maximize the efficient use of energy.

Mr. President, these areas are those within which lies the cure. S. 1570 presents the illusion of cure but in reality would insure the dissemination of pain.

Mr. President, fuels rationing legislation is only necessary because none of us are brave enough to vote, instead, for a cure.

I thank my distinguished colleague for yielding to me.

Mr. JACKSON. I yield myself such time as I may require.

Mr. President, the Committee on Interior and Insular Affairs on May 17 reported S. 1570, the Emergency Petroleum Allocation Act of 1973. This is an emergency measure to deal with an urgent problem to which Members of the Senate need no introduction.

Every day we are receiving phone calls, telegrams, letters, and personal visits from those directly affected by fuel shortages. We are hearing from farmers, builders, city officials, independent refiners, and marketers of petroleum products.

It is increasingly clear that we are no longer dealing with the isolated, spot shortages predicted by some earlier this year. What we are confronting is the prospect of serious, prolonged and widespread shortages which are beginning to have a real impact on our economy and the standard of living enjoyed by many Americans.

When cities cannot get bids on fuel contracts for vital public services, when independent gas stations are closing by the hundreds, when major oil companies start rationing supplies to their own outlets, when crop planting and food distributors are threatened by fuel shortages, then there can be no doubt that our national fuel distribution system has stopped functioning effectively.

Congress recognized this fact when it authorized the President in the Economic Stabilization Act amendments to establish priorities of use and provide for the allocation of crude oil and petroleum products to meet essential needs and prevent anticompetitive effects resulting from shortages.

S. 1570 goes beyond this discretionary authority and mandates action—both by the executive branch and by private industry—to assure the equitable distribution of fuels in short supply.

This act requires the President to prepare and publish priority schedules and plans for the allocation and distribution of fuels which are or may be in short supply. The President is to allocate or distribute such fuels pursuant to these schedules and plans if necessary to achieve the objectives of the act.

The President's authority is to be exercised generally to minimize the impact of fuel shortages or dislocations in the fuel distribution system. More specifically he is required, in implementing his authority under the act, to take such actions as are necessary to protect the public health, safety, and welfare; to maintain public services and essential agricultural operations; to preserve an economically sound and competitive petroleum industry; to provide for equitable distribution of fuels at equitable prices among all regions and areas of the United States and all classes of consumers; to achieve economic efficiency and minimize economic distortion, inflexibility and unnecessary interference with market mechanisms.

One of the most troublesome aspects of our present fuel problems is the plight of the independent refiners and marketers of petroleum products. Their inability to secure adequate supplies of crude oil and petroleum products has created serious hardship and economic dislocations. Accordingly, the Act also requires that sales to independents be maintained in proportions equal to sales to such independents during a specified base period for the brief duration of the act.

This provision has been subject to some criticism because, as reported by the committee, it would exempt some from its burdens and others from its benefits. It is my view that further refinement of its definitions is required to insure equal application. The basic thrust of the section to preserve the independent sector remains an essential ingredient of any fuel allocation program.

It is interesting, Mr. President, that many of those who opposed including a discretionary fuel allocation authority in the Economic Stabilization Act amendments 2 months ago are also opposing S. 1570 today. They are now arguing that the authority they opposed in March is good authority in May.

Much of the opposition to S. 1570 is based on the grounds either that it gives the President too much authority or too little flexibility. I submit, Mr. President, that the authority conferred by S. 1570 is both precise and flexible enough to be administratively workable. The heart of the objections to this act is that it mandates action to allocate scarce fuels.

This administration, Mr. President, needs a mandate from Congress on this subject.

This is the administration whose management of the oil import program last summer played a major role in creating the shortages experienced last winter and the more serious shortages we now face.

This is the administration which has consistently minimized the prospect of shortages and the need for any allocation system.

This is the administration which conceded it had inadequate authority to allocate scarce fuels but would not ask Congress to grant such authority.

This is the administration which took the position, after Congress conferred discretionary allocation authority, that it preferred an "incentives" approach.

This is the administration which rushed out voluntary allocation plans to forestall congressional action on this and other pending bills.

Even as the administration attempts to make its voluntary program work, the drawbacks of this approach are increasingly clear. Let me emphasize why a voluntary program is doomed to failure.

First, adherence to a voluntary program is certain to be uneven and to be limited by its cost or inconvenience to individual companies. The more serious fuel shortages become, the greater the possible gains to a particular producer or refiner from noncompliance.

Second, a voluntary allocation program penalizes cooperation and favors noncooperators. Its cost will be greatest to the most public-spirited—or public relations-sensitive—firms.

Third, a voluntary allocation program is unlikely to provide an equitable geographic distribution. Unless allocation policies are binding upon producers and refiners, the structure of the existing distribution system and the allocation policies of States self-sufficient in petroleum will only aggravate imbalances in supply.

Fourth, the administration's voluntary

allocation program does not address or deal with the question of preemption. As a result, any company or person who attempts to comply with the provisions of the administration's voluntary program may find that compliance with the Federal program conflicts with or is contrary to the requirements of fuel allocation programs established by State or local government. Further, if the Federal Government fails to establish effective regional or national allocation plans, we will invite piecemeal action by the States. Our fuel shortage problems are national problems: they must be recognized and resolved at the Federal level.

Fifth, an allocation program that depends for its implementation upon the private decisions of the major oil companies and which is adhered to selectively according to their respective convenience, will not generate maximum public confidence, but will exacerbate the inevitable public resentment over whatever distribution of shortages may result from the program.

Sixth, a voluntary program cannot by definition supersede existing contracts. Any allocation program which cannot touch the large volume of crude oil and petroleum products covered by existing contracts is doomed to failure at the start. Because of this, any voluntary program can be effectively dismantled by the oil companies if they simply commit available petroleum to contract. Further, I am informed that legal counsel to many companies engaged in production, refining and marketing of petroleum products are advising their clients that any effort to modify contracts under a "voluntary" program to deal with the current fuel shortages will be found to be a breach of contract and will lead to confusion, uncertainty, delay and protracted litigation for money damages or to enforce contract terms.

Finally, a voluntary program creates serious legal problems by encouraging the kind of cooperation and coordination which violates the antitrust laws. The administration plan permits and requires, if it is to be effective, the allocation of customers and market areas among refiners. Quite aside from the anticompetitive effects of this conduct, it exposes both the cooperating companies and the program itself to civil and criminal lawsuits. The mere fact that the actions are pursuant to Government request does not confer immunity from the antitrust laws.

Mr. President, there has been a great deal of action on this issue in the past few weeks. Experience has been gained through the attempts to implement the voluntary allocation program, the physical facts of the shortages are becoming more predictable, and above all, the industry and government at all levels have belatedly begun to focus on the specific dimensions of the problem. We have been receiving helpful comments and suggestions from many sources, including other committees, and Members of the Senate concerned with the fuel shortage problem. As a result of this review, on May 23 I proposed an amendment in the nature of a substitute to strengthen and clarify some of the provisions of S. 1570 as reported by the committee.

In brief, my proposed amendment No. 145 would require public hearings before final promulgation of allocation plans; would change the base period to conform to the base period now being used by the administration in the voluntary program; would direct the President to use his authority to assure adequate crude oil supplies to all refineries; would make clear that Federal allocation programs preempt State and local action; would extend mandatory apportionment to all refineries with runs of more than 30,000 barrels a day; and would make clear that S. 1570 does not automatically repeal the authority granted under the Economic Stabilization Act or programs established thereunder.

This amendment also makes clear that the mandatory allocation program authorized by section 105 of S. 1570 may be replaced or amended by an exercise of the authority conferred by section 104.

Mr. President, I urge favorable Senate action on S. 1570, the Emergency Petroleum Allocation Act of 1973. Adoption of this measure will result in the establishment of a mandatory allocation plan which will insure that independent sectors of the petroleum industry are not destroyed; that farmers will have the fuel to plant and harvest crops; that all essential public services are performed; and that the American consumer will be able to get needed fuels at reasonable cost.

I reserve the remainder of my time.

Mr. FANNIN. Mr. President, during this crisis of energy shortages it has become popular for elected officials to search for scapegoats rather than face the facts. The oil companies and the administration head the list of scapegoats.

Mr. President, today I would hope we can focus on the real causes of the fuels shortage rather than search for scapegoats. Additionally, I would suggest that the shortage is such a complicated problem that there are no "easy answers"—a fact fully confirmed by the thousands of pages of testimony presented during nearly 40 days of hearings the Senate Interior Committee has held to date on the energy crisis.

Why were we short of natural gas and fuel oil this winter? Why are we short of gasoline this summer? To find the answer we must turn the clock back a decade or so to the decision of the Federal Power Commission to impose an area rate basis for the regulation of the wellhead prices of natural gas. This action followed the Supreme Court decision in the Phillips case to regulate sales of gas between producers and interstate pipelines. The result of these decisions has been a decline in exploration and development activities for new gas with most of what new gas has been found sold in intrastate rather than interstate markets. About a decade ago the reserve to production ratio for natural gas was 20 to 1. Due to the decline in exploratory activity, it has now dwindled to about 10 to 1. Because of the artificially low gas prices demand for this premium fuel concomitantly has accelerated at the rate of about 10 percent a year. The interstate pipelines are now curtailing gas—mainly to interruptible customers. I will return to the extent and consequences of the gas curtailments after first examining other developments which cumulatively have contributed to the fuel shortages.

The reduction in percentage depletion following the Tax Reform Act of 1969 has added about $500 million annually to the industry's tax bill—enough to drill about 5,000 new wells.

Price controls over the past 18 months added to rising costs have squeezed profits and limited expansion of exploration and development activities, as well as placing economic constraints on the amount of distillates produced by our refineries.

The new consciousness about cleaning up the environment and a host of policy decisions responding to this consciousness has placed an additional burden on efforts to supply adequate energy to meet growing demands.

The cancellation of the December 1971 Outer Continental Shelf lease sale, which threw the Interior Department's 5-year leasing schedule out of kilter, was caused by litigation brought by environmentalists.

The failure to begin construction of the trans-Alaska pipeline, and the recent court ruling on right of way, resulted from litigation brought by environmentalists.

The failure to construct many new nuclear power plants on schedule resulted in part from litigation brought by environmentalists and by others concerned with plant safety. Other factors, too, caused additional delays.

Air pollution legislation, coal mine health and safety legislation on the Federal level and other environmental legislation at the State level has severely restricted the growth of coal in meeting our national energy requirements and forced greater reliance on oil and gas. Yet coal is our most abundant indigenous source of energy.

Environmentalist resistance to new refinery construction plus exemption of residual fuel oil from the Mandatory Oil Import program contributed to the export of domestic refinery capacity.

Clean air requirements for automobile fuel usage have lowered the mileage on gasoline and placed an added demand for 12 million additional gallons per day.

Mr. President, in connection with this I would like to call attention to a full-page advertisement by Mobil Oil Co. in a recent Washington Post. The ad is headlined: "The $66 billion mistake." Experts employed by Mobil estimate that the costs of meeting the auto emission standards set by Congress will be $100 billion for the decade beginning in 1976. If these standards were reduced to a more realistic level, such as those which were proposed by the State of California, the cost for the decade would be $34 billion. So we will be spending an estimated $66 billion to attain only a relatively small reduction in emission levels.

Mobil says that cars built to Federal standards could consume as much as 15 percent more gasoline per mile than cars built to California standards. This 15

percent would require refining an extra 30 million barrels of crude oil in 1976 and an extra 150 million barrels a year by 1980.

Already we are hearing from car owners who say their 1973 models are getting 6 to 8 miles per gallon of gas. There is speculation that under 1976 standards cars may get 3 to 5 miles per gallon.

Mr. President, I cannot vouch for the validity of the figures worked up by Mobil, but it does seem to me that such data should be evaluated. When a gasoline company suggests ways of cutting gasoline consumption, it should be heard.

Now let me return to the situation which led to the curtailment of natural gas delivery last winter.

Low wellhead prices caused, by the end of last winter, the curtailment of nearly 500 billion cubic feet of natural gas by interstate pipelines. As I earlier indicated, most persons affected by the curtailments are known as interruptible customers, those who can either do without gas for much of the duration of the winter months or who are able to switch to distillate heating oil, or both.

On a Btu equivalent basis, in order to replace with oil the amount of gas—500 billion cubic feet—curtailed last winter, it would take about 83 million barrels of oil.

Thus, it is understandable that OEP testified that the demand for distillates in the fourth quarter of 1972 was 13 percent above the previous year and that demand for distillates in the first quarter of 1973 will be about 9 percent above last year's first quarter.

Even with restrictions on No. 2 heating oil imports temporarily lifted, it will still be difficult to find enough on the world market to supplement our domestic refinery outputs. And for that matter a domestic and worldwide crude oil shortage places limits on the amount of heating oil and other distillates our refineries can produce this coming winter.

Causing further demands for fuel and thus compounding the shortage of fuels have been:

An unpredictably cold winter, 12 percent more severe than the 30-year normal; the Midwestern crop drying problem caused by a late harvest due to unusually damp weather and late planting due to severe floods this spring; a 6 to 10-percent rise in the consumption of diesel fuel by railroads, barges and trucks;

And an upswing in economic activity, causing even greater demands for fuel including increased demands due to record automobile product.

The list could go on—but what must be remembered is that many factors have contributed to the fuel shortage and that any attempt to attribute the cause to any single event, person, or policy not only reflects a lack of understanding of the problem but tends to further confuse the issue.

Having now woven our way through the labyrinth of contributory factors resulting in the present fuel shortage, it logically follows that we must avoid the temptation to seek simple solutions. No single Government policy—no single stroke of the President's pen can cure our national fuel deficiency.

Today we are considering a bill which will make no positive contribution to increasing fuel supply. S. 1570 merely seeks to impose upon the President the duty to institute a mandatory system of fuels allocation. I repeat, this bill does not increase supply—it merely spreads existing supplies around.

Mr. President, the administration has proposed legislation to increase supplies; namely a bill to help cure the cause of the energy crisis: A shortage of natural gas. The bill would stimulate the production of natural gas. To date the bill has received no action. It has not even been introduced.

Today we are attempting to create petroleum supply out of thin air by regulating that it will exist. Increased regulation of the energy industry without provision for any incentive to increase the production of energy will not solve the energy crisis but merely allocate it.

Until it is recognized that expanded development of our Nation's energy resources must be encouraged under conditions conducive to investment, we are only kidding ourselves about solution by regulation.

Mr. President, S. 1570 as reported is not only an example of an attempt at solution by regulation, but further, an example of solution by bad regulation. The reported bill would harm American farmers by its section 105 provision which discriminates against three important refineries which serve American farmers. These are Agway, Inc.; Farmland Industries, Inc.; and the National Cooperative Refinery Association. How the reported bill harms American farmers is further detailed on pages 75 and 76 of the committee's report on the bill.

Section 105 of the bill as reported also would protect some oil industry giants and punish others. The detailel analysis of these gross inequities is spelled out on pages 76 and 77 of the committee report.

Section 105 of the reported bill would also place a burden on 16 large oil companies regarding distribution of their crude production and crude imports, yet exempt 9 other large companies from having to share their crude with anyone. Further description of the companies involved in such an arrangement is discussed on pages 77 and 78 of the committee's report on the bill.

Section 105 of the reported bill also provides for an inequitable distribution of petroleum products by requiring 17 large companies to share their product but excluding 11 other large companies from having to share their product. Further description of the companies involved in such an arrangement is discussed on pages 78 and 79 of the committee's report on the bill.

S. 1570 as reported also fails to anticipate the many evils it could cause.

S. 1570 as reported established a base period for fuel allocation purposes inconsistent with the base period prescribed under the administrations' fuels allocation program now in existence.

S. 1570 as reported failed to deal with the issue of Federal preemption.

S. 1570 contained no provision for a public hearing and was therefore inconsistent with the requirements of the Economic Stabilization Act Amendments of 1973.

S. 1570 as reported provided for no criteria for establishing what constitutes an exhorbitant price increase.

S. 1570 as reported had two conflicting sections—sections 104 and 105.

For these and other reasons Senator HANSEN, Senator HATFIELD, Senator BUCKLEY, Senator MCCLURE, Senator BARTLETT and I concluded that "S. 1570 is unnecessary and would cause a worsening of, rather than relief from, the Nation's current fuel shortage."

Mr. President, many developments have taken place since the bill was reported. One such development is an amendment in the form of a substitute proposed by Senator JACKSON and Senator RANDOLPH. I am very pleased to note that amendment No. 45 rectifies many of the problems posed by the reported version of S. 1570. Amendment 145 changes the base period to conform to that of the system presently being administered by the administration, thereby eliminating a potential administrative nightmare.

Amendment 145 deals squarely with the issue of Federal preemption.

Amendment 145 contains a provision requiring a public hearing prior to establishment of regulations and is now therefore no longer in conflict with the Economic Stabilization Act Amendments of 1973.

By means of an amendment we will propose today, the problem of massive lawsuits potentially posed by the absence of a definition for "an exhorbitant price increase" will be eliminated.

Amendments 145 now clarifies and overcomes the conflict between sections 105 and 105 of the reported bill.

Amendment 145 also removes those provisions in the reported bill which discriminate against the American farmer. It should be noted, however, that amendment 145 does little in the way of insuring positive action in the way of preferential treatment for the American farmer. I understand that an amendment will be proposed to amendment 145 which will provide positive protection for the American farmer in securing his fuel needs.

In short, many of the problems posed by S. 1570 as reported which I have discussed have been rectified by amendment No. 145.

The remaining issue to be discussed is the major substantive effect of amendment 145. The Economic Stabilization Act Amendments of 1973 authorized the President to allocate fuels. Amendment 145 to S. 1570 would require a mandatory fuels allocation program, thereby going beyond the administration's voluntary program now in effect. I understand that the administration will be conducting hearings on June 11, 12, and 13 to evaluate how well its voluntary system is working and whether a mandatory system will be required. There is reason to believe that the administration may conclude that a mandatory system is required and then proceed to implement a system under the authority of the Economic Stabilization Act Amendments of

1973. It is entirely possible that such a result could come to pass before S. 1570 or any other allocation bill could reach the President's desk.

Nevertheless, amendment 145 could provide the President with additonal authority he may need to insure that any mandatory system will be workable.

Mr. President, I know that this matter will be discussed by others. I feel that amendments can be offered and will be offered that will take care of this particular problem. Many developments have taken place since the bill was reported. I commend the distinguished Senator from Washington (Mr. JACKSON) for the new proposals he has in the form of his substitute. It does go a long way toward overcoming many of the problems confronting us.

We are going to face many problems in the next few months and the years ahead and it will not be easy to solve them. But I feel that if we approach them with an open mind and a cooperative attitude, much can be done to alleviate the situation we face so far as energy is concerned.

I yield the floor.

Mr. HUMPHREY. Mr. President, will the Senator from Washington yield to me, first for a few questions and then so that I may make my statement?

Mr. JACKSON. How much time does the Senator want?

Mr. HUMPHREY. I want to ask the manager of the bill a few questions in reference to the bill, and then I wish to make a statement in my own right on the bill. How much time do we have on it?

Mr. JACKSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. BIDEN). On the amendment the Senator from Washington has 19 minutes. On the bill itself, 1 hour and a half.

Mr. JACKSON. That is to be equally divided.

The PRESIDING OFFICER. Yes. Three hours, to be equally divided on the bill, with 1 hour and a half to the Senator from Washington.

Mr. JACKSON. How many minutes do I have remaining on my amendment?

The PRESIDING OFFICER. Nineteen minutes.

Mr. JACKSON. I thank the Chair. Then I will yield on my amendment in the nature of a substitute 5 minutes to the Senator from Minnesota, and then for his statement such time as may be necessary.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. HUMPHREY. Mr. President, let me ask the chairman a question with reference to section 102 of the bill, on page 6:

> In implementing the authority granted under this Act the President shall take such actions as are necessary to achieve the following specific objectives—
>
> (a) protection of public health, safety, and welfare;

In that area, does the chairman interpret those words to mean within what we call the police power of the State and, therefore, it would cover the heating of homes, for example, and schools and public institutions—but particularly home heating because, as the Senator knows, some of our communities have a little more difficult weather than others.

Mr. JACKSON. Mr. President, the Senator from Minnesota is correct in his interpretation. Section 102(a), to which he refers, is the classic police power definition. It would most certainly and positively include the protection of the health of the people, which means adequacy of supplies for home use. This is of the highest priority and by its very nature would also include hospitals, schools, and so forth. That is the committee's intention.

Mr. HUMPHREY. I thank the Senator. Before I proceed further, I ask unanimous consent that a member of my staff, Wendy Ross, be accorded the privilege of the floor.

The PRESIDING OFFICER (Mr. BIDEN). Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, regarding section (b) of section 102, "maintenance of all public services," I have received letters, telegrams, and phone calls from trucking companies and airport officials who are very much concerned about the fuel shortage. For example, in St. Cloud, Minn., they are facing an almost impossible situation and I want to make sure that the provision includes, in "maintenance of all public services," the maintenance of vital means of transportation.

What exactly does that provision mean, in terms of the author of the bill, as the Senator understands it?

Mr. JACKSON. It would be my judgment, and it is the committee's intent, to include under public services, regulated transportation, but not only regulated transportation. The trucking industry, the railroads, the airlines and private trucking are all involved.

Take food distribution. In order to move food from its place of origin to the supermarkets, fuel is necessary. We have had reports of instances where the food industry has been cut back on diesel fuel. This is part of the area of public service, vital things that relate to requirements of maintaining everyday life. The specific area to which the Senator refers, the trucking industry, definitely is included in the bill's definition of public service, together with all the other areas of public service.

Mr. RANDOLPH. Mr. President, if I may add to this colloquy between the two able Senators, it would be to draw attention to another facet of this problem—namely, the contracting industry, which is having difficuly in securing diesel fuel for trucks and heavy equipment.

To give an illustration, I have had contact with a firm that is to do a very substantial body of construction on an interstate and an Appalachian highway in the State of West Virginia. That company, which is based in another State, has inquired—and has inquired, I am sure, of other Senators as well:

> What are we going to do to move ahead on this contract, an important highway building program, and others similar to it, when we cannot have diesel fuel for our trucks and other equipment necessary to be used in the construction of this particular road and other important projects?

This is magnified hundreds of times, no doubt, throughout the United States; and I think it might be helpful to have comment from the able chairman.

Mr. JACKSON. I will be glad to comment.

Certainly, construction activity that relates to public services, that relates to the protection of public health, safety, and welfare, comes in that priority status, and the construction of highways obviously is within that category.

If it were fuel to be utilized, say, for construction of a resort facility, it would not be in the same category as the requirements for construction of a public highway definitely involving areas of public service.

But to respond specifically: Clearly it is my intent, as the author of this bill, to include the area discussed by the able and distinguished Senator from West Virginia, the chairman of the Committee on Public Works, which has to deal with these problems constantly.

Mr. RANDOLPH. I thank the chairman.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JACKSON. Mr. President, I yield additional time to the Senator out of my time on the bill.

Mr. HUMPHREY. I just wanted to repeat, for the purpose of clarification and accuracy: The chairman has indicated that even though there may be privately owned activities and services that serve the public at large, under the terms of priorities in this bill, they should be considered public services.

Mr. JACKSON. That is right. I cited the example of the food industry, which has its own supporting trucking activity as a part of its logistic system. In the terms of the bill, public services do not necessarily have to be regulated industries or regulated utilities. The test, I would say, would be the overall end result that it involved.

Mr. HUMPHREY. Then, city bus systems that are privately owned, trucking companies necessary to transport the Nation's goods, even parochial or private schools which, although privately owned, serve the public at large, are all covered.

I note that in some of the voluntary allocation programs are mentioned public passenger transportation, including buses, rail, intercity mass transit systems. They are included as priority customers.

Mr. JACKSON. Very definitely.

Mr. HUMPHREY. And aircraft.

Mr. JACKSON. And aircraft.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a statement by Paul R. Ignatius, president of the Air Transport Association of America, before the Senate Committee on Banking, Housing and Urban Affairs. He deals specifically with the air transport issue.

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

STATEMENT OF PAUL R. IGNATIUS

My name is Paul R. Ignatius. I am President of the Air Transport Association, which

represents virtually all of the scheduled, certificated airlines of the United States.

I appreciate this opportunity to appear before you to present our preliminary views on the fuel problem, how it affects the airlines, and what additional steps the airlines and the government might take to meet this challenge. In preparing this testimony, I have been guided by the letter from the Committee dated April 25, 1973 which outlined the questions the Committee intended to pursue in this hearing.

Before proceeding further, I want to say that I believe that the recently enacted amendment to the Economic Stabilization Act which authorizes the establishment of a priorities and allocations program is an important achievement. I am mindful, of course, that this much needed amendment was enacted at the instigation of this Committee.

Hopefully, it will not be necessary to put into effect a priorities and allocations program for fuel. But certainly it is wise and prudent to have made provisions for such a program should circumstances require this type of control. I was pleased to learn that development of such a plan already has begun, and I hope that this contingency planning is pursued on a priority basis.

I am certain that these hearings which are being held by the Senate Committee on Banking, Housing and Urban Affairs will contribute much useful information that will help to insure that the priorities and allocations contingency plan is equitable and effective.

This hearing comes at a most opportune time. We are grateful that the Committee has moved promptly to assure that vital functions, including transportation, will have adequate fuel supplies in the event that critical supply problems develop.

Let me turn now specifically to air transportation and how the fuel situation looks to us in the airline industry.

SCOPE OF AIR TRANSPORTATION

The commercial airlines are the predominant common-carrier of people in intercity service. About 75 percent of the passenger miles of domestic intercity travel aboard common carriers—planes, buses and trains—are by air. In overseas travel, airlines account for more than 90 percent.

More than 200 million passengers will be carried by the scheduled airlines of the United States in 1973, and that service will grow significantly in the years immediately ahead.

In their landings and takeoffs at more than 525 airports serving citizens in thousands of cities, large and small, the airlines are providing scheduled passenger, freight, and mail service through some 13,800 flights a day, operating around the clock. We estimate that in 1973 the scheduled airlines will carry about 1.4 billion letters and more than 200 million packages.

To get these tasks done, the airlines employ about 300,000 men and women and count heavily on the work of scores of thousands of other employees whose jobs are dependent on scheduled airline operations.

I present these capsule statistics to indicate that air transportation is a vital and pervasive system, essential to the functioning and well being of the United States economy through the safe, rapid and reliable movement in a dynamic society of people and goods.

FUEL NEEDS

Substantial quantities of petroleum fuel are necessary to operate this national air transport system. Transportation as a whole in the United States consumes about 25 per cent of available energy, and roughly 53 per cent of the total domestic use of petroleum. This comes to 2.9 billion barrels of petroleum products, whose use is broken down by transportation modes for civilian purposes as follows:

	Percent
Highway:	
Automobile	55
Other	29
Total highway	84
Airlines	9
Water	4
Railroad	3

The scheduled airlines consumed 242 million barrels (10.2 billion gallons) in 1971, the last year for which full year precise data is currently available. This fuel cost the airlines $1.2 billion, the highest element of cost except for labor in the airline operations.

Since the commercial airline fleet has converted almost entirely to jet powered aircraft the fuel we use is jet fuel, a middle distillate akin to kerosene.

It is important to note that the airlines and indeed almost all of the transportation industry is dependent on petroleum—there is no alternative energy source. This point needs to be kept in mind as longer range plans for dealing with the energy problem are considered, and new action programs are implemented. A greater use of coal energy, for example, on the part of the electric utility industry could free up great quantities of petroleum energy for use by transportation.

FUEL AVAILABILITY

The airlines have not as yet encountered any widespread fuel supply problems which we have not been able to handle by prompt management action, but we have had some serious warning signals and we must anticipate more trouble ahead.

In the early part of this year, several airlines were faced with local shortages, particularly in the eastern part of the United States. These problems were met principally by ferrying fuel from one location to another, at an additional cost to the airlines and some inconvenience to our passengers. We were determined to maintain service for our passengers and shippers, and we were able to avoid having to cancel flights.

Our best information is that we can expect similar problems throughout the summer and later. We are told by government and oil industry officials that our supply situation will be tight, but that we should expect local or spot shortages rather than any general run-out. I see no reason for believing that the problem will not continue for a period of time and can only hope that it will not become worse.

Accordingly, it is most important, as I have said, that responsible government officials develop contingency plans for dealing with the fuel problems should the need arise. We must have assurance that our vital needs will be met until the longer-run solutions to the energy problem have taken effect.

Thus, our immediate outlook is for spot or occasional shortages. For example, a refinery shut-down resulting from equipment malfunction could cause a temporary problem of some magnitude. The government and the airlines must be prepared to meet these problems promptly.

I suggest that several steps would be helpful, including the following:

(1) An early warning system—fuel advisories, if you will—that will let us know when and where trouble can be expected. This may give us time to take remedial action in something less than a crisis atmosphere.

(2) Release of in-bond aviation fuel for domestic consumption to meet spot shortages. Such fuel is located at 27 airports and is normally available for use in international flights. The Air Transport Association has asked the responsible government officials if this fuel could be released from bond to meet spot domestic needs, hopefully on a basis of pre-delegated authority, so that decision time can be reduced to a minimum. We are pleased that our suggestion is being reviewed.

(3) The world-wide availability of distillate fuels, including jet fuels, is, we are told, somewhat more favorable than the availability of gasoline. We understand that there may even be some surplus of distillate fuels as a result of European refinery production. If so, we hope that under the new policies affecting imports of petroleum, the oil companies will be able to take advantage of the situation to assure that our needs will be met.

While I have, of course, concentrated on fuel for aircraft operations, it is important to note that the air transport industry also requires large quantities of gasoline for ground vehicles that service flight operations. These needs must also be taken into account in the contingency plans the government is developing.

CONSERVATION MEASURES

For a long time the airlines have practiced fuel conservation measures, not only to save fuel, but also to reduce costs. For example, they make wide use of simulators for the training of air crews that would otherwise require actual flights. The fuel savings resulting from this practice amounted to 30 million gallons in 1971.

Fuel savings resulting from operational practices are also being achieved. I am pleased to report that the Air Transport Association's Operations Committee, consisting of top executives from the operations side of the industry, are studying ways to increase present fuel-saving measures and to identify new fuel-saving opportunities. These measures include shutting off one or more engines during taxiing operations, reduction of idling time on the ground, and reduction of cruise speed with consequent fuel savings. Of course, measures of this kind must always be evaluated in terms of safety and other operational requirements.

The Civil Aeronautics Board, recognizing the need to conserve fuel, has recently authorized discussions that would permit the continuance of capacity reductions on certain transcontinental flights. The CAB chairman has called attention to the possibility of additional fuel savings that would result from capacity reductions on routes other than the transcontinental routes in question. The airlines have not as yet had time to respond to these suggestions from the CAB. Some airlines view capacity reductions of this type with concern because they feel such reductions could affect the overall operational and competitive framework of our air transportation system. This is a challenging problem for which there are no easy answers, but I am certain that all views will be given careful consideration in any actions the Civil Aeronautics Board may consider taking as related to fuel conservation.

I should also note that the Civil Aeronautics Board has asked the airlines to propose plans for meeting any fuel shortages that may develop at any of the 22 major airport hub city airports throughout the United States.

FUEL COSTS

I have already indicated that fuel costs represent the largest category of costs except for labor in airline operations. Accordingly, we are hopeful that jet fuel costs will not rise significantly. Some recently concluded fuel contracts reported by several airlines give us some basis for concern and apprehension.

Some of these cost increases undoubtedly reflect the higher costs that the oil companies must pay for crude. We are hopeful, however, that the oil companies will make every reasonable effort not only to assure availability of jet fuel but also to hold the line on price. In this connection, I was pleased to see in a recent news article that

one of the major oil companies had reduced the price of one of its products, heavy fuel oil. While it may be unrealistic to expect that the price of jet fuel will be reduced, we nevertheless hope that it will not increase significantly. As a regulated industry, it is not possible for the airlines to obtain immediate relief for cost increases. Moreover, a significant cost increase ultimately reflected in higher air fares would have a widespread effect on individual passengers and shippers and overall living costs, in view of the pervasive nature of our national air transportation system.

Having said this, I want also to point out that the petroleum industry has always recognized the vital role of the airlines and has done much through research and development, as well as through supply and distribution, to help the airlines to do the job. We have had our differences, to be sure, but these have been resolved, with rare exception, in an equitable manner. I look forward to a continuation of this relationship, and to working together, with assistance from the government, as necessary, to assure adequate fuel supplies at fair and reasonable prices.

CONCLUSION

Let me conclude, Mr. Chairman, by expressing once again my appreciation for the interest this Committee is showing in the fuel problem and by quickly summarizing my remarks.

First, we expect spot fuel shortages in the coming months and greater difficulties as time goes by until long run steps to remedy the situation have had time to take effect. Accordingly, we believe the government should develop contingency plans to assure that transportation and other vital needs will be met. In addition, arrangements should be made to deal promptly with spot shortages, including consideration of the several suggestions I have made today.

Secondly, transportation for the foreseeable future must depend upon petroleum as its energy source. If industries that have available alternative energy sources can use less petroleum, the transportation sector will be benefitted.

Thirdly, transportation, like all segments of the economy must seek and practice opportunities to conserve scarce fuel. The airlines are already doing this and hope to extend the fuel savings they are already making.

Fourth, fuel is a major element in our cost structure and we are anxious to avoid significant cost increases.

Finally, the energy problem confronts all of us—the Congress, the Executive agencies, industry, and the American public. All of us must do our part to insure that our needs are met with the least possible dislocation to economic activity, environmental objectives, and our balance of payments needs. The scheduled airline industry is prepared to asssist the effort until such time as our energy problems are surmounted.

I will now be pleased to address any questions that you may wish to direct to my attention.

Mr. HUMPHREY. I invite the attention of the Senator to section 104(a) of the bill, which reads:

Within sixty days of the date of enactment of this Act, the President shall cause to be prepared and published, priority schedules, plans, and regulations for the allocation or distribution of crude oil . . .

My point is, what is meant by "priority schedules"? It is not clear to me what priorities are meant in this section. Does it refer back to section 102, which we have just discussed? If so, perhaps it would be helpful if the chairman would once again specify to us.

Mr. JACKSON. Yes. An example of a priority schedule would be what the administration has already proposed under the heading, "Guidelines for Allocation of Crude Oil and Refinery Products," under item (d) of the statement on page 3. I will incorporate the entire Administration proposal as a reference, if there is no objection.

The PRESIDING OFFICER. Without objection it is so ordered.

[Department of the Interior, Office of Oil and Gas]

GUIDELINES FOR ALLOCATION OF CRUDE OIL AND REFINERY PRODUCTS

A voluntary program for allocation of crude oil and refinery products was announced by the Honorable William E. Simon, Deputy Secretary of the Treasury, in testimony before the Senate Committee on Banking, Housing and Urban Affairs on May 10, 1973. This program will be voluntary and will be backed up by (1) guidelines established by the Federal Government; (2) a mechanism for providing continuing scrutiny of compliance with the guidelines; and (3) the authority for imposition of mandatory allocation if necesary. General policy direction will be vested in the Oil Policy Committee; day-to-day administration of the program has been assigned to the Office of Oil and Gas, Department of the Interior. This program calls for suppliers to make available to each of their customers the same percentages of their total supply of crude oil and products that they provided during the corresponding quarter in a base period. It also provides that suppliers of priority customers unable to obtain needed supplies under their allocations by their suppliers may apply to the Office of Oil and Gas for assistance in obtaining supplies. The following guidelines have been established by the Office of Oil and Gas for the administration of the program for allocation of crude oil and refinery products. Comments on these guidelines may be submitted in conjunction with the hearings to be held by the Oil Policy Committee (see Section 8 below, "Changes in Program").

1. AGREEMENTS

a. From whom

Agreements by each producer, crude oil buyer, gas plant operator, refiner, marketer, jobber and distributor are assumed unless the Office of Oil and Gas is notified to the contrary.

b. Implied content of agreements

That they will make available in each State to each of their customers (including those purchasers in the spot market) the same percentage of amount of their total supply of crude oil, natural gas liquids, liquified petroleum gases, and petroleum products that they provided during the corresponding quarter of the base period (fourth quarter of 1971 and first three quarters of 1972), whichever is lower. This program is not intended to obligate a supplier beyond the extent of his base period supplies to a customer, nor is it intended to limit the supplies to the obligated amounts. A customer is defined as any person who purchased crude oil or petroleum products from the supplier during the base period.

2. ALLOCATION BY SUPPLIERS

a. Voluntary allocations

In establishing total supply for allocation, it is not intended that any supply be withheld for possible allocation by the Office of Oil and Gas to meet priority needs. Rather, up to ten percent (10%) of production might be distributed to meet the needs of customers. Suppliers may voluntarliy supply priority needs and follow up with documentation to the Office of Oil and Gas for credit in supplying their share of priority needs in relation to Section 3 below.

b. New customers

All suppliers are urged to continue to supply customers that they have added since the base case period and to provide a listing of such customers and supplemental supply commitments to the Office of Oil and Gas for consideration in the assigning of supplies under Section 3.

3. ALLOCATION BY GOVERNMENT

a. Who may request Government assistance

Suppliers of priority customers (see Section 3(e)) unable to obtain needed supplies under allocations by their suppliers as discussed in Sections 1(b) and 2(a) may apply to the Office of Oil and Gas for assistance in obtaining supplies. Requests for assistance to priority customers made directly to oil companies by responsible Federal, state or local government officials may be honored by those oil companies. The Office of Oil and Gas should be notified of the assistance so provided, the source of the request for assistance and the percent of quarterly supply involved. If a supplier provides assistance to priority customers without an official request, that supplier may request that the Office of Oil and Gas include that assistance as a part of his share of supplying priority needs.

Non-priority customers who do not have a supplier with a supply obligation may apply to the Office of Oil and Gas for assistance on the basis that they are not otherwise covered by the program.

b. Allocation by the Office of Oil and Gas

The Office of Oil and Gas may request each producer, crude oil buyer, gas plant operator, refiner, marketer, jobber and distributor to provide allocations for priority customers still unable to obtain needed supplies of crude oil and products. The Office of Oil and Gas will request allocations for those not otherwise covered by the program.

c. Basis

This request by the Office of Oil and Gas must be based on demonstrated need. The basic purpose of priority allocations must be to assure adequate supplies of crude oil and products to priority users who are not well served under the proportional allocation program described in Sections 1(b) and 2(a) above. Supplier assignments also shall be made to fulfill the needs of new customers who have entered the marketplace since the base periods.

d. Priority

Priority will be given by the Office of Oil and Gas to supplying the following activities or to independent marketers, jobbers and refiners who supply the following activities:

(1) Farming, ranching, dairy and fishing activities and services directly related to the cultivation, production and preservation of food.

(2) Food processing and distribution services.

(3) Health, medical, dental, nursing and supporting services except commercial health and recreational activities.

(4) Police, fire fighting and emergency aid services.

(5) Public passenger transportation, including school buses and other buses, rail intercity and mass transit systems, but excluding tour and excursion services.

(6) Rail, highway, sea and air freight transportation services, and transportation and warehousing services not elsewhere specified.

(7) Other state and local government activities.

(8) The fuel needs of residents in states or parts of states unable to obtain sufficient crude oil or products.

(9) Difficulties caused by natural disasters.

(10) Public utilities.

(11) Telecommunications.

Whenever possible without detriment to the above priorities, preference shall be given to independent refiners and marketers (1) in the carrying out of such priorities, and (2) in other cases where all other conditions are equal and a choice must be made between allocation of supplies to an independent or to a major company.

e. Where to request assistance

Requests for assistance should be sent to the appropriate regional office of the Office of Oil and Gas, or to the Office of Oil and Gas representative at the regional office of the Office of Emergency Preparedness with a copy to the Director, Office of Oil and Gas, Department of the Interior, Washington, D.C. 20240. Appendix A provides addresses of these regional offices and the states covered by each office.

4. COMPLAINTS

The Office of Oil and Gas will receive complaints from anyone who feels he is not receiving a proper allocation of supplies. Complaints should be made in writing, documenting the basis for the complaint, to the addresses in Appendix A to be considered officially. Suppliers are requested to provide each regional office with the appropriate contracts to facilitate informal review and resolution of problems by mutual consent.

If it deems it necessary, the Office of Oil and Gas may require a public hearing and submission of date, by suppliers, on their 1971 and 1972 exchanges and/or sales of crude oil, unfinished oil and products. These data will include the names and addresses of customers, the amounts of crude oil and products sold to them, the legal relationship between major oil companies and customers, and whatever other information the Office of Oil and Gas believes necessary to conduct the hearing. The Office of Oil and Gas will then verify the accuracy of complaints against a supplier and, if justified, impose mandatory allocation on the supplier.

5. PRICE

a. Products

The price at which petroleum products (including liquified petroleum gases) shall be sold by refiners and wholesale distributors to independent marketers, wholesale distributors, and other unaffiliated customers shall not exceed normal refinery or terminal rack prices, or normal delivered domestic contract barge or cargo prices charged by major companies.

b. Crude Oil

The price at which major oil companies shall sell crude oil to independent refiners shall not exceed the posted crude oil prices at the time of sale, plus an applicable pipeline transportation charge.

c. Limitation

No price controls are contemplated in this program other than those promulgated by the Cost of Living Council.

6. PRE-EMPTION

For the allocation program to be successful it is imperative that supplies of crude oil and refined products be made on a coordinated national basis. Accordingly, the states should refrain from adopting independent allocation programs which would obstruct the smooth and equitable functioning of the national program. To the fullest extent legally permissible under the authority granted by the Economic Stabilization Act Amendments of 1973, it is the intent of this program to federally pre-empt the states from entering the field of allocation of crude oil and refinery products.

7. EXCEPTIONS

The intent of this program is to assure adequate supplies for essential needs and provide an equitable basis for assuring that independent members of all segments of the industry obtain sufficient supplies to meet their customer's needs. If the results of some aspects of the program are contrary to this intent, the supplier affected may request that the Office of Oil and Gas grant an exception on the basis of unintended results.

8. CHANGES IN PROGRAM

a. Revisions

Immediately following the initiation of this program, the Oil Policy Committee shall begin hearings to determine any changes that may be required to make the program equitable to all classes of suppliers and purchasers, and whether the program should be made mandatory. The Chairman of the Oil Policy Committee will designate an ad hoc board to conduct such hearings and report its findings to the Oil Policy Committee. The board shall be composed of representatives of the Interior, Treasury, Justice, and Commerce Departments, GSA/OEP, and any other representatives as the Chairman of the Oil Policy Committee may feel appropriate. The Chairman of the Oil Policy Committee shall designate the Chairman of the board.

Supplemental guidelines and procedures published by the Office of Oil and Gas may be issued as appropriate.

b. Additional Measures

The Oil Policy Committee will also investigate and recommend additional measures that should be undertaken to encourage allocations by major suppliers.

(Sgd.) DUKE R. LIGON,
D. R. Ligon, Director.

May 21, 1973.

Mr. JACKSON. The administration lists the priority items in their own voluntary program. The schedule starts with farming, ranching, and food processing. No. 3 is health and medical; four, police and firefighting. It is this kind of promulgation that we have in mind, if that is responsive to the question the Senator has raised regarding section 104(a).

Mr. HUMPHREY. I invite the Senator's attention to the language in section 104(b).

My question relates to section 104(b) where the President is directed to use his authority under this act and existing law to assure that no petroleum refinery in the United States is required to operate at less than normal full capacity. Do I correctly understand that that is to be implemented at once, with the passage of this act?

Mr. JACKSON. The answer is yes—forthwith.

Mr. HUMPHREY. In other words, the 60-day provision does not apply there?

Mr. JACKSON. That is right. In fact, the 60-day period we may want to amend to 30 days.

Mr. HUMPHREY. I have an amendment at the desk for that. I understand that we might call it up on Monday.

Mr. JACKSON. That is correct.

Mr. HUMPHREY. I thank the chairman for his cooperation on these matters.

Mr. President, if the Senator will yield me further time on the bill, I have a statement I wish to run through rather quickly. Could I have 15 minutes?

Mr. JACKSON. Mr. President, I yield to the Senator from Minnesota 15 minutes on the bill.

First, Mr. President, I have a unanimous-consent request.

There is an excellent article in the Los Angeles Times of today, June 1, by Ernest Conine, entitled "Why Pick One Pipeline Route When We Really Need Both?" I ask unanimous consent to have this article printed in the RECORD.

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

WHY PICK ONE PIPELINE WHEN WE REALLY NEED BOTH?

(By Ernest Conine)

In a playful bit of muscle-flexing, four Arab nations briefly stopped pumping oil a few days ago to demonstrate their ability to shut off vitally needed energy supplies if the United States and other oil importing countries don't behave to suit them. At about the same time, Sen. J. William Fulbright (D-Ark.) seriously suggested that a growing dependence on Middle Eastern oil may lead the United States or its "surrogates" to take over the Arab oil fields by military force.

With all this going on, the continued delay in construction of the trans-Alaska oil pipeline is incredible. More than that, it is a national stupidity for which Americans may pay dearly in the years ahead.

As practically everybody knows by now, this country no longer produces anywhere near enough petroleum to meet demand. We are already importing a third of our needs. If things continue on their present course, half or more of our oil supplies will be coming from foreign sources by 1980—a staggering 4.4 billion barrels. Most of these imports will come from the politically volatile Middle East.

Leaving aside the very real political and national security considerations, the economic implications are staggering. Oil imports would constitute roughly a $16 billion drain on the U.S. balance of payments. It is hard to see how deficits of that magnitude could be offset unless the government, at great expense to the taxpayers, pumped massive subsidies into such export industries as aerospace and agriculture.

Enter Alaskan oil.

The largest oil discovery ever made on the North American continent was made five years ago on Alaska's North Slope. Its proven reserves are estimated conservatively at about 10 billion barrels—25% of total U.S. domestic reserves. The actual figure may be eight or ten times that much.

In 1969 a group of oil companies sought a permit to build a pipeline to carry the oil 789 miles southward across Alaska to the port of Valdez for tanker shipment to Los Angeles, San Francisco and Seattle.

Then came the environmentalists, protesting that the project would do irreparable damage to the permafrost, imperil wildlife and pose a danger of serious spills from oil tankers. If the North Slope oil is to be tapped at all, they say, it should be transported via a pipeline across Canada to the Middle West.

The latest court ruling has made it clear that the trans-Alaska pipeline cannot be built without an act of Congress—and even then more lawsuits by the environmentalists could delay construction indefinitely. That is where things stand.

No one should imagine, of course, that Alaskan oil will eliminate the need for oil imports. But as Interior Secretary Rogers C. B. Morton has pointed out, "Every barrel of oil we can deliver and produce domestically means one less barrel we must import."

Adds William E. Simon, deputy secretary of the treasury:

"The significance of our North Slope energy potential," he told a Senate committee, "is not just the 2 million barrels per day that could someday be delivered through the Alaska pipeline. Nor is it the

10 billion-barrel proven reserves in the Prudhoe Bay field.

"Projections indicate that the North Slope has potential reserves of as much as 80 billion barrels. Thus, we might someday achieve an Alaska production of 5 to 8 million barrels per day.

"This, in turn, could reduce our first-round balance-of-trade outflows by $7 billion to $12 billion per year. Production at maximum rates would also materially strengthen our bargaining position with producing countries and increase our ability to meet any surplus disruptions with minimum adverse economic consequences . . . But to obtain the North Slope's full potential during the critical period of the 1980s, we must begin development now."

There is no question that environmental dangers are involved, nor is there any doubt that a good case can be made for a trans-Canada pipeline carrying Alaskan oil into the American heartland. As arguments against going ahead with the trans-Alaskan pipeline, however, they don't hold water.

If Alaskan oil doesn't come down to the U.S. West Coast, the area will have to depend all the more on foreign oil—oil that will move in tankers not subject to the special environmental safeguards decreed by the Interior Department for tankers from Alaska. Double tanker bottoms, for example.

As for the alternative route across Canada, it would pose environmental hazards of its own.

Also, the longer that the Alaskan pipeline is postponed, the greater will be the pressure to open the spill-prone Santa Barbara Channel to full-scale drilling. Then there is the question of jobs.

As Morton puts it, "Building the Alaska line would create 26,000 construction jobs, at peak, for American workers, plus 73,000 man-years of tanker construction, and 770 man-years of work for U.S. maritime crews and maintenance. These jobs would be lost if the pipeline goes through Canada, because the Canadian government has said it will give preference to Canadians."

Finally there is the time factor.

If legal obstacles to the Alaskan pipeline can be overcome by 1974, construction can be completed by 1977 or 1978 because the engineering has been done and the pipe is already on hand. The Canadian route would take an estimated five years longer—every year of which would represent a massive, unnecessary drain on the U.S. balance of payments.

The fact is that both pipelines are needed. The sensible thing is to go ahead, as Sen. Henry M. Jackson (D-Wash.) has suggested, with the trans-Alaska pipeline while opening negotiations with the Canadians.

Jackson is pushing a bill, which cleared the Senate Interior Committee this week, to proceed on that basis. Its fate depends on whether Congress knows the difference between environmental caution and environmental extremism.

Mr. HUMPHREY. Mr. President, for the information of the Senate, I have placed at the desk, and will call up in due time on Monday or Tuesday, amendments which relate to shortening the period of time for the promulgation of rules and regulations under the authority of this act; second, an amendment that will redefine what we mean by an independent small refinery; third, an amendment that deals with the antitrust provisions.

It is the judgment of the Senator from Minnesota, after conducting some hearings in the Joint Economic Committee, that there needs to be a good, hard look at the practices in the petroleum industry, to make sure that under this pressure of scarcity, there is no violation of the antitrust laws. I will be prepared on Monday to discuss these amendments and, hopefully, to gain their acceptance.

Mr. President, I commend the Senator from Washington for his splendid leadership in bringing this bill to the Senate; because the bill before us, S. 1570, is the product of many weeks of hearings and a great deal of good work on the part of the chairman and the entire committee. The committee has performed a very valuable service for us.

The entire Nation has been concerned, as is, indeed, the entire world, about what we call the energy crisis. A number of committees in Congress have been spending their time looking into this problem. It is a complex problem. It is not easy to deal with and there are no simple and immediate answers.

Therefore, we are attempting to approach it on the basis of an emergency, on the one hand. We passed a bill here the other day, about a week ago, that establishes a National Energy Council to coordinate the program of the Government. There will be other measures that flow from the President's Energy Message to Congress, particularly in the field of research.

I refer specifically to research that applies to our vast resources of coal that will make possible the conversion of that coal into a relatively pollution free fuel.

All of these things are going on. The executive branch has been reorganizing some of the agencies and the respective departments to do a better job. It is fair to say that this energy crisis came upon us primarily because of the lack of planning throughout the entire Government structure and the national economy, but many factors lend themselves to this problem today.

Last night at a Republican dinner Vice President AGNEW charged the Democratic Congress is spending too much time on Watergate and not enough on other matters. He specifically indicted Congress for not moving in the energy crisis. I wish to read the wire service report. It is an AP dispatch out of Cleveland, Ohio, and it states:

CLEVELAND, OHIO.—Vice President Spiro T. Agnew says Congressmen should be worrying less about Watergate and working more on the energy crisis.

"It might be a good idea for some members of Congress to think a little bit about the amount of time they're devoting to speculations over what might eventually emerge from the Watergate investigation," he told a crowd of 1,500 at a $150-a-plate Republican fund-raising dinner Thursday night.

Mr. President, I mentioned this not to indulge in conversation or talk of Watergate. In fact, there has not been much of that here, except within the confines of the Ervin committee. That committee has conducted itself responsibly and on a bipartisan basis and it has given the American people a good impression of the Senate. I commend the committee. But the Vice President made his speech at the very time that this Emergency Petroleum Allocation Act is coming before us. This legislation is not the product of a hasty endeavor. It is the product of thoughtful in-depth hearings. This legislation before us is but a part of a much broader program. Congress has been at work on the energy crisis and, frankly, I think we need a little less of this kind of squabbling and a little more cooperation by both branches of Government.

I know that Mr. William Simon of the Treasury Department is working very closely with the committees of Congress. I thank him. I have had the privilege of discussing the energy emergency situation with him on many occasions. Also, Mr. Duke Ligon of the Department of Interior's Office of Oil and Gas has been very helpful.

Our job here is not to get into an argument or contest or rhetoric on who is doing what, but to face up to the fact that the Nation faces a very serious energy crisis and that this serious energy crisis will be with us for many months and possibly years ahead.

Mr. JACKSON. Mr. President, will the Senator yield at that point?

Mr. HUMPHREY. I yield.

Mr. JACKSON. Mr. President, I wish to take this opportunity to express my complete agreement with what the Senator had to say about the unfortunate remarks of the Vice President of the United States yesterday in Ohio. We have been working on a bipartisan basis in our committee for 2 years on the energy problem.

Three years ago we had before our committee the setting up of a Commission on Fuel Energy, which the administration opposed. That was 3 years ago. I point out that we waited very patiently. The Vice President probably was not around, but we waited until April 27 for the energy message to come from the White House. It was supposed to have come in January; it was supposed to have come in February; then it was supposed to have come in March. Finally it arrived the latter part of April.

The fact is that the study we have been undertaking, as I said, has been going forward on a completely bipartisan basis. It was underway long before the administration started to move. We have yet to hear from the administration on many important areas of the fuel and energy crisis.

I point out that we have yet to get the administration's views on establishment of a strategic reserve.

We do not have an adequate reserve supply of petroleum in the United States. The maximum is 5 days according to our estimate. We have a 5-day supply, and that only if we pump out the tanks and the pipelines. The committee started hearings on establishing a 90-day strategic reserve, involving 3 billion barrels, which afford us some credibility in negotiations with the producing countries.

The administration has yet to come up with a program. I wonder what the Vice President was talking about. Maybe he ought to get a new speechwriter.

Mr. HUMPHREY. Mr. President, the country is indebted to the Senator from Washington for the leadership he has taken on the energy matter. I have had the privilege of discussing with him the energy question, specifically as it relates to gasoline, and fuel oils. It has been a special delight for me to be able to work with him and his staff, and the staff

members of the committee. He has tried to give us some sense of direction.

Mr. President, I strongly support S. 1570, the Emergency Petroleum Allocation Act of 1973. The legislation is designed to deal with the urgent problem of the first peacetime fuel shortages in American history.

The purpose of S. 1570 is to minimize the impact of shortages of crude oil and petroleum products by mandating the allocation or distribution of fuels in short supply. The act requires that the President use his authority to achieve certain specified objectives, including the maintenance of public services, essential agricultural operations, and an economically sound and competitive petroleum industry, as we have described them here today.

Mr. President, I wish to underscore, as I did yesterday in the Senate, the importance of fuel to our producers of food and fiber. In the proposed legislation for emergency petroleum allocation, a high priority is given to the American agricultural sector, because it is that sector or portion of our economy that is going to require an adequate and continuing supply of petroleum products.

Mr. President, one of the most serious deficiencies of the President's recent energy message and the administration's entire energy policy is that they made no provision for a fair and dependable method of allocating fuels that are in short supply. For this reason the Congress adopted the Eagleton amendment to the Economic Stabilization Act. The amendment, as enacted, authorizes the President to prevent anticompetitive practices in the petroleum industry. After Congress expressed deepening concern, the executive branch, on May 10, finally adopted a voluntary allocation plan.

I would note again, in answer to the Vice President, that the Eagleton amendment was adopted by Congress more than a month ago, so that was another effort made by Congress to get at the problem of a very dangerous fuel shortage.

The plan, known as the voluntary allocation plan, is a step in the right direction, but I have serious questions about its effectiveness.

From reports I have received, some independents have received assurances of services from the major oil companies, but very few have actually received gasoline.

Nor do my fears rest solely on the gasoline supply situation. If we look just a few short months ahead, we find the frightening possibility of an inadequate and inequitably allocated heating oil supply, for, as we all know, the supply of gasoline is closely intertwined with the supply of heating oil. Both of these products come from the same barrel of crude.

In fact, refineries are now producing at their maximum capacity for gasoline. It seems they are not building up reserves that are going to be needed this fall and winter for heating fuel.

Last winter we in the Midwest were saved from catastrophe because we had an unusually mild winter. But we cannot depend on the compassionate hand of the Lord again this winter. We must make sure we have adequate supplies of heating oil for the coming fall and winter months.

Mr. President, it is not clear what the shortage actually is with respect to petroleum products. Administration officials in Des Moines yesterday said that the "excess demand of petroleum products" is 2 to 3 percent nationwide. But this conceals far greater shortages in certain individual products such as gasoline and propane, and it also conceals regional disparity.

By the way, the figure of 2 or 3 percent shortfall is not actually an accurate one. It runs anywhere from 2 to 5 percent, according to the most objective analysis, and some people feel it is more.

From the information which comes to me, there clearly is a serious shortage in gasoline and fuel. And all indications are it will get progressively worse in the near future.

Let me cite a few examples I have culled from testimony and from communications that have come to my office.

A rural gasoline dealer, who privately supplies local farmers and commercial fishermen in Sebastian, Fla., is being cut today by Texaco from 47,000 gallons of gasoline to 14,000 gallons. He will be forced to close his business if he cannot get more gas immediately.

Ellsworth, Minn., is faced with a real emergency due to the closing of the Skelly Oil Co. there. According to the mayor and town council, there is an acute gas and fuel shortage in the community with at least 50 farmers already without gas, terribly short on fuel, and with no other source of supply available.

Farmland Industries, a large farmer cooperative in Missouri with its own refining facilities, just cannot get crude oil. It has no inventories from which to produce fuels for Midwest farmers.

The Minneapolis Transit Commission asked for bids to supply diesel gasoline for its buses and had only one company respond. It was only willing to provide 75 percent of the transit authority's needs and this at a 25-percent higher price than paid last year. Fortunately the company has been persuaded to provide all the gas the transit system needs, but we came very close to having to substantially cut back this vital public service.

A common carrier of foodstuffs between St. Paul and Chicago, that has dealt with Mobil Oil Co. for 25 years, and consumed 150,000 gallons of diesel truck fuel annually, suddenly received a letter from Mobil telling that—

> Because of our current conditions in your area we find that we will no longer be in a position to supply your needs.

The president of this concern informs me that a business of 30 years and 35 employees must be closed as a result of Mobil's decision.

Texaco has refused to supply the Budget Rent a Car Co. of Minnesota with the gasoline it desperately needs. Despite the fact that they bought over 1 million gallons from October 1971 to September 1972, their 8,000-gallon order on May 16 has not been filled. Rather it has been "referred to the Chicago regional office," of Texaco, "for advisement."

The Shamla Oil Co. has furnished aviation fuel to the Silver Lake, Minn., airport for the past 26 years. Union 76 Oil Co. of Minneapolis provided Shamla with this fuel. However, Union 76 has now decided to cut off its aviation fuel sales and there is no alternative source of supply. As a result, the crop dusters who use this airport are unable to spray the crops.

Reports from Indiana indicate that propane gas, obtained specifically for emergency crop drying, was directed to other uses. This misallocation indicates the problem of equitable distribution of scarce fuel supplies.

Some farmers who are out of fuel are questioning how automobile drivers obtain fuels to drive at high speeds on highways by their farms. In Michigan, 6,000 farmers are out of fuel, according to USDA. In addition, other Michigan distributors servicing approximately 20,000 farmers in the southern part of the state are either nearly out or have been drastically cut by their suppliers.

In Michigan and other parts of the Midwest, private construction contractors are known to be hoarding 3 months or more supply of fuels, depriving urgent needs of our farmers.

The Midland Cooperatives, Inc., in Minneapolis, informs me that—

> While some major oil companies have given lipservice to the voluntary allocation program, we have seen very little or no evidence of it.

Midland recently telegramed its traditional suppliers of crude oil informing them of the desperate supply situation and the likelihood of a refinery shutdown in early June if additional supplies were not made available. Despite considerable talk, to date there has been no response in terms of "wet barrels" delivered to Midland's refinery.

Last night's Washington Star reported on the various rationing policies of the Texaco and Shell Oil Co. It seems terribly unfair to me that toll roads in some States—New York, Ohio, Florida, and so forth, must strictly limit sales, while motorists in other parts of the country can buy all they want, without any limit. This just is not equitable.

Mr. President, the U.S. Department of Agriculture in its latest weekly report to the Office of Emergency Planning revealed the following startling statistics. There are crucial farm fuel shortages in 23 States covering 127 fuel distributors. This is up from 21 States and 94 distributors only 5 days ago. The Midwestern States seem to be hardest hit.

I ask unanimous consent that this USDA report be inserted at this point in the RECORD.

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

USDA WEEKLY REPORT TO OEP—RELATING TO THE FUEL SITUATION

1. *Farmwork Progress.* Farmwork was slowed somewhat the past week because of rain over much of the country. Corn is now about eighty percent planted. Cotton planting is also about eighty percent completed in the south and virtually completed in Arizona and California. Soybean planting increased but continues to lag much behind normal. Grain sorghum planting also lags except in the southwest.

2. *Farm Fuel Availability.* See attached report dated May 30.

3. *LP and Natural Gas.* Farmer supply problems and expected problems with LP gas have been appearing in some State reports during recent weeks. This week, USDA asked its State offices to report on potential shortages of both LP and natural gas for *crop drying* purposes. The report was based on information readily available from the USDA monitoring program. A copy of the U.S. summary is attached.

FARM FUEL SITUATION AS MAY 30, 1973

1. *Crucial Shortages.* Active cases in 23 States covering 127 fuel distributors (up from 21 States and 94 distributors five days ago). These distributors are concentrated in Iowa and Nebraska. Solutions continue to be slow and sometimes frustrating, but a total of 24 have been resolved since the Office of Oil and Gas began working on them about ten days ago. Indications are that others will be resolved soon. With June 1 at hand, the June fuel allocation will be available to some of these distributors.

A few scattered farmers are reported to be out of fuel but the number appears to be down from the past two weeks.

2. *General Farm Fuel Availability.* Supply continues tight to very tight in most States. Allocations for May generally used up with many distributors already dipping into June allocations. Some distributors and most farmers who encounter supply difficulties seem to be able to locate supplies "at a price." Price is reported to be up 50 percent in one case (Nebraska) and as much as ten cents per gallon in several cases. There are concerns over section fuel requirements such as for vegetable and small grain harvest and for irrigation.

3. *Voluntary Fuel Allocation Program.* It is understood that most major oil companies have agreed to cooperate. There were indications in a few State reports that farmers are being given priority in the distribution of fuels. This is an improvement over recent weeks.

POTENTIAL SHORTAGES IN LP AND NATURAL GAS FOR CROP DRYING PURPOSES

Inquiry made today, May 30, in each State except Hawaii and Alaska.

LP GAS FOR CROP DRYING PURPOSES

26 States report significant use of LP gas for crop drying purposes.

4 States anticipated no significant shortage for crop drying.

12 States indicated minor shortages.

10 States or 39% of those States using LP gas for drying anticipated critical shortages.

The Midwest Region indicated substantial critical shortages. All but one State anticipated critical shortages of LP gas for crop drying purposes.

NATURAL GAS FOR CROP DRYING PURPOSES

20 States report significant use of natural gas for crop drying purposes.

4 States anticipated no significant shortage for crop drying.

7 States indicated minor shortages.

9 States or 45% of those States using natural gas for drying anticipated critical shortages.

The Midwest Region again was most significant with all of the States anticipating critical shortages of natural gas for crop drying purposes. There were essentially no anticipated problems in the SW Region, with only minor anticipated shortages in the SE, NE, and NW Regions.

TOTAL FOR THE NATION

	States using gas		Shortages in States using LP gas			Shortages in States using natural gas		
	LP	Natural	No significant	Minor	Critical	No significant	Minor	Critical
All regions (percent)	54	42	15	46	39	20	35	45
All regions (number of States)	26	20	4	12	10	4	7	9

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. HUMPHREY. Mr. President, if I may conclude, the evidence I have cited for the RECORD as examples is a matter of official notification, and those examples go to the question of shortage, primarily, but also to the question of poor allocation or distribution. When it comes to the question of poor allocation, I have all kinds of information which shows we have a poor system of allocation, and it is to that very problem that the bill sponsored by the Senator from Washington addresses itself.

A voluntary allocation plan, I regret to say, with all of its good intentions on the part of its sponsors, will not do the job. On April 18 I introduced a joint resolution which has as its purpose the taking of the immediate mandatory action in allocating fuel supplies. My bill would provide for the establishment of priorities. In recent days, I and my staff, working with the distinguished Senator from Washington and his committee and staff, have arrived at a proposal which provides for action by the Government and private industry to assure equitable distribution of fuel supplies.

I urge its adoption.

Mr. JACKSON. Mr. President, I want to express my deep appreciation for the tremendous help given by the able Senator from Minnesota. We have been working together on a good many amendments. A major amendment will be offered next week by the Senator from Minnesota, who has been extremely helpful in strengthening the bill.

Mr. President, the growing shortage of petroleum products has become a national problem of crisis proportions. Strict gas rationing and spectacular price increases have befallen retail and wholesale consumers throughout the country. Those people and institutions that depend on a ready supply of gasoline are under severe economic hardship. The question is not limited to the inflationary price of gasoline—it is a question of availability at any price.

The effects of this shortage are being felt in every section of the country. Major oil companies, including Standard Oil of California, Amoco, Union, Sun, Phillips, and Texaco, are rationing gasoline supplies among retail and wholesale outlets. Thousands of independent service stations have been forced to close. The cities of New York, Boston, Detroit, Pittsburgh, and Washington are either unable to buy the gas necessary to provide essential municipal services or have been forced to accept short-term supply commitments with massive price increases. Domestic airline service is threatened due to aviation fuel shortages; crops are going unplanted as farm equipment stands idle awaiting gas supplies; barge, motor freight, and rail transport are struggling to secure needed fuel supplies on a day-to-day basis. Finally, the fuel shortage has caused price increases that may dampen the automobile tourist industry while contributing to the national inflationary spiral.

Texaco, the Nation's largest gasoline retailer, began rationing on March 28 in Los Angeles. Sun Oil Co. announced gas rationing in the D.C. area on April 18, and Union Oil soon followed suit in the Far West. Beginning in early May, Phillips Petroleum cut sales to all of its customers east of the Rocky Mountains by 10 percent. In Illinois, the Amoco Oil Co. began limiting sales to about a half-tank per car. Standard Oil of California was rationing gas in the Western States by early May.

This unprecedented peacetime gas rationing has caused the closing of hundreds, perhaps thousands, of independent retail outlets that have traditionally relied on major oil company surpluses for their gasoline supply. Since April, more than five stations per week have closed in both Connecticut and Massachusetts. In the Washington area more than 24 stations have had to shut their doors due to product shortages. A chain of 25 independent stations has been closed in Baltimore. Berkley, Mich., and Minneapolis, Minn., have lost similarly large numbers of independent outlets. Closed gasoline stations in Atlanta, Ga., and Whittier, Calif., illustrate that the phenomena is not limited to the East and Midwest. Many hundreds of stations have simply run out of gas and many thousands of other independents are still threatened. The potential economic impact on all areas of the Nation and on competition in the oil industry cannot be exaggerated.

The gasoline shortage is causing drastic price increases and threatening the fuel supply required to operate municipal services in many large cities. Major oil companies are reluctant to take contracts for bulk gas sales when all available supplies can be sold at a greater profit through company-owned service stations. Consequently, many cities are facing the specter of paying nearly the full retail price for gasoline and reducing consumption by cutting back on municipal services. Boston, Detroit, New York, Pittsburgh, and Washington have either been unable to buy the necessary gas or have been forced to accept major price increases. Washington's municipal busline provides a specific example of the problem. The Metro received only 1 bid after sending requests to 14 major oil companies. Eventually, a contract was signed that resulted in a $400,000 increase in annual fuel costs.

Industries utilizing petroleum fuels are threatened by the gasoline shortages. Other fuels such as kerosene-type air-

craft fuel and common heating oil compete with gasoline for refining capacity. When gasoline is at a premium the oil companies concentrate on its production while decreasing production of the other less profitable fuels. This situation may lead to a shortage of aircraft fuel and a subsequent curtailing of airline service. Trans World Airlines, United Air Lines, and American Airlines have already established a mutual capacity agreement to limit certain transcontinental flights in an effort to preserve strained fuel supplies. Curtailed airline service and heating oil shortages next winter are a certainty.

Vital agricultural production may be limited by the gasoline shortage. It has been reported that a 10-percent shortage of farm fuel will strike Schenectady County, N.Y., about June 1. Widespread agricultural fuel shortages could have a crippling effect on national production. The potential for gasoline shortages is increased because peak agricultural demands coincide with peak travel demands.

Mr. President, I ask unanimous consent that I may place in the RECORD at this point a number of news articles relating to the gasoline and petroleum shortage throughout the country.

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

[From the New York Times, Apr. 17, 1973]

A GROWING SHORTAGE OF GASOLINE IN U.S. THREATENS VACATIONERS AND INDEPENDENT SERVICE STATION OPERATORS

Glen Hatcher, who has kept his Atlanta area gasoline stations open around the clock for nearly 20 years, went out last week to buy some locks for the doors.

A gasoline shortage is forcing him to close his stations at night.

"It's a sorry situation," Mr. Hatcher said. "We just never had any need for the locks before. Now I'm afraid we may even have to shut down for good."

Mr. Hatcher's stations are supplied by the Crown Central Petroleum Corporation, which cut off gasoline to about 100 stations in the Southeast last week. "We just don't have the crude oil to work with," said Robert K. Cavanagh, Crown Central's Southeast regional manager.

Mr. Hatcher's plight is shared by other independent station operators around the country. The shortage of gasoline has already forced many station operators to close, and many others feel they will have to close in the next few weeks, when the spring and summer travel season begins.

IMPACT ON PRICES

There are more than 210,000 gasoline stations in the United States, and those in the process of closing represent a tiny percentage. But many of the stations caught in the squeeze are discount stations that sell gasoline for a few cents a gallon under the price of the brand name stations, which means that Americans are already feeling the impact of the shortage on prices.

"Bargain prices are over with," says Richard Small, president of the Checker Oil Company in Chicago, operator of 240 discount stations in the Middle West.

Gasoline prices in the United States range from 30 to 45 cents a gallon, and station operators are talking about the prospect of selling gasoline for 50 or 60 cents a gallon. In nearly every part of the country, the typical motorist already is paying 2 to 5 cents more per gallon than he was a few months ago.

The failure of gasoline production to keep pace with demand is attributed to several factors—a shortage of refining capacity in the United States, problems in obtaining foreign crude oil, the inability of many American refineries to process some available foreign crude oil because its content corrodes their facilities, and a fall and winter shortage of heating fuels that caused refineries to concentrate on this area at the expense of gasoline.

A LACK OF BIDDING

The shortage is also being felt by municipal governments and other volume purchasers of gasoline. They find oil companies are not bidding for their business any more. Or if they are, the oil companies have raised the price 2 cents to 5 cents a gallon and do not want long-term contracts.

The Boston area has been particularly hard hit by gasoline shortages. Last Friday, the city of Boston learned for the second time in recent weeks that it had received no bids for its annual gasoline contract for municipal vehicles. Moreover, a joint bid by the suburban communities of Belmont, Brookline, Newton, Waltham and Watertown also went begging.

Independent gasoline stations are shutting down all over New England. A survey by The Boston Globe last Sunday disclosed that 12 of the 50 stations run by the Sure Oil Company of Worcester, Mass., had closed. The Gibbs Oil Company has shut its pumps at 15 stations and says 21 more may soon be affected.

In Vermont, there were no bids for next year's state gasoline contract.

In Miami, Ray Goode, the Dade County Manager, said the county's supplies might be rationed by its supplier because of shortages.

PROBLEM IN DETROIT

Detroit officials have been unable to get any bids on contracts due to expire April 30. Detroit uses 7 million gallons of gasoline a year, and officials say fire trucks and police cars may have to pull up at corner service stations when city tanks run dry.

The Checker Cab Company in Detroit says it has not had any bids for its annual 4-million gallon contract, which expires June 1. Edwin Sarah, president of Checker in Detroit, said 25 other cab fleets in the nation were having similar problems.

Only one bid was received last Friday by the state of Maine for its gasoline contract and it is expected that officials in Augusta, Me., will accept the offer by Gulf even though it means paying 6 cents a gallon more and will cost the state an extra $500,000.

"We were lucky to get even one bid," said Linwood F. Ross, the state purchasing agent.

LESS DRIVING URGED

Boston officials have asked their employes to drive less to conserve gasoline supplies. Officials in Dade County, Florida, have ordered division chiefs to curtail vehicle use except for urgent needs; they hope to cut gasoline consumption by 10 per cent.

There are fears in New England and the Middle West that reports of gasoline shortages will hurt the tourist business, a major part of the economy in those regions.

Robert S. Kretschmer, general manager of the Massachusetts Division of the American Automobile Association, said that if there was a decline in the $1-billion tourist industry in New England, it "could create a depression for the area." He added that "85 per cent of all vacationers come here by auto, and no man in his right mind will start out on a long vacation trip if he has the feeling he might not be able to get gas along the way."

Charles E. Shipley, executive director of the Retail Gasoline Dealers Association of Michigan, said the shortage "is going to have an effect on tourism" in that state. But he said the shortage was "evident in price more than in the lack of fuel."

Gasoline distributors fall into three categories—the 29 major companies, which are all refiners; about 275 independent marketers, a few of whom have refineries, and 12,000 independent jobbers who buy gasoline from one of the major companies and distribute it to local service stations.

The independent marketers, who have their own chains of stations, are the first to feel a shortage. The jobbers have somewhat more protection because their stations often carry the brand name of a major refiner.

Among the independents, a spokesman for the Urich Oil Company of Whittier, Calif., said the company would padlock some stations this month because of gasoline shortages.

In Baltimore, nine of 25 Midway stations have been closed. James Griffiths, the company's general manager, said he had raised gasoline prices from 32.9 to 35.9 cents a gallon at Midway's other stations.

In Chicago, gasoline prices have increased an average of 3 cents a gallon since Jan. 1.

In Florida, the price of gasoline at independent stations has risen by 4 cents since last December.

Richard Bartless, executive director of the Colorado Petroleum Marketers Association, said it might be necessary to impose some rationing on retail sales this summer, perhaps 10 gallons instead of a full tank.

Sears, Roebuck & Co., which owns more than 30 service stations between North Palm Beach and Key West, Fla., has started to limit each customer to 10 gallons of gasoline because its supplier, the Marathon Oil Company, has cut deliveries.

A Sears spokesman in St. Louis said two of the company's stations in that area were shortening hours becouse of dwindling supplies, and added that one might have to close. Walter Wiegand, executive secretary of the Mid-American Gasoline Marketers Association in St. Louis, said, "I guess the major oil companies consider the independents expendable."

Some oil companies, such as Cities Service, which has adopted the quota system, say they expect the gasoline shortage will end in two or three months. They also deny accusations by some stations owners that the shortage has been contrived to put pressure on the Government to ease restrictions on oil import quotas and to build pipelines and refineries.

Texaco issued a statement, however, saying it hoped that "Government import policy would facilitate access to crude oil supplies" needed to fill refinery pipelines. It also said it hoped the Government would approve higher prices for gasoline made from more costly imported crude oil.

JACKSON URGES ACTION

WASHINGTON, April 16.—Senator Henry M. Jackson, chairman of the Senate Interior Committee, called on the oil industry and the White House today to make sure that independent gasoline stations do not run out of gasoline.

Senator Jackson, a Democrat from the state of Washington, said "there ought to be an arrangement by which independents can stay in business" even if it means a diversion of some gasoline from service stations of the major oil companies.

The Senator said at a news conference that he introduced a bill last Friday that would authorize the President to allocate supplies of liquid fuels and natural gas if he finds that shortages "exist or are imminent."

Today, Senator Jackson introduced a bill designed to create a strategic reserve of oil to protect the United States if a Middle East oil-producing state "should shut off our oil supply either to influence U.S. foreign policy or to drive up the price of petroleum."

Mr. Jackson proposed that a "strategic reserve" equivalent to 90 days' imports include crude oil stored in underground salt domes and in tanks to be built on the surface; so-called reserve-producing capacity of wells on Federal lands and offshore, to be prescribed

by the Interior Department, and oil that may lie in the Navy's petroleum reserves, particularly in northern Alaska near the Prudhoe Bay oil fields.

Under current law, the President cannot intervene in distribution of oil and gasoline supplies unless he finds that there is a threat to the national security. Administration officials have said that the present situation falls short of satisfying that standard.

Senator Jackson's bill would authorize intervention, including rationing the amounts that motorists may buy, where actual or imminent shortages jeopardize "the public health, safety or welfare."

[From the New York Times, May 9, 1973]

A LAG IS REPORTED IN BIDDING ON GAS—CONCERN ON SUPPLY VOICED BY CITY AND COUNTY AIDES

(By David Bird)

Government purchasing officials in the metropolitan area and in other parts of the country have begun to look into contingency plans for rationing gasoline for official cars because oil companies have not been eager to bid on contracts for future gasoline supplies.

New York City's Municipal Service Administrator, Milton Musicus, said there "was no shortage of gasoline yet." "But," he added, "I have grave concern as to whether we're going to get firm commitments and at what price."

Mr. Musicus said that many of the city contracts expired June 30 and that so far no one had bid on next year's supply whereas normally at this time there would have been several bidders competing.

In Nassau County, James E. Baker, the deputy commissioner of purchase and supply, said that while the county's gasoline purchase contracts did not expire until Dec. 31 the uncertain situation now could mean rationing of gasoline for less-essential vehicles after the end of the year.

BID ACCEPTED

In New Jersey, Administrator Richard Nelson of Bergen County said that while bids to supply gasoline usually came in without any urging, this year the county had had to solicit bids publicly twice and had received only one bid.

"We accepted it because we were getting worried," he said.

But the new contract, to go into effect in several weeks, has sharp price increases, Mr. Nelson said. Under the old contract, Bergen County paid 12.5 cents a gallon for regular gasoline and 14.5 cents for premium. Under the new contract, it's 18.2 cents for regular and 20.7 cents for premium.

Major oil companies confirmed that they were not bidding on municipal contracts because there was not enough extra gasoline to go around after the cut-price contracts. Thus, while municipal vehicles may not have to be laid up for lack of gasoline they may be forced into restricted use because local governments cannot afford to allow the uncontrolled purchase of gasoline on the open market, where it costs about twice as much.

Many major oil companies are assuring motorists that they can maintain usual supplies at the pumps unless conditions worsen but some have started actual cutbacks.

Sunoco, for example, has cut back its distributors to 90 per cent of their normal supply. But Bud Davis, a spokesman in Sunoco's Philadelphia headquarters, said that essential-use customers such as police and fire departments and public transit would be exempt from the reduction.

Mr. Davis said that one reason Sunoco had to cut back was that it did not have an assured supply of crude oil for its refineries. This meant, he said, that it had to buy about half its supply on the open market while other refiners could rely on their own wells.

DOMINO EFFECT

Some major oil companies have not had any trouble yet in keeping up with the public demand but they say they are worried about the domino effect if other oil companies can't supply the demand for their regular customers.

"If their customers start coming to us," said Retha Odom, a Shell spokesman in New York, "we're going to be in trouble. We're not looking for more customers and we're not bidding on municipal contracts."

Getty says it had to reduce its supplies to distributors by 8 per cent because breakdown at its Wilmington, Del., refinery had intensified the shortage.

Miss Muriel Havens, a spokesman for Getty, said that, with the limited supply, some stations had been keeping shorter hours and that some station operators were raising prices—although, she said, Getty has not raised the wholesale price in six and a half years.

Such companies as Amoco, Mobil and Texaco have been restricting deliveries to last year's levels. But this, in effect, is a cutback because gasoline demand has been increasing some 6 per cent a year as a result of higher gasoline consumption by cars and a larger number of cars on the road.

Despite the concern over future supplies, the American Petroleum Institute is reporting a narrowing of the gap between supply and demand in the last month.

Ronald Streets said from the institute's Washington office that there was, indeed, a shortage because while the country's stocks of gasoline at this time of year normally would be 225 million barrels they now stood at only 205 million barrels.

Mr. Streets said the gap was narrowing at the rate of about a million barrels a week, which could mean only a 5 per cent shortage by the time of the peak driving season this summer.

"But they could be upset very easily—it depends on what people do," noting that recreational driving was a major factor.

[From the Washington Post, Apr. 7, 1973]

OIL SCARCITY, REFINERY CLOSINGS CAUSE GASOLINE SHORTAGES

(By Thomas O'Toole)

A worldwide scarcity of crude oil and a spate of refinery shutdowns on the Gulf Coast of Texas have triggered local shortages of gasoline in at least eight states.

The White House Office of Emergency Preparedness said yesterday that gasoline inventories were *down almost 25 per cent from year-ago levels in Oklahoma, Kansas and Missouri.* The OEP said that shortages had forced the closing of some small independent gas stations in *California, Florida, Massachusetts, Pennsylvania, Oregon, Washington, Minnesota and Nebraska.*

"These are almost all self-service stations that sell discount gasoline," an OEP spokesman said. "They're the stations that buy spot gas [not contracted for in advance] at distress prices, but in most regions of the country there isn't any of that gas to buy."

Acting OEP Director Darrell M. Trent said nationwide gasoline inventories were down to 212 million barrels, their lowest so far this year and only 12 million barrels above last year's July-August low at the peak of the driving season.

* * * * *

At least three refineries on the Texas Gulf Coast were closed down. Fire shut a Texaco refinery at Port Authur, while maintenance problems closed an Exxon refinery at Baytown and a Standard Oil of Ohio plant at Port Arthur. Shell Oil Co. was running all its Texas refiners with supervisory personnel because of a strike.

Industry sources also claimed that many refineries are down for minor repairs at this time of year, just after the home heating oil season ends and just before the spring motorist season begins.

"A lot of U.S. refineries are getting old," one said, "and this is the only time of the year repairs can be made to keep them running."

Some industry sources claimed that a worldwide shortage of crude oil is also helping to keep refinery capacity below 90 per cent. These sources said that shortages were worst in "sweet crude," the oil that is lowest in sulfur that most American refineries are built to handle.

"The average American refinery can't cope with more than 10 per cent of its run in high sulfur oil," one source said. "Unfortunately, this is the oil that can be imported from Venezuela and the Middle East and even that is running short."

[From the Washington Star-News, May 8, 1973]

TOLLWAY GAS RATIONED

(By Roberta Hornig)

The Amoco Oil Co. has announced it will limit gasoline sales to about a half tank per car at its stations on the Illinois Tollway system, because of fuel shortages.

In another move reflecting worsening fuel supplies, the Continental Oil Co. today asked the Cost of Living Council to let it raise prices of all its products, from crude oil to gasoline and heating fuels.

The company asked for a 9.57 percent price increase on gasoline and heating fuels and for a 6.229 percent on crude oil sales to other companies.

A Continental spokesman said the increases were requested to reflect higher domestic and foreign crude oil prices.

An Amoco spokesman said yesterday that beginning at 7 a.m. tomorrow, Amoco stations will "temporarily" limit gasoline sales to 10 gallons per passenger car and 35 gallons of diesel fuel per truck.

The announcement of the direct rationing of gas to motorists by Amoco follows the firm's "allocation" program to all its gas stations that went into effect May 1.

Amoco Oil Co. is a subsidiary of Standard Oil of Indiana.

Standard Oil Co. of California announced yesterday that it is limiting gasoline supplies to its service stations because of "exceeding high demands."

Several other oil companies also plan to allocate gas to their stations but Amoco's move is the first time a major oil company has ordered its stations to ration gas to motorists.

Amoco has gasoline concessions on the Tollway system, which includes several toll roads with several offshoots running from the Chicago area to the Wisconsin-Indiana State Toll Highway Authority, which approved the rationing plan, said it did so reluctantly, but that "it seemed to be the best alternative to assure equitable distribution of available supplies to all motorists."

An Amoco spokesman said that if the company had not initiated its nationwide allocation program to gas stations "a supply-demand imbalance would have almost certainly led to widespread run-outs of gasoline and diesel fuels this summer."

Amoco decided to directly ration motorists on the Illinois road because, under its contract with the state, it is committed to keep its stations open 24 hours a day seven days a week.

Stations that come under the general allocation rules will have the option of keeping shorter hours or closing one day a week if their fuel-supplies run dry, the spokesman said.

The spokesman added that gasoline is scarce even with the recent lifting of the oil import quotas. One reason the lifting of the quotas has not brought in enough oil is a scramble for Middle East oil by several American companies and the Europeans and Japanese.

In another energy development, 35 senators sent a letter to President Nixon yesterday urging him to start allocating petroleum products instead of leaving it up to oil companies.

While administration energy experts are still claiming only "spot shortages" of fuel, several transportation industry officials yesterday told the Senate Banking Committee fuel shortages appear to be fairly widespread and worsening.

The bleak energy picture was given by representatives of the bus, inland waterway, airline and railroad industries and the farmers.

Some of the key points:

A vice president of Greyhound Lines, Inc., said fuel shortages "have already had an effect on Greyhound's operations and represent a serious potential threat to the nation's transportation system."

Paul R. Ignatius, president of the Air Transport Association, said fuel shortages have already occurred at some airports and his organization has asked the federal government to release aviation fuel bonded for international flights for domestic consumption.

James R. Smith, president of the American Waterways Operators, Inc., a national trade association of transport towboats, tugboats and barges said diesel fuel shortages have so far been spotty except in the Midwest where some towboats traveling north on the Mississippi River from the Gulf Coast have been stranded in the St. Louis area because they were unable to buy fuel there.

A spokesman for the National Farmers Union said farmers are concerned about getting enough fuel for running their tractors. Two factors are at play in the Midwest: a Nixon administration request to farm 50 million more acres to bring down food prices and an extremely late planting due to the Mississippi floods. Because of the delay farmers have to work longer hours later this month and early in June to get their crops in the ground, and therefore will require more fuel faster, the spokesman said.

[From the Washington Post, Apr. 19, 1973]

FUEL SHORTAGE SEEN CURTAILING AIRLINE SERVICE

(By Jack Egan)

The growing nationwide fuel shortage may lead to curtailed airline service later this year and may require restrictions—voluntary or regulatory—on the number of flights over certain routes, airline industry sources indicated yesterday.

Whitney Gillilland, vice chairman of the Civil Aeronautics Board, said on Tuesday that there is a possibility that some flights would have to be diverted because of fuel shortages, that the CAB may reverse its policy of "excessive" route awards because of the situation, and that airline growth might be at an end.

Gillilland was speaking at the McDonnell Douglas Corp. assembly plant in Long Beach, Calif.

"The air transport situation can become particularly serious as the energy crisis deepens because the air carriers—unlike most other industries—are limited to the use of kerosene-type fuels in their jet aircraft," Gillilland said.

He added that kerosene competes with gasoline and heating oil production for refinery capacity, but is less profitable for the oil companies.

In January, a three-day fuel shortage by one supplier, Texaco, at Kennedy International Airport in New York, caused two transcontinental airlines to make non-scheduled fuel stops because they couldn't get enough fuel at the airport to make it across the country.

"We feel at some point that we may have more localized shortages similar to the one at Kennedy," a spokesman for the Air Transport Association said. "These may well be the tip of the iceberg."

He also stressed the long-term fuel problem for the airlines because there is no presently available energy alternative, and advocated increased government research into new modes of airplane propulsion.

A Trans World Airlines spokesman noted that a mutual capacity agreement between TWA, United Air Lines and American Airlines to limit the number of flights over four transcontinental routes has yielded a 120-million-gallon fuel savings during the last 12 months.

The capacity agreement is due to expire at the end of April, and the airlines have asked the CAB for permission to extend it indefinitely. He estimated that if such capacity agreements had been adopted on an industry-wide basis, about 800 million gallons of the approximately 10.5 billion gallons of jet fuel consumed last year would have been saved.

Meanwhile, continuing short supplies of gasoline threatened more independent gas stations with closings, and prices felt more upward pressure.

The Oil Daily's weekly survey of 100 cities last week showed the average price for a gallon of major brand gasoline was 26 cents before taxes, compared with 22½ cents a year ago.

While the major companies said that they don't expect shortages for their own dealers, there were charges that independent stations were having to close because the majors were hoarding their supplies.

The Georgia Independent Oilmen's Association estimated that by this weekend, more than 100 of the state's 1,800 independent stations will have to close because of a lack of fuel.

The director of the Mid-America Gasoline Marketers Association estimated that 30 per cent of the independent stations in the St. Louis area would soon have to close.

[From the New York Times, May 5, 1973]

SHORTAGE FEARED IN FARMERS' FUEL SURVEYS
UPSTATE INDICATE 10-PERCENT DEFICIT BY JUNE 1

ALBANY, May 4—A 10 per cent shortage of farm fuel could strike Schenectady County at about June 1, according to a survey by the county's Agricultural Stabilization and Conservation Committee.

A similar survey in Columbia County of farm fuel, both diesel and gasoline, is already down 10 per cent, according to Craig Earl, executive director of a similar committee in that county.

Ethel Specht, executive director of the Schenectady County committee, said that last year's fuel consumption totaled about 75,000 gallons of diesel oil and 150,000 gallons of gasoline. She said she expected farmers to use 90,000 and 210,000 gallons, respectively, this year.

Mrs. Specht said her survey of four suppliers—Agway, Atlantic Richfield, Sunoco and British Petroleum—indicated the possibility of a 10 per cent shortage at the end of this month. The companies reported, she said, that they were being limited to the same amounts of fuel they sold last year.

Mr. Earl said his survey of the same four sources indicated that while farmers were not yet feeling a bind, they might if the shortage ocntinues.

The situation is aggravated by the fact that this year's planting is running two to three weeks earlier than last year's on gravel and sandy soil, Mr. Earl said.

[From the New York Times, May 3, 1973]

CABS THREATENED BY "GAS" SHORTAGE—TAXI FLEETS MAY BE FORCED TO HALT 800 CARS HERE

(By Rank J. Prial)

The current shortage of gasoline could force a cut-off of bulk sales to New York's taxi fleets and force 800 or more cabs off the city's streets next month, a spokesman for the taxi industry said yesterday.

The spokesman, Arthur Gore, said the Mobil Oil Corporation, had informed the taxi industry that it would end all bulk sales to the industry as of June 1. Mr. Gore said that the up to 15 per cent of the 6,500 fleet-owned cabs could be put out of business if the owners had to buy fuel at regular retail prices.

"For fleets that are only marginally profitable, it would be cheaper to leave cabs in the garage," Mr. Gore said. He explained that such move could put 3,500 employees in the industry out of work.

ACTION DENOUNCED

A spokesman for Mobil said that it supplied gasoline to three groups of fleet owners and that it had elected "not to rebid" on its contract with one of the groups, which ran out in February. Mobil said its contract with the other two groups were still in effect.

"We have been supplying that group on a month-to-month basis," said the Mobil spoksman, Jack Gillespie, "to give them time to find another supplier." That arrangement expires June 1, Mr. Gillespie said.

Joseph A. Acierno, president of the Metropolitan Taxicab Board of Trade, which represents the 70 taxi fleets, denounced the Mobil action as a move to divert gasoline formerly supplied to bulk customers to its own gasoline stations, where the mark-up is higher.

OPERATING COSTS RISE

The bulk rate for the fleets has been "around 15 cents a gallon," according to Mr. Gore. He said it had jumped about 5.4 cents a gallon in the last three or four months.

A spokesman for Gulf Oil Company, another supplier to the taxi industry here, said it had just signed a one-year contract through April 30, 1974, for three million gallons with a broker who sells to the fleets at 16.3 cents a gallon. The previous contract was for 12.3 cents a gallon. It also was for three million gallons.

Mr. Gore said that the rises to date in gasoline prices had increased fuel costs for the fleets to from 22 to 26 per cent of their operating costs, compared with around 19 per cent a year ago.

Mr. Gore said that forcing the fleets to buy at retail rates would mean a 75 per cent increase in the cost of gasoline. The fleet spokesman said the owners would seek tax relief both in Congress and the State Legislature to counteract the price increases.

He also charged that the price increase contravened the directives of the Cost of Living Council, which limited the oil companies to an increase of 1 per cent, except in "cost-justified" cases, where the increase could be 1.5 per cent.

Texaco, another major supplier of gasoline to the taxi industry, declined to comment on the Taxi Board of Trade's charges, but other fuel-industry figures said they doubted the crisis was as serious as the taxi industry portrayed it.

The Attorney General, Louis J. Lefkowitz, noted that "at least 20" independent gasoline stations in the state had been forced to close in recent weeks because the major oil companies had refused to sell them gasoline.

"Preliminary investigation by my office to date has raised a serious question as to whether this shortage as claimed by the oil companies, is sufficiently serious to warrant . . . cutting off supplies to the independents," Mr. Lefkowitz said.

The Attorney General said he was proposing a bill to insure that independent dealers would not have contracts canceled and to insure that whatever gasoline was available was allocated on a "fair and equitable" basis among all purchasers.

[From the Washington Star-News, Apr. 19, 1973]

METRO OK'S DEAL ON FUEL

Metro today tentatively approved new fuel oil contracts for its fleet of 1,764 buses which will cost the system approximately $400,000 more than last year's.

Metro officials, who had been caught in the current fuel shortage earlier sent out requests to 14 major oil companies asking them to bid on Metro's fuel oil requirements.

Last week Metro General manager Jackson Graham said no responsive bids were received and he charged "possibly collusive practices were used by the major oil companies in not bidding."

The Metro board then authorized the staff to confer with the Department of Justice to investigate the oil firms' lack of response. Metro officials said today they have had conversations with Justice Department officials.

The board today left the door open for negotiating an even lower contract if one can be found. Metro is still talking with one oil company in hopes of finding a lower diesel fuel contract than the one tentatively approved with Sun Oil, which would provide 15 million gallons of fuel at 15.39 cents a gallon.

Last year the former D.C. Transit and WV&M bus companies spent approximately $1.2 million for diesel fuel. The WMA bus company had a separate contract with Mobil Oil and paid approximately $250,000 last year for diesel fuel.

Metro's current fuel oil contract expires April 30, but with the unanimous vote today, Metro officials said they will be able to keep all buses running.

Metro's former contract was with Exxon at 11.85 cents a gallon, but Exxon officials refused to negotiate a new contract even at a higher price.

Ralph Wood, chief of Metro bus operations said, "I'm pleased that we now have an avenue to stay in operation."

He said it was essential that the contract be tentatively awarded today so Sun Oil would have time to set up provisions to supply the fuel.

[From the New York Times, Apr. 22, 1973]

PITTSBURGH AIDES FEAR FUEL SHORTAGE

PITTSBURGH, April 21.—Municipal and transit officials in the Pittsburgh district displayed concern last week over the possibility that they might be without adequate fuel supplies because of the energy crisis.

An official of Gulf Oil Corporation, which is based in Pittsburgh, said, "We are not bidding on municipal contracts at present." Representatives of other major fuel companies made similar statements.

The potential crisis first became apparent when officials of Ohio Township reported that they had advertised for gasoline bids and that there were no takers. One township officer said that if no bid were received, township vehicles would simply have to drive up to the nearest service station and fill up.

Township officials reported that Quaker State Oil Company, which holds the contract for providing gasoline, had refused to submit a bid because a performance bond was required and the company felt the penalty for not being able to deliver gasoline was too severe.

The Gulf Oil official said that supplying fuel to municipalities was not as profitable as supplying private users.

Other municipal officials expressed concern that police cars and other emergency vehicles might feel the pinch, but an oil company representative said that producers would have to make fuel available to them.

Officials of Gulf and Exxon said that they could meet demands of their present municipal customers, but that they were not looking for new customers.

[From the Washington Post, Apr. 19, 1973]

GAS FOR $1 A GALLON PREDICTED BY 1975

VIRGINIA BEACH.—If the nation's energy crisis continues, by 1975 we'll be paying $1 a gallon for gasoline and $100 a month home electric bills, air pollution technical experts were told here yesterday.

William F. Cantieri, vice chairman of the power division of the American Society of Mechanical Engineers, made the predictions at the annual meeting of the technical advisory committee to the State Air Pollution Control Board.

Cantieri said the energy crisis is the result of poor foresight and bad decisions made decades ago. The fuel shortage, he said, will result in a "financial crisis" as the United States seeks to make up for domestic oil shortages by importing petroleum from Russia and the Mideast.

Increased importation, he said, will further contribute to the country's balance of payment deficit and contribute to a weakening of the dollar.

Cantieri said delays in construction of nuclear power plants means that the equivalent of 60 large nuclear power plants won't be ready by 1980 as originally planned, and this in turn will require the importation of an additional 100 million barrels of oil.

Mr. JACKSON. Mr President, I yield 7 minutes to the distinguished Senator from Illinois (Mr. STEVENSON).

Mr. STEVENSON. Mr. President, I thank the Senator from Washington for yielding to me. I also want to commend the Senator for bringing this important matter to the attention of the Senate.

This bill, with the amendment as amended now by the amendment offered by the Senator from Utah (Mr. Moss), will not end the energy crisis. It is at most a temporary answer to an increasingly critical shortage of petroleum products.

Last fall when I and other Members of this body first pointed with alarm to the danger of a fuel shortage and pleaded with the Office of Emergency Preparedness, the Interior Department, and the President for a suspension of oil import quotas, we were told that no such danger existed. The major oil companies conceded no danger of an imminent shortage. They failed to support a suspension of the quotas. They have failed to build refining capacity equal to the Nation's needs. They have, it seems, failed, despite their tax advantages, to develop sufficient domestic and foreign sources of crude oil and to help develop adequate pipeline capacity. Now, having helped create a shortage of crude oil and refined product, they exploit the shortage. The major oil companies are cutting off the flow of crude oil to independent refineries and the flow of refined product to the independent jobbers and dealers.

The major oil companies already control about 90 percent of the refining capacity in the country. Now they seek to drive their competition out of the business of distributing petroleum products. If permitted to do so, they will control that phase of the petroleum industry, too, and the Nation will quite literally be at their mercies.

On April 30, 1973, the Congress extended the Economic Stabilization Act with an amendment which gave the President power to allocate petroleum products to regions threatened by a shortage, such as the Midwest, to industries threatened, like farming, and to the independents. The President and the major oil companies first opposed the so-called Eagleton amendment. Now the President refuses to use it.

The Justice Department has received complaints of apparent violations of the antitrust laws but has refused to act. On May 11 I wrote the Attorney General requesting a Justice Department investigation of possible violations of the antitrust laws by the major oil companies. It was not until May 25 that I received the first indication that the Department has commenced an investigation. There still is no indication when, if at all, the Justice Department will act.

The Federal Trade Commission commenced an investigation in 1971 at the request of the Senate Antitrust Subcommittee. But it has not acted. At a hearing on Wednesday before the Consumer Subcommittee of the Commerce Committee the Federal Trade Commission staff indicated that a staff recommendation to the Commission was still 2 months away. Even then it will be some time before the Commission will act upon the recommendations of its staff, if at all.

In short, the public has nowhere to turn. Its Federal Government is not acting. And so far as I can tell the State governments are not acting either. The farmers in Illinois may have sufficient gas and diesel fuel with which to get the crops in, though that is in doubt. They have no assurance tha they will have sufficient fuel with which to get the crops out in the fall. And if they fail, the administration, which seeks greater farm production, will have lowered farm production, and the consumer will be faced with still higher food prices. Motorists, police forces, hospitals, the trucking industry, and many others face fuel shortages—and higher prices. In the end the Nation faces a monopoly of the petroleum refining and distribution system by about 23 major companies never noted for their charitable instincts.

The Sherman Antitrust Act was enacted largely in response to the predatory practices of the Standard Oil Co. The Federal Government responded then. It is not doing so today. It has responded with a weak-kneed voluntary allocation program which, reduced to its essentials, simply exhorts the majors to be nice to the minors and to the farmers and the Midwest. The majors have every economic incentive to use the shortage they helped to create to drive their competition out of the marketplace. They are acting as might be expected, ruthlessly, to exterminate their competition—and with apparent impunity. Already some 190 independent gasoline dealers have been forced to close their doors in Illinois. Some 1,000 independent stations have closed their doors this year in the Nation.

We cannot wait for the voluntary program to work. We cannot safely assume this administration even wants it to work. Representatives of the Office of Oil and Gas which administers the program can cite few instances where the major oil companies have complied with the allocation guidelines, though they admit receiving over 2,000 complaints and some 868 actual requests for allocations of petroleum products under the voluntary guidelines. After 2½ weeks of the program, the Office of Oil and Gas had only 20 employees in its Washington office for the entire Nation. On May 23 the Office of Oil and Gas regionalized the administration of the program. In Chi-

cago the Office of Oil and Gas had one representative with plans to expand its staff to five for the entire six-State midwestern region. It has, so far as I can tell, provided no relief in Illinois, except to one independent, Hicks Oil Co. in Roberts, Ill.—and in that case only after my personal intervention. The aggrieved farmer, independent dealer, and supplier, desperate for help from his Government, telephones the Office of Oil and Gas and typically is answered with a busy signal. Maybe it will change, but the Congress cannot afford to take the chance it will not. The time to act is now, and the instrument of action is the Jackson bill as amended by Senator Moss, an amendment I have the satisfaction of having helped draft and am cosponsoring. If the Congress acts now some competition may be preserved in the oil industry.

I would hope that in enacting this bill the Congress will not be lulled into a false sense of security. The crisis will be with us still. All we will have done is to bring relief to individuals, industries and regions in great need of fuel. We will have also gained a little time with which to develop alternative sources of energy, particularly coal, for the mounting energy requirements of the Nation.

I urge my colleagues to approve this legislation and without delay.

Mr. JACKSON. Mr. President, I take this opportunity to commend the distinguished Senator from Illinois for his early leadership in connection with what is now referred to as the energy crisis. He has held hearings in his State and has given us invaluable data on which we were able to prepare the pending legislation. He has taken a keen interest in the utilization of coal as a replacement for petroleum and natural gas. We have in coal, both in his State and elsewhere in the Nation, tremendous reserves for the proposed development program. Senator STEVENSON is the coauthor of the research and development bill which provides for the creation of alternative sources of energy. We should move, and move without delay, on this matter.

Mr. President, I want the RECORD to show the tremendous interest, assistance, support, and leadership of the Senator from Illinois in this area.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. JACKSON. Mr. President, I ask unanimous consent that the time taken today on quorum calls, including this one, not be taken out of the time allowed on either side.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, each with amendments, in which it requested the concurrence of the Senate:

S. 504. An act to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems; and

S. 1136. An act to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 7317. An act to authorize the U.S. Postal Service to continue to receive the fee of $2 for execution of an application for a passport;

H.R. 7357. An act to amend section 5(1)(1) of the Railroad Retirement Act of 1937 to simplify administration of the act; and to amend section 226(e) of the Social Security Act to extend kidney disease medicare coverage to railroad employees, their spouses, and their dependent children; and for other purposes; and

H.R. 7724. An act to amend the Public Health Service Act to establish a national program of biomedical research fellowship, traineeships, and training to assure the continued excellence of biomedical research in the United States, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 7317. An act to authorize the U.S. Postal Service to continue to receive the fee of $2 for execution of an application for a passport. Referred to the Committee on Foreign Relations.

H.R. 7357. An act to amend section 5(1)(1) of the Railroad Retirement Act of 1937 to simplify administration of the act; and to amend section 226(e) of the Social Security Act to extend kidney disease medicare coverage to railroad employees, their spouses, and their dependent children; and for other purposes. Referred to the Committees on Labor and Public Welfare and Finance, by unanimous consent order.

H.R. 7724. An act to amend the Public Health Service Act to establish a national program of biomedical research fellowship, traineeships, and training to assure the continued excellence of biomedical research in the United States, and for other purposes. Referred to the Committee on Labor and Public Welfare.

ORDER FOR JOINT REFERRAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill which has come over today from the House of Representatives, H.R. 7357, be jointly referred to the Committee on Labor and Public Welfare and the Committee on Finance. It is my understanding that this request has been cleared all around.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 3 minutes, but that the period for the transaction of routine morning business follow an order for the special recognition of the Senator from Michigan (Mr. GRIFFIN) for not to exceed 15 minutes, to be followed by a special order for the recognition of the junior Senator from West Virginia (Mr. ROBERT C. BYRD), for not to exceed 15 minutes.

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

REFERRAL OF S. 1636, AMENDMENT TO THE INTERNATIONAL ECONOMIC POLICY ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Illinois (Mr. STEVENSON), in accordance with previous agreements made by the chairman of the Banking, Housing and Urban Affairs Committee with the chairmen of the Finance and Foreign Relations Committees, I ask unanimous consent that, when reported by the Committee on Banking, Housing and Urban Affairs, S. 1636, a bill to amend the International Economic Policy Act of 1972, be referred to the Finance Committee and Foreign Relations Committee for those committees' consideration of the measure.

In accordance with the agreements to which I have referred, I ask unanimous consent that such referral not extend beyond June 20, 1973.

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

ORDER FOR CONSIDERATION OF UNFINISHED BUSINESS, S. 1570, ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, next, after the transaction of routine morning business, the Chair lay before the Senate the unfinished business, S. 1570.

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

ORDER ON LIMITATION OF TIME ON PENDING BILL

Mr. ROBERT C. BYRD. Mr. President, how much time has been used on the pending bill thus far?

The PRESIDING OFFICER. Thirty minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time charged thus far be forgiven and that the full 3 hours allotted in the agreement remain on the bill.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 o'clock noon on Monday next.

After the two leaders or their designees have been recognized under the standing order, the distinguished assistant Republican leader, the Senator from Michigan (Mr. GRIFFIN), will be recognized for not to exceed 15 minutes, after which the junior Senator from West Virginia (Mr. ROBERT C. BYRD) will be recognized for not to exceed 15 minutes.

There will then be a period for the transaction of routine morning business for not to exceed 30 minutes with statements limited therein to 3 minutes.

After the conclusion of the period for the transaction of routine morning business, the Chair will lay before the Senate S. 1570, the allocation of crude oil and refined petroleum products bill. The unanimous-consent agreement entered into thereon will continue in effect. There will be yea-and-nay votes thereon on Monday afternoon. I venture to say that there will be no rollcall votes on Monday prior to the hour of 2:30 p.m. The final vote will occur at 4 p.m. on Tuesday next.

ADJOURNMENT TO MONDAY, JUNE 4, 1973

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and at 1:50 p.m. the Senate adjourned until Monday, June 4, 1973, at 12 noon.

CONFIRMATIONS—JUNE 1, 1973

Executive nominations confirmed by the Senate June 1, 1973:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Gloria E. A. Toote, of New York, to be an Assistant Secretary of Housing and Urban Development.

DEPARTMENT OF THE TREASURY

James E. Smith, of Virginia, to be Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

Robert C. Holland, of Nebraska, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1964.

SECURITIES AND EXCHANGE COMMISSION

John R. Evans, of Utah, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1978.

FEDERAL HOME LOAN BANK BOARD

Thomas R. Bomer, of Maryland, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1974.

Grady Perry, Jr., of Alabama, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1973, and for the term of four years expiring June 30, 1977.

DEPARTMENT OF JUSTICE

Harold O. Bullis, of North Dakota, to be U.S. attorney for the district of North Dakota for a term of 4 years.

Brian P. Gettings, of Virginia, to be U.S. attorney for the eastern district of Virginia for the term of 4 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

PENSION REFORM LEGISLATION

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Friday, June 1, 1973

Mr. GRIFFIN. Mr. President, a very important debate concerning pension reform legislation will soon be scheduled in the Senate. Many of my constituents have registered strong interest in this subject by writing to me.

Recently, an article appeared in the Michigan Booth Newspapers, written by Robert Lewis, which contains an excellent analysis of the several approaches to pension reform that are under consideration.

I ask unanimous consent that the article be printed in the RECORD.

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

PENSION REFORM PROPOSALS

(By Robert Lewis)

WASHINGTON.—Responding to the growing clamor over lost benefits and broken commitments, Congress is moving toward passage of the first comprehensive pension controls since company-financed retirement plans appeared 96 years ago.

After years of debating the need for pension reform, Senate and House committees are drafting bills that will affect millions of workers and place restrictions on $150 billion in pension fund assets, now the largest source of unregulated capital in the country.

Thirty-three million employes are enrolled in 34,000 private pension plans, but up to one-half will never collect benefits because of job changes, business failures or company mergers.

TWO MAJOR BILLS

There are two major bills, one proposed by President Nixon and a more sweeping measure sponsored by Sen. Harrison A. Williams, the New Jersey Democrat who is chairman of the Senate Labor Committee, and Sen. Jacob J. Javits of New York, ranking Republican on that committee.

Sen. Robert P. Griffin, R-Mich., is the author of a third measure which, he says, goes beyond both the Nixon and Javits-Williams proposals. Griffin's bill, however, lacks the support lined up behind the other two, and it doesn't stand much chance of winning approval in a committee headed by Williams and Javits.

Ralph Nader also is advocating a sweeping overhaul of private pension systems, but his ideas have won few followers in Congress.

Private pensions have come a long way since the American Express Co. startled the business world by offering long-term workers retirement pay of up to $500 a year.

PRINCIPLE STILL HOLDS

In the 1920s Congress granted tax advantages to encourage private pensions and the principle enunciated then still holds: Company or employe pension contributions are not taxed at the time they are made, only when the benefits are paid.

Pension systems grew rapidly during the 1950s and 1960s, unfettered for the most part by state or federal regulations. Then in 1963 Studebaker closed its South Bend auto plant and 4,500 workers with vested pensions were paid benefits of 15 cents on the dollar. Many others collected nothing. The cries of outrage were heard in Washington.

Some of the worst horror stories have come out of Michigan and involved plants that moved to the South to take advantage of low operating costs.

Debate over the shape of new pension legislation revolves around five issues: vesting of pension rights, funding of pension systems, pension portability, insurance against pension bankruptcies and fiduciary standards.

Sen. Griffin's bill has the strongest vesting requirement of the major proposals. Workers would have an irrevocable right to benefits after 10 years in a company's pension plan.

The Javits-Williams bill provides 30 per cent vesting after eight years and 100 per cent after 15 years.

President Nixon has proposed the "rule of 50," meaning a worker would be 50 per cent vested when his age plus years of pension coverage totaled 50. He would be 100 per cent vested after another five years.

Thus, an employe who entered a pension plan at age 40 would be 40 per cent vested at age 45 and 100 per cent vested at age 50. The White House approach would minimize employer vesting costs but still give older workers guaranteed pensions.

MAJOR DIFFERENCE

The administration plan applies only to benefits earned after enactment of pension reform legislation, and consequently its costs would be modest.

The benefits in Griffin's bill apply retroactively and it would cost employers substantially more than the White House version. So would the Javits-Williams bill, which was recently amended by the Senate Labor and Public Welfare Committee to include retroactive benefits.