Robert C. Hill, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

IN THE MARINE CORPS

The following-named (Navy enlisted scientific education program) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Spinks, Grafton

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Gallegos, Joey R.
Roten, Richard C.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 12, 1973:

CIVIL AERONAUTICS BOARD

G. Joseph Minetti, of New York, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1979.

(The above nomination was approved subject to the nominee's commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE COAST GUARD

Coast Guard nominations beginning Charles J. Robinson, to be lieutenant commander, and ending George R. Speight, Jr., to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 5, 1973.

HOUSE OF REPRESENTATIVES—*Wednesday, December 12, 1973*

The House met at 10 o'clock a.m.

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

Thou shalt do that which is right and good in the sight of the Lord; that it may be well with thee.—Deuteronomy 6: 18.

Our Father God, who dost lift the shades of night when purple morning breaketh, revealing the wonder of new day, may there dawn upon our minds the consciousness that we are with Thee. In this faith we face the duties of these days. We pray not for tasks equal to our strength, but for strength equal to our tasks; not to do what we like to do, but to like what we have to do.

Bless Thou our Nation. May she become so good in spirit, so great in loyalty to the truth, and so genuine in sympathetic outreach that she may be a channel through which Thy healing mercy can flow into the heart of our disturbed world.

May the love which came to life at Christmas be cradled anew in all our hearts.

In the spirit of Him, who is the hope of the world, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3180) entitled "An act to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes."

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

S. 1745. An act to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes; and

S. 2176. An act to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes.

CONFERENCE REPORT ON S. 14, PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 93-714)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment to the text of the bill insert the following:

SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act, with the following table of contents, may be cited as the "Health Maintenance Organization Act of 1973".

TABLE OF CONTENTS

HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2. The Public Health Service Act is amended by adding after title XII the following new title:

"TITLE XIII—HEALTH MAINTENANCE ORGANIZATIONS

"REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1301. (a) For purposes of this title, the term 'health maintenance organization' means a legal entity which (1) provides basic and supplemental health services to its members in the manner prescribed by subsection (b), and (2) is organized and operated in the manner prescribed by subsection (c).

"(b) A health maintenance organization shall provide, without limitations as to time or cost other than those prescribed by or under this title, basic and supplemental health services to its members in the following manner:

"(1) Each member is to be provided basic health services for a basic health services payment which (A) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (B) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (C) is fixed under a community rating system; and (D) may be supplemented by additional nominal payments which may be required for the provision of specific services (within the basic health services), except that such payments may not be required where or in such a manner that they serve (as determined under regulations of the Secretary) as a barrier to the delivery of health services. Such additional nominal payments shall be fixed in accordance with the regulations of the Secretary.

"(2) For such payment or payments (hereinafter in this title referred to as 'supple-

mental health services payments') as the health maintenance organization may require in addition to the basic health services payment, the organization shall provide to each of its members each health service (A) which is included in supplemental health services (as defined in section 1302(2)), (B) for which the required health manpower are available in the area served by the organization, and (C) for the provision of which the member has contracted with the organization. Supplemental health services payments which are fixed on a prepayment basis shall be fixed under a community rating system.

"(3) The services of health professionals which are provided as basic health services shall be provided through health professionals who are members of the staff of the health maintenance organization or through a medical group (or groups) or individual practice association (or associations), except that this paragraph shall not apply in the case of (A) health professionals' services which the organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or (B) any basic health service provided a member of the health maintenance organization other than by such a health professional because it was medically necessary that the service be provided to the member before he could have it provided by such a health professional. For purposes of this paragraph, the term 'health professionals' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.

"(4) Basic health services (and supplemental health services in the case of the members who have contracted therefor) shall within the area served by the health maintenance organization be available and accessible to each of its members promptly as appropriate and in a manner which assures continuity, and when medically necessary be available and accessible twenty-four hours a day and seven days a week. A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing basic or supplemental health services other than through the organization if it was medically necessary that the services be provided before he could secure them through the organization.

"(c) Each health maintenance organization shall—

"(1) have a fiscally sound operation and adequate provision against the risk of insolvency which is satisfactory to the Secretary;

"(2) assume full financial risk on a prospective basis for the provision of basic health services, except that a health maintenance organization may obtain insurance or make other arrangements (A) for the cost of providing to any member basic health services the aggregate value of which exceeds $5,000 in any year, (B) for the cost of basic health services provided to its members other than through the organization because medical necessity required their provision before they could be secured through the organization, and (C) for not more than 90 per centum of the amount by which its costs for any of its fiscal years exceed 115 per centum of its income for such fiscal year;

"(3) enroll persons who are broadly representative of the various age, social, and income groups within the area it serves, except that in the case of a health maintenance organization which has a medically underserved population located (in whole or in part) in the area it serves, not more than 75 per centum of the members of that organization may be enrolled from the medically underserved population unless the area in which such population resides is also a rural area (as designated by the Secretary);

"(4) have an open enrollment period of not less than thirty days at least once during each consecutive twelve-month period during which enrollment period it accepts, up to its capacity, individuals in the order in which they apply for enrollment, except that is the organization demonstrates to the satisfaction of the Secretary that—

"(A) it has enrolled, or will be compelled to enroll, a disproportionate number of individuals who are likely to utilize its services more often than an actuarially determined average (as determined under regulations of the Secretary) and enrollment during an open enrollment period of an additional number of such individuals will jeopardize its economic viability, or

"(B) if it maintained an open enrollment period it would not be able to comply with the requirements of paragraph (3), the Secretary may waive compliance by the organization with the open enrollment requirement of this paragraph for not more than three consecutive twelve-month periods and may provide additional waivers to that organization if it makes the demonstration required by subparagraph (A) or (B);

"(5) not expel or refuse to re-enroll any member because of his health status or his requirements for health services;

"(6) be organized in such a manner that assures that (A) at least one-third of the membership of the policymaking body of the health maintenance organization will be members of the organization, and (B) there will be equitable representation on such body of members from medically underserved populations served by the organization;

"(7) be organized in such a manner that provides meaningful procedures for hearing and resolving grievances between the health maintenance organization (including the medical group or groups and other health delivery entities providing health services for the organization) and the members of the organization;

"(8) have organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services which program (A) stresses health outcomes, and (B) provides review by physicians and other health professionals of the process followed in the provision of health services;

"(9) provide medical social services for its members and encourage and actively provide for its members health education services, education in the appropriate use of health services, and education in the contribution each member can make to the maintenance of his own health;

"(10) provide, or make arrangements for, continuing education for its health professional staff; and

"(11) provide, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, statistics and other information (which the Secretary shall publish and disseminate on an annual basis and which the health maintenance organization shall disclose, in a manner acceptable to the Secretary, to its members and the general public) relating to (A) the cost of its operations, (B) the patterns of utilization of its services, (C) the availability, accessibility, and acceptability of its services, (D) to the extent practical, developments in the health status of its members, and (E) such other matters as the Secretary may require.

"DEFINITIONS

"SEC. 1302. For purposes of this title:

"(1) The term 'basic health services' means—

"(A) physician services (including consultant and referral services by a physician);

"(B) inpatient and outpatient hospital services;

"(C) medically necessary emergency health services;

"(D) short-term (not to exceed twenty visits), outpatient evaluative and crisis intervention mental health services;

"(E) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

"(F) diagnostic laboratory and diagnostic and therapeutic radiologic services;

"(G) home health services; and

"(H) preventive health services (including voluntary family planning services, infertility services, preventive dental care for children, and children's eye examinations conducted to determine the need for vision correction).

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, or podiatrist, a health maintenance organization may provide such service through a dentist, optometrist, or podiatrist (as the case may be) licensed to provide such service. For purposes of this paragraph, the term 'home health services' means health services provided at a member's home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the health maintenance organization. A health maintenance organization is authorized, in connection with the prescription of drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such service, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and nonprescription drugs.

"(2) The term 'supplemental health services' means—

"(A) services of facilities for intermediate and long-term care;

"(B) vision care not included as a basic health service under paragraph (1)(A) or (1)(H);

"(C) dental services not included as a basic health service under paragraph (1)(A) or (1)(H);

"(D) mental health services not included as a basic health service under paragraph (1)(D);

"(E) long-term physical medicine and rehabilitative services (including physical therapy); and

"(F) the provision of prescription drugs prescribed in the course of the provision by the health maintenance organization of a basic health service or a service described in the preceding subparagraphs of this paragraph.

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, or podiatrist, a health maintenance organization may provide such service through an optometrist, dentist, or podiatrist (as the case may be) licensed to provide such service. A health maintenance organization is authorized, in connection with the prescription or provision of prescription drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such services, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

"(3) The term 'member' when used in connection with a health maintenance organization means an individual who has en-

tered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with the organization under which the organization assumes the responsibility for the provision to such individual of basic health services and of such supplemental health services as may be contracted for.

"(4) The term 'medical group' means a partnership, association, or other group—

"(A) which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, optometrists, and podiatrists) as are necessary for the provision of health services for which the group is responsible;

"(B) a majority of the members of which are licensed to practice medicine or osteopathy, and

"(C) the members of which (i) as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession for a health maintenance organization; (ii) pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other plan; (iii) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (iv) utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the members of the group; and (v) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group.

"(5) The term 'individual practice association' means a partnership, corporation, association, or other legal entity which has entered into a services arrangement (or arrangements) with persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health professions in a State and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement shall provide—

"(A) that such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and

"(B) to the extent feasible (i) that such persons shall utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the persons who are parties to the arrangement, (ii) for the sharing by such persons of medical and other records, equipment, and professional, technical, and administrative staff, and (iii) for the arrangement and encouragement of the continuing education of such persons in the field of clinical medicine and related areas.

"(6) The term 'section 314(a) State health planning agency' means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) (hereinafter in this title referred to as a 'section 314(a) plan'); and the term 'section 314(b) areawide health planning agency' means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) (hereinafter in this title referred to as a 'section 314(b) plan').

"(7) The term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. Such a designation may be made by the Secretary only after consideration of the comments (if any) of (A) each section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such urban or rural area or the area in which such population group resides, and (B) each section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such urban or rural area or the area in which such population group resides.

"(8) The term 'community rating system' means a system of fixing rates of payments for health services. Under such a system rates of payments may be determined on a per-person or per-family basis and may vary with the number of persons in a family, but except as otherwise authorized in the next sentence, such rates must be equivalent for all individuals and for all families of similar composition. The following differentials in rates of payments may be established under such system:

"(A) Nominal differentials in such rates may be established to reflect the different administrative costs of collecting payments from the following categories of members:

"(i) Individual members (including their families).

"(ii) Small groups of members (as determined under regulations of the Secretary).

"(iii) Large groups of members (as determined under regulations of the Secretary).

"(B) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of title 10, United States Code, or under any other governmental program (other than the health benefits program authorized by chapter 89 of title 5, United States Code) or any health benefits program for employees of States, political subdivisions of States, and other public entities.

"(9) The term 'non-metropolitan area' means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget and which does not contain a city whose population exceeds fifty thousand individuals.

"GRANTS AND CONTRACTS FOR FEASIBILITY SURVEYS

"SEC. 1303. (a) The Secretary may make grants to and enter into contracts with public or nonprofit private entities for projects for surveys or other activities to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations.

"(b) An application for a grant or contract under this section shall contain—

"(1) assurances satisfactory to the Secretary that, in conducting surveys or other activities with assistance under a grant or contract under this section, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area for which the survey or other activity will be conducted, and (B) notify the medical society serving such area of such surveys or other activities; and

"(2) such other information as the Secretary may by regulation prescribe.

"(c) In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application or proposal is submitted first becomes operational not less than 30 per centum of its members will be members of a medically underserved population.

"(d)(1) Except as provided in paragraph (2), the following limitations apply with respect to grants and contracts made under this section:

"(A) If a project has been assisted with a grant or contract under subsection (a), the Secretary may not make any other grant or enter into any other contract under this section for such project.

"(B) Any project for which a grant is made or contract entered into must be completed within twelve months from the date the grant is made or contract entered into.

"(2) The Secretary may make not more than one additional grant or enter into not more than one additional contract for a project for which a grant has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

"(e) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) shall be determined by the Secretary, except that (1) the amount to be paid by the United States under any single grant or contract for any project may not exceed $50,000, and (2) the aggregate of the amounts to be paid by the United States for any project under such subsection under grants or contracts, or both, may not exceed the greater of (A) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (B) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants and contracts for such project should be determined by such greater percentage.

"(f) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(g) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(h) Payments under grants and contracts under this section shall be made from appropriations made under section 1309(a).

"(i) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (1) to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations which the Secretary determines may reasonably be expected to have after their development or expansion not less than 66 per centum of their membership drawn from residents of nonmetropolitan areas, and (2) the applications for which meet the requirements of this title for approval. Sums set aside in the fiscal year ending June 30, 1974, or June 30, 1975, for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under this section in the succeeding fiscal year for projects other than those described in clause (1) of such sentence.

"GRANTS, CONTRACTS, AND LOAN GUARANTEES FOR PLANNING AND FOR INITIAL DEVELOPMENT COSTS

"SEC. 1304. (a) The Secretary may—

"(1) make grants to and enter into contracts with public or nonprofit private entities for planning projects for the establish-

ment of health maintenance organizations or for the significant expansion of the membership of, or areas served by, health maintenance organizations; and

"(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private entities (other than nonprofit private entities) for planning projects for the establishment or expansion of health maintenance organizations to serve medically underserved populations.

Planning projects assisted under this subsection shall include development of plans for the marketing of the services of the health maintenance organization.

"(b) (1) The Secretary may—

"(A) make grants to and enter into contracts with public or nonprofit private entities for projects for the initial development of health maintenance organizations; and

"(B) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private entity (other than a nonprofit private entity) for a project for the initial development of a health maintenance organization which will serve a medically underserved population.

"(2) For purposes of this section, the term 'initial development' when used to describe a project for which assistance is authorized by this subsection includes significant expansion of the membership of, or the area served by, a health maintenance organization. Funds under grants and contracts under this subsection and under loans guaranteed under this subsection may only be utilized for such purposes as the Secretary may prescribe in regulations. Such purposes may include (A) the implementation of an enrollment campaign for such an organization, (B) the detailed design of and arrangements for the health services to be provided by such an organization, (C) the development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures, and the development of a capital financing program, (D) the recruitment of personnel for such an organization and the conduct of training activities for such personnel, and (E) the payment of architects' and engineers' fees.

"(3) A grant or contract under this subsection may only be made or entered into for initial development costs in the one-year period beginning on the first day of the first month in which such grant or contract is made or entered into. The number of grants made for any initial development project under this subsection when added to the number of contracts entered into for such project under this subsection may not exceed three. A loan guarantee under this subsection may only be made for a loan (or loans) for such costs incurred in a period not to exceed three years.

"(c) (1) An application for a grant, contract, or loan guarantee under subsection (a) for a planning project shall contain assurances satisfactory to the Secretary that in carrying out the planning project for which the grant, contract, or loan guarantee is sought, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area proposed to be served by the health maintenance organization for which the planning project will be conducted, and (B) notify the medical society serving such area of the planning project.

"(2) If the Secretary makes a grant or loan guarantee or enters into a contract under subsection (a) for a planning project for a health maintenance organization, he may, within the period in which the planning project must be completed, make a grant or loan guarantee or enter into a contract under subsection (b) for the initial development of that health maintenance organization; but no grant or loan guarantee may be made or contract entered into under subsection (b) for initial development of a health maintenance organization unless the Secretary determines that (A) sufficient planning for its establishment or expansion (as the case may be) has been conducted by the applicant for the grant, contract, or loan guarantee, and (B) the feasibility of establishing and operating, or of expanding, the health maintenance organization has been established by the applicant.

"(d) In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application is submitted first becomes operational not less than 30 per centum of its members of a medically underserved population.

"(e) (1) Except as provided in paragraph (2), the following limitations apply with respect to grants, loan guarantees, and contracts made under subsection (a) of this section:

"(A) If a planning project has been assisted with grant, loan guarantee, or contract under subsection (a), the Secretary may not make any other planning grant or loan guarantee or enter into any other planning contract for such project under this section.

"(B) Any project for which a grant or loan guarantee is made or contract entered into must be completed within twelve months from the date the grant or loan guarantee is made or contract entered into.

"(2) The Secretary may not make more than one additional grant or loan guarantee or enter into not more than one additional contract for a planning project for which a grant or loan guarantee has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant, loan guarantee, or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

"(f) (1) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) for a planning project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for a planning project which may be guaranteed under such subsection, shall be determined by the Secretary, except that (A) the amount to be paid by the United States under any single grant or contract, and the amount of principal of any single loan guaranteed under such subsection, may not exceed $125,000, and (B) the aggregate of the amounts to be paid for any project by the United States under grants or contracts, or both, under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combinations threof) for such project should be determined by such greater percentage.

"(2) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (b) for an initial development project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for an initial development project which may be guaranteed under such subsection, shall be determined by the Secretary; except that the amounts to be paid by the United States for any initial development project under grants or contracts, or both, under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the lesser of—

"(A) $1,000,000, or

"(B) an amount equal to the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

"(3) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

"(g) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(h) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(i) Payments under grants and contracts under this section shall be made from appropriations under section 1309(a).

"(j) Loan guarantees under subsection (a) (2) for planning projects may be made through the fiscal year ending June 30, 1976; and loan guarantees under subsection (b) (1) (B) for initial development projects may be made through the fiscal year ending June 30, 1977.

"(k) (1) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under subsection (a) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) to plan the establishment or expansion of health maintenance organizations which the Secretary determines may reasonably be expected to have after their establishment or expansion not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this title for approval. Sums set aside in the fiscal year ending June 30, 1974, or June 30, 1975, for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (a) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for projects other than those described in clause (A) of such sentence.

"(2) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under subsection (b) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) for the initial development of health maintenance organizations which the Secretary determines may reasonably be expected to have after their initial development not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this title for approval. Sums set aside in the fiscal

year ending June 30, 1974, or in either of the next two fiscal years for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (b) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for projects other than those described in clause (A) of such sentence.

"LOANS AND LOAN GUARANTEES FOR INITIAL OPERATION COSTS

"SEC. 1305. (a) The Secretary may—

"(1) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs in the period of the first thirty-six months of their operation exceed their revenues in that period;

"(2) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs, which the Secretary determines are attributable to significant expansion in their membership or area served and which are incurred in the period of the first thirty-six months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

"(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization) for the amounts referred to in paragraph (1) or (2), but only if such health maintenance organization will serve a medically underserved population.

No loan or loan guarantee may be made under this subsection for the operating costs of a health maintenance organization unless the Secretary determines that the organization has made all reasonable attempts to meet such costs.

"(b) (1) Except as provided in paragraph (2), the principal amount of any loan made or guaranteed under subsection (a) in any fiscal year for a health maintenance organization may not exceed $1,000,000 and the aggregate amount of principal of loans made or guaranteed, or both, under this section for a health maintenance organization may not exceed $2,500,000.

"(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

"(c) Loans under this section shall be made from the fund established under section 1308(e).

"(d) A loan or loan guarantee may be made under this section through the fiscal year ending June 30, 1978.

"(e) Of the sums used for loans under this section in any fiscal year from the loan fund established under section 1308(e), not less than 20 per centum shall be used for loans for projects (1) for the initial operation of health maintenance organizations which the Secretary determines have not less than 66 per centum of their membership drawn from residents of nonmetropolitan areas, and (2) the applications for which meet the requirements of this title for approval.

"APPLICATION REQUIREMENTS

"SEC. 1306. (a) No grant, contract, loan, or loan guarantee may be made under this title unless an application therefor has been submitted to, and approved by, the Secretary.

"(b) The Secretary may not approve an application for a grant, contract, loan, or loan guarantee under this title unless—

"(1) in the case of an application for assistance under section 1303 or 1304, such application meets the application requirements of such section and in the case of an application for a loan or loan guarantee, such application meets the requirements of section 1308;

"(2) he determines that the applicant making the application would not be able to complete the project or undertaking for which the application is submitted without the assistance applied for;

"(3) the application contains satisfactory specification of the existing or anticipated (A) population group or groups to be served by the proposed or existing health maintenance organization described in the application, (B) membership of such organization, (C) methods, terms, and periods of the enrollment of members of such organization, (D) estimated costs per member of the health and educational services to be provided by such organization and the nature of such costs, (E) sources of professional services for such organization, and organizational arrangements of such organization for providing health and educational services, (F) organizational arrangements of such organization for an ongoing quality assurance program in conformity with the requirements of section 1301(c), (G) sources of prepayment and other forms of payment for the services to be provided by such organization, (H) facilities, and additional capital investments and sources of financing therefor, available to such organization to provide the level and scope of services proposed, (I) administration, managerial, and financial arrangements and capabilities of such organization, (J) role for members in the planning and policymaking for such organization, (K) grievance procedures for members of such organization, and (L) evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or affected thereby;

"(4) contains or is supported by assurances satisfactory to the secretary that the applicant making the application will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll, and maintain an enrollment of, the maximum number of members that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve;

"(5) the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary under subsection (c) of this section, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application or if under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the required approval has been obtained;

"(6) in the case of an application made for a project which previously received a grant, contract, loan, or loan guarantee under this title, such application contains or is supported by assurances satisfactory to the Secretary that the applicant making the application has the financial capability to adequately carry out the purposes of such project and has developed and operated such project in accordance with the requirements of this title and with the plans contained in previous applications for such assistance; and

"(7) the application is submitted in such form and manner, and contains such additional information, as the Secretary shall prescribe in regulations.

An organization making multiple applications for more than one grant, contract, loan, or loan guarantee under this title, simultaneously or over the course of time, shall not be required to submit duplicate or redundant information but shall be required to update the specifications (required by paragraph (3)) respecting the existing or proposed health maintenance organization in such manner and with such frequency as the Secretary may by regulation prescribe.

"(c) The Secretary shall by regulation establish standards and procedures for section 314(b) areawide health planning agencies and section 314(a) State health planning agencies to follow in reviewing and commenting on applications for grants, contracts, loans, and loan guarantees under this title.

"ADMINISTRATION OF ASSISTANCE PROGRAMS

"SEC. 1307. (a) (1) Each recipient of a grant, contract, loan, or loan guarantee under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of the grant, contract, or loan (directly made or guaranteed), the total cost of the undertaking in connection with which such assistance upon given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of a grant, contract, loan, or loan guarantee under this title which relate to such assistance.

"(b) Upon expiration of the period for which a grant, contract, loan, or loan guarantee was provided an entity under this title, such entity shall make a full and complete report to the Secretary in such manner as he may by regulation prescribe. Each such report shall contain, among such other matters as the Secretary may by regulation require, descriptions of plans, developments, and operations relating to the matters referred to in secton 1306(b)(3).

"(c) If in any fiscal year the funds appropriated under section 1309 are insufficient to fund all applications approved under this title for that fiscal year, the Secretary shall, after applying the applicable priorities under sections 1303 and 1304, give priority to the funding of applications for projects which the Secretary determines are the most likely to be economically viable.

"(d) An entity which provides health services to a defined population on a prepaid basis and which has members who are entitled to insurance benefits under title XVIII of the Social Security Act or to medical assistance under a State plan approved under title XIX of such Act may be considered as a health maintenance organization for purposes of receiving assistance under this title if—

"(1) with respect to its members who are entitled to such insurance benefits or to such medical assistance it (A) provides

health services in accordance with section 1301(b), except that (i) it does not furnish to those members the health services (within the basic health services) for which it may not be compensated under such title XVIII or such State plan, and (ii) it does not fix the basic or supplemental health services payment for such members under a community rating system, and (B) is organized and operated in the manner prescribed by section 1301(c), except that it does not assume full financial risk on a prospective basis for the provision to such members of basic or supplemental health services with respect to which it is not required under such title XVIII or such State plan to assume such financial risk; and

"(2) with respect to its other members it provides health services in accordance with section 1301(b) and is organized and operated in the manner prescribed by section 1301(c).

"(e) In any fiscal year no loan guarantee may be made under this title if the making of such guarantee would cause the cumulative total of the principal of the loans guaranteed under this title in such fiscal year to exceed the amount of grant and contract funds obligated under this title in such fiscal year; except that this subsection shall not apply if the amount of grant and contract funds obligated under this title in such fiscal year equals the sums appropriated under section 1309 for grants and contracts for such fiscal year.

"GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

"SEC. 1308. (a)(1) The Secretary may not approve an application for a loan guarantee under this title unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this title.

"(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this title the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this title (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"(C) Any loan guarantee made by the Secretary under this title shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this title shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved.

"(b)(1) The Secretary may not approve an application for a loan under this title unless—

"(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project of undertaking with respect to which such loan is requested.

"(2) Any loan made under this title shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this title, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this title, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

"(c)(1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this title.

"(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such organization under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this paragraph.

"(3) After any loan under this title to a public health maintenance organization has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of the Internal Revenue Code of 1954.

"(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the loan fund established under subsection (e).

"(d)(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary in connection with loan guarantees under this title and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

"(2) If at any time the sums in the funds are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this title, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

"(e) There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under this title. There shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under this title and other property or assets derived by him from his operations respecting such loans, from the sale of loans under subsection (c) of this section, or from the sale of assets.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 1309. (a) For the purpose of making payments under grants and contracts under sections 1303, 1304(a), and 1304(b), there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, and $85,000,000 for the fiscal year ending June 30, 1976; and for the purpose of making payments under grants and contracts under section 1304(b) for the fiscal year ending June 30, 1977, there is authorized to be appropriated $85,000,000.

"(b) There is authorized to be appropriated to the loan fund established under section 1308(e) $75,000,000 in the aggregate for the fiscal years ending June 30, 1974, and June 30, 1975.

"EMPLOYEES' HEALTH BENEFITS PLANS

"SEC. 1310. (a) Each employer which is required during any calendar quarter to pay its employees the minimum wage specified by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay his employees such wage but for section 13(a) of such Act), and which during such calendar quarter employed an average number of employees of not less than twenty-five, shall, in accordance with regulations which the Secretary shall prescribe, include in any health

benefits plan offered to its employees in the calendar year beginning after such calendar quarter the option of membership in qualified health maintenance organizations which are engaged in the provision of basic and supplemental health services in the areas in which such employees reside.

"(b) If there is more than one qualified health maintenance organization which is engaged in the provision of basic and supplemental health services in the area in which the employees of an employer subject to subsection (a) reside and if—

"(1) one or more of such organizations provides basic health services through professionals who are members of the staff of the organization or a medical group (or groups), and

"(2) one or more of such organizations provides such services through an individual practice association (or associations),

then of the qualified health maintenance organizations included in a health benefits plan of such employer pursuant to subsection (a) at least one shall be an organization which provides basic health services as described in clause (1) and at least one shall be an organization which provides basic health services as described in clause (2).

"(c) No employer shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between the employer and its employees. Failure of any employer to comply with the requirements of subsection (a) shall be considered a willful violation of section 15 of the Fair Labor Standards Act of 1938.

"(d) For purposes of this section, the term "qualified health maintenance organization" means (1) a health maintenance organization which has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 1301 (b) and that it is organized and operated in the manner prescribed by section 1301(c), and (2) an entity which proposes to become a health maintenance organization and which the Secretary determines will when it becomes operational provide basic and supplemental health services to its members in the manner prescribed by section 1301(b) and will be organized and operated in the manner prescribed by section 1301(c).

"RESTRICTIVE STATE LAWS AND PRACTICES

"SEC. 1311. (a) In the case of any entity—

"(1) which cannot do business as a health maintenance organization in a State in which it proposes to furnish basic and supplemental health services because that State by law, regulation, or otherwise—

"(A) requires as a condition to doing business in that State that a medical society approve the furnishing of services by the entity,

"(B) requires that physicians constitute all or a percentage of its governing body,

"(C) requires that all physicians or a percentage of physicians in the locale participate or be permitted to participate in the provision of services for the entity, or

"(D) requires that the entity meet requirements for insurers of health care services doing business in that State respecting initial capitalization and establishment of financial reserves against insolvency, and

"(2) for which a grant, contract, loan, or loan guarantee was made under this title or which is a qualified health maintenance organization for purposes of section 1310 (relating to employees' health benefits plans),

such requirements shall not apply to that entity so as to prevent it from operating as a health maintenance organization in accordance with section 1301.

"(b) No State may establish or enforce any law which prevents a health maintenance organization for which a grant, contract, loan, or loan guarantee was made under this title or which is a qualified health maintenance organization for purposes of section 1310 (relating to employees' health benefits plans), from soliciting members through advertising its services, charges, or other nonprofessional aspects of its operation. This subsection does not authorize any advertising which identifies, refers to, or makes any qualitative judgment concerning, any health professional who provides services for a health maintenance organization.

"CONTINUED REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1312. (a) If the Secretary determines that an entity which received a grant, contract, loan, or loan guarantee under this title as a health maintenance organization or which was included in a health benefits plan offered to employees pursuant to section 1310—

"(1) fails to provide basic and supplemental services to its members,

"(2) fails to provide such services in the manner prescribed by section 1301(b), or

"(3) is not organized or operated in the manner prescribed by section 1301(c),

the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with any assurances it furnished him respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made under section 1310 or when application was made under this title for a grant, contract, loan, or loan guarantee.

"(b) The Secretary, through the Assistant Secretary for Health, shall administer subsection (a) in the Office of the Assistant Secretary for Health.

"LIMITATION ON SOURCE OF FUNDING FOR HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1313. No funds appropriated under any provision of this Act other than this title may be used—

"(1) for grants or contracts for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations or other entities which provide, directly or indirectly, health services to a defined population on a prepaid basis;

"(2) for grants or contracts, or for payments under loan guarantees, for planning projects for the establishment or expansion of such organizations or entities;

"(3) for grants or contracts, or for payments under loan guarantees, for projects for the initial development or expansion of such organizations or entities; or

"(4) for loans, or for payments under loan guarantees, to assist in meeting the costs of the initial operation after establishment or expansion of such organizations or entities.

"PROGRAM EVALUATION

"SEC. 1314. (a) The Comptroller General shall evaluate the operations of at least fifty of the health maintenance organizations for which assistance was provided under section 1303, 1304, or 1305. The period of operation of such health maintenance organizations which shall be evaluated under this subsection shall be not less than thirty-six months. The Comptroller General shall report to the Congress the results of the evaluation not later than ninety days after at least fifty of such health maintenance organizations have been in operation for at least thirty-six months. Such report shall contain findings—

"(1) with respect to the ability of the organizations evaluated to operate on a fiscally sound basis without continued Federal financial assistance,

"(2) with respect to the ability of such organizations to meet the requirements of section 1301(c) respecting their organization and operation,

"(3) with respect to the ability of such organizations to provide basic and supplemental health services in the manner prescribed by section 1301(b),

"(4) with respect to the ability of such organizations to include indigent and high-risk individuals in their membership, and

"(5) with respect to the ability of such organizations to provide services to medically underserved populations.

"(b) The Comptroller General shall also conduct a study of the economic effects on employers resulting from their compliance with the requirements of section 1310. The Comptroller General shall report to the Congress the results of such study not later than thirty-six months after the date of the enactment of this title.

"(c) The Comptroller General shall evaluate (1) the operations of distinct categories of health maintenance organizations in comparison with each other, (2) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and (3) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public. The Comptroller General shall report to the Congress the results of such evaluation not later than thirty-six months after the date of the enactment of this title.

"ANNUAL REPORT

"SEC. 1315. (a) The Secretary shall periodically review the programs of assistance authorized by this title and make an annual report to the Congress of a summary of the activities under each program. The Secretary shall include in such summary—

"(1) a summary of each grant, contract, loan, or loan guarantee made under this title in the period covered by the report and a list of the health maintenance organizations which during such period became qualified health maintenance organizations for purposes of section 1310;

"(2) the statistics and other information reported in such period to the Secretary in accordance with section 1301(c)(11);

"(3) findings with respect to the ability of the health maintenance organizations assisted under this title—

"(A) to operate on a fiscally sound basis without continued Federal financial assistance.

"(B) to meet the requirements of section 1301(c) respecting their organization and operation,

"(C) to provide basic and supplemental health services in the manner prescribed by section 1301(b),

"(D) to include indigent and high-risk individuals in their membership, and

"(E) to provide services to medically underserved populations; and

"(4) findings with respect to—

"(A) the operation of distinct categories of health maintenance organizations in comparison with each other,

"(B) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and

"(C) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public.

"(b) The Office of Management and Budget may review the Secretary's report under subsection (a) before its submission to the Congress, but the Office may not revise the report or delay its submission, and it may submit to the Congress its comments (and those of other departments or agencies of the Government) respecting such report."

QUALITY ASSURANCE

SEC. 3. Title III of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART K—QUALITY ASSURANCE

"QUALITY ASSURANCE

"SEC. 399c. (a) (1) The Secretary, through the Assistant Secretary for Health, shall conduct research and evaluation programs respecting the effectiveness, administration, and enforcement of quality assurance programs. Such research and evaluation programs shall be carried out in cooperation with the entity within the Department which administers the programs of assistance under section 304.

"(2) For the purpose of carrying out paragraph (1), there are authorized to be appropriated $4,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, $9,000,000 for the fiscal year ending June 30, 1976, $9,000,000 for the fiscal year ending June 30, 1977, and $10,000,000 for the fiscal year ending June 30, 1978.

"(b) The Secretary shall make an annual report to the Congress and the President on (1) the quality of health care in the United States, (2) the operation of quality assurance programs, and (3) advances made through research and evaluation of the effectiveness, administration, and enforcement of quality assurance programs. The first annual report under this subsection shall be made with respect to calendar year 1974 and shall be submitted not later than March 1, 1975. The Office of Management and Budget may review the Secretary's report under this subsection before its submission to the Congress, but the Office may not revise the report or delay its submission to the Congress, and it may submit to the Secretary and the Congress its comments (and those of other departments and agencies of the Government) with respect to such report."

HEALTH CARE QUALITY ASSURANCE PROGRAMS STUDY

SEC. 4. (a) The Secretary of Health, Education, and Welfare shall contract, in accordance with subsection (b), for the conduct of a study to—

(1) analyze past and present mechanisms (both required by law and voluntary) to assure the quality of health care, identify the strengths and weaknesses of current major prototypes of health care quality assurance systems, and identify on a comparable basis the costs of such prototypes;

(2) provide a set of basic principles to be followed by any effective health care quality assurance system, including principles affecting the scope of the system, methods for assessing care, data requirements, specifications for the development of criteria and standards which relate to desired outcomes of care, and means for assessing the responsiveness of such care to the needs and perceptions of the consumers of such care;

(3) provide an assessment of programs for improving the performance of health practitioners and institutions in providing high-quality health care, including a study of the effectiveness of sanctions and educational programs;

(4) define the specific needs for a program of research and evaluation in health care quality assurance methods, including the design of prospective evaluation protocols for health care quality assurance systems; and

(5) provide methods for assessing the quality of health care from the point of view of consumers of such care.

(b) The Secretary shall contract for the conduct of the study required by subsection (a) with a nonprofit private organization which—

(1) has a national reputation for objectivity in the conduct of studies for the Federal Government;

(2) has the capacity to readily marshall the widest possible range of expertise and advice relevant to the conduct of such study;

(3) has a membership and competent staff which have backgrounds in government, the health sciences, and the social sciences;

(4) has a history of interest and activity in health policy issues related to such study; and

(5) has extensive existing contracts with interested public and private agencies and organizations.

The Secretary shall enter into such contract within 90 days of the date of the enactment of the first Act making an appropriation under subsection (d).

(c) An interim report providing a plan for the study required by subsection (a) shall be submitted by the organization conducting the study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Commerce and Labor and Public Welfare of the Senate by June 30, 1974; and a final report giving the results of the study and providing specifications for an effective quality assurance system shall be submitted by such organization to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate by January 31, 1976.

(d) There is authorized to be appropriated $10,000,000, which shall be available without fiscal year limitation, for the conduct of the study required by subsection (a).

REPORTS RESPECTING MEDICALLY UNDERSERVED AREAS AND POPULATION GROUPS AND NON-METROPOLITAN AREAS

SEC. 5. Within three months of the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall report to the Congress the criteria used by him in the designation of medically underserved areas and population groups for the purposes of section 1302(7) of the Public Health Service Act. Within one year of such date, the Secretary shall report to the Congress (1) the areas and population groups designated by him under such section 1302 (7) as having a shortage of personal health services, (2) the comments (if any) submitted by State and areawide comprehensive health planning agencies under such section with respect to any such designation, and (3) the areas which meet the definitional standards under section 1302(9) of such Act for non-metropolitan areas. The Office of Management and Budget may review the Secretary's report under this section before its submission to the Congress, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and it may submit to Congress its comments (and those of other departments and agencies of the Government) respecting such report.

HEALTH SERVICES FOR INDIANS AND DOMESTIC AGRICULTURAL MIGRATORY AND SEASONAL WORKERS

SEC. 6. (a) The first section of the Act of August 5 1954 (42 U.S.C. 2001) is amended by inserting "(a)" after "That" and by adding at the end thereof the following new subsection:

"(b) In carrying out his functions, responsibilities, authorities, and duties under this Act, the Secretary is authorized, with the consent of the Indian people served, to contract with private or other non-Federal health agencies or organizations for the provision of health services to such people on a fee-for-service basis or on a prepayment or other similar basis.".

(b) The Secretary of Health, Education, and Welfare, in connection with existing authority (except section 310 of the Public Health Service Act) for the provision of health services to domestic agricultural migratory workers, to persons who perform seasonal agricultural services similar to the services performed by such workers, and to the families of such workers and persons, is authorized to arrange for the provision of health services to such workers and persons and their families through health maintenance organizations. In carrying out this subsection the Secretary may only use sums appropriated after the date of the enactment of this Act.

CONFORMING AMENDMENTS

SEC. 7. (a) Section 1 of the Public Health Service Act is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Public Health Service Act'."

(b) Title XIII of the Act of July 1, 1944 (58 Stat. 682) (as so designated by section 2(b) of the Emergency Medical Services Systems Act of 1973 (Public Law 93-154)) is repealed.

(c) Section 306(g) of the Federal National Mortgage Association Act (12 U.S.C. 1721 (g)) is amended by inserting ", or which are guaranteed under title XIII of the Public Health Service Act" after "chapter 37 of title 38, United States Code".

And the House agree to the same.

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

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
PETER KYROS,
RICHARDSON PREYER,
J. W. SYMINGTON,
WILLIAM R. ROY,
ANCHER NELSEN,
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JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House to the text of the bill with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

SHORT TITLE; PURPOSE

Short Title

The Senate bill provided for the following short title: "Health Maintenance Organization and Resources Development Act of 1973".

Under the House amendment, the short title was "Health Maintenance Organization Act of 1973".

The conference substitute conforms to the House amendment. (See section 1 of the Conference report).

Purpose

General Findings and Purpose

The Senate bill contained a provision not in the House amendment. It stated the following general findings:

(1) medical care is too expensive;

(2) the medical care system is oriented toward the provision of acute care;

(3) medical resources are maldistributed;

(4) health maintenance organizations (HMO's) will assist in alleviating the abovementioned problems;

(5) technical and resource assistance is needed to establish and operate HMO's;

(6) the quality of medical care varies excessively.

The Senate bill also stated its purpose as the improvement of the health care delivery system through the support of the creation of HMO's.

The House amendment contained no corresponding provision.

The conference substitute conforms to the House amendment.

Activities Under the Social Security Act

The Senate bill provided that the new provisions of the Public Health Service Act added by the bill were not to be construed to supersede any activity relating to the review of health care services under, or to the determination of eligibility of participants in programs under, the Social Security Act.

The House amendment contained no corresponding provision.

The conference substitute contains a provision which will assure that activities relating to the provision of health care services under the new program do not supersede or conflict with the requirements of the Social Security Act.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

Both the Senate bill and the House amendment authorized programs of assistance for health maintenance organizations in a new title XII of the Public Health Service Act. Since the passage of the Senate bill and the House amendment, a new title XII of the Public Health Service Act has been enacted. Thus, the programs of assistance authorized by the conference substitute are contained in a new title XIII of such Act. Section references in the following provisions of this joint statement describing the conference substitute are, except as noted, to sections in the new title XIII.

DEFINITIONS

Health maintenance organizations

Services to be offered

With respect to the provision of health services the Senate bill defined an HMO as an entity which—

(1) provides listed health services (referred to as comprehensive health services) to its enrollees in return for a fixed payment, and

(2) provides to its enrollees as an option, for an additional premium extended care facilities services and dental services.

With respect to the provision of health services the House amendment defined an HMO as an entity which—

(1) provides listed health services (more limited in scope than the Senate comprehensive health services and referred to as basic health services) to its enrollees in return for a fixed payment, and

(2) provides to its enrollees for an additional payment such additional health services (referred to as supplemental health services) which it can reasonably make available to its enrollees and for which the enrollees have contracted.

The conference substitute conforms to the House amendment with technical changes. See sections 1301(a), and 1301(b)(1) and (2).

Under the Senate bill, the listed health services (comprehensive health services) which must be provided *each* enrollee of an HMO, without limitation as to time or cost, were defined as follows:

(A) physician services (including consultant and referral services);

(B) inpatient and outpatient hospital services;

(C) home health services;

(D) diagnostic laboratory, and diagnostic and therapeutic radiologic services;

(E) preventive health (including but not limited to voluntary family planning, infertility services, and preventive dental care for children) and early disease detection services;

(F) emergency health services rendered by any provider of health care, the expense of which shall be borne by the enrollee's health maintenance organization;

(G) provision of or payment for prescription drugs (with patterns of patient drug utilization under continuous surveillance, evaluation, and review by a clinical pharmacist whose duties shall include the maintenance of a drug use profile for each enrollee);

(H) medical social services;

(I) vision care (except for eyeglasses which shall be optional) as provided by a physician skilled in the diagnosis and treatment of diseases of the eye, or by an optometrist provided such services are within the scope of his license;

(J) physical medicine and rehabilitative services (including physical therapy);

(K) mental health services utilizing existing community mental health centers on a priority basis;

(L) preventive diagnostic and medical and psychological treatment of the abuse of or addiction to alcohol and drugs; and

(M) such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance, and support of human health.

The Senate bill listed optional services as—

(A) extended care facility services; and

(B) dental services.

The Senate bill provided that the Secretary could grant a waiver to applicants for assistance with respect to the provision of a listed health service if—

(A) the health manpower needed to provide such service is unavailable; and

(B) the applicant has a plan to phase-in the waived service at the earliest possible date, but not longer than three years after receiving assistance.

Under the House amendment, the basic health services which must be provided to each enrollee by the HMO were defined to mean—

(A) physician services (including consultant and referral services by a physician);

(B) in-patient and out-patient hospital services;

(C) diagnostic laboratory and diagnostic and therapeutic radiologic services;

(D) home health services; and

(E) preventive health services (including preventive dental care for children and children's eye examinations conducted to determine the need for vision correction).

The House amendment required the HMO to be able to provide each enrolled member, supplemental health services, if the services could reasonably be made available and if the member had contracted for such services (or service). Supplemental health services were defined to mean—

(A) services of facilities for long-term care (as such facilities are defined by section 645(h) of the Public Health Service Act);

(B) vision care not included under the required basic health services package;

(C) dental services not included under the required basic health services;

(D) mental health services;

(E) physical medicine and rehabilitative services (including physical therapy); and

(F) prescription drugs.

The conference substitute defines the basic health services which must be provided to each enrollee by the HMO as—

(A) physician services (including consultant and referral services by a physician);

(B) inpatient and outpatient hospital services;

(D) short-term (not to exceed twenty visits), outpatient evaluative and crisis intervention mental health services;

(E) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

(F) diagnostic laboratory and diagnostic and therapeutic radiological services;

(G) home health services;

(H) preventive health services (including voluntary family planning services, infertility services, preventive dental care for children, and children's eye examinations conducted to determine the need for vision correction). (See section 1302(1).) The conferees intend that preventive dental health services for children shall mean at a minimum oral prophylaxis, topical fluoride application, and surface sealant services, as provided by regulations of the Secretary, to children under the age of twelve. Such services may be provided by appropriate auxiliary dental personnel working under the supervision of a dentist.

The conference substitute requires the HMO to be able to provide specific supplemental health services to its members, if the health manpower required to provide the services (or service) is available in the HMO's service area and if the member has contracted for such services (or service). Supplemental health services are defined as—

The managers intend that (1) the nominal co-payments permitted by section 1301(b) are to be payments made by HMO members at the time of receipt of service, (2) such payments may not exceed 50% of the total cost of providing any single service to any given group of members, and (3) the co-payments charged by an HMO shall not, in the aggregate, exceed 20% of the total costs of providing basic health services to any given group of members. The managers, however, intend that the upper limits described in the preceding sentence are to be considered as absolute upper limits and are to be approached only if they do not constitute a barrier to care. Accordingly, the term "nominal co-payments" is intended to convey the conference committee's desire that out-of-pocket payments by HMO members shall in no instance constitute a barrier to care. Such payments are, in the view of the conference committee, solely a device to enable an HMO to market its benefit package at a competitive price.

(ii) Community rating.—

The Senate bill required rates for comprehensive health services to be uniform for all enrollees, subject to rules and regulations regarding family rates.

The House amendment required rates for basic health services to be established under a community rating system, but this requirement could be waived during the HMO's first year of operation if establishing such rates under such system would prevent the HMO from competing effectively for enrollment of new members or retention of current members.

The conference substitute, concerning community rating, requires payments for basic health services to be fixed under a community rating system and payments for supplemental health services which are fixed on a prepaid basis to be fixed under such a system. (See sections 1301(b)(1)(C), and (b)(2).)

Providers of services

(i) *In general.*—Under the Senate bill, comprehensive health services were to be provided through HMO staff and supporting resources or through a medical group or groups (which could be organized on an individual practice basis); and "other additional services as may be required" were to be provided through other health delivery entities.

Under the House amendment, basic health services were to be provided through health professionals who are members of the staff of the HMO or through a medical group (or groups) or individual practice association (or associations) unless the services were provided out of the area served by the HMO or, as determined by the HMO in conformity with regulations of the Secretary, were infrequently used. Health professionals were defined to include at least physicians, dentists, nurses, podiatrists, and optometrists.

The conference substitute conforms to the House amendment. (See section 1301(b)(3).) Under the conference substitute, the following services are not required to be provided through the staff of a HMO or through a medical group or IPA: Health professionals' services which the HMO determines, in conformity with the regulations of the Secretary, are unusual or infrequently used and basic health services which because of medical necessity cannot be provided through the HMO.

(ii) *Definition of medical group.*—The Senate bill defined a medical group as a partnership or other association or group of health professionals (of whom not less than four and at least a majority must be licensed to practice medicine or osteopathy) and such other licensed health professionals as are necessary to provide comprehensive health services and who are eligible for assistance under the Senate bill. Group members must engage in the coordinated practice of their profession as a group responsibility providing services to HMO enrollees; pool their income from practice as members of the group (if not employees or retainees of an HMO) and distribute it among themselves according to a prearranged salary, or a drawing account or other plan; share substantial portions of records, major equipment, and staff; jointly utilize such additional allied health personnel as necessary to provide comprehensive health services; and arrange for and encourage continuing education for members in the field of clinical medicine and related areas. The bill permitted such groups to be organized on a group or individual practice basis and individual physician members to be paid on a fee-for-service or any other basis, as long as the group itself was reimbursed for its services on the basis of an aggregate fixed sum or on a per capita basis.

The House amendment is substantially similar to the Senate bill with three major differences. The House amendment did not contain the requirements that (1) not less than four and at least a majority of the members must be physicians licensed to practice medicine or osteopathy; (2) the group must engage in the coordinated practice of their profession as a group responsibility providing services to HMO enrollees; and (3) members must pool their income from their practice and distribute it according to a prearranged plan.

The conference substitute defines a medical group as a partnership, association or other group (A) which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, podiatrists, and optometrists) as are necessary to provide the health services for which the group is responsible; (B) of which a majority of the members are licensed to practice medicine or osteopathy; and (C) whose members (i) as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession for an HMO; (ii) pool their income from the practice and distribute it according to a prearranged salary or drawing account or other plan; (iii) share medical and other records and substantial portions of major equipment and staff; (iv) utilize additional personnel (as defined by the Secretary's regulations), as are available and appropriate for the effective and efficient delivery of the services of the members of the group; and (v) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group. (See section 1302(4).)

(iii) *Definition of independent practice association.*—The House amendment defined the term to mean a partnership, corporation, association, or other legal entity which has entered into an arrangement(s) with persons licensed to practice, in a State, medicine, osteopathy, dentistry, podiatry, optometry, or other health professions. Under the terms of such arrangement, such persons must:

A. provide their professional services in accordance with a compensation arrangement established by the IPA; and

B. to the extent feasible, utilize such additional professionals, allied health professionals, and other health personnel (as specified in regulations) as are available and appropriate to deliver the health services, effectively and efficiently, for which the arrangement was made.

Such persons must also, to the extent feasible, share records, equipment, and staff, and must have continuing education arranged for and encouraged.

The Senate amendment contained no corresponding provision but included individual practice associations in the definition of a medical group.

The conference substitute conforms to the House amendment with the additional requirement (from the definition of a medical group) that a majority of the health professionals with arrangements with such associations be doctors of medicine or osteopathy. (See section 1302(5).)

Other organizational requirements

(i) *Availability of services.*—The Senate bill provided that an HMO must demonstrate to the satisfaction of the Secretary ability to assure that appropriate comprehensive health services are available and accessible to all its enrollees promptly and in a manner which assures continuity.

The House amendment provided that an HMO must, within its service area, make basic and supplemental health services available and accessible to each of its members promptly, as appropriate, and in a manner which assures continuity; and such services shall be provided to any member when he is outside such area, or he shall be reimbursed for his expenses in securing such services outside such area, if it is medically necessary that the services be rendered before he can return to such area.

The conference substitute requires basic health services (and supplemental health services in the case of members who have contracted for such services) to be, within the HMO service area, available and accessible to each HMO member in a manner which assures continuity. Basic and supplemental health services must, when medically necessary, be available and accessible twenty-four hours a day and seven days a week. An HMO member must be reimbursed by the HMO for his expenses incurred in securing basic or supplemental health services from providers other than the HMO if it is medically necessary that such services be rendered before they could be provided by the HMO. (See section 1301(b)(4).)

(ii) *Financial responsibility.*—Under the Senate bill, an HMO must demonstrate to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency.

The House amendment provided that, as a condition of assistance, the Secretary must determine that the HMO will have a fiscally sound operation, and insurance which protects its members against the risk of its becoming insolvent and which is approved by the Secretary or such other provision against such risk as the Secretary determines is adequate.

The conference substitute provides in the definition that an HMO must have a fiscally sound operation and adequate provisions (which must be satisfactory to the Secretary) against the risk of insolvency. (See section 1301(c)(1).)

(iii) *Consumer participation; grievance procedure.*—Under the Senate bill, an HMO must be organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally defined as one-third representation in the body establishing or recommending policy) in the making of policy for the health maintenance organization, with equitable representation of enrollees from medically underserved areas, and provides meaningful procedures for hearing and resolving grievances (A) between its enrollees and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services), and (B) between the medical group or groups providing health services and other employees and the health maintenance organization.

The House amendment provision was a condition to assistance and was comparable to the Senate provision, except it contained no definition of "substantial role"; no requirement that members from medically underserved areas have equitable representation on the HMO's policymaking board; and no provision requiring the HMO to provide for grievance procedures between the medical group or groups providing the services and other employees and the HMO.

The conference substitute requires in the definition that the HMO be organized in a manner which assures that at least one-third of the membership of the policymaking body of the HMO will be enrolled in the HMO, and (B) members from medically underserved populations served by the HMO will have equitable representation on such body.

Under the conference substitute an HMO must also be organized in a manner which provides meaningful procedures for hearing and resolving grievances between the HMO (including the medical group or groups providing health services for the HMO) and the members of the organization.

(See sections 1301(c)(6), and (7).)

(iv) *Health education.*—The Senate bill provided that an HMO must encourage and actively provide for its enrollees (A) health education services; (B) education in the appropriate use of health services provided; and (C) education in the contribution the patient can make to the maintenance of his own health.

The House amendment provision was a condition to assistance and was the same as the Senate bill, except that there was no provision requiring the HMO to provide education in the contribution the patient could make to his own health maintenance.

The conference substitute requires the HMO to provide medical social services (required as a comprehensive health service by the Senate bill) for its members, and encourage and actively provide for its members health education services, education in the appropriate use of health services, and education in the contribution each member can make to the maintenance of his own health. (See section 1301(c)(9).)

(*v*) *Quality control.*—Under the Senate bill an HMO was required to have organizational arrangements, established in accordance with regulations of the Commission on Quality Health Care Assurance (established under a new title of the Act) for an ongoing quality assurance program which stresses health outcomes and assures that health services provided meet the requirements of the Commission on Quality Health Care Assurance.

Under the House amendment an HMO was required as a condition to assistance to have an ongoing quality assurance program which provides review, by physicians and other health professionals of the process followed in the delivery of health services; and the quality of the results of such services.

The conference substitute requires in the definition that an HMO have organizational arrangements, established in accordance with the Secretary's regulations, for an ongoing quality assurance program for its health services. The program must stress health outcomes and provide review by physicians and other health professionals of the process followed in the provision of health services. (See section 1301(c)(8).)

(*vi*) *Data.*—Under the Senate bill, an HMO was required to provide, in accordance with regulations of the Secretary (includnig safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (A) the cost of its operations, (B) the patterns of utilization of its services, (C) the availability, accessibility, and acceptability of its services, and (D) such other matters as the Secretary may require and disclose at least annually and in a manner acceptable to the Secretary, such data to its enrollees and to the general public.

The House amendment was a condition to assistance and was essentially the same as the Senate bill, except that there is no provision requiring the HMO to safeguard the confidential relationship between physician and patient. HMO also required to develop, compile, evaluate, and report to the Secretary (if practical) data on developments in the health status of its members.

The conference substitute conforms to the Senate bill with technical changes and adds the provision in the House amendment requiring the HMO to develop, compile, evaluate, and report to the Secretary, if practical, information on developments in its members' health status. (See section 1301(c)(11).)

(*vii*) *Reinsurance.*—Under the Senate bill an HMO must, except for (A) out of area emergency care, and (B) care reasonably valued in excess of the first $5,000 per enrollee per year, assume direct financial responsibility, without benefit of insurance, on a prospective basis for the provision of the comprehensive health services required.

The House amendment was a condition to assistance and was the same as the Senate bill, except that out of area care not limited to emergency care. In addition, an HMO was permitted to reinsure or make other arrangements for the cost of up to 90 percent of the amount by which its costs exceed 110 percent of its income for any fiscal year.

The conference substitute requires in the definition that the HMO assume full financial risk, without the benefit of reinsurance, for the provision of basic health services except for (A) the cost of providing basic health services which exceeds, in the aggregate $5,000 per member per year; (B) the cost of providing basic health services to members outside the HMO's service area; and (C) not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such year. (See section 1301(c)(2).)

(*viii*) *Open enrollment and membership.*—The Senate bill provided that:

(1) An HMO must have an open enrollment period, unless a waiver has been granted, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity, subject to the requirements described in the next paragraph. An annual waiver (for not more than 3 years) was authorized if no premium subsidy grant may be made to the HMO and if the HMO demonstrates it has enrolled a disproportionate number of high risk individuals which jeopardizes the HMO's financial stability and open enrollment would result in a nonrepresentative membership, and

(2) An HMO shall enroll no more than 50 per centum of its enrollees from medically underserved populations, except in rural areas as designated by the Secretary.

The House amendment did not contain an open enrollment provision. It required an HMO as a condition to assistance to enroll persons broadly representative of the various age, social, and income groups in its service area.

The conference substitute in the definition combines the provisions of the Senate bill and House amendment with conforming amendments and with two changes—(1) An HMO having a medically underserved population located in its service area cannot enroll more than 75 percent of its members from the underserved population unless it is located in a rural area (as designated by the Secretary); and (2) the HMO may also be granted a waiver from compliance with the open enrollment requirement if the HMO, under open enrollment, would enroll a population not broadly representative of the various groups in its service area. (See sections 1301(c)(3), (4).)

(*ix*) *Emergency service.*—The Senate bill provided that an HMO must assume responsibility for the provisions of health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance organization, who are temporarily outside the service area of the health maintenance organization in which they are enrolled) twenty-four hours a day, seven days a week, and for the appropriate availability of such services in emergencies.

The House amendment did not contain a provision specifically related to the provision of emergency health services. Basic health services were to be provided promptly as appropriate.

The House amendment did not contain a provision respecting services for members of other HMOs.

The conference substitute requires basic and supplemental health services (for members who have contracted for such services) to be available and accessible within the HMOs service area to each member promptly and in a manner which assures continuity. When medically necessary, such services must be available and accessible twenty-four hours a day, seven days a week. The HMO is required to reimburse members for expenses incurred in securing basic or supplemental services of providers other than the HMO if such services are required to be provided before they can be provided by the HMO. (See section 1301(b)(4).)

The conference substitute also requires the HMO to provide to each member as a part of the basic health services, medically necessary emergency health services. (See section 1302(1)(c).)

(*x*) *Continuing education.*—The Senate bill stated that an HMO must provide, or make arrangements for, continuing education for its staff.

The House amendment contained no corresponding provision.

The conference substitute conforms to the Senate bill. (See section 1301(c)(10).)

(*xi*) *Physician's assistants.*—The Senate bill stated that an HMO must emphasize the use of nurse practitioners, physician's assistants, dental therapists, and other allied health personnel and to the extent practicable and consistent with good medical practice, train and employ such personnel in the rendering of services.

There was no corresponding provision in the House amendment.

The conference substitute requires a medical group (or an individual practice association to the maximum extent feasible) to utilize such additional professional, allied health professional, and other health personnel (as specified in the Secretary's regulations) as are available and appropriate to the delivery of health services of the group (or association) effectively and efficiently.

(*xii*) *Special services.*—Under the Senate bill, an HMO was permitted to purchase on a fee-for-service basis unusual or infrequently used health care services for its enrollees.

The House amendment permitted an HMO to provide infrequently used health services (determined in accordance with regulations of the Secretary) through health professionals other than those on the HMO staff or in a medical group or individual practice association.

The conference substitute conforms substantially to the House amendment. It allows the HMO to provide unusual or infrequently used health services through other health professions. (See section 1301(b)(3).)

(*xiv*) *Membership.*—The Senate bill provided that an HMO could not refuse enrollment to or expel any person for any reason concerning his health status or his requirements for health srevices.

There was no corresponding provision in the House amendment.

The conference substitute provides that an HMO cannot expel or refuse to re-enroll any member for reasons concerning his health status or requirements for health services. (See section 1301(c)(5).) The conferees noted that this provision did not apply to re-enrollment of individuals who were once members of an HMO but had allowed their membership to lapse. Thus this provision prevents HMO's from expelling members or refusing them continuous re-enrollment.

(*xv*) *Alcoholism and drug abuse services.*—Under the Senate bill, an HMO must provide for the prevention, diagnosis, and medical and psychological treatment of the abuse of or addiction to alcohol and drugs either through its own facilities or existing community facilities.

The House amendment contained no specific provision.

The conference substitute requires that the HMO provide each member as a part of its basic health services, medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs. (See section 1301(1)(E).)

(*xvi*) *General.*—The Senate bill provided that an HMO had to meet such other criteria for its organization and operations as the Secretary by regulation prescribed, consistent with the provisions of this title.

The House amendment contained no corresponding provision.

The conference substitute conforms to the House amendment.

Medically Underserved Area

Under the Senate bill, a medically underserved area is an urban or rural geographic area or population group that has a shortage of personal health services. Medically underserved areas would be designated by the Secretary only after considering the comments of section 314(a) State health planning agencies, 314(b) areawide health planning agencies (if any) and regional medical programs covering such areas.

The House amendment was identical to the Senate bill, except that there was no provision requiring the Secretary to consider the comments of regional medical programs covering such areas.

The conference substitute conforms to the House amendment with technical changes. (See section 1302(7).)

ASSISTANCE PROGRAMS

REGULATIONS

It is the intention of the conferees that the Secretary shall undertake the promulgation of regulations under the new title XIII at such time as will permit the programs of assistance under such title to become operational by March 30, 1974.

Feasibility studies and planning

Type of Assistance

The Senate bill provided grants for public and nonprofit private entities for studying the feasibility of, or planning the, development or expansion of an HMO.

The House amendment provided *grants* for public and nonprofit private entities and *contracts* for public and private entities (including contracts for private profit entities if project for medically underserved area) for surveys or other activities to determine the feasibility of developing or expanding an HMO.

For planning projects for establishment of HMO's the House amendment authorized *grants* for public and nonprofit private entities, *loans* (from revolving loan fund), for public entities and *contracts* for public and private entities (including contracts for private profit entities for projects for medically underserved areas). The House amendment authorized *loan guarantees* for private profit entities for planning projects for establishment of HMO to serve medically underserved areas.

The conference substitute authorizes:

1. grants and contracts for public or nonprofit private entities for surveys or other activities to determine the feasibility of developing and operating or expanding the operation of an HMO;

2. grants and contracts for public or nonprofit private entities for planning projects to establish HMOs or to significantly expand the membership of, or area served by, an HMO; and

3. loan guarantees for private profit-making entities for planning projects to establish or expand HMOs which serve medically underserved populations.

(See sections 1303(a), 1304(a).)

Limit on Amount of Assistance

The Senate bill provided that no feasibility project could receive more than $250,000.

Under the House amendment, no single grant or contract for a feasibility survey could exceed $50,000. No single grant, contract, loan, or loan guarantee for a planning project could exceed $250,000. In addition to initial grant or contract (or initial loan or loan guarantee in case of planning project) a project could receive one additional grant or contract (or loan or loan guarantee in case of planning project) if Secretary determined it necessary for the completion of project. The aggregate amount of assistance for any project could not exceed 90 percent of costs (or 100 percent in medically underserved areas).

The conference substitute provides that no single grant or contract for a feasibility survey may exceed $50,000. No single grant, contract or loan guarantee for a planning project may exceed $125,000. Entities may receive a second grant or contract (or loan guarantee in the case of a planning project) if the Secretary determines it necessary for completion of the project. The aggregate amount of assistance for any project may not exceed 90 percent of the costs (or 100 percent for entities serving medically underserved population). (See section 1303 (d) and (e), and 1304 (e) and (f).)

Period of Assistance

The Senate bill authorized the Secretary to designate the period during which a feasibility grant is to be available for expenditure. That period could not exceed two years.

The House amendment, in general, required that a feasibility project and a planning project must be completed in one year. The Secretary could allow up to one more year if he determined additional time was needed for project completion.

The conference substitute conforms to the House amendment. (See sections 1303(d) and 1304(e).)

Plans To Be Developed in Planning Projects

The House amendment contained a provision not in the Senate bill. It required that planning projects include development of plans for the marketing of services of HMO and such other plans as Secretary might require to determine whether the feasibility of establishing and operating, or expanding, an HMO had been established.

The conference substitute requires planning projects to include the development of plans for the marketing of the services of HMO's. (See section 1304(a).)

Cooperation With Section 314(b) Agencies and Medical Societies

The House amendment contained a provision not in the Senate bill. It required that an application for feasibility or planning assistance contain assurances that in carrying out the project the applicant will cooperate with appropriate 314(b) agency (if any) and consult with appropriate medical society.

The conference substitute requires applications for such assistance to contain assurances that in carrying out the project, the applicant will cooperate with the appropriate 314(b) agency (if any), and notify the appropriate medical society of the applicants plans and intentions with respect to the project. (See sections 1303(b)(1) and 1304(c)(1).)

Priorities

The Senate bill required the Secretary to give priority to applicants who assure him that at least 30 percent of total enrollment will be from medically underserved areas.

The House amendment required that the Secretary give priority to applicants for projects for HMO's in medically underserved areas.

The conference substitute conforms substantially to the Senate bill. The Secretary is required to give priority to those applicants which assure him that at the time the HMO for which the application is submitted first becomes operational at least 30 percent of its members will be from medically underserved populations. (See sections 1303(c) and 1304(d).)

Initial development

Type of assistance

The Senate bill provided *grants* to public and nonprofit private entities for initial development costs prior to first day of operation; *loan guarantees* (up to 90 percent of principal and interest) to private entities for initial development costs; and *interest subsidies* on guaranteed loans of nonprofit entities for such costs.

The House amendment provided *grants* for initial development projects of public and nonprofit entities; *loans* (from revolving fund) for such projects of public entities; *contracts* for such projects of public and private entities (including contracts for private profit entities for projects for medically underserved areas); and *loan guarantees* for private profit entities for projects in medically underserved areas.

The conference substitute authorizes:

1. grants and contracts with public or nonprofit private entities for projects to initially develop HMOs; and

2. loan guarantees to private profitmaking entities for projects to initially develop HMOs serving medically underserved populations.

(See section 1304(b)(1).)

Scope of projects

The Senate bill authorized initial development assistance to be utilized for such purposes as Secretary may prescribe which may include (1) implementation of enrollment campaign, (2) design of and arrangements for health services, (3) development of administrative and internal organizational arrangements, including development of capital financing, (4) recruitment of personnel and training, and (5) payment of architects' and engineers' fees.

The House amendment contained no corresponding provision, but defined "initial development" to include the significant expansion of the membership of, or the areas served by, an HMO.

The conference substitute combines the provisions of the Senate bill and House amendment. (See section 1304(b)(2).)

Duration of Program

Under the Senate bill, the initial development program was authorized for the three fiscal years 1974, 1975, and 1976.

Under the House amendment, the program was authorized for the four fiscal years 1974, 1975, 1976, and 1977.

The conference substitute conforms to the House amendment. (See section 1310(a)(1) and (a)(4).)

Limit on Amount of Assistance

The Senate bill stated that no initial development project could receive more than $1 million. An amount of a loan guaranteed could not, when combined with other Federal assistance, exceed 90 percent of the project cost.

The House amendment provided that the aggregate amount of assistance for any project could not exceed the lesser of—

(1) $1 million or product of $25 and enrollment of HMO when first operational, whichever is greater; or

(2) 90 percent of project cost (100 percent in case of project for medically undeserved area).

The conference substitute takes parts of each provision and provides that the aggregate amount of assistance for any initial development project can not exceed the lesser of—

(1) $1 million, or

(2) 90 percent of the project cost (100

percent in the case of a project for a medically undeserved population).

(See section 1304(f)(2).)

Period of Assistance

The Senate bill contained a provision not in the House amendment. It stipulated that grant funds for a project could be made available for not more than three years.

The conference substitute provides that an initial development grant or contract can only be made for the costs of one fiscal year and that the total number of grants and contracts for any project may not exceed 3. A loan guarantee for initial development may only be made for a loan for a period of initial development costs which does not exceed three years. (See section 1304(b)(3).)

Requirements respecting planning sufficiency and feasibility

The House amendment provided that no initial development assistance could be provided to any developing HMO unless the Secretary determined that sufficient planning had been completed and the feasibility of the project established.

The Senate bill contained no similar provision.

The conference substitute conforms to the House amendment, except that all references to initial development loans are deleted. (See section 1304(c)(2).

Priorities

The Senate bill required that the Secretary give priority to applicants for grants who assured him that at least 30 percent of total enrollment would be from medically underserved areas.

Under the House amendment, the Secretary was required to give priority to applicants for projects for HMO's in medically underserved areas.

The conference substitute conforms substantially to the Senate bill. The Secretary is required to give priority to applicants who assure him that at the time the HMO for which the application is submitted first becomes operational at least 30 percent of its members will be from medically underserved populations. (See section 1304(d).)

Construction assistance

Grants

The Senate bill contained a provision not in the House amendment. It authorized grants for public or nonprofit private HMO's or public or nonprofit private entities intening to become an HMO for—

(1) construction costs for ambulatory care facilities (or portions of such facilities) that would be used to provide health services to HMO members; and

(2) capital investment costs for necessary transportation equipment that would be used to improve access to health services for members.

The Secretary was to give special consideration to applications for grants to acquire or renovate existing facilities. Grants for any project were not to exceed 75 percent of the costs of construction, except in unusual circumstances, in which case the Secretary could grant up to 90 percent of the costs. No project could receive more than $2.5 million in construction grants. Priority would be given to those applicants who assured the Secretary that at least 30 percent of their total enrollment would come from medically underserved areas. Authorizes:

	Million
Fiscal year 1974	$15
Fiscal year 1975	30
Fiscal year 1976	40

The conference substitute conforms to the House amendment.

Loans

Under the Senate bill, the Secretary could make loans to a public or nonprofit private HMO or public or nonprofit private entity intending tc become an HMO to assist it in meeting the cost of constructing facilities for ambulatory care and transportation services. Such facilities must be used by the HMO to provide health services to its members. Applications for loans to acquire or renovate existing facilities would be given special consideration. A loan for any project under this section could not exceed 90 percent of the costs. Authorizes for loans:

	Million
Fiscal year 1974	$10
Fiscal year 1975	20
Fiscal year 1976	30

Appropriations for such loans, loan repayments, and other receipts in connection with this section would be placed in a revolving fund to be used by the Secretary for loans and other expenditures under this section.

There was no corresponding provision in the House amendment.

The conference substitute conforms to the House amendment.

Loan Guarantees

The Senate bill authorized the Secretary to make loan guarantees (up to 90 percent of principal and interest) for private HMO's to assist them in carrying out construction projects for ambulatory care facilities and transportation and communication services to be used for the provision of health services to members; and authorized for nonprofit private HMO's interest subsidies on loans guaranteed. The amount of loan guaranteed, when combined with the amount of other Federal assistance, could not exceed 90 percent of construction costs. Term of loan guaranteed could not exceed 25 years.

There was no corresponding provision in the House amendment.

The conference substitute conforms to the House amendment.

Initial operating assistance

Type of Assistance

The Senate bill authorized grants to public and nonprofit private HMO's to assist them in meeting operating deficits during the initial three-year period of their operation.

There was no corresponding provision in the House amendment.

The conference substitute conforms to the House amendment.

The Senate bill provided loans (from a revolving fund) for public and nonprofit private HMO's to assist them in meeting for three years a portion of initial operating costs in excess of gross revenues.

The House amendment authorized loans (from a revolving fund) for public and nonprofit private HMO's to assist them in meeting the costs of the first three years of their operation after their establishment.

The conference substitute conforms to the Senate bill (see sec. 1305(a)).

The Senate bill provided for the guarantees of loans (with terms not exceeding 15 years) for private HMO's (and interest subsidy on the guaranteed loan of nonprofit private entity) to meet cost of initial operation (for not more than three years). Up to 90 percent of principal and interest may be guaranteed.

The House amendment authorizes loan guarantees for private profit HMO's for costs referred to above but only if such HMO's will serve residents of medically underserved areas.

The conference substitute combines the House amendment with the Senate bill's requirements for a three year limit (see sec. 1305(a)).

Under the Senate bill, the program is to extend for the three fiscal years 1974, 1975, and 1976.

Under the House amendment, the program is to extend for the five fiscal years 1974, 1975, 1976, 1977, and 1978.

The conference substitute conforms to the House amendment (see sec. 1309).

Limit on Amount of Assistance

The Senate bill provided that a grant could not exceed 100 percent of an HMO's operating deficit in first year, 67 percent of the first year's operating deficit in the second year, and 33 percent of the first year's operating deficit in the third year.

The House amendment did not provide for initial operating grants and thus had no comparable provision.

The conference substitute conforms to the House amendment.

Under the Senate bill, a loan could not exceed 60 percent of excess operating costs in first year, 40 percent of such costs in second year, and 20 percent of such costs in third year.

The House amendment provided that the principal amount of any loan for a single year to an HMO could not exceed $1 million and the aggregate amount of the principal of loans for a single HMO could not exceed $2.5 million.

The conference substitute conforms to the House amendment (see sec. 1305(6)).

Under the Senate bill, the principal amount of a loan guaranteed, when combined with all other Federal assistance, could not exceed 90 percent of initial operating costs.

Under the House amendment, the principal amount of loan guaranteed for a single HMO could not exceed $1 million and the aggregate amount of principal of loans guaranteed for a single HMO could not exceed $2.5 million.

The conference substitute conforms to the House amendment (see sec. 1305(b)).

Conditions to Assistance

Under the Senate bill, a grant could be made only if the Secretary had determined that the applicant had made all reasonable attempts to obtain funds from other sources (including loans and loan guarantees).

The House amendment provided that no application could be approved unless the Secretary determines that the applicant applying for such assistance would be unable to complete the project or undertaking without the aid of such assistance.

The conference substitute provides the language in the Senate bill for loans and loan guarantees (see sec. 1305(a)).

Authorization of appropriations

The Senate bill provided separate authorizations for each program, as follows:

	Million
For feasibility grants:	
Fiscal year 1974	$10
Fiscal year 1975	15
Fiscal year 1976	20
For initial development grants:	
Fiscal year 1974	15
Fiscal year 1975	25
Fiscal year 1976	30
For initial operating grants:	
Fiscal year 1974	5
Fiscal year 1975	30
Fiscal year 1976	50
For initial operating loans (from a loan revolving fund):	
Fiscal year 1974	5
Fiscal year 1975	30
Fiscal year 1976	50

The House amendment provided no separate authorization for feasibility, planning, and initial development programs for fiscal years 1974 through 1976. For grants and contracts for feasibility surveys, planning, and initial development there was authorized to be appropriated:

	Million
Fiscal year 1974	$40
Fiscal year 1975	45
Fiscal year 1976	50

For fiscal year 1977, an additional $55 million was authorized for initial development grants and contracts.

Under the House amendment, for capitalization of the initial development and initial operation loan revolving fund there was authorized to be appropriated:

	Million
Fiscal year 1974	$20
Fiscal year 1975	30

The conference substitute conforms to the basic structure of the House amendment. It provides no separate authorization for grants and contracts for feasibility surveys, planning, and initial development for fiscal years 1974 through 1976. An aggregate appropriation for such programs is authorized in section 1309(a) as follows:

	Million
Fiscal year 1974	$25
Fiscal year 1975	55
Fiscal year 1976	85

For fiscal year 1977, an additional $85 million is authorized for initial development grants and contracts.

The conferees noted that the purpose of this legislation is to stimulate greater provider and consumer interest in and awareness of the HMO concept of health care delivery. This is to be achieved through a combination of financial assistance and improved access to potential markets. The program is designed to assure that all assisted projects will be operational during the last year for which authority is given; the legislative program is for that reason considered to be self-contained and it is intended that its purposes be accomplished within the time and limitations of this authority. The House and Senate committees intend to exercise their oversight responsibility with respect to the programs authorized by the new title XIII.

For capitalization of the initial operating loan revolving fund section 1309(b) authorizes the appropriation of $75 million in the aggregate for fiscal years 1974 and 1975.

Assistance for significant expansion of HMO membership or service area

The Senate bill contained no specific provision.

Under the House amendment, assistance for HMO planning, initial development, and initial operation included assistance for those activities in connection with significant expansion of HMO membership or service areas.

The conference substitute conforms to the House amendment. (See secs. 1304(a), 1304(b)(2) and 1305(a)(2).)

Special rural area grants and loans

The Senate bill provided that the Secretary could make grants and loans for planning and feasibility studies, initial development costs, construction costs, and initial operating costs to HMO's in nonmetropolitan areas (as defined) or entities intending to become HMO's in nonmetropolitan areas. Authorized to be appropriated for such grants and loans were:

	Million
Fiscal year 1974	$20
Fiscal year 1975	30
Fiscal year 1976	50

The House amendment contained no comparable provision.

The conference substitute contains a compromise provision requiring that, in any fiscal year, 20% of the funds (appropriated for making grants or contracts, or available for making loans) must be set aside for projects for HMO's at least 66 per centum of whose members can or could reasonably be expected to be residents of non-metropolitan areas. The set-aside provision applies to funds for feasibility studies (sec. 1303(i)), planning and initial development (sec. 1304(k)), and for initial operations (sec. 1305(e)).

"Non-metropolitan areas" are defined, as they were in the Senate bill, an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget and which does not contain a city with a population of over 50,000 (see sec. 1302(9)).

Grant and contract funds for feasibility planning and initial development for any given fiscal year which are not obligated because of the set aside are to remain available for obligation in the subsequent fiscal year without the requirement that they be used for projects serving non-metropolitan areas.

The conference substitute takes account of the serious problem of unequal distribution of medical services throughout the country by earmarking of funds for use in non-metropolitan areas. For this reason, the managers adopted the above modification of the Senate bill which would set aside 20 percent of the funds for such areas. If an insufficient number of qualified applications are received for such set-aside funds in any fiscal year, the unexpended portion of these funds would be carried forward into the next fiscal year for general use and would not then be subject to the setaside. It is the strong intention of the managers that the carryover provision not be used as a device for cutting expenditures under this legislation, but only for the purposes stated.

Capitation grants

The Senate bill contains a provision that would direct the Secretary to make *annual* grants to HMO's (during first three years of operation) that provide health services to individuals who could not afford to pay the entire amount of the HMO's premium (other than additional premiums for high option services). Persons who could not meet the entire expense of an HMO's premium would be expected to contribute a reasonable portion (as determined by the Secretary). In determining the amount an individual could be expected to contribute toward a premium, the Secretary would be required to consider all sources of income available to the person (including public sources). The annual amount of a grant would be equal to the HMO's per capita premium times the number of such individuals enrolled, less the amount of acutal premium collected for such individuals, and could not exceed 25 percent of the HMO's total premium receipts in the year prior to the year for which the grant was made.

Under the Senate bill, to make the grants, the Secretary would be required to allocate, on a pro rata basis, at least 7.5 percent of the total funds appropriated for each fiscal year for grants and loans for feasibility studies and planning, initial development, construction, initial operation, and rural area programs.

The House amendmen contained no comparable provision.

The conference substitute conforms to the House amendment.

Premium subsidy

The Senate bill contained a provision that would direct the Secretary to make annual grants to HMO's (during first three years of operation) that propose to increase their premium rates because such HMO's have enrolled a disproportionate number of high-risk enrollees. Such grants could be made only if the Secretary determined that the proposed premium rate increase was a direct result of the HMO's policy of unrestricted open enrollment. The amount of the annual grant would be equal to that portion of the HMO's proposed premium increase caused by the disproportionate number of high risk individuals enrolled. To make the grants, the Secretary would be required to allocate, on a pro rata basis, at least 7.5 percent of the total funds appropriated for each fiscal year for grants and loans for feasibility studies and planning, initial development, construction, initial operation, and rural area programs.

The House amendment contained no comparable provision.

The conference substitute conforms to the House amendment.

Assistance for projects to facilitate health services in nonmetropolitan areas

The Senate bill contained a provision not in the House amendment. It would authorize the Secretary to make grants or enter into contracts with any public or nonprofit private entity (which may be otherwise ineligible for assistance under the terms of the Senate bill) to study, initiate, and evaluate projects to deliver, or facilitate the delivery of, comprehensive health services on a prepaid basis in nonmetropolitan areas. The Senate bill would authorize to be appropriated for such grants and contracts such sums as may be necessary.

The conference substitute conforms to the House amendment and contains no such provision.

Health services for Indians and migrants

The Senate bill authorized the Secretary to contract with HMO's to provide health services to Indians eligible to receive health services from the Indian Health Service and to domestic migratory and seasonal agricultural workers eligible for health services under section 310 of the Public Health Service Act.

The House amendment contained no corresponding provision for migrants. In the House amendment the Secretary, with the consent of the Indian people served, could contract with private or other non-Federal health agencies or organizations to provide health services to Indians on a fee-for-service basis, or on a prepayment or other similar basis.

The conference substitute conforms to the House amendment with respect to Indians.

With respect to migrants and seasonal workers the conference substitute authorizes the Secretary, in connection with existing authority (other than section 310 of the PHS Act) for the provision of health services to domestic agricultural migratory and seasonal workers and their families, to arrange for the provision of health services to such workers and their families through HMO's. (See sec. 6(b) of the conference substitute.)

Quality health care initiative awards

Under the Senate bill, each health care provider that is certified by the Commission on Quality Health Care Assurance as maintaining internal quality control standards could receive an annual payment to defray the administrative expenses associated with maintaining such standards. The payments would be equal to the administrative costs incurred by the provider, as allowed by the Commission, in connection with maintaining such standards. Any health care provider would be eligible to apply to the Commission for certification. For such payments there would be authorized to be appropriated:

	Million
Fiscal year 1974	$25
Fiscal year 1975	50
Fiscal year 1976	75

The House amendment contained no corresponding provision.

The conference substitute conforms to the House amendment. Note that the conference substitute does not contain authority for a Commission or a certification program either.

ASSISTANCE PROGRAMS; GENERAL PROVISIONS

Applications

Special assurances.—Under the Senate bill, the applications would have to include, to such extent and among other matters as might be prescribed, satisfactory specifications of the existing or anticipated—

(1) population groups to be served by the existing or proposed health maintenance organization;

(2) enrollment of the organization;

(3) methods, terms, and periods for enrollment;

(4) nature and estimated costs per enrollee of health and educational services to be provided;

(5) sources of professional services and organizational arrangements for providing health and educational services;

(6) organizational arrangements for ongoing quality assurance programs;

(7) sources of prepayment and other forms of payment for services provided;

(8) facilities available, additional capital investments, and sources of financing required to provide level and scope of services proposed;

(9) administrative, managerial, and financial arrangements and capabilities;

(10) planing and policymaking roles for enrollees;

(11) grievance procedures for enrollees, staff, and employees;

(12) evaluations of the support for and acceptance of the organization of the populations served, the sources of operating support, and the professional groups involved. Organizations applying for multiple assistance (either simultaneously or over a period of time) will not be required to submit duplicate information. However, such organizations will be required to update the information required under this section according to prescribed regulations.

Applications would have to contain assurances that the applicant would enroll the maximum number of persons that it would be able to serve effectively. However, it could not enroll more than 50 percent of its enrollees from medically underserved populations, except in rural areas as designated by the Secretary.

The House amendment contained no corresponding provision.

The conference substitute conforms to the Senate bill. (See sec. 1306(b).)

Sections 314(a) and 314(b) agency review

The Senate bill required the Secretary to establish, by regulation, standards and procedures for section 314(a) and section 314(b) health planning agencies to follow when reviewing and commenting on applications for assistance for HMO's and for other applicants for assistance under the Public Health Service Act.

The House amendment is the same as the Senate bill, except that it is applicable only to applications for HMO assistance.

The conference substitute conforms to the House amendment. (See sec. 1306(b).)

Priorities when insufficiency of funds

Under the Senate bill, in any fiscal year, if there were insufficient funds available to fund all approved applicants for grants for planning and feasibility studies, initial development, or construction, then the Secretary would be required to give priority to those applicants which he determined are most likely to be economically viable. However, the Secretary would still remain subject to the priorities set forth under sections 1202(b), 1203(c), and 1204(d), concerning priorities for projects assuring enrollment of individuals from medically underserved areas.

The House amendment contained no corresponding provision.

The conference substitute conforms to the Senate bill. (See sec. 1307(c).)

Condition for continued assistance

Under the Senate bill, HMO's which receive assistance must submit to the Secretary, as a condition to its continued assistance, satisfactory assurances respecting—

(1) financial responsibility (defined to mean the demonstrated capability to adequately carry out the purposes for which the original assistance was made);

(2) development and operation consistent with terms of title XII and plans contained in application; and

(3) other matters as prescribed by regulation.

The House amendment contained no corresponding provision.

The conference substitute conforms to the Senate bill. (See sec. 1306(b).)

Report by recipient of assistance

The Senate bill provided that a recipient must report to the Secretary respective plans, developments, and operations with respect to the specific assurances required to be contained in applications for assistance under sections 1242(b)(1) and (d) of the Senate bill. An outline of such assurances is shown in the statement of managers discussion of application requirements—special assurances. See discussion of application requirements.

The House amendment contained no corresponding provision.

The conference substitute conforms to the Senate bill. It requires each entity that has received a grant, contract, loan, or loan guarantee under new title XIII to make a full and complete report to the Secretary (in a manner which may be prescribed by him) upon the expiration of the period for which such assistance was made.

Each such report must contain (among other matters which the Secretary may prescribe by regulation) descriptions of plans, developments, and operations relating to the specific assurances referred to in section 1306(b)(3) of the conference substitute. (See section 1307(b).)

Termination of assistance

The Senate bill contained a provision not in the House amendment. It authorized the Secretary to terminate or cancel (after a hearing) any grant, loan, loan guarantee, or interest subsidy to any recipient of assistance under title XII that is in substantial noncompliance with the material provisions of title XII. He could also terminate or cancel such assistance after he received notice from the Commission on Quality Health Care Assurance that such recipient had had its certificate of compliance suspended or revoked.

The conference substitute does not include the Senate provision because its effect is redundant with the House requirement for continued regulation of HMO's which is included in the substitute.

Continued regulation of assured HMO's

The House amendment contained a provision not in the Senate bill. It authorized the Secretary to bring a civil action (or use any other remedy available to him) against any entity which received financial aid under title XII as an HMO or which was included in a health benefits plan offered pursuant to section 1209, if such entity—

(1) failed to provide basic and supplemental health services;

(2) failed to provide such services as specified in section 1201(1); or

(3) was not organized or operated as required under section 1206(b).

It authorizes the Secretary to bring such action in the United States district court (for the district in which the entity is located) to force such entity to comply with any assurances contained in its application for assistance under title XII, or provided to him under section 1209 with respect to the provision of basic and supplemental health services, or its organization or operation.

It required the Secretary to establish an identifiable unit within DHEW to administer this section.

The conference substitute conforms to the House amendment with technical and conforming changes. The conferees noted their desire that the reviews of HMO organization and operation anticipated by this provision be performed on a regular basis. (See section 1312.)

Prohibition on transfer of funds

Under the Senate bill, funds appropriated for any program under title XII could not be transferred to any other program. Only funds appropriated under such title were to be used to carry out the provisions of that title. Only funds appropriated under titles IX and XII of the Public Health Service Act were to be used to initially develop, construct, and initially operate health maintenance organizations and any other entities that provide (either directly or indirectly through arrangements with others) prepaid health care to defined populations.

The House amendment provided that funds appropriated under any provision of Public Health Service Act (other than title XII) could not be used for—

(1) Making grants or contracts for surveys or other activities to determine the feasibility of developing or expanding an HMO or any other entity which provides, directly or indirectly, health care to a defined population on a prepaid basis;

(2) Grants, loans, controls, or payments under loan guarantees for planning projects to establish or expand such organizations or entities;

(3) Grants, loans, contracts, or payments under loan guarantees for projects to initially develop or expand such organizations or entities; and

(4) Loans, or loan guarantee payments to assist in meeting initial operating costs after the establishment or expansion of such organizations or entities.

The conference substitute conforms to the House amendment with technical and conforming changes. (See section 1313.)

Loans

Repayment.—The Senate bill provided that no payment of loan principal would be required until 5 years after such loan is made.

The House amendment contained no corresponding provision.

The conference substitute conforms to the House amendment.

Loan term.—The Senate bill provided that no loan could have a term in excess of 15 years.

The House amendment contained no corresponding provision.

The conference substitute conforms to the House amendment.

Sale of loans.—The House amendment contained a provision not specifically included in the Senate bill. It provided that the Secretary could sell loans made under title XII and could guarantee for the purchaser compliance by the borrower for the terms and conditions of the loan.

The conference substitute conforms to the House amendment. (See section 1308(c).)

Right of recovery.—The Senate bill provided that the Secretary could waive right of recovery, for good cause, if a public organization failed to make payment of principal and interest on a loan.

Under the House amendment the Secretary could waive, for good cause but with due regard to the financial interests of the United States, his right of recovery if a borrower failed to make payments on the principal and interest of loans made under title XII, However, if such a loan was sold and guaranteed such waiver would have no ef-

fect on the Secretary's guarantee of timely payment of principal and interest.

The conference substitute conforms to the House amendment with technical and conforming changes. (See section 1308(b)(3).)

Limit on loan guarantees

The Senate bill contained a provision not in the House amendment. It limited the principal amount of loans guaranteed in any fiscal year to the amount of grant funds obligated in that fiscal year unless the amount of grant funds obligated equaled the amount appropriated for that purpose.

The conference substitute conforms substantially to the Senate bill. The principal amount of loans guaranteed in any fiscal year is limited to the amount of grant and contract funds obligated in that fiscal year unless the amount of such funds obligated equals the amount appropriated for that purpose. (See section 1307(e).)

Secretary's report on medically underserved and non-metropolitan areas

The House amendment contained a provision not in the Senate bill. It required the Secretary to report to the Congress, within three months after date of enactment of the Health Maintenance Organization Act of 1973, the criteria he used to designate medically underserved areas for the purposes of title XII of the Public Health Service Act.

The provision would require the Secretary, within one year after such act was enacted, to report to Congress:

(1) The medically underserved areas and population groups designated under section 1201(8) of title XII, and

(2) The comments (if any) submitted by State and areawide health planning agency with respect to medically underserved areas and population groups designated under section 1201(8) of title XII.

The conference substitute requires the Secretary, within three months after the date of enactment of the Health Maintenance Organization Act of 1973, to report to the Congress on the criteria used by him to designate medically underserved areas and population groups for the purpose of section 1302(7) of the Public Health Service Act (concerning the definition of medically underserved populations). Within one year after enactment, the Secretary must report to Congress on (1) the areas and population group designated as having a shortage of personal health services, (2) the comments (if any) of State and areawide health planning agencies with respect to such designations, and (3) the areas which meet the definitional standards under section 1302(9) of such Act for non-metropolitan areas.

The Office of Management and Budget is permitted to review the Secretary's report on medically underserved areas and population groups but cannot revise or delay the submission of such report beyond its due date. OMB may submit its comments (and those of other departments and agencies of the Government) to Congress respecting such report. (See section 5.)

PROGRAM EVALUATION

The House amendment contained a provision not contained in the Senate bill. It would require the Comptroller General to evaluate the operations of at least 50 HMO's that have received assistance under sections 1202, 1203, or 1204. It would require that the HMO's evaluated under this section be in operation for at least three years. The Comptroller General would be required to report to the Congress the results of this evaluation within 90 days after at least 50 of the HMO's receiving assistance under sections 1202, 1203, or 1204 have been operational for three years. Such reports would be required to contain the following findings on the abilities of such HMO's:

(1) To operate on a sound fiscal basis;

(2) To meet the requirements of section 1206(b)(1) with respect to organization and operation;

(3) To provide basis and supplemental health services in the manner prescribed by section 1201(1);

(4) To include indigent and high-risk individuals in their membership; and

(5) To provide services in medically underserved areas.

The provision would require the Comptroller General to study the economic effects on employers resulting from their compliance with the requirements of section 1209. The results of this study would be required to be reported to the Congress not later than thirty-six months after the date of enactment of this title.

The conference substitute conforms substantially to the House amendment. (See section 1314.)

Annual report

The House amendment contained a provision not in the Senate bill. It would require the Secretary to review periodically title XII programs and make an annual report to Congress summarizing the activities of each such program. The Secretary would be required to include the following:

(1) A summary of each grant, contract, loan, or loan guarantee made under title XII in the period covered by the report;

(2) The data reported in such period to the Secretary under section 1206(b)(1)(E); and

(3) Findings with the respect to the ability of the HMO's assisted under this title to:

A. Operate on a fiscally sound basis without continued Federal financial assistance;

B. Meet the requirements of section 1206(b)(1) respecting their organization and operation;

C. Provide basic and supplemental health services as prescribed by section 1201(1);

D. Include indigent and high-risk individuals in their membership; and

E. Provide services in medically underserved areas.

The conference substitute conforms substantially to the House amendment. (See section 1315.)

Restrictive State laws

The Senate bill contained a provision not in the House amendment. It required that HMO's, which have received Quality Health Care Initiative Awards, be allowed to provide health care services in a State regardless of any restrictive provisions in State laws that—

(1) require HMO's to be approved by a medical society;

(2) require physicians to constitute most or all of the HMO's governing body;

(3) require a certain percentage of the physicians in the local medical society to participate in the tendering of services of the HMO;

(4) require the HMO to submit to regulations as an insurer of health care services;

(5) bar incorporated individuals or associations from providing health care services;

(6) prohibit advertising by a professional group in order to recruit enrollees;

(7) impose restrictions on such organizations in a manner that conflicts with title XII, as determined by the Secretary.

HMO's must otherwise conform with State laws for incorporation and for licensing of physicians, osteopaths, and dentists.

The conference substitute permits any HMO for which a grant, contract, loan, or loan guarantee was provided under title XIII or which is a qualified health maintenance organization for purposes of section 1310 (employees' health benefits plans) to operate in a State regardless of certain restrictive provisions in a State's laws. (See section 1311.)

Employee's health benefits plans

The House amendment contained a provision which was not in the Senate bill. It would require, in accordance with regulations prescribed by the Secretary, that each employer who—

(1) is required in any calendar quarter to pay his employees the minimum wage specified by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay such wages but for section 13(a) of such Act), and

(2) during such quarter employed an average number of employees not less than 25, include in any health benefits plan offered to his employees in the calendar year after such calendar quarter the option of membership in—

(1) at least one HMO providing basic health services through health professionals who are members of the staff of the HMO or a medical group (or groups), and

(2) at least one HMO providing such services through an individual practice association (or associations).

This requirement would apply only if such an HMO (or HMO's):

(1) is serving the area in which such employer's employees reside; and

(2) provides assurances satisfactory to the Secretary that it will provide basic and supplemental health services to its members in the manner specified in section 1201(1) and that it is organized and operated in the manner described in section 1206(b).

The conference substitute conforms substantially to the House amendment. The conferees noted that this language would not require employers to rewrite existing contracts for employee health benefits plans but would require changing the plan to conform to the requirements when a contract was renewed or a new contract offered.

The conferees noted their intention that this provision would apply to the various different types of HMO's including those which are community sponsored and operated.

Access to records

The Senate bill contained a provision that would require each recipient of Federal funds under the Public Health Service Act to keep and provide full access to such records as the Secretary prescribes.

The bill would require such records to fully disclose—

(1) the amount and disposition by the recipient of the proceeds of such funds;

(2) the total cost of the undertaking for which such funds were given or used;

(3) the amount of that portion of the cost of the undertaking supplied by other than Federal sources; and

(4) such other records as will facilitate an effective audit.

The provision would provide that the Secretary, or his authorized representative, have access, for audit and examination purposes, to any books, documents, papers, and records of the recipients of Federal funds under the Public Health Service Act.

The House amendment contained no corresponding provision.

The conference substitute conforms substantially to the Senate bill except that the provision's applicability is narrowed to entities receiving assistance under the HMO program. (See sec. 1307(a).)

Commission on Quality Health Care Assurance

The Senate bill contains a separate Title II, to be known as the "Commission on Quality Health Care Assurance Act of 1973", which amends the Public Health Service Act by creating a new Title XIII, "Commission on Quality Health Care Assurance." This title—

(1) establishes an independent quality commission with duties and functions including, among other things, promulgating standards for health manpower and facilities, requiring and monitoring quality assurance systems for health care providers assisted under the Public Health Service Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act, developing and enforcing criteria and norms for quality assurance systems, and conducting research, development, and experimental programs on quality assurance;

(2) requires public disclosure by any health care plan subject to the new title of its fees and prices, scope, accessibility, and availability of services, and compliance with the quality assurance requirements of this title;

(3) establishes an arbitration program between patients with medical malpractice claims and health care providers who have been certified by the quality commission as maintaining approved internal quality control standards; and

(4) provides for state administration by qualified states of the quality assurance programs required.

The Senate bill authorizes $125 million for fiscal years 1974–76 for these purposes.

The House bill contains no comparable provisions.

The conference substitute adopts a substantial modification (sections 3 and 4 of the conference report) of the Senate provision providing for—

(1) research and evaluation programs respecting the effectiveness, administration, and enforcement of the quality assurance programs referred to above. This research and evaluation is to be carried out in cooperation with the Bureau of Health Services Research and Evaluation or other entity administering the health services research authority in section 304 of the Public Health Service Act. Authorization of appropriations is given for this purpose in the amount of $40 million for fiscal years 1974–78;

(2) an annual report by the Secretary for submission to the Congress and the President on—

A. the quality of health care in the United States,

B. the operation of quality assurance programs, and

C. advances made concerning the effectiveness, administration, and enforcement of quality assurance programs.

(3) an independent study to be contracted for by the Secretary within 90 days after enactment of appropriations for the study and to be completed by January 31, 1976, which:

A. Analyzes past and present mechanisms (both required by law and voluntary) to assure the quality of health care, identifies the strengths and weaknesses of current major prototypes of health care quality assurance systems, and identifies on a comparable basis the cost of such prototypes;

B. Provides a set of basic principles to be followed by any affected health care quality assurance system including principles affected, the scope of the system, methods for assessing care, data requirements and specifications for the development of criteria and standards which relate to desired outcomes of care, and means for assessing the responsiveness of such care to the needs and perceptions of the consumers of such care;

C. Provides an assessment of programs for improving the performance of health practitioners and institutions in providing high quality health care, including a study of effectiveness of educational programs;

D. Defines the specific needs for a program of research and evaluation in health care quality assurance methods, including the design of prospective evaluation protocols for health care quality assurance systems; and

E. Provides methods for assessing the quality of health services from the point of view of consumers of such services.

The study is to be conducted by an appropriate organization with the following characteristics:

(A) A national reputation for objectivity in the conduct of such study;

(B) The capacity to marshall readily the expertise and advise necessary to the conduct of such study;

(C) Members and a competent staff with backgrounds in government, the health sciences, and the social sciences;

(D) History of interest and activities and related policy issues; and

(E) Extensive existing contacts with interested public and private agencies and organizations.

It is the intention of the conferees that the Institute of Medicine of the National Academy of Sciences should be included among the organizations to be given an opportunity to receive a contract to conduct the study.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
PETER KYROS,
RICHARDSON PREYER,
J. W. SYMINGTON,
WILLIAM R. ROY,
ANCHER NELSEN,
TIM LEE CARTER,
JAMES F. HASTINGS,
H. JOHN HEINZ III,
WILLIAM H. HUDNUT III,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HARRISON A. WILLIAMS, Jr.,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
CLAIBORNE PELL,
WALTER F. MONDALE,
WILLIAM D. HATHAWAY,
RICHARD S. SCHWEIKER,
J. JAVITS,
PETER H. DOMINICK,
J. GLENN BEALL, Jr.,
BOB TAFT, Jr.,
Managers on the Part of the Senate.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 654]

Abdnor	Goldwater	Moakley
Aspin	Gray	Patten
Bolling	Gubser	Price, Tex.
Brasco	Hansen, Wash.	Reid
Bray	Harrington	Rhodes
Burke, Calif.	Harsha	Rooney, N.Y.
Clark	Hébert	Runnels
Clay	Heckler, Mass.	Ryan
Collins, Tex.	Henderson	Shoup
Conyers	Holifield	Stokes
Dellums	Horton	Sullivan
Diggs	Howard	Symington
Eckhardt	Hunt	Taylor, Mo.
Erlenborn	Johnson, Calif.	Thompson, N.J.
Evins, Tenn.	Jones, Ala.	Veysey
Findley	Kuykendall	Walsh
Fisher	Kyros	Wolff
Flood	Lent	Wyatt
Forsythe	McSpadden	Wydler
Fountain	Macdonald	Young, Ga.
Fraser	Mailliard	Young, S.C.
Fulton	Matsunaga	
Giaimo	Mitchell, Md.	

The SPEAKER. On this rollcall 365 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

END OVERKILL WITH AUTO EMISSIONS REQUIREMENTS

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

Mr. WYMAN. Mr. Speaker, I yield to no Member in my enthusiasm for or dedication to the responsible concerns of our environment. Where there is substantial air pollution attributable to auto emissions controls should be imposed.

But, Mr. Speaker, such a problem presently exists in a geographical area comprising less than one-sixteenth of the United States. There is enormous waste of gasoline and capital costs in requiring emissions controls on cars owned, operated, and registered to residents of fifteen-sixteenths of the Nation. This waste is on the order to better than 300,000 barrels of oil daily and a economic loss running into billions of dollars yearly.

I shall offer an amendment to the energy bill shortly to come before us, to suspend for the duration of the energy crisis, the requirement for auto emissions controls on vehicles registered to residents of this fifteen-sixteenths. Studies by the Office of Science and Technology show that the traffic of these vehicles in and out of the remaining areas—less than a factor of 3 percent in most instances—would not materially impact on the ambient air in those areas.

In the name of reason and commonsense Congress should act now to end this overkill in the Clean Air Act that is draining our energy and overtaxing our economy without regard to public health and necessity.

PROVIDING FOR CONSIDERATION OF H.R. 11450, ENERGY EMERGENCY ACT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 744 and ask fo · its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 744

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to excede three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order immediately after the en-

acting clause is read to consider without the intervention of any point of order the text of the bill H.R. 11882 if offered as an amendment in the nature of a substitute for the bill H.R. 11450. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 11891 if offered as an amendment to said amendment in the nature of a substitute. At the conclusion of the consideration of H.R. 11450 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 744 provides for an open rule with 3 hours of general debate on H.R. 11450, a bill directing the President to take action to assure that the essential energy needs of the United States are met.

House Resolution 744 provides that points of order against clause 27(D)(4) of rule XI of the Rules of the House of Representatives—the 3-day rule—are waived.

House Resolution 744 provides it shall be in order immediately after the enacting clause is read to consider without the intervention of any point of order the text of the bill H.R. 11882, if offered as an amendment in the nature of a substitute for the bill H.R. 11450. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 11891 if offered as an amendment to the amendment in the nature of a substitute.

H.R. 11450 creates a Federal Energy Administration, to be directed by an administrator appointed by the President with the advice and consent of the Senate. The bill also authorizes controls on end-uses of petroleum products, calls for proposals for mandatory energy conservation measures, and provides direct steps to be taken to make more effective use of our Nation's coal resources.

Mr. Speaker, I urge adoption of House Resolution 744 in order that we may discuss and debate H.R. 11450.

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

Mr. LONG of Louisiana. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, is it my understanding from listening to the rule that there is a committee substitute which is going to be offered on this bill?

Mr. LONG of Louisiana. Yes, sir. It is a clean committee bill that is going to be offered in the form of a substitute.

Mr. KAZEN. Are there any copies of that bill? Have any been printed?

Mr. LONG of Louisiana. The copies of the bill are on their way to the House floor at this time. The staff of the Committee on Rules informs me, and the staff of the Committee on Interstate and Foreign Commerce, that copies of the clean bill will be here shortly.

Mr. KAZEN. Is it the purpose of the Committee on Rules or possibly the Committee on Interstate and Foreign Commerce to proceed with the debate without our having a printed copy before us?

Mr. LONG of Louisiana. It is not our intention to proceed, except with the adoption of the rule for debate. The chairman of the Committee on Interstate and Foreign Commerce informs me that he would like to proceed in having the bill open for debate and then wait until such time as we have printed copies of the bill.

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

Mr. LONG of Louisiana. I yield to the gentleman from Texas.

Mr. ECKHARDT. Is it not correct that the present printing of H.R. 11450 with its italicized sections and with its markouts constitutes exactly the language of the amendment? All the amendment does, as I understand it, is writes in single form the final bill as shown in the copy that is now available to Members, and if Members will get the copy at the back desk, they will have an exact copy of the amendment, if it is read with the elimination of stricken-out material.

Mr. LONG of Louisiana. The gentleman from Texas is exactly correct.

Mr. ADAMS. Mr. Speaker, will the gentleman yield for a question?

Mr. LONG of Louisiana. I yield to the gentleman from Washington.

Mr. ADAMS. I thank the gentleman for yielding.

Is H.R. 11891 the so-called waiver of conflict-of-interest provision that was testified to by Mr. BROWN?

Mr. LONG of Louisiana. That is correct. It is the waiver of the conflict-of-interest provision as advocated by the gentleman from Ohio (Mr. BROWN).

Mr. ADAMS. I thank the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Does the gentleman mean to say that the bill and the report that were made available about the middle of yesterday afternoon at the Document Room, and which I took home and tried to read last night, is not the bill that we will be considering this morning if the rule is adopted?

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

Mr. LONG of Louisiana. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The bill that the gentleman from Iowa took home, with the interlineations and the strikeouts, is exactly the same material as will be contained in the substitute, so the gentleman's studies have been most fruitful with respect to understanding the bill.

Mr. GROSS. If the gentleman will yield further, the gentleman from Texas (Mr. ECKHARDT) is saying that H.R. 11450 is not the bill the House will consider this morning if the rule is adopted?

Mr. ECKHARDT. Technically, that is correct, but it contains exactly the same matter as the substitute. The only reason for the substitute is that no motion was made in the committee to include all amendments in a single amendment, so in effect the substitute does nothing more than take the exact same language that the gentleman has in his hands and place it in a single substitute.

Mr. GROSS. Except for technical amendments.

Mr. ECKHARDT. There are no technical amendments whatsoever. It is identical.

Mr. GROSS. Does the gentleman not think this is a most irregular procedure?

Mr. ECKHARDT. No, the gentleman does not think so. The gentleman thinks it is an excellent procedure, because otherwise we would have to take up each single amendment—75 of them—separately, but the gentleman has absolute notice of precisely what the committee will urge in the substitute, because it is identical with what the gentleman has read.

Mr. GROSS. If the gentleman will yield further, I think this is probably one of the worst exhibitions of legislative insanity that we have been confronted with in a long time. Here we are tilling a brandnew field and this is sweeping legislation. Confronted with this kind of a situation, this is legislative insanity at its worst.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

Am I correct in reading the rule on page 2 that there are two substitutes in order, H.R. 11882 and H.R. 11891?

Mr. LONG of Louisiana. There is one substitute in order and one amendment in the form of a substitute. There is one clean bill.

Mr. SNYDER. Which substitute is it which we have in the italicized print before us here, in H.R. 11450 which has been marked out. Which bill is that?

Mr. LONG of Louisiana. It is H.R. 11882.

Mr. SNYDER. What is H.R. 11891?

Mr. LONG of Louisiana. That is the Brown amendment. That was subsequently introduced in the form of a bill which deletes the conflict-of-interest provision with respect to employees.

Mr. SNYDER. Then H.R. 11891 is a whole new bill?

Mr. LONG of Louisiana. That is correct.

Mr. SNYDER. I thank the gentleman.

Mr. LONG of Louisiana. Mr. Speaker, I yield 10 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am in opposition to this rule and I shall vote against this rule and I will tell the Members precisely why this very complicated rule is before the House.

Once it was decided this bill would not have rationing in it, this bill became a Christmas tree type of bill, which is the reason for the enormous number of

amendments. Every special interest wanted to have a special allocation given it to be protected from a reduction in supply.

What became even worse and what will happen on the floor today is a series of amendments were offered that were not within the jurisdiction of this committee. They were nongermane. I have often on this floor voted for amendments that were not germane when they explained, when we knew what had happened, and there had been hearings on them, and there was information about them.

The two amendments which I shall oppose today and which this rule is directed toward keeping me from raising a point of order against are amendments—and I cannot believe this House would do it—which are going to exempt the oil companies from the antitrust laws so that they can run this program.

The bill H.R. 11891 which will be offered by the gentleman from Ohio goes even further. It is a nongermane amendment which we removed by a point of order in the committee. It would exempt the oil company executives from the conflict-of-interest laws so that not only will we have them exempt from the antitrust laws but also they will be able to come in and run the program.

I am going to point out the specific bad points in the bill and demonstrate why this rule is drawn the way it is. Our committee does not have expertise in the antitrust laws but we have antitrust exemptions in the bill. If the Members have copies of the bill in front of them, I will indicate the two sections that caused this rule to be drawn so as to keep me from striking them by a point of order. They are sections 114 and 120.

I will turn to the worst one which is section 120. The other section is 114 and it involves allowing the retail stores to get together and make voluntary agreements to say what hours are going to be restricted and this will determine how long some people can stay in business, and so on. But I ask the Members to turn to section 120, which is on page 53 of the print. There Members will notice it says "antitrust provisions." So there is no question in anybody's mind as to what we are doing here is exempting people from the antitrust laws.

There was an attempt, a good faith attempt by the gentleman from California (Mr. Moss), to try to correct this section so it would not be as bad as it was when it was first offered. I do not think the gentleman has gone nearly far enough and I think it is a very bad situation that faces us.

If Members will look at the language that appears in the bill it appears as though the Attorney General and the FTC are going to monitor agreements. That is not going to happen. What is going to happen is that the oil company executives will be authorized to get together and make agreements on distribution of petroleum products. On page 56 of the bill is the language to carry out this scheme.

Mr. YOUNG of Illinois. Will the gentleman from Washington yield?

Mr. ADAMS. I will not yield now. It is going to be a difficult bill and Members of the House have not had a chance to have it explained, so I cannot yield until I have finished my explanation.

It says in the scheme that sets up the antitrust law exemption that the FTC and Attorney General are going to sit in on voluntary meetings and see to it that these people do not do anything too bad to the independent marketers or those who are not in their marketing system, but on page 56 Members will notice the bill gives an exemption in 120(e)(v) so that meetings where they are going to be dealing with a plan of action for marketing or distribution do not have to have a verbatim transcript.

They can just send in a summary that says "Fellows, we sat down and we agreed and here is what we want you to know." So there is an exemption from preparing a transcript.

Then turn to the next subsection, which is (f) at the bottom of page 56 of H.R. 11450 and it says that the Administrator, if he goes to the Attorney General and to the FTC, and believe me, there are going to be hundreds of these plans, and neither the FTC or the Attorney General's Office is set up to police them; all the administrator has to do is go to them and then exempt all these groups from any of the protective language in the bill; so they can get together in these meetings and decide who is going to get what amount of product and they are exempt from the antitrust laws.

What does this exemption give? Turn to section (g) on page 57; and (6) can be said to stand for the guts of this proposal. It says that actions taken in good faith by any person to develop a plan or implement these voluntary agreements shall not be construed to be within the prohibitions of the antitrust laws of the United States. It does not just give them a defense. It does not just give them an opportunity to plan some kind of action. It says they are outside the antitrust laws.

If we couple that with the Rules Committee protection for H.R. 11891, which I assume the gentleman from Ohio (Mr. BROWN) will offer, because he offered it in committee and defended it in the Committee on Rules, there will be an exemption of oil company executives from the conflict of interest laws.

If we go back in the print of H.R. 11450 to page 55, we will find these meetings shall be attended by unnamed groups plus representatives of the public and shall be chaired by a regular full-time Federal employee.

If we exempt the oil company executives from the conflict of interest laws under the Brown amendment, they can become a regular full-time Federal employee and we have them sitting in and chairing the meetings, and if they are also granted an exemption under the antitrust laws you can see how the big oil companies will be able to control the situation.

I will tell the Members that in the New England areas and other regions where oil is in short supply this will be a program of big oil, for big oil and by big oil.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman from Washington yield?

Mr. ADAMS. I had promised the gentleman from Illinois (Mr. YOUNG) that I would yield to him first and then I will yield to the gentleman from Illinois.

On page 58 there is supposed to be a saving clause under (h) that says if these do not work right, then somebody can request they be modified and go to the Attorney General or the Federal Trade Commission and complain.

I will tell the Members, during the year of this bill, by the time somebody works their way up through the Attorney General's Office, that is when we get one, and if we get one or goes through the FTC and tries to say, "I have been hurt," he will have been out of business for about 6 months.

These independent marketers are operating on small margins. The consumers are unorganized. These are the ones who will be hurt or put out of business by these voluntary agreements and the ones running the program will not be hurt.

If Members will look at my separate views, they will find who controls the refining capacity of the United States. The refining capacity of the United States is controlled by 20 oil companies. Sixty percent is controlled by less than 12 oil companies.

They will get together with their favorite distributors and the suppliers will say "OK we will serve one another's customers to be sure we are all taken care of, but if we have a bad boy who has been competing with us for years on a basis we do not like, we will not put him in the voluntary agreement or will put him down to a lower level."

As I stated to the Committee on Rules, I have defended oil companies in antitrust cases. I spent 90 days in trial on one case. I have also been a district attorney prosecuting violations, so I know how the system works.

I believe this provision should not have been in the bill. It should not come out of the Committee on Interstate and Foreign Commerce. If you want to have it done right, send it to the Committee on the Judiciary.

I will now yield to the gentleman from Illinois (Mr. YOUNG).

Mr. YOUNG of Illinois. Mr. Speaker, the gentleman from Washington stated that this bill would exempt big oil companies from the antitrust laws. As I was reading the section that the gentleman was referring to, section 114 of this bill, before any voluntary energy conservation plan can be adopted and put into effect, the bill provides that they have to have an open public meeting, that a representative of the FTC has to be present, a representative of the Attorney General's Office has to be present. As I read the section the gentleman is referring to——

Mr. ADAMS. Which section is the gentleman referring to?

Mr. YOUNG of Illinois. Section 114.

Mr. ADAMS. Section 114 is to exempt retail or service establishments and if that is what the gentleman is referring to I want to point out I have concen-

trated on section 120, because in this limited debate I do not have time to discuss the antitrust exemptions for retail establishments.

Big oil is under section 120.

There is one section to exempt retail or service establishments, that is section 114. The oil section is 120. If the gentleman will look at the oil exemption section that I think he wants to make comparable, it is section 120 under (e).

In that section we give a public meeting with one hand and take the public meeting away with the other hand. I think that is bad legislating.

Mr. YOUNG of Illinois. As I read that further section, I find in section 120, as I read it, the Attorney General and the Federal Trade Commission have to receive a copy of such a plan and they have to report to the Congress and to the President every 6 months about the impact of competition. As I understand the antitrust laws, and the gentleman can correct me——

The SPEAKER. The time of the gentleman from Washington has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. As I understand the antitrust laws, any agreement or any arrangement which would be in restraint of trade, and energy conservation plans would be agreements which would have the effect of perhaps limiting production or dividing markets or doing other actions which would help relieve the energy shortage, those provisions would be agreements in restraint of trade, and if we did not exempt that kind of action, they could not take place and the public could lose the benefit of the energy saving provisions of the bill.

Mr. ADAMS. Mr. Speaker, I can tell the gentleman exactly how it has been solved in the past. In the Defense Production Act, and the Emergency Oil Allocation Act we have had the Government itself say by order to individuals, "You shall do these things," and they carry out those things so that we have the public protected. That is the way we do it. We should not do it by having the oil companies get together.

Mr. LONG of Louisiana. Mr. Speaker, I would like to announce for the benefit of the Members that copies of H.R. 11882, which is the substitute, and H.R. 11891, which is the Brown amendment, are now available for distribution at this time.

Mr. Speaker, at this time I yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am really at a loss to know which worm to pull out of this can to discuss first. To pass this legislation as it came out of the committee, one would have to be a real magician to tiptoe through the bureaucratic briar patch it would create without getting caught.

The committee purposefully tried to avoid the word "rationing" in this bill and they used instead some phraseology which I would like to call to the attention of the Members. On page 9 of this bill, the authority is given to the President of the United States to impose rationing. Page 9, line 20, item 6, reads as follows: "For the purposes of this subsection the term 'allocation' shall not be construed to exclude the end use allocation of gasoline to individual consumers." I might add in the committee's haste it failed to amend the bill's title as it includes the world "rationing."

My colleagues, that means rationing, and we cannot escape responsibility for it by passing the buck to the White House. I might say that the committee very clearly has not provided for any rationing program promulgated thereunder to come back to the Congress. They did, however, so provide on matters of energy conservation generally. There is a purpose for the action taken. Congress can blame the President for rationing should he exercise the authority given to him herein. The people do not want it and I do not believe that there is a need for it at this time.

I would like to call the attention of the Members to a news item which appeared on the wire yesterday quoting none other than the President's top economic adviser, Herbert Stein, Chairman of the Council of Economic Advisers, on the matter of shortages: "He told a subcommittee of Congress' Joint Economic Committee that the administration would amend its estimate in a few days."

He said, "The country may be somewhat better off in energy than previously predicted."

"The calculations which we at the Council on Economic Advisers have made about the economic impact of the shortage are based on estimates available last week," Stein said.

How much higher authority do we need than that? But lo and behold, we are about to pass legislation containing glorified language authorizing the President to implement the rationing of gasoline. This would give some bureaucrats an opportunity to exert their will on the American people and give them authority to employ some 10,000 new bureaucrats to administer this program. That is what it is going to take, 10,000 new bureaucrats.

I might say, Mr. Speaker, that my mail has not reflected any interest in rationing by my constituents.

I know the newspapers would like to have rationing, according to some of their editorials, but I wonder if the newspapers know any more about the thinking of the American people than we do. We are the people's representatives.

I might say that it is high time that we take our hats off to the American people. Since the President requested voluntary action on their part to conserve energy, have they complied? Yes, they have, and the results are being shown. Gasoline consumption is down. Reports indicate that we are already saving in excess of 1 million barrels of oil a day under a voluntary program.

Now, I will say to the Members that when news gets back home that the voluntary program was working, the people are not going to look kindly on a Congress which thrusts an involuntary one upon them. They will not take this type treatment sitting down.

I do not think that we ought to pass legislation at this time granting such authority. I say, give the people a chance. They know we have a problem. For this reason I opposed this rule yesterday as it passed out of the Committee on Rules.

Mr. Speaker, I might say something about the rule itself. How many votes do the Members think they had in the Committee on Rules before the proponents finally got a rule on this bill? There were no less than eight. Eight separate votes on different propositions. So there was controversy on the matter in the Committee on Rules.

Let us take a good look at this bill before we rush headlong into its passage, because I will say to the Members that there is not a single Member in this House today who can explain word for word, line for line, what is in it. And it is going to affect the lives of every single American.

This is the most important, all-inclusive bill that we will pass during this decade, believe it or not. This is important legislation, and we should not be passing it before we know what it is going to do for and to the American people.

There should be ample time for discussion. In 3 hours we will never be able to delve into all aspects of this bill.

There were over 175 amendments submitted in the Committee itself. This gives us some indication as to how much division there actually is on the bill.

Let me bring up some of the problems that we are going to face in this legislation. Every group wants to conserve fuel in the other group's backyard, and if we are going to have mandatory controls, everyone wants them on the other fellow.

We have already heard what happened when they announced an unrealistic cutback on the private airplane operations. They were about ready to close down an industry in Kansas to say nothing of its effect on the business community, so they immediately changed their position.

The tourist business in this Nation is tremendously important. The State of Michigan needs tourism. They depend on it; jobs and business depend on it. There are provisions in this bill which will leave the future of the tourist trade to the whims of some bureaucrat.

Mr. Speaker, I represent a district which borders on Lake Erie. People in this area are interested in tourism, boating, and fishing. Many jobs and businesses depend upon these recreational pursuits. The boating industry, for example, is a big industry in this Nation.

Let me just say something about that industry and what is involved.

The recreational boating business today is made up of 19,000 firms directly engaged in making and selling marine products. It provides 350,000 direct, full-time jobs. Retail sales for the industry exceed $4 billion and the industry's sizable and growing exports provide a favorable contribution to the balance of trade.

A recent survey has revealed the following:

There are almost 2,000 manufacturers of marine products—excluding accessories.

There are 16,500 retail dealers, distributors, and so forth, of marine products.

There are 350,000 persons directly employed on a full-time basis by the marine industry.

There are approximately 100,000 part-time workers employed in the marine industry.

The marine industry's annual payroll is approximately $1 billion.

Retail sales of boating equipment and services in 1973 are expected to exceed $4 billion.

The industry's sizable and growing exports provide a favorable contribution to the balance of trade of this Nation. So, Mr. Speaker, we cannot hand the future of this entire industry over to some bureaucrat without adequate safeguards. Unless we do this in this and other instances, we could be sentencing many of these legitimate enterprises to their death when we pass this legislation. We do not know how they will be treated by these people but we can make sure if we take the time to properly amend this bill.

We have heard from the truckers, and certainly the trucking industry has a legitimate gripe about all of the price gouging which has been taking place on diesel fuel. I thought we had price controls on diesel fuel. Still these truckers are being overcharged every day in some areas of the country. I believe it is high time that the Internal Revenue Service did something about it. I saw a survey the other day which found 25 percent of these businesses selling diesel fuel were overcharging. Hopefully, their grievances will be taken care of before we have another traffic tieup. I would say to the truckers that they need public support for their cause and they do great damage to that support when they inconvenience people who just happen to be on the highway when a tieup occurs.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman.

Mr. McKINNEY. I thank the gentleman from Ohio for yielding.

At this point I would like to say I agree with everything he has said.

This is an appalling rule and an appalling bill. What is it about this Congress, that the minute we hear the word crisis and the second we say emergency we decide to throw up our hands and:

First, give the Executive total power over every aspect of American life;

Second, create a bureaucracy that is totally out of the control of the people;

Third, give the President the right to ration gas without the approval of their Representatives;

Fourth, bring out a bill which in its final form no one has seen until 8 p.m. the day before, in fact whose total form was not seen until this morning; and

Fifth, bring out a bill which through special rule violates all the rules of Congress by whim, entering the jurisdiction of some committees and not others.

Mr. Speaker, I am embarrassed that for excuses of recess or expediency we will pass this "pig in a poke." No one knows what is in it, no one knows what it does.

In fact in committee less than 30 seconds was allowed for each amendment. Let us for once, Mr. Speaker, be responsible. Let us know what we are doing to our people. Let us have a policy. We must be responsible.

If we pass this rule; if we act again in ignorance, we most certainly create an act far worse than the "Bay of Tonkin."

Domestic policy is our responsibility. If we do not exercise it, the people have every right to exorcise us.

Mr. BAKER. Mr. Speaker, will the gentleman yield for a question?

Mr. LATTA. I am happy to yield.

Mr. BAKER. I am concerned about the waiver of points of order. I understand all points of order are waived for the purpose of offering an amendment to substitute H.R. 11882 and also to substitute H.R. 11891. Does that mean, if those motions fail, all points of order would be waived on the bill H.R. 11450?

Mr. LATTA. You would have to waive points of order in order for these amendments to be offered. Otherwise they would be ruled out of order. If we do not pass the rule with the waiver of points of order, they will not be in order and those amendments already in the bill will be subjected to points of order.

Mr. BAKER. I ask the further question, if either of these amendments prevails and we consider a substitute bill, would all points of order be waived on that bill?

Mr. LATTA. On the amendment?

Mr. BAKER. On the substitute.

Mr. LATTA. They would be waived.

Mr. BAKER. I thank the gentleman.

Mr. LATTA. Mr. Speaker, speaking about the waiver of points of order, there is a second need for a waiver, as this committee has wandered into the jurisdiction of several other committees. There is a section dealing with excess profits in this bill. I am surprised the honorable Committee on Ways and Means was not before our Committee objecting yesterday to this provision on a jurisdictional basis. It seems to me if we are going to have an excess profits tax—and we are and there is no doubt about it—it should have been properly gone into by the Ways and Means Committee, not inserted into this bill after a minimum amount of debate in the committee. I have read suggestions that the oil industry should be required to use excess profits to explore for more oil and gas. This seems like a pretty good suggestion but I find no provision, no provision whatsoever, in this bill which would head them in this direction. I think there is tremendous need for more exploration if we are to become self-sufficient and perhaps the Congress should be making provisions for it in this bill.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

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

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for yielding, and I wish to congratulate the gentleman on the statement he has made, and to indicate to the membership that I thoroughly concur with the gentleman's remarks.

Mr. Speaker, it appears to me that the exercise in which we are engaging today if we pass this bill can be described only as legislative hysteria.

Mr. GUYER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. GUYER. Mr. Speaker, I thank the gentleman for yielding to me, and I want to associate myself with the remarks the gentleman has made.

Mr. Speaker, I would like just to introduce one other thought with regard to rationing that I believe most specifically tells the story, and that is that on this particular weekend, I believe it was in the Cleveland Plain Dealer, the man who was the head of the rationing board in war time in Cuyahoga County made the statement which also supported the one given by the chairman of the rationing board in Allen County, Ohio, that rationing was an absolute, dismal failure even when World War II was going on. I happened to be at a meeting less than a week ago with 175 typical midwestern people in a small village back in Shelby County, Ohio, and I asked for a show of hands on the proposed rationing, and only two people out of the 175 went on record as wanting rationing.

Further, Mr. Speaker, I believe that the first order of business should be that the oil producers should set an example for this country, and to do so voluntarily, and that they should be the ones to first of all prove that they are getting maximum capacity production from their existing sources. I think that the Government also should be in line as looking for all new sources of energy at every level.

Also I think we should be trying to join hands internationally to help resolve this problem. I think part of this is due to some of the so-called do-gooders who, by their actions a few years ago, held back the flow of new resources for 4 or 5 years; and if they had not done so, I do not believe we would be in the plight that we are today, due to some of those obstructionists, sincere as they are.

Also I think we should compliment the people at large, the people who are tightening their belts. There was an article in the New York Times complimenting the American people and saying that perhaps it is a good thing once in a while to rejoin family groups, find places that you do not have to be, and once again appreciate the things close at home, strengthening church and family ties, the very things that have made America great.

I think we ought to meet this crisis with a full and meaningful discussion, and legislate toward an objective, and a time when we will not have to depend upon a few independent countries for our needs. I hope that there will be opportunity, if rationing is going to be part of this vehicle, to vote on it separately, because I do not want to have to go back to my people and tell them that we either have to have rationing or raise their taxes. Both of these things are unnecessary at this time.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I came over here this morning expecting to vote for this rule. I honestly have not had the time to read the bill. I thought everybody else had had a chance to read it, but I have been tied up on something else.

I would ask if the gentleman from Ohio is requesting us to defeat this rule in order to give the Members more time to study this bill? Is that what the gentleman wants?

Mr. LATTA. Mr. Speaker, if I had my druthers on this right now I would send it back to the committee for additional hearings with instructions to report it back next week.

Mr. GIBBONS. To the Committee on Rules?

Mr. LATTA. No. As the gentleman from Florida knows, the Committee on Rules has no jurisdiction to amend the bill in any way. The only place this can be done is on the floor or in the committee.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding me this time, and I would like to commend the gentleman for the position the gentleman has taken on this bill.

The gentleman, I believe, used the figure of 10,000 bureaucrats who would run the rationing program. Is that a figure the gentleman picked out of the air, or is that what the gentleman heard from downtown?

Mr. LATTA. I might say to the gentleman from Idaho that I do not pick my figures out of the air, and the gentleman will come to know this the longer he is here. Yes, I did get these figures from downtown.

Mr. SYMMS. I would just like to add that with probably 75 million automobiles on the road, and with the kind of system that they are talking about, that 10,000 bureaucrats could not run such an operation; it would be more likely 50,000, despite what the people may say downtown.

Mr. LATTA. I should like to say in defense of Governor Love that he appeared before our committee several weeks ago and he testified that he only had 200 employees in his shop while trying to run that operation. It is no wonder the man did not accomplish everything which is needed in a few months on the job.

Mr. SYMMS. I thank the gentleman for yielding. I did not mean to question his choice of words of "10,000 bureaucrats," although I think it is a very conservative estimate.

It is an enormous undertaking to try to ration fuel, when we have 200 million people who could very well do it in the marketplace, one at a time as they exercise freedom of choice.

If we would just get the Government out of the way, and allow liberty and the market to work.

Mr. LATTA. Before we pass on to rationing, I should like to say that I learned what the penalties would be, if this legislation becomes law, for violating the rationing regulations, meaning if one bought a stamp from his neighbor or if he gave anyone a stamp.

Rationing authority is provided to the President under the provisions of section 103 of the emergency energy bill, HR 11450 which amends section 4 of the Emergency Petroleum Allocation Act of 1973.

Under section 5 of the latter act, the penalties of the Economic Stabilization Act of 1970 apply to a violation of a rationing or other similar regulation. These penalties consist of:

1. A criminal fine of up to $5,000 for each violation.

2. A civil penalty of up to $2,500 for each violation.

3. Injunctive relief—any person may request the AG to bring an action. P.L. 90–151, SS 208, 209.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Florida.

Mr. GIBBONS. I thank the gentleman for yielding.

As we discuss it around here over on this side of the aisle, I constantly hear: "Well, you know, we had to take up the Committee on Ways and Means' trade bill when we did not want to." And I respond to that question by saying, that bill has been here on the floor unamended since October 12, as I recall. Can the gentleman, who is a member of the Committee on Rules, tell me how long this particular bill has been here so we could see it and study it?

Mr. LATTA. As I understand it, we did not have access to the bill yesterday morning. It was available to the Rules Committee yesterday afternoon.

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

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

Mr. KAZEN. I thank the gentleman for yielding.

Would the gentleman in just capsule form tell me why he is opposing the rule?

Mr. LATTA. I do not think that the legislation is ready for House action, No. 1. No. 2, I oppose rationing at this time and the gentleman can put them in any order he likes.

I might say in conclusion, Mr. Speaker, I think it is important that we know something about some of the various amendments which are going to be offered to this bill. I have in my hand seven far reaching and important amendments to be offered. They are as follows:

1. Energy conservation plans.

In section 105, language should be added to restore the provision that energy conservation plans would go into effect provided Congress did not disapprove.

Broyhill (N.C.) will offer an amendment to restore language spelling out the Congressional disapproval procedure deleted in old section 104, found in the bill immediately preceding section 105. Otherwise, energy conservation plans submitted by the President would have to be enacted by law which cannot be done in a timely fashion. (See minority views.)

2. Limited anti-trust immunity provisions in the bill are needed to achieve voluntary energy conservation actions which would ordinarily be illegal. The language in the bill is narrowly drawn with ample oversight and supervision of group actions by F.T.C. and the Attorney General. Please vote NO on any amendments to delete the section (120).

3. Windfall profits (section 117).

This section is badly written and is impossible to enforce as written. The proper place to enforce any such provision is through the tax laws. Support deletion and addition of language calling for the submission of a proposal by the President and early Congressional action on the issue.

4. Amendment to the conflict of interest law (Brown of Ohio).

The new Federal Energy Administration needs 250 experts in petroleum marketing and distribution right now to assist in establishing guidelines for the allocation program. They are needed for a short time only and would go back to their employers in no later than a year.

5. Auto emissions.

The bill as reported extends 1975 auto emission standards through the 1976 model year and permits E.P.A. to suspend the scheduled requirements for an addititonal year provided certain conditions are met.

An amendment will be offered to section 203 to extend the emission standards through the 1977 model year. (See additional views—Harvey).

6. Federal Energy Administration.

Section 104 authorizes a Federal Energy Administration and we are not opposed to this authorization. However, we will move to strike certain language in this section.

a. Delete language stating that the Administrator may be removed "for cause." This language could have the effect of preventing removal of an Administrator who is is incompetent or ineffective.

b. Delete from the bill the waiver of requirements of the Federal Reports Act. The Federal Reports Act requires that all agencies must seek O.M.B. approval of all forms, reports, questionnaires, etc. which are submitted to the public, business, and industry seeking information. There is no need to waive this requirement for this new agency.

c. Delete the requirements for simultaneous submission of budget and legislative requests to Congress and O.M.B. As this agency is in the formative stage, this could become an administrative burden. With respect to legislative requests, the action needed to solve our energy problems will have to be taken by several agencies and departments, not just F.E.A. The President, through O.M.B. should have the opportunity to coordinate and consolidate these legislative and budget requests and to set priorities.

7. Amendments may be offered to clarify the Committee language in Section 106—Coal conversion and allocation section.

Amendments may also be offered to clarify conflicts that could occur because of language in Section 201—authority to suspend certain stationary source emissions and fuel requirements, and section 205, authorizing a shift in fuel requirements.

Many other amendments will probably be offered. Please consult with members of the committee on their effect and value. The amendments above are important, and we ask that you support them.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

I might say to my friend, the gentleman from Ohio, that H.R. 11450 was dated November 13, 1973, and that the committee considered this legislation in great detail. It is not the first time we

have dealt in this Congress with allocations. We have already passed an allocation bill. The Senate passed legislation on November 20, a far more sweeping piece of legislation. So I would say the membership certainly has been wrestling with this problem in understanding what the national energy problem is. Nobody is straining anything here. There has been an in-depth study and work done by the committee. It is complex, and we expect to have, hopefully, full colloquy and understanding of the amendments that were adopted by the committee, those things that are necessary for us at this time to meet the energy problems of the country.

Mr. CARNEY of Ohio. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. CARNEY of Ohio. I thank the gentleman for yielding.

The gentleman has made a very adequate case for being opposed to rationing. I was reading in the paper that there are two approaches to the problem: Either permitting rationing, or letting the prices increase to an exorbitant rate and putting a tax on it.

Is the gentleman in favor of that?

Mr. LATTA. I am absolutely opposed to higher taxes in lieu of rationing and I have so stated many times. I think such a plan would hurt the person least able to pay—the workingman—the most. I think it is absolutely ridiculous.

I might say to the gentleman, I indicated earlier that the voluntary program the President announced is working. We ought to give the American people an opportunity to let it work. I do not think we need authority for rationing at this time. We do, however, need many other sections of the bill and they should be passed without the gasoline rationing authority.

Mr. SNYDER. Mr. Speaker, if the gentleman will yield, I would like to comment we are not springing anything. The whip sent a notice bearing the number H.R. 11450 and it is dated November 13; it is the original bill that was introduced. I was receiving calls this morning asking about this bill and Members were asking what we were going to take up and they were looking for the sections that were being referred to and did not find them. Those are the italicized sections we are hit with for the first time this morning and I understand the Rules Committee was hit with them for the first time yesterday afternoon. They are hitting us with plenty that is new today.

Mr. LATTA. I have indicated there were over 100 amendments.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 655]

Abdnor	Harvey	Price, Tex.
Archer	Hébert	Reid
Ashbrook	Howard	Rhodes
Brasco	Hunt	Roberts
Burke, Calif.	Jarman	Rooney, N.Y.
Clark	Johnson, Calif.	Rostenkowski
Clay	Jones, Ala.	Sikes
Collier	Kluczynski	Steele
Corman	Kyros	Stokes
Dellums	Long, Md.	Symington
Diggs	Madden	Taylor, Mo.
Erlenborn	Mailliard	Thompson, N.J.
Esch	Mitchell, Md.	Walsh
Fisher	Murphy, Ill.	Wyatt
Fraser	O'Hara	Yates
Gubser	Patten	Young, S.C.
Harrington	Pepper	

The SPEAKER. On this rollcall 382 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 11450, ENERGY EMERGENCY ACT

The SPEAKER. The gentleman from Louisiana (Mr. LONG) has 11 minutes remaining, and the gentleman from Ohio (Mr. LATTA) has 7 minutes remaining.

The Chair recognizes the gentleman from Louisiana, Mr. LONG.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I will say to my colleagues of the House that there is absolutely no doubt but that we have a crisis with regard to energy in this country. But those in this House today who are hollering the loudest and the longest about this crisis were the same ones who just a few months ago were saying that this was a concocted crisis, that there was no such thing as a real crisis in energy in this country.

The question for us today is what to do. Do not go too far down the road of government regulation, I warn you.

If you will think about this with me for a moment and if you read the morning Post, as I do, even the divinely inspired Washington Post wrote an editorial just a few days ago saying they were not ready to take a position about what we ought to do with regard to some of these questions, because they did not know.

But this morning they placed themselves in a position to criticize anything that we in the Congress or in the administration might do, by saying that the administration ought to go ahead and make a decision about what it is going to do with regard to rationing.

Now, there is not any single cause for the problem we have, and there is no single answer. And we should not under the conditions which exist today overreact politically, which we are doing, nor should we overreact by overregulating everybody who has some part to play in this question of supplying energy for the people here in the United States. We should not do it, and we should let some of the examples of the past guide us.

Who of you here, when we were overreacting and creating this monster we know as the Environmental Protection Agency, ever dreamed they would do some of the things they have done which have strayed so far from the congressional intent? Who of you here today could help but agree that if we pass along to the bureaucracy all of the authority provided in this bill they are going to overreact and assume to themselves life and death control over the energy situation in America?

Do not be misled about this legislation and who it affects. It affects every man, woman, child, home, and business in the United States of America. All Americans are going to be affected. Some adversely. I cannot imagine a proposal that will do more to destroy the free enterprise system than this.

But what is in this bill? Nobody can explain everything in this bill. For example, windfall profits are in it, and they ought to be restricted but this committee does not have jurisdiction over such matters. And the chairman of this committee cannot even define windfall profits to me. Antitrust provisions are in it. Such matters are under the jurisdiction of the Judiciary Committee. Do you know what the Committee on Rules did? They granted a rule waiving points of order. They have not only done that, but they have made a substitute in order which is not yet even available to us.

What should we do? This House is not scheduled under existing circumstances to be in session Friday. The least we can do is vote down the previous question to allow us to amend the rule, and if we cannot vote it down, we ought to vote down the rule and at least give the Members of the House 48 hours and to come back Friday. After we have had a chance to study this bill which was not even printed until yesterday, a slight delay.

I say that because I know full well eventually we have to do something to help resolve this crisis. But we ought to at least have a chance to read the bill and have time to prepare and offer intelligent amendments to provide for a workable piece of legislation. Surely after all these years 48 hours more delay will not hurt. This we have to do, or else you get ready to face it when the bureaucracy overregulates and the people overreact to what they have done and you have to face them at the polls next year saying I voted for it but I did not know it required this or that.

Mr. LONG of Louisiana. Mr. Speaker, I yield 2 minutes to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, yesterday we moved to come in at 10 o'clock today for the sole purpose of wanting to get this bill into a conference committee as

quickly as we possibly could. I do not understand the dilatory actions of the gentlemen on the Republican side of the House who are carrying this rule today.

The President sent four or five special messages on energy to this Congress. The President was on a television program recently and spoke to the people of America on this problem. I believe the gentleman from Illinois (Mr. ARENDS) was at the luncheon with the President and the House leadership when the President said that he would not go home—we would not go home—unless this House and the Congress passed effective energy legislation.

You have an energy bill before you today. It is different from the Senate bill, which is tough, very restrictive and puts the power to implement energy programs under the President. There is no doubt in my mind that the Senate's intent was to encourage the President to implement rationing under this power.

Presidential measures to reduce energy consumption under the rationing and conservation program of the Senate bill would have to include control of private transportation, a restriction on lighting, advertising, and recreational activities, a ban on advertising, to discourage high energy consumption, limitation of operating authorities of businesses and public service. All of the Members of the House have been called about these restrictions that appear in the bill of the other body by business people from their home community and have been told how badly the economy would be affected.

You have a House bill today which establishes an Energy Administrator to implement the mandatory fuel allocation programs and to carry out specific and comprehensive plans to meet the energy crisis. Because so many of you intend to offer amendments, we will work all day on this bill. The main thing is to get this bill, in my opinion, to a conference committee. For that reason, I hope the rule is adopted so we can work diligently on amendments, and I hope we are able to finish the bill today so we can get this matter to a conference committee as quickly as possible.

Mr. ARENDS. Will the gentleman yield?

Mr. O'NEILL. I yield to the distinguished gentleman from Illinois.

Mr. ARENDS. I might say to the majority leader that many of us feel exactly the same as you do. This is such an important matter that voting against the rule is not in the best interests of this House. We should be trying to work out some kind of legislation and get the bill to conference as quickly as possible so that we can end up with some workable piece of legislation.

I certainly shall support the rule.

Mr. O'NEILL. I want to thank the minority whip.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might say to the gentleman from Massachusetts that I do not believe it is a dilatory tactic to attempt to explain to the American people what is in this energy bill. No one can do this, I believe, in the limited time of 3 hours of general debate, and we have only 1 hour under the rule which can be used for this purpose. So I would hope that the gentleman from Massachusetts, when he revises his remarks, will properly amend them by deleting his poor choice of words.

Mr. Speaker, at this time I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I want to aline myself with the position that has just publicly been taken by the distinguished minority whip, the gentleman from Illinois (Mr. ARENDS) as well as that of the majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Whether we have an energy crisis or whether we do not have an energy crisis, and whether we agree that there is a shortage of petroleum products of 2.8 million barrels a day, or 3.5 million barrels a day, is something we can argue. However, if we defeat the rule, and refuse to indicate our willingness to stay here the rest of today and until midnight tonight, if necessary, and on tomorrow, in order to intelligently debate and discuss and amend this bill, then we are transmitting a signal to the American people that we are not very concerned about the energy crisis. We are telling them to dial down, not drive on Sunday, and all the rest, but this Congress is unwilling to come to grips with the energy crisis.

I do not like this bill in all of its aspects. I think section 117, the windfall proposal, is a terrible section, and I agree it ought to be either stricken out or rewritten. I am not particularly happy with some of the sections dealing with antitrust exemptions, but in all of the clatter here it seems to me that we have lost sight of one very simple, basic fact, and that is that this is an open rule. Any Member of this body can get up to his feet, seek recognition from the Chair, and offer an amendment to strike the section, or to amend it, or to do anything he likes within, of course, the parameters of the rules of the House.

So this objection that by waiving points of order we have somehow or other shackled and put handcuffs on the Members of this body to the point where they cannot work their will is simply not so.

I would repeat that when you try to draw a comprehensive piece of legislation such as the Committee on Interstate and Foreign Commerce has sought to do on an enormously complicated and complex issue such as the energy crisis, that you do end up with everything from gasoline conservation to the suspension or lifting of environmental rules, to questions involving coal conversion, rationing versus conservation. You do get into areas that impose on the jurisdiction of other committees, and that would be the House Committee on the Judiciary with regard to the antitrust laws, and the Committee on Ways and Means on this matter of windfall or excess profits.

But, I repeat, I think this Congress has the duty to act on this legislation before we go home.

I was under the impression that this Congress was going to adjourn sine die in all probability a week from tomorrow or a week from Friday. I do not want to take the responsibility of simply defeating the rule and, thereby, send out a signal to the country that we are not even willing to debate and discuss and amend and perfect this piece of legislation dealing with this enormously important question and to make an effort to contribute to a solution of the energy crisis.

Mr. MYERS. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, may I have an additional minute or two?

Mr. LATTA. Mr. Speaker, I yield an additional 30 seconds to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Speaker, I thank the gentleman for yielding. I think that I for one would certainly agree with everything the gentleman has said. But I wonder, has there been any agreement that there will not be any limitation of time thereby prohibiting Members from having the opportunity to discuss and thoroughly understand the bill and all amendments that will be offered?

Mr. ANDERSON of Illinois. Mr. Speaker, the gentleman from Indiana raises an important question, and I would be glad to yield at this point to the distinguished chairman of the House Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS) to give this House assurances that adequate time will be permitted to debate the bill and all amendments thereto.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman from Illinois for yielding to me. I must say that I cannot speak for all members of my committee, nor can I speak for all of the Members of this House, but I would say I would welcome—and I think there should be—complete and full discussion on all of the issues, and that I would try to proceed toward that end.

The SPEAKER. The time of the gentleman has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. HANNA).

Mr. HANNA. Mr. Speaker, I think we are here again seeing what happens when we are trying to enact legislation without having some explanation, some statement, some background of policy. It is noticeable to me that in the Senate bill the first thing they did was to set up in the administration an Energy Policy Board, also an Energy Conservation Administration. That is what we should start with.

We do not have any energy policy.

What we are dealing with in this situation is a lack of production on the one hand and an overuse of a limited resource on the other hand, and we are like a bunch of blind men trying to put together a jigsaw puzzle in the bottom of a sack in the middle of the night.

The Members may be concerned that the newspapers will be after them because they do not act, but as soon as they do act, they are going to take off on them from the rear and make the back of your pants look like a lace curtain. So just use a little bit of discretion and caution in terms of this bill.

The SPEAKER. The time of the gentleman has expired.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, in the 1 minute I have I cannot really cover what I wanted to, but I do want you to know that I came into this House this morning prepared to vote for this rule, and now that I have had the opportunity of hearing the arguments, I am now going to vote against the rule. What I have heard so far and what I have seen of the bill, which I have just been able to get hold of, reminds me of the old statement: "When in danger, when in doubt, run in circles, scream and shout."

It sounds to me like that is what we are doing here on the floor of the House on this issue, and I think we ought to now act intelligently. I do not care whether we are here until Christmas—I do not want to be here—but if we have got to be here in order to act intelligently on this issue, then we ought to take the time and act on it. But we ought to know what we are talking about and not rush in and vote for these nongermane amendments that are attached to this rule. We must work to find a reasonable solution to this energy crisis.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding.

I should like to express my concurrence with what the gentleman has to say. We have an energy crisis but I do not think it is responsible to have this important and complicated legislation written by a conference committee; we ought to consider it, and we ought to have, and to take, reasonable time to consider it.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Ohio.

Mr. HAYS. I thank the gentleman for yielding.

Mr. Speaker, somebody here said: Is there an energy crisis or isn't there? That is a good question, and the only answer we have is from the oil companies, and the Members can make sure that that is in their self-interest.

I have in my office a copy of the January and the February issues of the "Ohio Farmer," which is the largest circulated rural magazine in Ohio, and all of the power companies in Ohio were taking full-page ads asking people to convert to electric heat. This week they took full-page ads and said there is an energy crisis. Please, Congress, remove the ecology restrictions. Remove the pollution restrictions from us.

Then they have a statement in the paper saying: Go ahead in Ohio and turn on your Christmas lights. We generate from coal. There is no shortage here.

Who does know whether there is an energy crisis or not?

The basic raw materials for plastics are being shipped abroad to the extent of 45 percent of their production abroad, where only 18 percent has been sent heretofore. If there is a crisis, it is a crisis contrived for the profit, the surplus profit, the excess profit, of the big corporations. I intend to vote against the rule.

The SPEAKER. The time of the gentleman has expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I have in my hands a UPI story out of Washington:

> The Administration today proposed new fuel allocations regulations that would result in less gasoline and higher prices for the consumer.
>
> The new mandatory program, supplementing incentive program announced last week, would cut back gasoline output by an estimated 15 percent and raise heating oil 8 or 9 cents a gallon and gasoline 6 or 7 cents a gallon.

This is rationing via the price route and I am opposed to it.

Mr. Speaker, I might say that at the proper time I am going to offer an amendment to the rationing section of this bill which would read as follows:

> Provided, however, any plan formulated under this subsection (6) must be first submitted to and approved by the Congress before implementation.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

How can the gentleman offer an amendment—and we hope he does offer an amendment—if he votes the rule down?

Mr. LATTA. I might just vote for the rule if he would accept my amendment.

Mr. Speaker, I yield 30 seconds to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, the time is inadequate but let me say this. I cannot defend this rule, but I sat in the Rules Committee yesterday and listened to the alternatives. They had 6 or 7 or 8 or 9 of them that were defeated. This is the best thing we can come out with.

We cannot go home and tell our people we did not even want to talk about the fuel shortage. I think we ought to vote for the rule and take up the bill and see whether it is a dog's breakfast or not.

Watergate will not even be a political issue if we fail to come to grips with the energy shortage. If our people cannot get gasoline; cannot keep warm; cannot turn on their lights; cannot keep their jobs; you just better be in a position to say you at least tried to do something about it.

You may try to blame the President, or someone else, but he is not running for anything. Most of you are, and we will be required to answer the people.

Let us try to make the bill the best we can to move in the direction of reasonable solutions.

Mr. LONG of Louisiana. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I rise in opposition to the rule. The question is not whether we have an energy shortage. We do. The question is whether this body will act as it is supposed to act, as a deliberate body. I have been trying to get a copy of the bill which is before us today since last Friday. It was not until late yesterday afternoon that we got the bill. I submit that very few Members have really read, digested, and have really understood the bill.

This bill charts a new and far-reaching course of additional administrative authority and a new course for the country on energy policy. I have read the bill. I think the language is so loose in some cases that it amounts to verbal promiscuity, some parts of the language have the effect of trying to make Lady Chatterley look like Betsy Ross, which she is not.

I think this bill should be put over for 2 days until we can check with our constituents, represent their views and act in a deliberative fashion.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Speaker, I do not like this bill and I do not know of a single member of the Committee on Interstate and Foreign Commerce or of the Committee on Rules or any Member of this House who likes this bill.

I do not like the alternatives to this bill. I do not like the crisis that confronts us. I do not like the need to share scarcity.

But I am faced with the inevitable and irrefutable fact that I must accept responsibility and only through the adoption of this rule and only through ordering the previous question and only through this further debate can we meet that responsibility which we so eagerly sought and which is now imposed upon us.

We can go back to hearings. Hearing what? Indecision? Hearing facts in controversy? Hearing that there is no clear policy? Hearing that there are innumerable problems? Hearing that the industry cannot agree? Hearing that the Government cannot agree?

And now are we in Congress to say that we find ourselves incapable of acting in response to what clearly is a crisis, even though as the gentleman from Ohio says the advertising has been contradictory? Not too many months ago the industry was urging a greater use of energy and today it is entreating people

and urging them to discontinue any expanded uses. But remember that many of those ads were contracted for many months ago.

But also remember that there is a responsible course, and I believe that I am compromising my views and my position to as great an extent as any Member of this body. I tried in committee to fight for more time, but I can say to every Member here that without exception every member of that committee attended those sessions morning, afternoon, and late into the night in an effort to deal with this problem.

We bring the Members our best effort. Admittedly it is not a perfect one, but let us proceed now to adopt the rule and debate the bill on its merits.

The SPEAKER. All time has expired.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

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

RECORDED VOTE

Mr. LONG of Louisiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 272, noes 129, not voting 31, as follows:

[Roll No. 656]

AYES—272

Addabbo	Cronin	Hammer-
Alexander	Daniels,	schmidt
Anderson, Ill.	Dominick V.	Hanley
Andrews, N.C.	Davis, S.C.	Hanna
Andrews,	Davis, Wis.	Hansen, Idaho
N. Dak.	de la Garza	Hansen, Wash.
Annunzio	Delaney	Harsha
Arends	Dellenback	Harvey
Ashley	Dent	Hastings
Badillo	Devine	Heckler, Mass.
Bafalis	Diggs	Heinz
Barrett	Dingell	Helstoski
Bell	Donohue	Henderson
Bennett	Dorn	Hillis
Bergland	Downing	Hinshaw
Bevill	Drinan	Hogan
Biester	Duncan	Holifield
Blatnik	du Pont	Horton
Boggs	Eckhardt	Hosmer
Bolling	Edwards, Ala.	Hudnut
Brademas	Edwards, Calif.	Hutchinson
Bray	Eilberg	Ichord
Breaux	Esch	Jarman
Brinkley	Eshleman	Johnson, Colo.
Brooks	Evans, Colo.	Johnson, Pa.
Broomfield	Evins, Tenn.	Jones, Ala.
Brotzman	Fascell	Jones, N.C.
Brown, Calif.	Findley	Jones, Tenn.
Brown, Mich.	Fish	Karth
Brown, Ohio	Flood	Kazen
Broyhill, N.C.	Ford,	Kuykendall
Buchanan	William D.	Kyros
Burgener	Forsythe	Leggett
Burke, Mass.	Fountain	Lehman
Burlison, Mo.	Frelinghuysen	Litton
Burton	Frenzel	Long, La.
Byron	Froehlich	Long, Md.
Camp	Fulton	Lujan
Carey, N.Y.	Fuqua	McClory
Carney, Ohio	Gaydos	McCloskey
Carter	Gettys	McCormack
Cederberg	Giaimo	McDade
Chamberlain	Gilman	McFall
Clancy	Ginn	McKay
Clark	Gonzalez	Macdonald
Clausen,	Goodling	Madigan
Don H.	Grasso	Mahon
Clawson, Del	Gray	Mailliard
Cleveland	Green, Oreg.	Mann
Cochran	Griffiths	Maraziti
Cohen	Grover	Martin, Nebr.
Collins, Ill.	Gude	Martin, N.C.
Collins, Tex.	Guyer	Mathias, Calif.
Conte	Haley	Matsunaga
Cotter	Hamilton	Metcalfe
Michel	Quie	Studds
Miller	Quillen	Sullivan
Mills, Ark.	Railsback	Talcott
Minish	Randall	Taylor, N.C.
Mink	Rees	Teague, Calif.
Minshall, Ohio	Regula	Teague, Tex.
Mitchell, N.Y.	Riegle	Thomson, Wis.
Mizell	Rinaldo	Thone
Moakley	Roberts	Thornton
Mollohan	Rogers	Van Deerlin
Moorhead,	Roncallo, Wyo.	Veysey
Calif.	Roncallo, N.Y.	Vigorito
Moorhead, Pa.	Rooney, Pa.	Waldie
Morgan	Rose	Wampler
Mosher	Roush	Ware
Moss	Roy	White
Murphy, N.Y.	Sandman	Whitehurst
Myers	Sarasin	Wiggins
Natcher	Scherle	Williams
Nedzi	Schroeder	Wilson, Bob
Nelsen	Sebelius	Wilson,
Nichols	Shoup	Charles H.,
Nix	Shriver	Calif.
O'Brien	Shuster	Winn
O'Hara	Sikes	Wolff
O'Neill	Sisk	Wright
Owens	Skubitz	Wydler
Passman	Slack	Wylie
Patten	Smith, Iowa	Wyman
Pepper	Smith, N.Y.	Yatron
Perkins	Spence	Young, Alaska
Pettis	Staggers	Young, Fla.
Pickle	Stanton,	Young, Ill.
Pike	J. William	Young, S.C.
Poage	Steele	Young, Tex.
Podell	Stephens	Zablocki
Preyer	Stratton	Zion
Price, Ill.	Stubblefield	Zwach
Pritchard	Stuckey	

NOES—129

Abzug	Gross	Rarick
Adams	Gunter	Reid
Anderson,	Hanrahan	Reuss
Calif.	Hawkins	Robinson, Va.
Archer	Hays	Robison, N.Y.
Armstrong	Hébert	Rodino
Aspin	Hechler, W. Va.	Roe
Baker	Hicks	Rosenthal
Bauman	Holt	Rousselot
Beard	Holtzman	Roybal
Biaggi	Howard	Runnels
Bingham	Huber	Ruppe
Blackburn	Hungate	Ruth
Bowen	Jones, Okla.	Ryan
Breckinridge	Jordan	St Germain
Broyhill, Va.	Kastenmeier	Sarbanes
Burke, Fla.	Keating	Satterfield
Burleson, Tex.	Kemp	Schneebeli
Butler	Ketchum	Seiberling
Casey, Tex.	King	Shipley
Chappell	Koch	Snyder
Chisholm	Landgrebe	Stanton,
Conable	Landrum	James V.
Conlan	Latta	Stark
Conyers	Lent	Steed
Corman	Lott	Steelman
Coughlin	McCollister	Steiger, Ariz.
Crane	McEwen	Steiger, Wis.
Culver	McKinney	Symms
Daniel, Dan	McSpadden	Tiernan
Daniel, Robert	Mallary	Towell, Nev.
W., Jr.	Mathis, Ga.	Treen
Danielson	Mayne	Udall
Davis, Ga.	Mazzoli	Ullman
Denholm	Meeds	Vander Jagt
Dennis	Melcher	Vanik
Derwinski	Mezvinsky	Waggonner
Dickinson	Milford	Whalen
Dulski	Montgomery	Whitten
Flowers	Obey	Widnall
Flynt	Parris	Wilson,
Frey	Peyser	Charles, Tex.
Gibbons	Powell, Ohio	Young, Ga.
Goldwater	Price, Tex.	
Green, Pa.	Rangel	

NOT VOTING—31

Abdnor	Fraser	Rooney, N.Y.
Ashbrook	Gubser	Rostenkowski
Boland	Harrington	Stokes
Brasco	Hunt	Symington
Burke, Calif.	Johnson, Calif.	Taylor, Mo.
Clay	Kluczynski	Thompson, N.J.
Collier	Madden	Walsh
Dellums	Mitchell, Md.	Wyatt
Erlenborn	Murphy, Ill.	Yates
Fisher	Patman	
Foley	Rhodes	

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson of New Jersey for, with Mr. Dellums against.

Mr. Rooney of New York for, with Mr. Harrington against.

Mr. Rostenkowski for, with Mr. Mitchell of Maryland against.

Mr. Brasco for, with Mr. Stokes against.

Mr. Kluczynski for, with Mr. Clay against.

Until further notice:

Mr. Fisher with Mr. Madden.

Mr. Yates with Mr. Gubser.

Mr. Murphy of Illinois with Mr. Ashbrook.

Mr. Boland with Mr. Abdnor.

Mrs. Burke of California with Mr. Erlenborn.

Mr. Fraser with Mr. Collier.

Mr. Foley with Mr. Taylor of Missouri.

Mr. Symington with Mr. Patman.

Mr. Johnson of California with Mr. Walsh.

Mr. Hunt with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ENERGY EMERGENCY ACT

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11450 with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 1½ hours and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 1½ hours.

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

Mr. Chairman and Members of the House, I am not going to take very long at the present time, and I hope to come back a little bit later, and will certainly be glad to answer questions.

I know that we will have several speakers who will try to enlighten the House on what is in the bill.

Let me begin by giving a short background on this legislation.

On October 18 the Senator from Washington, Senator JACKSON, and I introduced a bill on the same day in both the Senate and the House which proposed to give the President certain emergency powers to deal with the crisis situation which confronts this Nation. The House bill was H.R. 11031. The Senate subsequently had hearings on their bill, and passed it on November 20.

I might add this: that the President called a group of Congressmen from both sides of the aisle to the White House concerning energy, those Members who had it under their jurisdiction, and talked about the importance of the energy crisis at the present time, and

that it was a "must" that we do something about it immediately.

At that time, he said that he needed the daylight saving time bill which the House has passed, and which has now come out of conference, and is ready for final passage.

On November 8 the President sent a message to the House on the importance of the energy crisis saying that it was very necessary that this Congress pass an energy bill before we adjourned to go home for the holidays.

The Committee on Interstate and Foreign Commerce commenced hearings on the bill H.R. 11031, and held hearings for 6 days. We had those hearings through groups of panels. For instance, on the first day we had eight representing the administration, headed by the then head of the Energy Policy Office, Mr. Love. And on succeeding days we had other panels who appeared before the committee. After those 6 days of hearings we took 7 days to mark up a bill.

And if ever there has been a bill considered extensively, and I say extensively, again, by the Committee on Interstate and Foreign Commerce, or I would say any committee of the House, this bill is it. And it was considered by what I believe are 42 of the greatest Members in this House—and here I have not included myself.

Gentlemen, I know I do not have to tell you how truly serious this shortage situation is. I believe that this legislation as a supplement to the Emergency Petroleum Allocation Act will give to the executive department important powers to cope with the situation. I respectfully urge the adoption of this legislation in the form in which it has been amended by the Committee on Interstate and Foreign Commerce.

Mr. Chairman, our committee has worked a great many hours on this legislation. In committee over 125 amendments were considered and 75 agreed to. Consistent with the emergency situation which confronts this Nation, the committee met almost continually over the last week in morning, afternoon, and evening sessions. I believe that we have reported a bill which reflects in the committee's amendments the concerns of the American people. Undoubtedly it can be improved upon, but I hope that House consideration of this measure will not be extended in a manner which prevents our getting legislation through the Congress before the Christmas recess.

There is much that remains to be done to deal with the energy crisis. I know that a number of my colleagues have devised their own solutions. Many of these have great merit. However, I would hope that we will not attempt to solve the full problem in this legisation, but that we will confine it to consideration of those measures which must be enacted in the short term to deal with the impending shortfalls of this next year

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

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

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Chairman, I, for one, would like to commend the gentleman from West Virginia and his committee for what they have done. I do not think any Member of this House, regardless of how he feels about this bill, meant anything derogatory toward the gentleman's committee because it is a fact, as the gentleman has just stated, that they have worked very hard.

The question that I have at this particular time is that this bill deals with the energy crisis; am I correct?

Mr. STAGGERS. That is right.

Mr. KAZEN. The words "energy crisis" mean to me an energy shortage. Is this correct?

Mr. STAGGERS. That is correct.

Mr. KAZEN. Has the gentleman's committee received an inventory of energy in this country? What is it that we are talking about?

Mr. STAGGERS. We have tried and tried to get from the administration these very facts. We have not been able to do so. The legislative body does not have the wherewithal that the executive department has to get the facts. That is their job. We have not been able to totally get those facts. We have had to work on the information that we have been able to get together as to what the shortage situation is. We do know that right at the present time there are many hardships being created that people are having to put up with across the land. We want to alleviate those hardships.

Mr. KAZEN. This is correct, but I think before we tackle any problem like this, we have got to get the basic facts. Just what is it that we are going to allocate? Just what is it that needs to be rushed? Just what is our production, in other words, our inventory? Everything that we do has to go back to the basic idea of, we have only so much to work with. That, I think, is the biggest failure of this administration and in their entire policy where they did not start with a No. 1 priority, to get an inventory of our resources, because everything else that we do depends upon what that inventory would show.

Mr. STAGGERS. I am in agreement with the gentleman from Texas. I might say to the gentleman that I appreciate his remarks, but those are things in the past. We are dealing with the problem that is now upon us, and it certainly is up to each Member of Congress to do the very best that he can to take care of the situation as he sees it. There are hardships being created and brought to bear on the American people, and that is the reason for this bill being here today.

I hope that during our debate and the debate on all of the amendments that we can do it in a way that will not create too much fury, that we can do it in a way that will be intelligent, and try to accomplish something.

There have been accusations hurled around this morning that I do not think belong in a deliberative legislative body. Let us get together as reasonable men and try to do the very best we can on the situation as it exists today. That is my intent.

I do not claim the bill is perfect. I do not think there is any man on the committee who will claim that. They know it is not. They know there are many things, perhaps, that should not be in there, and others that should be, but we have worked hard and have done the very best that we could, and this is the result of that work that we are bringing to the Members today.

We think it is at least the basis upon which we can offer amendments today and try to perfect it, as Representatives of all of the people. That is the way we do our legislative business in Congress.

I am not dealing with the content of those amendments at the present time. We will do that when they come up. But I would just like to say that the committee did work hard on this.

I would like just briefly to go through and tell the House what the bill does.

In title I, the bill is supposed to give proposals for mandatory conservation plans which will minimize the impact on employment.

It is supposed to give equitable treatment to all segments of the economy while maintaining vital services to the land. It is to provide for end-use allocation, which includes adjustments in refining operations. It means that if one item is short, the refineries can be directed to correct that and to make it more equitable between heating oil or other petroleum products or whatever the problem might be.

The President may require oil production at its maximum efficient rate and may overrule State determinations as to what that rate should be.

Federal lands must try for secondary and tertiary recovery.

The bill creates a Federal Energy Administration. The Administrator is appointed with the consent of the Senate and removed only for cause.

The term ends on May 15, 1975. This is a temporary measure unless renewed, and we hope that it will not have to be renewed. We hope the committee and America will know exactly what is going on in the country and that it will not have to be renewed. We hope things will be corrected so as to make distribution of the fuels more equitable.

The Administrator is to submit energy conservation plans within 30 days. They are to include proposals for transportation controls, carpooling, use of recyclable materials, and so on.

It provides that vital services should be maintained and that the burden on all segments of the economy should be equitable, which it is not today. If there are going to be any undue burdens, as there have been in the past, they must be corrected.

The regulatory bodies will do what they can and they will suggest what authority is needed.

The ICC may also adjust truck gateway restrictions. I will not go into that in detail but it means that right now some trucks might have to start in New York and go to Atlanta instead of going to San Francisco, instead of going by a direct route which would save maybe 1,000 or 2,000 miles.

Enforcement mechanisms include Federal criminal and civil penalties, injunctive and private actions. Included among the prohibited acts is denying fill-ups to trucks on bona fide cargo runs.

States will receive grants to help carry out delegative authority. Dealers will

have a day in court on franchise or marketing contract cancellations. I know that practically every Member of this House has had some complaints from dealers who have had to cancel their contracts and go out of business. One businessman was in my office recently and said he had a franchise for 45 gasoline stations; he had to close all but 12 of those because his contracts had been canceled. We hope this will not be done in the future and it will not be done under this bill.

Retail and service establishments may make voluntary agreements to promote conservation. Carpools are to be encouraged by incentives. In the bill $25 million is authorized to foster plans. Government should use smaller cars. The use of limousines is limited in the Government to Cabinet officers. There has been an exception made there for the FBI and for the State Department, when people may transfer materials sometimes in bulletproof limousines. There has been an exception made for them.

Mr. LANDRUM. Mr. Chairman, will the distinguished chairman yield?

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

Mr. LANDRUM. Is it accurate to say that this bill could be described as a short-range solution, providing a short-range solution to the crisis that confronts us?

Mr. STAGGERS. That is right.

Mr. LANDRUM. There are no provisions in this bill designed to go to the long-range problem?

Mr. STAGGERS. There are some, but yes, this bill is primarily directed at the short-term problem.

Mr. LANDRUM. Is it the opinion of the gentleman today, after his long and careful study of this problem, that we are going to have to provide some means of offering incentive to the capital market to come in and discover new sources of fuel supplies, new natural resources for fuel?

Mr. STAGGERS. Well, I know what the gentleman is talking about, the use of geothermal and other energy sources.

Mr. LANDRUM. Does the gentleman have any idea about how these incentives could be set up?

Mr. STAGGERS. We have talked about them in the committee. We did talk about that should be done; not only that, I fully agree that there are other means of energy that we have not tapped at all.

I think the gentleman might be talking about the incentives for coal and gas production.

Mr. LANDRUM. Is it accurate to say that in order to provide the necessary incentives for research and discovery of these needed resources, that we must alter our tax laws relating to these rules?

Mr. STAGGERS. I would say to the gentleman that belongs to another committee and it would be for their consideration.

Mr. LANDRUM. I am not talking about the gentleman's committee. I would like to know the gentleman's idea.

Mr. STAGGERS. I might say, the bill calls for study on development of all resources and asks for recommendations for providing incentives to increase production. They shall report back to the Congress for appropriate consideration.

Mr. LANDRUM. I note in the bill a provision to prohibit windfall profits or to require the return of so-called windfall profits. Now, what is a windfall profit, Mr. Chairman?

Mr. STAGGERS. The bill sets up a formula in section 117 for determining windfall profits.

Mr. LANDRUM. Will that be determined by the Renegotiation Board, for example?

Mr. STAGGERS. Yes, that is what is in the bill now. I understand there are some amendments which may be offered to take the function out of the Renegotiation Board and give it to the Administrator. That is where I believe it should be, under the Administrator of the Federal Energy Administration.

Mr. LANDRUM. Then there might be some suspicion, at least, that this provision should not be in here?

Mr. STAGGERS. Well, no. I think it should be in here.

Mr. LANDRUM. That it is without jurisdiction?

Mr. STAGGERS. I think it should be in here, but it should be transferred to the Federal Energy Administration to make it completely consistent with what we have done.

Mr. LANDRUM. My final question, is it the opinion of the distinguished chairman or not that this is a short-range solution only; it does not go to the long-range problem confronting us?

Mr. STAGGERS. Except the studies we are having made.

Mr. LANDRUM. Except the studies, that is right.

Mr. STAGGERS. We want them to come up with studies that will tell us and this Nation where we are going. We want to get away from the petroleum use as other nations have done and as Hitler did at the end of World War II. That is 40 years ago. He used coal to run all his machinery. Here we are sitting and not doing it. There is something wrong with Americans if they are not doing it.

Mr. LANDRUM. I might suggest that it is not quite 40 years ago.

Mr. STAGGERS. It was in 1945, almost 30 years ago.

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

Mr. STAGGERS. Yes, but I would like to finish my statement.

Mr. GROSS. We have before us H.R. 11450, consisting of 95 pages, which was made available yesterday afternoon, and we have H.R. 11882, which is 67 pages and was made available to us only an hour or so ago.

To which of these bills do we center our attention during general debate?

Mr. STAGGERS. Mr. Chairman, I would like to say this: We are now in general debate—I am addressing myself to H.R. 11450 as amended, but at the start of the reading of the bill for amendments I am going to ask that H.R. 11882 be considered as an amendment in the nature of a substitute for this bill. It is identical as to every word in the bill as it was amended by our committee.

Mr. GROSS. Maybe, but the page numbers are much different.

Mr. STAGGERS. That is correct.

Mr. GROSS. Mr. Chairman, I would hope that proper efforts would be made to identify page numbers by those who speak on the bill.

One other question: Why the exemption for Cabinet members in the use of limousines, and if—if they have children and are using their limousines to transport them to private schools, why should they be permitted to do so?

Mr. STAGGERS. They should not, unless it is for security reasons.

Mr. GROSS. For security reasons. Is that the reason the committee gives for exempting limousines for Cabinet members?

Mr. STAGGERS. That is not exactly true, but that is one of them, I would say.

Mr. GROSS. How very nice.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, I understand from one of the provisions of the resolution which permitted debate on this bill, immediately after reading the enacting clause, the text of the bill H.R. 11882 will be offered as a substitute?

Mr. STAGGERS. That is correct.

Mr. BROYHILL of North Carolina. And that the text of that bill is identical to the other, and the amendments will then be offered to the substitute?

Mr. STAGGERS. That is correct.

Mr. BROYHILL of North Carolina. We have not had this procedure where the rules of the House require offering the committee amendments again on the floor of the House?

Mr. STAGGERS. That is correct.

Mr. BROYHILL of North Carolina. And had there been amendments offered to committee amendments, it would have been a chaotic parliamentary situation and we would be here until Christmas?

Mr. STAGGERS. That is correct.

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

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

Mr. VANIK. Mr. Chairman, I appreciate the work of this committee in its effort to solve a very difficult problem. I would like to ask if there is any provision in the legislation, since we are going to move on the conversion of a great many energy plants which now use oil to coal, will there be any effort or is there any provision in this bill to mandate the use of our coal transportation within our country to supply coal to our domestic energy sources rather than the export business, which is demanding a substantial portion of our transportation system?

Mr. STAGGERS. Mr. Chairman, we have covered the exporting of coal and have prohibited it except where consistent with the national interests.

Mr. VANIK. But the language does not direct itself to the transportation problem?

Mr. STAGGERS. It is not in the bill, but all the things that are needed to get the energy are.

Mr. VANIK. Mr. Chairman, just one other question I have: I have a feeling that there are some resources in this country, some oil and gas discoveries, that are made and concealed, capped and closed. At least with respect to Federal lands, is it possible and does this legislation direct itself toward providing some sort of inspection by someone in the Federal Government to certify a well on public lands as nonproductive or economically nonfeasible before it is capped or closed? Is there any provision for that?

Mr. STAGGERS. No, and I must say to the gentleman from Ohio that we are talking about the jurisdiction of another committee. The chairman of that committee did write to our committee and to the ranking minority member saying that the things under consideration in the bill would be all right with him, so we only mention Federal lands in one or two places. We did have in the original bill about opening naval reserves to production, but we took it out because that is under the jurisdiction of the Committee on Armed Services.

Mr. VANIK. Mr. Chairman, I want to thank the gentleman for his response.

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

Mr. STAGGERS. Briefly, I will yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Chairman, reference has been made by the distinguished gentleman from West Virginia to H.R. 11882.

Mr. STAGGERS. Yes, sir.

Mr. FLYNT. I see on the desk in front of the gentleman that he has a copy of it.

Mr. STAGGERS. Yes, sir.

Mr. FLYNT. Yes. And several other Members of the House have endeavored to obtain copies of this from the normal places where we ordinarily get copies, and we have been told that they are not available. First of all, I would like to inquire if the Committee on Interstate and Foreign Commerce has adequate copies of this bill so that those of us who propose to offer amendments may do so.

Mr. STAGGERS. Mr. Chairman, I am sure that they will be available. I am sure the additional copies will be available when the time comes. They were supposed to be here at 9 o'clock, and then because of problems at GPO, it was delayed.

Mr. FLYNT. Mr. Chairman, if the gentleman will yield further to me, the gentleman has said that when the time comes, they will be available.

Many of us feel that the time has come when they should be available, and, in fact, that was one of the objections to the rule. The rule was not available to a majority of the Members of the House.

Mr. STAGGERS. Mr. Chairman, let me say to the gentleman that the provisions of H.R. 11450 are identical to those of the other bill.

Mr. FLYNT. They are identical in every respect?

Mr. STAGGERS. The gentleman is correct.

Mr. FLYNT. Mr. Chairman, I thank the gentleman for his response.

Mr. STAGGERS. Mr. Chairman, I will continue with my presentation.

Windfall profits are to be controlled by having the Renegotiations Board determine that money is to be paid back when they have excessive profits and are really gouging the public.

I think that most of the citizens of this Nation would be 1,000 percent for this, although some Members of Congress probably would not be for it. I found that the people I talked to back home say that this is one of the things that is needed above everything else.

So when the time comes to vote for it, if there is a vote for or against it, I am going to ask for a record vote, because I would like to know who is against windfall profits and who is in favor of windfall profits for those who have already, as I said, made the greatest profits in history last year.

The President may approve importation of liquid natural gas on an individual shipment basis.

New electric power sources will be developed or shall be developed.

Voluntary agreements within the petroleum industry will be subject to close Government supervision.

Mr. Chairman, I have tried to take these points by section to give the committee a little bit of an idea of the broad scope of the bill and what it entails.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, today the House of Representatives has the opportunity to take some long overdue steps toward solving our Nation's energy crisis. By itself, H.R. 11450 will not totally solve our energy problems—that will take time. But through its conservation and resource proposals and its establishment of the much needed Federal Energy Administration, it offers a needed structure for a successful assault on our energy problems.

I think it is important that we realize that the energy crisis is here—and it is real. For years, some of us have discussed the oncoming energy crunch. A sound policy of planning and conserving our limited resources, and of striking a proper balance between environment and energy needs has been a national need for years.

It is also important to realize that the energy crunch is not just due to the Mideast oil embargo. We would have, as I have noted all year, a rough winter ahead in any case. But the oil embargo has intensified our difficulties.

America has traditionally had a plentiful supply of inexpensive energy. For 200 years, our cheap and plentiful energy resources have fueled our amazing growth from a small farming nation to the world's most technologically advanced country. These resources and our use of them have made possible the best standard of living in the world.

But today, the Madison Avenue slogan, "A nation that runs on oil cannot afford to run short," has achieved real significance.

America is confronted with a severe energy shortage both right now and in the near future. As a result, we have all witnessed a series of incredibly fast moving events. In 6 months, America has gone from a free market energy system to voluntary allocation program to today's mandatory programs. Speed limits have dropped by 20 to 25 miles per hour. Gasoline stations have shut down. We keep our homes cooler in the winter and warmer in the summer. And the Sunday trip to visit relatives is no longer a sure thing. We do all of this to conserve the fuel necessary to keeping our children in school, our homes warm and our industries open.

As we all know, America depends on its energy resources. Any severe shortage of energy would sharply curtail life as we have known it in the United States. People are now asking—"Why is America facing this shortage?" The central problem is, of course, the energy supply and demand situation.

As we are finding out, the demand for energy resources has simply outpaced the growth in supply.

From 1955 to 1970, demands for energy increased some 40 percent. By 1985, requirements for energy resources will have increased another 60–70 percent over 1970. While this incredible growth rate has been worldwide, it has been particularly heavy in the United States. And America is particularly sensitive to worldwide shifts in energy supplies. With only 6 percent of the world population, we consume over one-third of the world's energy resources.

At the same time that our energy requirements have been greatly increased, America has had significant shifts in the use of specific energy sources. As an example, for years, heavy industry and the electrical companies have used coal as their primary source of energy. Both efficiency and environmental considerations have caused industry to turn more and more to the use of oil. As a result, it is predicted that by 1985, unless we change this trend, 46 percent of all energy resources used to run industry will be oil products.

This shift in the so-called fossil fuel market—from coal to oil and gas—has placed the U.S. economy in a very unfortunate position. America's increased reliance on oil has forced it, because of declining oil reserves, to depend on an increasingly large amount of imported crude oil. Yet the United States has over one-half of the world's known coal resources—nearly 300 years worth of supplies. We need to make use of this great and bountiful resource.

Some have advanced the notion that there is a simple answer to our energy and oil decline. Their answer is to simply increase our reliance on imported oil. We have found, with the oil embargo, that this is no answer. It is just an opening for national suicide. Even if we could rely

on foreign oil it would be disastrous financially.

By 1980, if present trends had continued, imported crude oil could contribute over $20 billion a year to our balance-of-payments deficit. Quite frankly, regardless of the shape of the American economy in 1980, that sort of reckless dollar drain is simply prohibitive.

This problem of energy shortages is not just an American phenomenon. The energy crunch has hit the entire industrialized world. Europe, for example, is almost totally reliant on imported oil. Stringent conservation measures including a ban on Sunday driving and reduced speed limits are now in effect in nearly every country on the continent. Japan forces a severe curtailment of its industrial activity unless suppliers of oil and gas loosen up considerably. Even Russia, which has massive energy reserves, has begun to take energy conservation steps. Indeed, even with our energy problems—and I do not minimize them—we are in much better shape than other industrialized nations.

And with a program of national self-sufficiency, it will improve.

The energy picture is not a long-run bleak situation. An exciting future with new technologies is also before this country.

By the 1980's, expanded research and development in the areas of nuclear energy, the fast breeder reactor, shale oil, and coal degasification could open up a new vista of plentiful untapped energy sources.

But to get this effort off the ground and to get us through the immediate problem requires the sound guidance of a well-thought-out national energy policy. That is precisely what we have been lacking for a number of years in the Federal Government.

Take a look at the present arrangement of energy policy making right now.

There are some 64 different Federal agencies that administer programs which have an impact on our energy system. Government—Federal, State, and local—uses 60 percent of all the gasoline consumed in this country. Yet there is no coordinated effort to assure a consistent and far-reaching policy thrust to energy program administration.

We should have learned that a fragmented management system such as this intensifies rather than solves problems. And that is just what we have experienced. We must get started now on the development of a national energy policy that will secure for the United States the energy supply needed to meet our increasing domestic fuel requirements.

There are, in addition, some other areas that Congress can take action on to meet the energy challenge. America needs to embark on a positive program of rapidly developing our own energy resources.

Initial steps have been taken to begin exploration and drilling of the Outer Continental Shelf. About 40 percent of our total undiscovered oil resources are said to be located here. Indeed, there is more oil here than is located in the massive North Sea reserves.

In Alaska, now that Congress has passed the Alaskan pipeline legislation, energy experts predict that the north oil fields will yield 2 billion barrels a day of crude oil.

I would also attach a great deal of importance to a thorough review of our federally funded research and development projects. Particularly in the nuclear energy field, these projects seem to be progressing on schedule with ample but not excessive funding levels.

However, I think that additional research and development funds for coal research could reap us important dividends. Substantial breakthroughs in developing an environmentally safe coal technology would allow America to make use of its impressive coal resources and slow down our increasingly expensive reliance on oil products.

I am supporting H.R. 11450, the National Emergency Energy Act. It is not a panacea. It will not cure all of our ills. We will still have much in the energy field to accomplish over the next few years. But this legislation is the needed first step.

However, I think that we can also make some needed improvements in this legislation today. Section 105 of the final committee bill effectively emasculated certain needed powers to deal with energy conservation.

Originally, the bill allowed the President 30 days after enactment to propose a series of energy conservation plans. Congress then had 15 days in which to decide which plans were off target and which were proper and acceptable. This is the kind of quick action we need. The procedures set forth in the bill at that time were designed to prevent delay and get action.

The amended committee bill, however, removed the congressional veto and substituted a legislative response instead. As the bill now stands Congress must act affirmatively before any plan can be implemented. The executive department is severely limited in its efforts to deal with the fuel crisis. And inaction will hurtle us unnecessarily toward rationing.

There will also be other amendments offered today to improve H.R. 11450. I hope that we will weigh each one of its own merit and with judicious thought. And I trust that we will leave here today with an energy bill that gives our people back home the sort of relief and programs necessary to see them through the winter.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 10 minutes to the gentleman from Nebraska (Mr. McCOLLISTER).

Mr. McCOLLISTER. Mr. Chairman, one of the sections of the bill provides that stationary powerplants may change their use of their primary fuel from gas and oil to coal under certain terms and conditions. In that process, however, they must continue to do all that they can to comply with the provisions of the Clean Air Act, and with that generally I have no objection.

There is, however, a group of powerplants that border on being obsolete where such compliance, such development of plans for complying with the Clean Air Act, would be an uneconomic activity, where the plant may have a remaining useful life of only 6 or 7 years, making it economically unfeasible for that plant to install the scrubbers in the smokestacks and other equipment to make it possible for them to comply with the provisions of the Clean Air Act.

In my own district—and I suspect that other Members have similar situations—a 110-megawatt plant now burning coal would be required to spend between $13 and $17 million to comply with the provisions of the Clean Air Act, and that plant, due to become obsolete and replaced by 1980, would find the public power district spending that kind of money for such a brief period of time. Thus, I shall at the appropriate time propose an amendment, which under certain limitations—into which I will go more at that time—would exempt those plants from complying with the provisions of the Clean Air Act for that period of time. It would make it possible for that plant and others like it to continue to produce power for the benefit of the residents of my district and my State without being required to shut down, the only other alternative being available to it now under the provisions of the Clean Air Act.

As I say, I will introduce that amendment at the appropriate time, and I hope that the chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS) and others will see the good sense of the amendment and would agree to its acceptance.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. McCOLLISTER. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

Under the provisions adopted in the committee, we went to the year 1979 to accomplish the intent of the gentleman's stated purpose. This would, of course, not change the ambient air quality. It was not the intent of the committee to change the ambient air quality, but it was to permit the intermittent or alternate controls for the control of emissions from plants just such as those that the gentleman has referred to, and that language is in the legislation now.

Mr. McCOLLISTER. I think in that case, though—and this is section 106; does not the gentleman agree?

Mr. MURPHY of New York. Yes.

Mr. McCOLLISTER. On page 13 of the bill it says that such plants shall make such use of product technology as may be necessary to enable such plant to come into compliance with the fuel or emission limitation, and so forth.

The development of such a plan and the installation of such equipment to come into compliance would take an economically unfeasible amount of money to do it, and the alternative would be that the plant would simply shut down.

Mr. MURPHY of New York. The gentleman's language would have 1980 as the cutoff time?

Mr. McCOLLISTER. Yes.

Mr. STAGGERS. Mr. Chairman, I yield 8 minutes to the gentleman from Massachusetts (Mr. MACDONALD), a member of the committee and chairman of

the Subcommittee on Communications and Power.

Mr. MACDONALD. Mr. Chairman, I rise in support of this bill. It is indeed unfortunate that we of the Congress are faced with the necessity at this 11th hour to enact legislation to correct a situation which should have been foreseen many months ago by the administration and which certainly was foreseen by many Members of this Congress. Last spring, as a concrete example, I introduced legislation which was designed to correct some of the injustices that have been caused by the lack of coherent administration policy in the energy field. Last week that legislation became public law known as the Emergency Petroleum Allocation Act. Its chief purpose was to protect the suppliers of fuel and gasoline to consumers and it is accomplishing that purpose today.

But that particular bill does not cover many interrelated areas of energy supply and consumption that now have reached crisis proportion. The legislation we are considering today goes much further than that bill did. It gives unprecedented power to the President, which is one of the things that disturbs me and I am certain disturbs many people in the Congress. It gives this power through a Federal Energy Administration and its Administrator, Mr. William Simon, but even though that power is unprecedented in peacetime we have attempted very carefully by the provisions of the bill to put certain safeguards around it and in so doing we put in judicial review safeguards. The modifications of the environmental statutes that we put in are precisely drawn, in my judgment, or as precisely drawn as we possibly can, and are limited both in scope and duration.

As my colleagues have already noted, this bill calls for drastic action by the Government, intensified efforts by industry itself, and the utmost cooperation of every citizen. It directs the Administrator of the new Federal energy agency to propose energy conservation plans.

In answer to questions that were raised earlier, I feel that is perhaps one of the most important factors of the bill, for while the Congress may have foreseen the problem before the administration, it acted from a rather piecemeal point of view and acted in a piecemeal way to cover what is a very broad problem indeed.

So the Federal energy agency proposal calls for conversion from scarce fuel to abundant fuel by major industrial users. It protects the normal and very complex marketing and distribution arrangements in the fuel industry as it protects the consumer against runaway pricing. Windfall profits are restricted severely. Authority is granted to the administration to restrict exports during this period of critical shortages and some environmental protection plans are temporarily suspended but appropriate safeguards, as I say, are provided for.

But perhaps most importantly the legislation calls on virtually every department and agency of the Federal Government concerned with any aspect of energy to report on the impact of the current crisis on its special area of jurisdiction. When the studies mandated by this jurisdiction have been submitted to the FEA, there will at long last be correlated data on which energy reports can and must be made.

There will be finally collected in one place under one person the data that has so long been urgently needed and within 120 days, and in many cases less, after the enactment of the legislation, the FEA Administrator will have reliable facts and figures on our export and import investment commitments on fuel economy, on siting energy production facilities, on employment, on environmental impact, and on many other vital areas; so I am greatly encouraged by the appointment of Mr. William Simon to that post of FEA Administrator. I devoutly wish he had been appointed 6 months ago when he appeared before our committee with a plan during July that could have been instituted and implemented at that time, instead of now in December.

I believe the confusion, the hesitation, and the indecision of the administration, both in policies and in personnel, has contributed significantly to the sorry state we find ourselves in today. Nonetheless, if this body approves the bill we are debating today, it will give to Mr. Simon the tools to do the mammoth job he has been given to do. I urge my colleagues to give him those tools.

I actually want to praise very much, indeed, our colleagues on the Government Operations Committee who also worked night and day in forcing through quickly his appointment, in hearing many witnesses and taking testimony and in general doing a good job.

I indicated earlier to Mr. LANDRUM, of Georgia, that I thought he was left with rather a false impression at one point during the earlier debate, in which he inquired as to whether this program was to be a long- or short-range program. It is, of course, to be of short duration as of now; but it is, of course, also to be of long duration.

I hope that the record can be made clear that the need that he seemed to indicate that he felt of further depletion allowance, of further tax breaks for the oil industry, for the 11 major oil companies, to get them to come back here to the United States to invest their money instead of taking the free tax breaks that they now get in dealing in the Middle East, both by way of tax credits, by way of foreign depletion allowance, and by way of no income tax. Under the present law, if they pay taxes to a foreign country they do not have to pay those taxes to the United States. I think when and if this Congress, through the Committee on Ways and Means, does move in this field, it would be a much needed reform. Mr. Simon has indicated that he felt it might be a very good thing to do, indeed. I feel that they will so act. There is nothing wrong with businessmen trying to make more money, but greed must be curbed. If we can channel exploration back to the continental United States, our fuel shortage here at home will be cured and, hopefully, that will be soon.

I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I want to take this opportunity to compliment my colleague for an excellent statement. I also agree with him in regard to the appointment of Bill Simon. I think this man has a handle on the issues and also is a very decisive man to do a very good job.

The question I wanted to ask in regard to taxes, this just came over the wire:

Bill Simon requests raising heating oil 8 or 9 cents a gallon and gasoline 6 or 7 cents a gallon, which I strongly oppose. Is there anything in this bill which gives him that authority to do that?

Mr. MACDONALD. He has flexibility. He asked before the Government Operations Committee to be given more flexibility. Whether it is in our bill, I would doubt very much inasmuch as we do not touch upon the formation of his office, although the committee under the leadership of Mr. HOLIFIELD does do that.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD. I now yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think I can respond to that. Under the Federal Energy Administration, the parts of the Cost of Living Council which affect all prices will be moved into the Federal Energy Administration. However, that is not involved in detail in this legislation. That will be subsequent legislation coming from the Committee on Government Operations.

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

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. BROWN of Ohio. Mr. Chairman, I asked the gentleman to yield so that I could praise the leadership of the gentleman in the well (Mr. MACDONALD) in the whole area concerned with energy. I must say to the gentleman in the well that during debate on the Alaskan pipeline legislation—and I would have to search back for the date of that, although it seems to me it was earlier in the summer—the gentleman proposed an amendment which later in the substantial form, although modified to some extent, became the mandatory fuel allocation legislation.

At that time I opposed the gentleman's amendment because I thought we were acting precipitously. Had we accepted it, we would now be better off, and I would say in retrospect that he was probably correct and I was probably wrong except with regard to some of the details of the amendment.

However, the gentleman has provided leadership in this area, and the mandatory fuel allocation act is a good example. This act is another good example. I think the gentleman's statement is needed for this act. I hope other Members have the same grasp and perception of the matter that the gentleman in the well has.

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

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mrs. GRIFFITHS. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD. I yield to the gentlewoman from Michigan.

Mrs. GRIFFITHS. Mr. Chairman, I would like to say that section 117, on windfall profits, probably is a sufficient delegation to permit the President to tax. That is, it gives him the power to set the price of petroleum and petroleum products—and to exclude windfall profits. In my opinion, since Secretary Shultz has been wanting a 40-cents-per-gallon gasoline tax, I think the President could, under this, legitimately set a price of 90 cents to $1 and retain 40 cents as tax per gallon. That is excluding windfall profits. Either that section should be stricken completely or amended.

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

Mr. MACDONALD. I yield to my colleague from Massachusetts.

Mr. BOLAND. Mr. Chairman, I want to asssociate myself with the remarks of the distinguished gentleman from Massachusetts. I want to compliment him on the leadership he has given on this bill and many other bills affecting this energy crisis which is now perplexing our Nation.

I take pride in the fact that he recognized the problems we do have in New England and commend him for the leadership he has shown on the Alaskan pipeline bill and the mandatory fuel allocation bill, which the administration did not want, but which he led through Congress.

Mr. Chairman, I appreciate this opportunity to make my views known concerning truly crucial legislation.

I rise today in support of H.R. 11450, a bill to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met.

I wish to thank the distinguished chairman and the members of the Committee on Interstate and Foreign Commerce for acting as expeditiously as they have in considering this and other related energy emergency bills.

H.R. 11450 is a congressional directive to the President to take certain vital measures in dealing with our national energy shortages. The Senate has already passed a bill which utilizes this approach. S. 2589, the National Energy Emergency Act of 1973, was introduced by Senator HENRY M. JACKSON, of Washington, whose leadership in this field has been a light burning brightly amidst the gloom into which the current energy crisis has cast our Nation.

Mr. Chairman, there is a plethora of facts and statistics concerning our energy problem available today to the readers of any newspaper or magazine. All we really need appreciate, however, is that this country produces domestically only 70 percent of the petroleum that it needs. Before the Arab-Israeli conflict and the subsequent Arab oil boycott, we imported fully one-third of all the oil we consumed. Conservative estimates of rising demand put our 1980 import total at something like one-half of our needs.

In eight of the Arab nations' virtual cutoff of oil exports to this country, we are now facing something like a 17 percent shortfall in our energy needs. The President has proposed a series of so-called "new initiatives" for dealing with energy shortages. He has said that measures such as reducing speed limits and shutting off the pumps on Sundays will bring about a 10-percent reduction in energy consumption. Referring to the 7 percent margin which remains between supply and demand, he cryptically adds that "additional actions may be necessary." What this means he does not say. What he should be saying, however, is very clear.

He should be telling the American people exactly what measures are necessary for a realistic allocation of our energy resources now. He ought to outline publicly and without any allusions to pie-in-the-sky predictions, like energy self-sufficiency by 1980, exactly what our energy policy in the future is to be. He ought not to be proposing half measures like a 50 mile per hour national speed limit if sterner measures are needed as well. If it is one thing that all Americans are painfully aware of, it is that the energy crisis is now. The way to treat them is to tell them the worst and get on with energy conservation and allocation measures that will at least spread the burden of energy shortages equally.

But that is exactly what this President has not done. He has fallen back on his favorite political tactic, which can be epitomized as, "promise them anything, omit as much as you dare and tell them to trust you." Perhaps we will soon learn that there is some national security menace that requires a moratorium on plain speaking and dealing in government.

The facts are that—the Arab-Israeli war aside—energy shortages have been predicted ever since the fifties. Presidential commissions, the Federal Power Commission, and private foundations have to one degree or another warned us that our demand for energy was fast exceeding our capacity to supply it. In recent years, when the signs have been plainer and more persistent, we have witnessed a President and his administration not only discount these signs, but insist right up until the Arab embargo that shortages would be minimal and hardly disruptive.

Our national energy policy has been a mishmash of half measures and pipe dreams long before the most recent example of Presidential hopeful thinking. Persistent, unreasoned devotion to import oil quotas over the past 20 years has had the effect of making us dependent on foreign oil because our own reserves have been so heavily depleted during that period. A sudden reversal in policy by attempting to develop other domestic sources of fuel is laudable, but it comes 20 years too late. We should have realized that restricting foreign oil imports when they were cheap and plentifully available would have two significant effects—reducing our own reserves and thereby making us more and more dependent on foreign oil in the future. In the process, we might have forseen, the major oil companies would grow richer and more powerful.

These huge conglomerates now control all aspects of the petroleum industry. Economists call it vertical integration. What it means is that these companies control the drilling, refining, shipping, retailing and pricing of petroleum products. The present monopolistic structure of the industry dates in no small measure back to the imposition of oil import quotas. Quotas helped drive the smaller independent oil retailers and refiners out of business. National security reasons were advanced for import quotas, yet the opposite purpose seems to have been served. Not only did the quotas hasten the demise of competition in the oil industry, it also helped put this country in its present untenable posture of dependence on foreign sources of oil because of diminished and dwindling reserves.

Oil shortages are not the only facet of the current energy crisis. Our known supplies of natural gas are no longer increasing, but decreasing. In other words, things will be getting worse before they get better. 1980—contrary to the President's public statements—will not see an end to oil and gas shortages. Our energy needs, conservation measures notwithstanding, will increase. Our currently estimated shortfall of energy supplies—17 percent—could grow to 20 percent if—as expected—Canadian oil supplies previously sent to this country are rerouted to other parts of Canada to supply areas that have thus far used foreign oil. As matters now stand, we have inadequate storage facilities on hand to accommodate a sufficient emergency reserve, even if we had one. New York City, it is my understanding, has existing storage facilities to generate only 4 to 5 days of heat and power.

U.S. refinery capacity is also inadequate to develop even the limited oil and other energy fuels that we can bring into action immediately. The major oil companies have not enlarged our domestic refining capacity in any significant fashion for years. Their reasons were not so much concerned with environmental restrictions as they were with economic ones, it being cheaper to build refineries in Europe and the Middle East than here at home. Decisions such as these—along with import quotas and the depletion allowance—helped to make the last several years as profitable as any these companies have ever enjoyed.

I am not one to blame the oil companies for all our present woes. Certainly they were insensitive to factors other than their balance sheets. Their institutional advertising certainly helped to set the tone for the runaway energy consumption—or should I call it runaway waste—of petroleum products that has distinguished the postwar years. By no stretch of the imagination were strategic and long-term national energy problems part of their corporate policy. All of that is not their failing, either. National policy is supposed to be articulated by the administration.

Indeed, we cannot place the principal blame for the state of affairs exclusively on any one institution or group. However, we certainly had a right to expect more consistent and positive leadership from the President than we have received

since 1968. What we have seen as a lackluster, often contradictory approach, one that has shown every indication of having been dictated from the boardrooms of Exxon or Mobil. Even in the face of impending gasoline shortages during this past summer, it was only late last spring that this President finally dropped import quotas. In as many months we have witnessed the appointment of four separate energy czars, the last no more effective or believable than the first. Only on the fifth go-around have we been presented with a strong, competent administrator. We have heard appeals for compliance with voluntary fuel conservation measures that are designed to apply equally to all, yet in almost the same breath we hear of a double standard for motor vehicles that has already resulted in massive disobedience and failure.

Why could we not have seen a well thought out, comprehensive, thorough program before now that could have dealt with our problems starting now, instead of the daily kibitzing and conflicting reports in the newspapers by various administration figures that we have seen? Why cannot we expect to get sincere, concrete energy proposals instead of denunciations against the Congress and vainglorious puffing about nonexistent Presidential energy packages? Why is it that Speaker ALBERT has to issue statements setting the record straight about impounded energy research funds, about the actual contributions that coal and the naval reserv can make to our problems now, about hanging on to import quotas to the bitter end or about the antagonistic unrealistic and misleading response that this President calls his energy message to the Nation?

With this state of affairs as a background, Mr. Chairman, I think I need not plead overlong for the particular features of H.R. 11450 which expressly delineate the measures the President must take in the event of a national energy shortfall. I need not add, I think, that exceptional and persuasive congressional leadership is mandated by this set of circumstances. I hope all my colleagues will agree that it is imperative that the Congress provide for measures which in its considered, best judgment, it deems are adequate to deal with any possible energy shortage. Finally, I trust I can assume the support of all here present for the provision contained in H.R. 11450 that all measures, all restrictions apply equally to every part of the country. And this should mean that every region ought to enjoy the same benefits and share the same hardships as all other regions.

Such a provision is particularly important to me, representing as I do a New England district, we are all being asked to cut back on the use of home heating and residual fuels by 15 percent. Yet, New England is unique among other regions of this country in its dependence on imported oil. We literally have no refineries located in the region to serve our needs. It is estimated that actual shortages of residual fuel in New England may reach 50 percent, home heating fuel 30 percent. Both percentages greatly exceed what is being expected of us—or any other region—yet we will be much more seriously affected due to our almost total—70 percent and 75 percent, respectively—dependence on these fuels for power and heat.

To the people of New England, this winter had already looked to be a grim one. With the Arab embargo and the low priority that fuel oil production has received because of price freezes at seasonal lows, we are no longer concerned merely with tightening our belts. Now the question is one of survival—for businesses of all sizes, for what meager share of the national prosperity we now have. Unemployment in my home State of Massachusetts is nearly double the national average now. I receive calls every day chronicling layoffs and shutdowns in industries ranging from plastics to clothing manufacturers.

Mr. Chairman and members of the committee, New England needs relief. We need it now and we need our fair share—of jobs, of fuel oil, of the attention of this Government. I believe that H.R. 11450 fills the needs for measures which must come if we are to survive our energy shortage without economic recession and depression. It does so in a manner that will insure that the Congress has a good deal to say about the matter. It will also mean, I believe, that justice and proper flexibility will work hand in hand to guarantee equality of treatment under the law. I, therefore, urge your favorable consideration.

Thank you.

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

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

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I should simply like to comment briefly on the question of the gentlewoman from Michigan. As I understand, under present law, the President both under the Economic Stabilization Act and under the Emergency Petroleum Allocation Act, have the authority to set prices. What we do in this act is to provide that, if those prices result in windfall profit, there be a way that these windfall profits can be recouped by those who have been overcharged.

We do not in any way impose a tax.

Mr. MACDONALD. Mr. Chairman, I agree with the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Chairman, I am just going to speak generally on the overall subject of the so-called energy crisis. I do not expect to get into the technicalities of the bill, because there are many.

It is unfortunate that, as I look across the floor of the House, I see less than 50 Members on the floor, and when I look at the press gallery—although I guess we are not supposed to talk about that—I see there are less than a half dozen members of the press here. And yet this is one of the most crucial issues facing the American people today.

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

Mr. DEVINE. Mr. Chairman, I will not yield to the gentleman if he intends to ask for a quorum. I will not yield if that is what the gentleman has in mind.

Mr. ROUSSELOT. Mr. Chairman, I do.

Mr. DEVINE. Mr. Chairman, I do not yield for that purpose.

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

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond.

[Roll No. 657]

Abdnor	Hansen, Wash.	Rooney, N.Y.
Bolling	Hastings	Ryan
Breckinridge	Hawkins	Sandman
Burke, Calif.	Heckler, Mass.	Sikes
Carney, Ohio	Horton	Slack
Clark	Hunt	Smith, Iowa
Clay	Jarman	Stephens
Collier	Johnson, Calif.	Stokes
Conyers	Leggett	Stuckey
Culver	Long, La.	Symington
Diggs	Long, Md.	Taylor, Mo.
Drinan	McKinney	Udall
Erlenborn	Mathis, Ga.	Walsh
Evins, Tenn.	Melcher	Widnall
Fisher	Minish	Wiggins
Foley	Mitchell, Md.	Wilson, Charles H., Calif.
Fraser	Moorhead, Pa.	Wright
Frey	Obey	Wyatt
Ginn	Pepper	Young, Ga.
Gray	Powell, Ohio	
Gubser	Quillen	
Hanna	Rees	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11450, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 369 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose, the gentleman from Ohio (Mr. DEVINE) had 4½ minutes remaining.

Mr. DEVINE. Mr. Chairman, I regret any inconvenience caused to Members of the House in being called by a quorum. My contribution to the debate here will not be of such moment that it will particularly be long remembered. I merely wish to point out that when I mentioned the fact that there were half a dozen or less in the press gallery, and less than 30 on the floor, that the concerns of the people of the Nation were not necessarily reflected by floor attendance here.

And this is probably one of the most critical issues facing our Nation today. We get letters from schoolchildren saying: What caused all this? What is the problem? A great many people are looking for someone to blame rather than seeking solutions.

I would be quick to point out that the President 2 years ago sent a message to this Congress and offered seven programs to be adopted and we in our laborious way have finally adopted one, signed by the President earlier this month, and that was the trans-Alaska pipeline.

What was the cause? Did anybody anticipate these problems? Yes, they did,

but we did not do anything about it and we thought perhaps that it would go away.

One of the problems is that although refineries may be putting out as much oil this year as they did last year, the consumer consumption has increased amounts up to something between 7 percent and 12 percent. When we add to that and couple with it the reduction of oil coming in from the Arab States, from the Arab countries, which is 11 to 12 percent, we find that this shortage combined with the increased usage compounds the problem to over 20 percent.

I think the public has been generous in its response by exercising restraint in the use of such things as gasoline, electric lights, heat, and air-conditioning at the request of the President, recognizing that indeed there is a shortage, and although they would deplore rationing they would accept it only if it was a last resort.

Many people have indicated by mail that the last thing they want is an additional tax or an increase in price because that would hurt the poor people more than any other segment of our society.

But these are all problems we know and recognize and we have to try to seek a solution.

I would say in behalf of the Committee on Interstate and Foreign Commerce and our chairman and members that they worked very hard, having morning and afternoon and in some cases evening sessions. We had more than 100 amendments to clean this up and make it more palatable. We deplored the rule which was granted but it was the only type of rule by which we could get this bill up for consideration. Our response today should be to do the best we can with what we have and try to come out with a reasonable solution.

One anomaly is that so many people who deplored this, particularly on this—Democrat—side of the House, base it purely on granting authority to the President and screaming about the Presidential grab for power but they hastened in this bill to throw this power to the President. They do not want the responsibility for rationing. Let him have it. Of course they say we should not transfer power to the President because he is power mad, and he is the same one they want to impeach for exercising bad judgment in the use of his power; so it is hard to understand why in this bill they want to grant him this power, other than possibly having a "patsy" to blame if people do not care for the result.

For some reason in the committee we took out the word "rationing" because rationing is not acceptable to the people. We put in another word or words something like "fuel allocation" or some other substitute there because they do not want to talk about or to think about rationing as such. This bill says the White House shall do this and then they have to report back to the Congress within 30 days except on rationing. They leave rationing to the President, because if it does come they want to say he did it and we did not do it. Let us put the responsibility on him. Let the President be the scapegoat.

It is a peculiar bill, a peculiar instrument with many political ramifications which we recognize. But let me say that Watergate will not even be a political issue this next year if our people do not get fuel to heat their homes or to turn on their lights or to drive their automobiles. If they lose their jobs because of the lack of fuel, they will not talk about Watergate but they will talk about us if we fail to do the right thing in an effort to meet this serious problem head on.

That is the reason we are here today. We are trying to do our best with a rather cumbersome, imperfect bill to create a workable solution.

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

Mr. DEVINE. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I commend the gentleman for his statement as it applies to Congress facing up to rationing. I think we in the Congress have to bite the bullet as well as the administration. As I have said I think rationing is inevitable and I think for us to bypass the issue is an obvious political gambit, throwing the whole responsibility over to the White House. Both Congress and the administration should face up to their obligations. Rationing is undesirable but when compared to other systems of distributing gasoline it is the best.

I think it is a little bit as Winston Churchill said about democracy, that democracy is a terrible form of government but it is the best yet that has been devised and tried by man.

Mr. DEVINE. I thank the gentleman from Maryland.

Let me conclude by saying that there are some provisions in this legislation that could be helpful and those that would permit a suspension of some of the EPA regulations are among them.

I do not oppose environmentalists. I think environmentalists have a very important part in our society. We do have to clean up the water, the air, and the countryside. But we have to be realistic. They must moderate their positions. This legislation will authorize the President to suspend some of the emission standards that create problems and cut gas mileage, while we have a shortage of gasoline. These are things we have to consider to come up with the best bill possible.

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

Mr. MOSS. I yield to the gentleman from Louisiana (Mr. HÉBERT).

Mr. HÉBERT. Mr. Chairman, I take this time in order to make an inquiry of the chairman of the committee.

Page 4 of the bill, lines 1 and 2, provide for "equitable treatment of all sectors of the economy." Further on, page 44, lines 9 through 17, provide that actions taken pursuant to the authority of this act:

> Resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users.

Do I understand that the provisions of the bill to which I refer are intended, among other things, to insure that users, as well as members of user classes, of refined petroleum products and electrical energy shall be treated equitably among other users and among other members of their respective user class, and that there shall be no discrimination or favoritism shown for one member of a user class over and above another member of the same user class? That is, a member of a user class, whether that user class be manufacturers, the agricultural industry, the sports industry, or the aviation industry, will be treated equitably along with the other members of its respective user class.

Mr. MOSS. Mr. Chairman, if the gentleman will yield, the answer is that the gentleman's question correctly states the intent of the committee in the adoption of the amendment offered by the gentleman from California (Mr. GOLDWATER). It is intended to prohibit any kind of unreasonable discrimination between classes of users. It is dealt with more extensively on page 27 of the report accompanying the bill.

Mr. HÉBERT. Then as I understand the gentleman's remarks, there will be no discrimination in the sports field, I have particular reference to?

Mr. MOSS. No unreasonable discrimination; the gentleman is correct.

Mr. HÉBERT. Who is going to determine whether it is reasonable or not reasonable?

Mr. MOSS. The Administrator and, of course, in the courts there is a long history of case law in the construing of the term "reasonable."

Mr. HÉBERT. Why was the word "reasonable" used?

Mr. MOSS. The term was used advisedly because of the extensive case history in the construction of the term "reasonable" in the courts.

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

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

Mr. GOLDWATER. If I may respond to the question, there was much discussion on this particular topic at the time the amendment was eventually adopted.

I think it was the intent, as Mr. Moss tried to explain, that we do have a shortage. I think it is reasonable to assume that wherever possible, to the greatest extent possible, we should all try to shoulder the burden equally.

The Administrator does have the priority and the authority to establish priorities; but once a priority is established, a classification and all in that classification would be and should be treated equitably.

Mr. HÉBERT. That is what I ask the question to determine; but the other question which the gentleman from California did raise was the use of the word "reasonable" and that was the further question I asked, who would determine the use of the word "reasonable"?

Mr. MOSS. If the gentleman will yield, I felt it incumbent upon me to explain the meaning of the word "reasonable" and that this has been well construed in many court cases in this country; but the clear intent is that it be equitable.

Mr. HÉBERT. That is the intent?

Mr. MOSS. That is correct.

Mr. HÉBERT. Mr. Chairman, I thank the gentleman.

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

Mr. NELSEN. Mr. Chairman, I want to reemphasize the comment made by the gentleman from Ohio (Mr. DEVINE) a few months ago. I noticed in the colloquy some language to the effect that the President should have done something earlier. About the next paragraph or two further on, we complain about the unprecedented power that we have given him. I commented in the hearing in the committee that I hope we do not proceed on the basis of transferring power and then criticizing the use of it.

I want to say this, that in the committee hearing I found a very bipartisan attitude of trying to go ahead and do a good job. That is what I want to do, and I know the Chairman does. I want to compliment our chairman, HARLEY STAGGERS, for the patient way that he presided over this hearing, and I want to say he did a very great job. I supported the reporting of this bill from the commitee, feeling that we had to meet our responsibility and bring a bill to the floor, not necessarily agreeing with every phase of it, but certainly it is necessary to bring a bill out on the floor.

I want to point out to the staff that we have amendments in this bill, I think one goes in one direction and another goes in another direction, and the poor staff has to sit down and try to figure it out, how to take care of it because, really, we do put them on the spot.

Mr. Chairman, may I say this: That the thing we are faced with today is available power supply, available fuel supply, and we find today the trucks of our country without an adequate fuel supply to bring the products around the country in our distribution system. But maybe we are to blame a little bit. We in our committee handled the clean air act. Maybe we pushed a little too fast and a little too far and as a result, instead of 18 miles to the gallon, we get 8. We then move into the area of some of our limitations that we have provided through EPA where coal lies idle; where nuclear power upon which we have spent billions to develop as a possible source of power lies idle in many cases.

However, I want to say this to the Sierra Club and others interested in conservation: I take my hat off to them, because they recognized that we were going in the wrong direction and they put the brakes on. But, I also want to call attention to JOHN SAYLOR'S speech before our committee some months ago—and he is one of the real disciples of conservation—who said in the committee that we had to be tough, but we have reached the point now where there must be some adjustments, and I think that is becoming more and more obvious.

Mr. Chairman, I would like to call attention to the fact that really now, as I pointed out in the hearing, if we are going down the road at 90 miles an hour and make a right angle turn, we are going to roll over. We are in that position, and some of the things that are happening, we had a hand in doing them.

My good friend from New York (Mr. MURPHY) and I joined hands in an amendment that would provide that where the ambient air quality is not disturbed, we can use alternate supplies of fuel. In this case it could be coal, and of course the thing we are interested in is the overall ambient air quality where human beings are not damaged because of the ambient air quality that may prevail.

Now, the individual emissions, stack emissions, might not meet the standard that has been set up, but the overall standard may have been maintained, and we have safeguards in this bill to protect against it. The gentleman from New York (Mr. MURPHY) and I joined in the committee to do exactly that.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman for yielding.

I would like to point out that the Clean Air Act was written and brought to this floor and passed by this committee, and that the committee has no intention of permitting a relaxation of those safeguards to insure clean air and maintain clean air.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. NELSEN) has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman I yield 2 additional minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield further?

Mr. NELSEN. I yield to the gentleman.

Mr. MURPHY of New York. Mr. Chairman, the Committee of the House has no intention of permitting a relaxation that would go back in terms of turning the clock back on some of the air pollution problems we had, particularly in my city and in some of the other cities of the country.

I think the language, as we amended it in the committee, along with one further technical amendment which we will offer on the floor, will protect and insure that the quality of air in the airsheds is maintained, and also that we do meet our responsibility to the problem of the production of energy and the proper use of fuels within our resources, and I am sure that the language will be accepted in the Committee of the Whole.

Mr. NELSEN. Mr. Chairman, I thank the gentleman.

I would like to make one more comment.

I received a letter from John Madgott, of Wisconsin, the manager of one of the fine REA powerplants in the Midwest. I received another letter and a telephone call from Andy Freeman of North Dakota, who runs another powerplant dealing with the REA program.

In North Dakota we have vast coal supplies, and they want to build a powerplant right on top of the coal supply. They want to transmit this power to the Twin City area, where population areas are extensive. This will be done by transmission lines which will not disturb the ambient air quality at all in the wide open spaces, bringing this energy to the Twin City area and distributing it to the needs of the country.

I want to say that this is what we are trying to do. We are not trying to disturb the ambient air quality, but we are trying to follow the mandates of the original Clean Air Act, where in all cases we tried to take into account all of these problems.

I want to say that I hope we can really put this thing together so that we can harness our energy and our fuel supply to produce power and to reduce the demand on petroleum products which we find ourselves in short supply.

Here in my hand I hold an editorial from the St. Paul paper, the Pioneer Press, entitled "Our Attractive Coal":

OUR ATTRACTIVE COAL

The shortages of petroleum and natural gas have turned attention to other fuel sources in the United States—notably coal. Coal is what we have plenty of, we are told.

That fact is not going unnoticed outside this country. Indeed, notes the Wall Street Journal, foreign firms are scrambling to invest in American coal companies, providing funds at rates often cheaper than the mining companies can obtain in the United States, in return for guaranteed supplies.

Thus Dutch, French, Italian and Japanese companies already have made heavy investments in Appalachian mines which produce a high-quality coal used in the making of coke for manufacturing steel. The devalued dollar has made the investments easier.

Here we have a picture of an important energy source being exported from the United States to bolster foreign production which competes with American on the world markets. Officials of the coal companies receiving the foreign funding explain that American steel companies "have been reluctant to make the risk investment to hold coal reserves." What's more, the foreign investors, unlike the American, seems less interested in what the coal will cost them than in having assured sources of supply.

Isn't the script turned around a bit here? Aren't Americans supposed to be the risk-taking capitalists? Aren't we the industrialists interested in assuring ourselves the raw materials we need for domestic manufacturing? And aren't we being a little careless about letting our energy sources (rich as our coal deposits are alleged to be) out of our hands?

American business investment abroad still far outstrips foreign investment here, but it's certainly no one-way street. The Japanese have been investing heavily in Hawaii and the West Coast—in hotels, real estate, factories. West German corporations, bulging with profits, are spending hundreds of millions in American branch factories and other installations. Nothing wrong with that, in itself, but it's a bit disquieting when some of this investment is made a) because American industry to too timid to take the risk, or charges too much for its money, and b) to extract from this country important energy sources at a time when we are all worried about having enough for ourselves.

This editorial points out how the Dutch, the French, the Italians, and the Japanese are picking up coal supplies in the United States at this time and transporting them to other countries and putting them into industry to compete with our industries at home.

Mr. Chairman, it seems to me that we need to wake up and begin to use the resources that we have.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina (Mr. YOUNG).

Mr. YOUNG of South Carolina. Mr. Chairman, everyone knows we are experiencing an energy shortage. Everyone knows the long-range solutions—develop and expand additional energy sources such as the sun, oil shale, the atom, and deep seabed reservoirs; improve delivery techniques with deep water ports, and the Alaskan pipeline; and ultimately move to energy uses that are less wasteful.

All of these things can be done. And, I think now they will be done. This is our silver lining. If 2 or 3 tough years will make us take the kind of action we should have been taking over the last 20 years, we may be able to look back and say—as George Washington might have said years after Valley Forge—"Well, it was worth it."

The key missing word in most discussions of short-term goals in the oil crunch is price. And herein lies a fundamental difference between philosophies. I have a general inclination to let the fair market price allocate resources. Others would have a general inclination to trust rationing—and an inevitable bureaucracy—to do the job, apparently assuming that supplies and needs are stable regardless of price.

But supplies and needs do not operate in a vacuum—they fluctuate with the prices. I need food. And I like grits, some may look at me and say too much. But I like grits much more at 20 cents a pound than I would at $1 a pound. At some point in between, I imagine I would transfer my "need" for grits into a need for potatoes. At that point, it becomes more profitable for others to start growing more potatoes to meet my needs. If, on the other hand, I still wanted my grits at $1 a pound, an awful lot of people would be planting an awful lot of corn, thereby bringing the price down.

Well, the Nation needs energy. Today, we prefer oil and gas to its solar and nuclear forms. But would this preference hold forever in the absence of Government price fixing? I do not think so.

What sort of price increase would it take to deter gasoline consumption by 10 percent? Great Society economist Walter Heller, figures a price rise of between 15 and 20 percent, which is in line with the highest guesses of Gov. John Love and Prof. Milton Friedman. If they are correct, gasoline would then level off at about $0.55 a gallon—hardly enough to make rationing necessary. In most countries, gasoline costs at least twice that.

What about those who would deliberately hold petroleum off the market to keep the price up? In the first place, it would speed up the encouragement of others to market solar and nuclear energy. In the second place—since no single oil company controls more than 10 percent of the market—collusion would be required. And I would be the first to call for a vigorous use of the big stick we have in our antitrust laws. No sane corporation would mess with that kind of power.

I find it interesting that those who would prevent the price of gasoline from finding its fair market level have no objection to additional taxes on gasoline. One day, the New York Times says "higher gasoline prices constitute a regressive tax." On another it says, "higher taxes on gasoline can indeed carry part of the burden." A voluntary conservation drive is fine, but it has less impact than a spitball when it conflicts with economic incentives. Coupon rationing gets hopelessly bogged down as bureaucrats try to decide whether to hand out coupons per car, per house, or per person; to sort out essential driving from nonessential driving; to weigh hard-luck stories; and to deal with black markets.

The way to get people to insulate their homes, drive noisy little cars, and stop making office buildings out of glass is to make energy expensive enough to justify the cost of conservation. Allowing energy prices to seek their natural level is the least arbitrary way to discourage energy use. The price system is simply the best rationing device ever invented, and if it were not able to handle a 10- to 20-percent shortage, we would not be eating more meat today than we were during the beef price freeze.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I want to thank the gentleman for yielding time to me.

Mr. Chairman, I asked for this time to point out something which I consider very irregular that is taking place in my district at this time.

When I read the committee report discussing some of the highlights of this bill, I found that it says this very plainly: That industry must convert to coal, and it must continue to use coal if it is using it.

As I say, I asked for this time to point out how inconsistent, absolutely inconsistent, the Department of Defense is.

I have in my congressional district the Mechanicsburg Naval Depot, and I have been told that this is the largest supply depot in the entire United States.

I also have the New Cumberland Army Depot in my district. You have probably guessed that right in these particular facilities they are converting from coal to oil, if you can think of anything more ridiculous or asinine. I and some of my Pennsylvania colleagues have been fighting this for more than a year, but, as usual, the Department of Defense wins.

Geologists tell us that we have a supply of coal that will last 500 years and a sizable amount of it is right in Pennsylvania. In fact, both of these installations that I mentioned are practically sitting on top of coal mines. One has already been completed and was put in operation about a month ago. The other one is in the process of being completed right now.

One of the excuses that the DOD gave me was that they simply cannot meet the emission standards. I told them in no uncertain terms, and probably in terms I will not use here.

Do not give me that line. If we can place 12 men on the moon and additional men on Sky Lab, do you have the nerve to stand here and tell me we cannot meet emission standards if we make up our minds to do it?

In spite of protests, they did it. What we can do about it now I do not know.

I would like to ask the gentleman chairing the committee at this time, is there anything this Congress can do now under the circumstances to stop this one installation that has not already been completed?

Mr. MOSS. I must admit to the gentleman I have had about four Members here asking me to respond to questions, and I would simply state that if you will restate your question, I will attempt to respond to it.

Mr. GOODLING. I believe you will agree with me that it is a pretty ridiculous thing to be doing at this particular time. Would you not?

Mr. MOSS. I would agree with the gentleman that we are faced with a very difficult situation. We have attempted here on both sides of the aisle to come up with the best solution available at this moment.

Mr. MOSS. Mr. Chairman, I yield to the gentleman from Florida (Mr. ROGERS) for a question.

Mr. ROGERS. I thank the gentleman for yielding.

I draw your attention to sections 103(h)(1) and 105(b) of the bill, which provides for top priority to the maintenance of vital services such as health care and hospitals. As you know, some of the most critical substances today are petrochemicals. For example, petrochemicals are used in the production of solvents essential to the manufacture of penicillin, sulfa drugs, antiseptics, and germicides. Petrochemicals are also used in the production of plastics and rubber substitutes used in medical devices such as syringes, tubing, artificial heart valves, and other vitally needed health care products.

Is it your understanding that this section is intended to include priority for the allocation of petroleum products including propane to the petrochemical industry for these purposes?

Mr. MOSS. That is my understanding, and it is a matter which was discussed at some considerable length during the course of the markup. I think it was made quite clear that it was the intent of the committee that that be done.

Mr. ROGERS. I agree with the gentleman, and I yield back the balance of my time.

Mr. MOSS. Mr. Chairman, I yield to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. My distinguished friend from California, a number of my constituents have voiced serious concern about the effect this legislation would have on the availability of fuel used for agriculture aviation purposes.

Section 103 of this bill states that—

A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, *agriculture*, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

Is it correct that petroleum products used in aviation for agriculture purposes such as crop dusting and planting will be entitled to priority as an agricultural use and not treated as a general aviation use?

Mr. MOSS. It is my understanding that it would be dealt with as a matter of priority in the maintenance of agricultural operations as set forth in the report on the Emergency Allocation Act which passed this House earlier. The report number is 93–628. In section 4 thereof the exact language is "maintenance of agricultural operations, including farming, ranching, dairying and fishing activities and services directly related thereto as a part of the mandatory allocation."

Mr. MOSS. The answer, succinctly stated, to the gentleman's question, is that the gentleman is correct; it would be agricultural and not regarded as part of general aviation.

Mr. BROOKS. I thank my distinguished colleague, the gentleman from California (Mr. Moss) for this clarification.

Mr. MOSS. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, the purpose of this act is to make do with what we have got. That is the real purpose and objective of the act. The situation is precisely this: We have approximately 16.7 million barrels of crude oil per day which we must make do in place of 19.7 million barrels of crude oil per day.

Section 103 of the act is the most important section of the act. It creates the machinery by which we can accomplish this objective. To point precisely to the language that permits it, my colleagues should refer to page 4 of H.R. 11882, lines 4 through 8. And if my colleagues have the original bill, the same language is found on page 7, lines 20 through 25, where it is provided that an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product may be established by the Administrator. Incidentally, the language reads "President," but if one looks at page 9 of the bill the authority here granted to the President is transferred to the Administrator.

That is the section that permits allocation. That is the section that permits one user to receive a petroleum product rather than another user at a lesser level of priority, or an area of the country to be treated fairly as against another area of the country.

The other important part is on page 5, lines 8 through 17. If the Members have the other copy of the bill, the one that was passed out originally with the strikeouts and the revisions, it will be found on page 8, line 24, through page 9, line 8.

That section provides, and it uses again the term "President"—for which you should read "Administrator," because of the provisions on page 9—that the Administrator may require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum products produced through such operations.

Well, that is the problem: to get, as I said before, from 16.7 million barrels of crude the same amount of residual fuel oil and distillates, that we would have gotten from 19.7 million barrels.

How can this be done? We presently produce our residual fuel oil and our distillates from approximately 25 percent of the barrel of crude oil. Using the 25-percent figure as against 19.7 million barrels, we get a certain quantity of distillates and fuel oil. What, then, is the percentage needed to get the same amount of distillates and fuel oil from 16.7 million barrels, the reduced amount of barrels of crude? If you will figure that out, you will find you have to move up to 29 percent of the barrel. Now, that is the problem.

Therefore, section 103 is the major answer to the shortage: Go up 4 percent in the percentage of the barrel used for the most necessary purposes, for home heating and for turning the wheels of the economy. We give the President that authority in section 103 without reserve. We do not tell him he has to come back to Congress. He has got it, if this bill is passed. He may have it under present language of legislation we have already passed—the Economic Stabilization Act and the Emergency Petroleum Allocation Act. But to make it absolutely clear, we spelled it out in the language which I read to the Members. What is the cost of producing that amount of distillate and fuel oil? It may be as much as 5 percent less of the barrel used for gasoline. In other words, we might have to drop from 45 percent of the barrel which goes to gasoline to 40 percent. If we do that we are using 40 percent of 16.7 million barrels instead of 45 percent of 19.7 million barrels.

If we go to the trouble to figure that out mathematically, we will come out with 25 percent less gasoline than we would ordinarily use. That is the problem.

The question is primarily one of allocation. However, I must point out that the bill really deals with three subjects in order to meet the crisis: Allocation, as I have described, under section 103; proscribed and monitored use, which is contained in section 105; and means of stretching available resources, which is contained in section 106 and in title II.

What has our House committee done? Our committee has acted discreetly in these three areas. In the area of allocation, we have granted power to the Administrator to act immediately and extensively. We do not delegate such extensive authority with respect to proscribed and monitored use, as, for instance, in closing down stores that remain open until 11 p.m., or with respect to denying electric power to the bowling alley, or telling somebody he cannot use gasoline in his private plane, or providing rules and regulations to command carpooling. With respect to that area, we do not delegate authority. We provide that the Administrator may recommend a plan, and we must independently act upon that plan after hearing the persons who may be injured by such proscription or such monitoring.

I think that is fair. I think that is desirable, and I think if we do not do that, we are going to have many irate people who will tell us that we have done more than we should have done in emergency legislation.

The third thing we do, and that is covered by section 106, in title II, is to devise means of stretching available resources. In those sections we provide for coal conversion, and in those sections we relax EPA provisions with respect to clean air. We do it discreetly, and we limit those provisions. I think, in general, we do it properly. I think there are desirable amendments to those sections, but we are at least shooting in the right direction.

Why is this bill preferable to the approach in the Senate bill? The Senate bill does not make these discreet differences between that which must be done and that which we may think might well be done. The Senate bill simply delegates full authority to the President by plan to deal with allocation, to deal with proscribed and monitored use, and to deal to a large extent with means of stretching available resources.

I submit to my colleagues here, and I particularly urge those sitting to my left, that they should consider how quite conservative our approach is as compared to the Senate approach. In a crisis and in emergency legislation, above all other times, power should be delegated as sparingly as possible.

This is the very time when we should not delegate unnecessary legislative power to the Executive.

What is the necessary power that must be delegated? It is the allocating power. It is the allocating power and not the power to proscribe and to monitor. That power should remain in our hands. That is precisely what we have done in the language of this bill.

Mr. BROYHILL of North Carolina. I yield 9 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I rise at this time to discuss those provisions which are already in the bill, the so-called antitrust amendments, so that I can give to those of my colleagues who are here some background on this particular part of the legislation and perhaps later on I will have an opportunity to discuss one other amendment which the rules makes in order for me to try to include in the legislation.

Experience over many years has shown that many segments of industry are hesitant to cooperate fully and freely with the Government in programs of joint action. The risks associated with later charges of price manipulation or other restraints of trade arising from requested action taken with competitors is too substantial, many companies feel, without some solid assurance of immunity under the antitrust laws.

This is particularly true of the petroleum industry, which has had numerous brushes with the Federal antitrust agencies over the many years since the old Standard Oil case. Oil companies at all

levels of the industry, we have found, are extremely reluctant to meet, discuss problems, and take any action together which might in any way be construed as violating the antitrust laws. Unless assurance against later attack by antitrust agencies can be provided, no meaningful joint effort by these companies to assist the Government in dealing with our national energy problems can be successfully mounted. Industry cooperation would only be hesitant, partial, overcautious and necessarily incomplete.

Yet at the same time, provision for antitrust immunity must be carefully and narrowly drawn. The antitrust laws are an integral part of our economic policy of competitive free enterprise. Any exemption from their general applicability must be in response to a clearly defined need.

It must cover only specific conduct requested by the Government to meet an overriding governmental need. And it must apply only to specific groups undertaking that action. I believe that the antitrust provision we have drafted in cooperation with Congressman Moss, the Antitrust Division of Justice, representatives of the industry and the committee counsel, meets these objectives while also providing adequate safeguards to assure against abuses in the exempted conduct.

Section 120—which passed the committee 28–8—provides for the establishment by the Administrator of the Federal Energy Agency of voluntary agreements, as well as plans of action to implement them, which he determined to be necessary to accomplish the objectives of section 4(h) of the previously passed Emergency Petroleum Allocation Act of 1973. He shall also promulgate rules, standards, and procedures under which these programs of joint effort are to be developed and carried out. Eligibility for signatories to voluntary agreements and participants in plans of action, however, is specifically limited under subsection (d) to persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum products

Subsection (g) provides that actions taken in good faith to develop or implement a voluntary agreement or plan of action shall not be construed to be within the prohibitions of the Federal antitrust laws, the Federal Trade Commission Act, or similar State and local statutes. This exemption is strictly limited to actions taken in accordance with this section and the rules to be promulgated hereunder, and given only to participants engaged in those branches of the petroleum industry I have just mentioned. Taken together, these provisions insure that voluntary agreements and accompanying antitrust immunity will be limited. Under another section, 114, of this act retailers are similarly exempted so that they can set voluntary agreements to assist conservation of energy.

Both sections contain a number of safeguards to protect the public and insure open deliberations. Meetings to develop a voluntary agreement or plan of action must be chaired by a regular full-time Federal employee and must be preceded by timely notice, including the agenda, to the Attorney General and the Federal Trade Commission. A full and complete verbatim transcript of such plan developing must be kept, which shall be deposited with the Attorney General and the Federal Trade Commission and made available for public inspection in accordance with the Freedom of Information Act.

Public participation in the planning is also assured in other ways. There must be advance notice of meetings to the affected community, and interested persons must be permitted to attend and present their views. In addition, the groups which are formed to develop agreements and plans are required to include representatives of the public. I would note here, parenthetically, that although section 120 does not specifically so state, we would envision that the Administrator's procedures would require that the industry composition in these groups must include adequate representation to all segments of the branch of the petroleum industry involved, such as labor.

The Attorney General and the Federal Trade Commission are involved at every step of the planning process. The voluntary agreements and plans of action are formed subject to their approval, as are the governing rules, standards and procedures promulgated by the FEA Administrator. I have already noted that each agency receives notice and the opportunity to attend all meetings and receives written records of all meetings. Finally, each agency is to monitor operations under section 120—which under this bill are to last, at the latest, until May 15, 1975—and submit reports every 6 months to the Congress and the President on the impact on competition and small business.

The most important antitrust safeguard, however, is that each voluntary agreement or plan of action must be submitted in writing for approval to the Attorney General and the Federal Trade Commission at least 10 days before being implemented. Either of these parties may modify, amend, disapprove or revoke any such agreement or plan, upon their own motion or upon the request of any interested person. This action may be taken at the time of initial submission or at any time thereafter when operational experience dictates the need for such action. If an agreement or plan should be revoked, this thereby withdraws prospectively the immunity which had previously been conferred.

I would note in conclusion that section 120 also provides for the establishment by the Administrator of advisory committees to assist him in carrying out his duties under the act. Their formation and operations are hedged with similar safeguards to the public. However, they are separate and apart from voluntary agreements and plans of action which alone carry antitrust immunity for participants.

The purpose of section 114—the limited retail antitrust exemption—which passed the committee 23–13—is to provide a temporary and carefully circumscribed exemption from the antitrust laws for retailers to enter into limited kinds of voluntary energy conservation agreements that promote the objectives of the act.

There are two important considerations underlying this provision that should be emphasized. First, the limited exemption conferred by this section is essential if there is to be an immediate response by the hundreds of thousands of retailers to the energy crisis. Second, the exemption is very limited and subject to careful controls against abuse. Let me discuss these considerations in more detail.

The reason why this section is necessary is because as the act is now written, energy conservation measures depend upon Government initiative and there is a limit to what Government can do. Federal and State officials, by necessity, will have to concentrate on broad programs. They will not have time, at least at the outset, to pay attention to the thousands of minor items which individually might accomplish little but which collectively can result in enormous energy savings.

Government will not, for example, be able effectively to legislate the details of fair closing hours for the thousands and thousands of stores in different settings all over the country, whether they be in village centers or large suburban shopping centers. There are just too many thousands of establishments involved. These stores are willing to contribute to the energy conservation effort if their neighbors will do the same. But they cannot make a joint contribution without running the risk of Federal and State antitrust violations. Section 114 would temporarily eliminate this problem. Thus, by encouraging retailers at the local level to cooperate in developing energy saving measures, the provision will enable them to take steps immediately to further the objectives of the act without burdening government with the need to initiate thousands of detailed proposals and without the delays that otherwise exist.

The exemption provided for, however, is as limited and controlled as it is necessary. The section provides that notice will be given of all meetings between retailers, that the public can participate, and that summaries of the meetings must be kept and must be submitted both to the Federal Trade Commission and the Attorney General. Discussions between retailers will thus be carefully monitored. There is no exemption, of course, for talks or agreements that stray from the objectives of this Emergency Energy Act.

Most importantly, voluntary agreements under this provision must promote the objectives of the act. They must be submitted to the Attorney General 10 days before they can be acted upon, and they can be modified or terminated by the competent authorities at any time. They may not, in any event, remain in effect beyond May 15, 1975. Finally, protection against abuse of the exemption will be guaranteed by the participation of the Department of Justice and the Federal Trade Commission in the development of the basic standards and procedures governing meetings and agreements.

The proposed amendment does pre-

empt the operation of State antitrust laws with respect to conduct taken pursuant to the provision as well as exempting that conduct from the Federal antitrust laws. This preemption is essential, since State antitrust laws are similar to the Federal antitrust laws and could, absent a preemption provision, prohibit the agreements called for in the proposed amendment.

There is, in sum, more than ample justification for this limited exemption and more than ample insurance against abuse.

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

Mr. HUDNUT. Mr. Chairman, I thank the gentleman from North Carolina for yielding to me.

Mr. Chairman, the Environmental Protection Agency is in the process of promulgating transportation control plans for some 38 American cities, of which Indianapolis is one, consequently I would draw the committee's attention to section 202 of the Energy Emergency Act (H.R. 11450) which contains a very significant modification of the power of the Environmental Protection Agency. It prohibits EPA from ordering parking fees in the future and declares all parking surcharge regulations previously promulgated by the Administrator of the EPA as null and void upon the date of enactment of this legislation. The Administrator is instructed to conduct a study of the necessity of parking surcharges and report back within 180 days. This section also gives to the States the right to develop such transportation control plans regarding parking as they may deem wisest in their effort to achieve high-quality clean air.

I feel very strongly about the importance of this subsection because the district I represent, which forms part of the community that is Indianapolis, Ind., had a very unpleasant experience when representatives of the Environmental Protection Agency conducted a public hearing in Indianapolis on November 28, 1973. The entire civic and business community as well as the mayor of Indianapolis and his administration were antagonized by the high-handed arrogance of these four bureaucrats who came into town as though they had just stepped off Mount Olympus, gratuitously delivered their statements of intent about promulgating a transportation control plan for Indianapolis, treated the testimony of leading citizens of Indianapolis with apparent disdain, and left town with the threat that their regulations would be promulgated by December 15 and implementation would follow in 3 or 4 months—or else. The whole episode was a sorry example of the tyranny of the bureaucracy and I cannot sit idly by and watch the business and commercial interests in my district crucified on the altar of air purity by arrogant bureaucrats who make no effort to work with the local community. This is not to imply that we should relax our commitment to achieving clean air in our country, combating pollution, and improving the quality of our environment; it is simply to suggest that we should move toward these goals with patience and reasonableness, working with each other in a spirit of mutual respect and cooperation instead of assuming the position of hostile adversaries.

The most comprehensive report I received of the Indianapolis hearings came from the chairman of the board of one of our banks, and I take the liberty of inserting his letter to me in my remarks at this point:

DECEMBER 5, 1973.

Hon. WILLIAM H. HUDNUT III,
U.S. House of Representatives,
Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN: The purpose of this letter is to bring you up to date on a situation involving the EPA that happened in Indianapolis during the month of November, 1973. I am writing you this letter so that you may be fully informed of this situation so as to reflect on something that could be very dangerous and that possibly is happening elsewhere in the country.

The EPA gave the community of Indianapolis seventeen business days' notice (Nov. 6, 1973) that they will conduct a hearing concerning seven regulations that they will promulgate becoming effective December 15, 1973. They mentioned that the hearings will take place on November 28 and 29. Needless to say, the short notice and the drastic impact of their seven regulations not only caught this city by surprise but caused all the leading citizens so much concern that they did not believe what they were hearing.

The following is a summation of the seven points:

1. The establishment of an annual inspection and maintenance program using an idle mode test; this will cover vehicles registered within Marion County.

2. A requirement that all pre-1968 and/or pre-control automobiles or trucks be retrofitted with non-catalytic emission reduction devices.

3. A parking surcharge applicable to all off-street parking within the city limits of Indianapolis. This surcharge would be at a graduated rate from 15¢ to 25¢ per hour, with a three hour grace period. It is our understanding that this surcharge would be applicable to all off-street parking, be it at a plant site, a shopping center, or a parking garage. The only area that would be exempt would be an individual's private driveway.

4. The creation of exclusive bus/carpool planes.

5. Restrictions on the total availability of on-street parking within the city of Indianapolis.

6. A requirement that all service stations in Marion County purchase, install and employ appropriate vapor recovery control devices for all gasoline tank filling operations.

7. A regulation they call Complex Source, which stated in effect that there will be no new construction of any sort that would add one parking space to the city of Indianapolis. This would include shopping centers, apartment complexes, industrial buildings and commercial buildings. The only category exempt were single family residences.

Regulations regarding these 7 points would be promulgated December 15, 1973.

The above seven points were based on air quality data gathered over a 90-day period during the third quarter of 1971 in two locations using a measuring device that was out of order for approximately 45 days out of the 90-day period. The air quality data gathered was highly challenged by the local community as being far from accurate. Also the standards that they were measuring this data against (Clean Air Act of 1970) are to be challenged. however, the EPA indicated that those standards, that were set by virtue of the Act, are law and must be obeyed and adhered to.

I personally attended the first day of the hearing and was there for approximately 9 and ½ hours. What I witnessed was the most frightening situation that I have yet experienced. There were four hearing Judges, those being Messers. John H. Chicca, Dale S. Bryson, William Y. Luneburg and Dr. Robert Zeller. The presiding officer at the hearing (Mr. Bryson) had an opening statement indicating that they were here to pick up public comment and opinion given the proposed regulations to be promulgated. The people testifying were the following:

GOVERNMENT

Honorable Richard G. Lugar, Mayor of Indianapolis.

State of Indiana—Mr. Pickard, Ind, Air Poll, Cntrl. Bd.

Richard Wetzel, UNIGOV Director, Transportation.

Michael Carroll, UNIGOV Director, Metropolitan Dev.

Roger Pate, UNIGOV Director, Public Works.

Gary Landau, City Legal Corporation.

Mr. Henderson, ICFAR (Indianapolis Center for Advanced Research).

BUSINESS, INDUSTRIAL, PROFESSIONAL, ORGANIZED LABOR, EDUCATION TESTIFIES

American Fletcher National Bank—Frank E. McKinney, Jr.

Indianapolis Chamber of Commerce—Donald R. Loftus.

Eli Lilly and Company—Patrick Butler.

Indiana National Bank—John Benbow.

L. S. Ayres & Company—Dan Evans.

UAW—Buford Holt.

P. R. Mallory—Dr. Donald Wilson.

Indiana Bell Telephone Company—Max G. Lewis.

Stokely-Van Camp, Inc.—Fred Laird.

Indianapolis Parking Association—James Seidensticker.

Indiana Petroleum Council—David R. Davis.

Rock Island Refining Co.—L. E. Kincannon.

Mobil Oil Company—Robert Maynard.

Insurance Institute of Indiana—Charles Van Arsdel.

Indiana University/Purdue University Indianapolis—Vice Chancellor Ryder, Don Franklin.

Merchants Association—Vince Haggerty, Sears, Roebuck.

Indiana Paint and Coatings Association—William Wright.

E. J. DeBartolo Corp.—Cy McBride.

Indiana Farm Bureau.

Indiana Motor Truck Assn.—Mr. Cline.

This list represents a great portion of the leading citizens of Indianapolis. All of these people were violently opposed to the EPA regulation, and the manner in which EPA came to our city to force these regulations upon this city and its citizens.

The "hearing" turned out to be the most frightening experience that those in attendance had ever viewed. Those that were testifying were cross-examined, belittled and tolerated. The four hearing Judges treated them with contempt, disdain and refuted any point they made at will using as a justification their own (EPA) opinions and conclusion. The EPA people called for a "hearing" but instead they tried to tyrannize and belittle those testifying. The EPA people were judge, jury and dictator. To summarize some quotes picked up in the audience, they were arrogant, dictatorial, had preconceived opinions, closed minded, cute, lordly and as one party said, now he knows what a Russian Commissar is like when he has a public hearing. They haughtily were enforcing the standards set by the Clean Air Act of 1970 giving no consideration for what effect it would have on the community or its people. As one person said after walking out of the

meeting, for about eight hours that day he did not know he was in the United States. Considering the age-old principle that this country was founded on, that being government of the people, by the people and for the people, this group was practicing government to the people dictating in an unrelenting, closed minded, manner their regulations that they created to be promulgated on Indianapolis.

It is one thing to criticize regulations and I think we are comletely justified in criticizing these regulations but even more important the manner in which they were presented. I would like to offer some of the recommendations that the citizens and leaders of this city were trying to tell these four EPA people.

Concerning regulation No. 1 as stated above, there was general agreement providing that the pollution level is a level arrived at by a coordinated EPA/industry/local and state government decision.

Concerning regulation No. 2 there was disagreement with this unless the auto in question did not pass the annual inspection as stated in 1 above.

Concerning regulation No. 3 there was a unanimous opinion against this regulation. This, if implemented, would simply close the city of Indianapolis and there was strong testimony to this effect.

Concerning regulation No. 4 the Transportation Department of the city of Indianapolis is presently working on solving our mass transportation problem. We do not have any mass transportation except for buses and our Transportation Department is working on a master plan to serve this city.

Concerning regulation No. 5, again there was unanimous opposition to this regulation because without the automobile in Indianapolis, Indianapolis will stagnate and die.

Concerning regulation No. 6 there was testimony given that these devices simply do not exist. The EPA's curt answer to that was, in essence, "that is your problem, they must be in by March 15 of '74."

Concerning regulation No. 7 I think you can see how absurd this is. What they are saying is that they, the EPA, will dictate if any new construction can occur in Indianapolis, Indiana.

As mentioned before, all of the seven regulations were based on a very faulty air quality data base. The city of Indianapolis, the state of Indiana and the private sector has a different opinion as to the quality of air in Indianapolis and would be willing to prove it, however, the EPA hearing judges indicated that there is no time for that, we had our chance and now we have to pay the penalty. The four people seemed completely unwilling to work with those three groups in any way, shape or form.

One person asked the question to the four Judges, had any of them ever been to Indianapolis? The answer was "no, that was not necessary, we have our statistics to tell us what this city is all about"; however, one Judge expressed complete surprise when told that we do not have a mass transit system thought that we had a system similar to Chicago.

All of us want clean air but we also want jobs, purchasing power and conveniences that our dynamic society can provide, given the opportunity for the free enterprise system to function. We all know that we can solve the many faceted air pollution problems by employing American industrial ingenuity and coordinated governmental effort. We are all quite skeptical that the pollution problems can be solved by employing overnight, expedient, temporary solutions generated by government dictates which have as their real result the harming of the consumer, who is our society.

We strongly encourage the EPA to work with the talents that exist in this country, be they from private enterprise or university campuses or other government agencies to effect over a reasonable period of time a total pollution control program which can be implemented and economically absorbed by an existing economic society. For example, I feel quite confident, and providing that the air quality standards were judged to be proper and correct, that had the EPA gone to the major auto companies and said let's work together to have clean air in five to seven years and had given the auto companies certain incentives, that the pollutants caused by the automobile could have been corrected through advanced engine research and development.

Instead, the auto companies were forced to add anti-pollution devices to the engines which raised the cost of the automobile to the consumer and resulted in a drastic decrease in engine efficiency (miles per pallon). This is a prime example of the EPA implementing haphazardly designed programs in the most expedient manner.

With this very vivid and most recent display of an EPA hearing, we are wondering in how many other cities across this country is this taking place? Something has to be done or else this great economy of ours will grind to a halt under the weight of illogical and unintelligible bureaucratic policy and dictates. The thing that is missing is the consideration for the people of this country, as well as the economic system that has made this the great nation that it is.

Sincerely,

———.

That was not the only reaction I received. The chamber of commerce stated:

The Chamber stands in strong opposition to all of the radical strategies now being proposed by the Administrator of EPA in the form of transportation controls for our region . . . . It is our judgment that the proposed rules in this plan (for extraordinary parking surcharges on off-street parking facilities within the metropolitan-Indianapolis area) are unrealistic and uneconomical.

One irate businessman wrote me and appealed to the House of Representatives "to protect us from this newest obnoxious form of tyranny." Another, in more temperate language wrote:

The proposals for Indianapolis appear to be using a shotgun to kill a fly.

Another wrote:

We folks in Indianapolis have built a pretty good place in which to live and work. We like Indianapolis just as it is. We do not want or need Federal interference in our businesses and lives. . . . The EPA wants to not just curtail our growth, but jeopardize millions of dollars and thousands of man hours spent in creating a workable, efficient and attractive central business district. What next? I genuinely believe we, the people, would be far better off without agencies such as EPA . . . . It would be nice to live in a society where all things are perfect—environment, social conduct, growing economy, etc., but let's face reality and adopt a philosophy of "all things in moderation."

Another businessman, vice president of one of the largest corporations in Indianapolis, wrote about the four EPA hearing officers in very strong language:

To me their action is nothing more than pig-headed, two-bit bureaucrats, shot in the posterior wtih a little bit of authority, refusing to admit they are wrong and trying to enforce their will upon the general population. If anything in the history of our country ever smacked of the Nazis and of Germany prior to World War II, this is it. As you by now probably are fully aware, the EPA took air samplings in Indianapolis in 1971 in two locations. One of these was located within one mile of the leeward side of the Rock Island Refinery on the north side of the city and generally away from populated or highly-developed areas. Based on these air samples (they refused to recognize samples taken later in different locations) this group of despots in the Chicago Regional Office of the EPA are trying to impose a set of . . . . restraints on the lives of people of Indianapolis and the development of this community to a degree that borders on dictatorship. Their data is not valid, their conclusions unrealistic and their action precipitous. In true bureaucratic form, they waited until the last minute to come up with their solution so that the people affected do not have time to develop counter proposals on a sound basis, and then they insist that their extremist ideas be implemented so that they can "comply with the laws passed by Congress."

Editorials appeared in both Indianapolis newspapers. On Sunday, December 2, the Indianapolis Star editorialized as follows:

PERILOUS PROTECTION

Hearings conducted here by the United States Environmental Protection Agency on its plan for reducing air pollution in Indianapolis have made it clear that the community faces a formidable adversary in EPA.

And "adversary" is definitely the correct term. The agency is determined that the air in Indianapolis shall be what EPA thinks it ought to be, and it cares not at all what the costs may be or on whom they fall.

The hearings were informative for the community but we doubt that they did much good as far as the attitude of EPA is concerned. It is obvious that the agency had already made its decision and that it was presenting a final plan, not a proposal for discussion or negotiation.

Even the possibility of correcting the gross inadequacy of what EPA calls "the data base" seems inconclusive. It is ordering drastic measures to curtail automobile travel in Marion County, and the action is based on data about the present condition of the air gathered in a short period of sampling more than two years ago at only two locations in the county.

At one point EPA's chief spokesman at the hearings said further testing of the air quality will be made to ascertain whether all of the plan is necessary. At another point he said it was up to protesting city and state bodies to gather and present "acceptable" new data.

The agency's cavalier attitude toward the adequacy of research in this instance causes us to wonder very seriously about the research that went into the original setting of the "standard" of air quality EPA is now engaged in enforcing. The standard is a maximum number of micrograms of "photochemical oxidants" in a given quantity of air.

Supposedly the standard was determined on the basis of careful research to find the level at which oxidants become harmful to health. But if that research was as casual as EPA's research in Indianapolis the standard really is a number pulled out of a hat. Is that the case?

That standard is the basis for the havoc EPA has already wrought in automobile production by requiring the addition of costly, gasoline-consuming gadgets to engines. And now that it has gone about as far as it can go in the fantastic reduction of chemical exhaust emissions it is requiring carmakers to achieve, EPA says that's not enough and so it is setting about to force motorists to make less use of their cars.

One way EPA proposes to do this is to con-

trol future building of any kind of public, commercial or industrial facilities, including highways, that "tend to generate motor vehicle traffic."

The building of any such facility would require a permit issued on condition of a showing that the traffic it would generate would not interfere with maintaining "national air quality standards." Under such restrictions EPA would have power to bring future development to a screeching halt.

Another example of EPA's style of operation is its promulgation of rules that have forced and continue to force conversion to coal-burning electric generating plants to convert to oil or gas. The agency continues unperturbed on this course despite the fuel crisis that now results in new shortages of electric power from the converted plants.

It is high time to seek relief from EPA's mounting arrogance, before damage to the economy becomes disastrous. Congress should call a halt to the agency's operations while a searching examination is made of the basis for its activities, and of their results.

The Indianapolis News on Monday, December 3, wrote a lead editorial which went like this:

THE EPA PLAN

"Absurd" would be a charitable description of the U.S. Environmental Protection Agency's plans to turn downtown Indianapolis into a national forest.

In two days of hearings at the World War Memorial, representatives of the EPA informed a hostile community of its proposed regulations which include a harassment tax on downtown parking, an emissions test for autos—the passing of which would be a prerequisite for obtaining license plates—restriction of on-street parking, and equipping of pre-1968 vehicles with gas-gobbling emissions controls. Beyond the downtown area, the EPA plans drastically to curtail the construction of shopping centers and other facilities the agency feels might contribute to air pollution.

What is particularly galling about this move by EPA is that it is not taken on the basis of data indicating it will reduce air pollution by any specified amount. EPA has proposed these rules because it does not accept data gathered by the state in 1972 which showed Indianapolis to be within pollution limits established by law. The state insists that no violation exists but EPA, having presented its side of the case to itself, has ruled in its own favor and appears determined to promulgate the rules over near-universal local opposition.

EPA's claim that it is issuing the regulations under the gun of a court order cannot be accepted at face value. Whether the court (a Washington, D.C., appeals court) would require action where no pollution problem exists is questionable—and the existence of a problem is a matter still to be resolved.

Mayor Lugar is quite correct in observing the EPA must soon recognize "what cities are all about." Area residents rely on the city to provide jobs and income. They do not come here to camp in a pristine wilderness. Lugar noted that the city of Indianapolis showed an increase in retail sales downtown for calendar 1972, the first such increase in a decade. This occurred, he added, at a time when most cities around the nation are decaying at their centers.

This improvement has come after substantial investment by public and private agencies in new construction, new offices, new facilities of every kind. The mayor's words are apt: "Too much planning and sacrifice is represented here to plow it under by distant decree and sheer ignorance of the dynamics of cities."

It was only this past summer that EPA proposed to ban all backyard burning of trash in a seven-county area to cut air pollution. The result would have been inconvenience and expense to every resident. EPA now reports the ban would not have reduced pollution on "the order of magnitude originally believed," which is its self-serving way of admitting it had gone off half-cocked in the first place.

Every indication is that EPA is repeating its performance of last summer and the mayor is to be encouraged in his determination to fight the agency in court and in the Congress.

Mr. Chairman, it seems to me that the point is obvious. If the bureaucracy of the Federal Government is allowed to proceed unchecked, the free enterprise system will soon be destroyed beyond repair in our country, individual initiative will be forever lost, and socialism will have arrived to stay forever and ever; pure and simple. The long arm of the Government must not be allowed to grow any longer. The regulatory agencies must be reminded that they are the servants of the people, not the masters. Government must be decentralized and local initiative must be encouraged. Government must see itself as a partner with private enterprise rather than an adversary. The Federal Government must join hands with State and local government, not hamstring them. Of course, we want and need clear air. Of course, we want to preserve the health of our people. But not at the price of individual liberty being killed by social planners. Not at the price of private business, commercial and industrial interests being high-handedly treated by brash bureaucrats who have never worked for a profitmaking institution and seem to be unaware of the severe economic dislocation their plans will entail. And not at the price of Government control of all sectors of life, both public and private.

Mr. Chairman, I hope this section 202 stays in the bill and encourage my colleagues in the House to support it. It represents a very responsible way of repairing damage already done, and it will assure communities such as Indianapolis that they are given the opportunity to participate in the decisionmaking process regarding transportation control systems which will affect the lives and incomes of millions of citizens throughout the country.

Let me say that I support also the amendment which I understand will be offered by the distinguished gentleman from California (Mr. LEGGETT) to require the EPA Administrator to make a survey and report back to the Congress on the necessity of preferential bus-carpool lane regulations. The city of Indianapolis has an excellent road network which is capable of a high-volume traffic flow. The proposed creation of exclusive express bus and carpool lanes there would lead to traffic control problems, enforcement problems, and traffic stalls which waste gasoline and create more pollution. Needless to say, I am hopeful that proposed regulation will be eliminated.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. Mr. Chairman, it is my sincere opinion that we face one of the most serious crises in our Nation's history. We as a nation are going to experience an inexorable change in our entire way of life. No one is more aware of this than a Congressman from New England.

A change in domestic policy—the regulation of the basic force in American life—energy is now past due.

I for one thank the Arab nations for bringing us to our senses early, for had they not, I am sure we would have been over the barrel in 5 to 8 years.

We could not continue a great power dependent on our life blood from abroad.

We could not afford the dollar drain much longer. So in fact we have been luckily brought to our senses.

But how are we the constitutional settlers of domestic policy acting? We appear more interested in the Christmas recess than in energy.

But most definitely we seem most desirous of pulling a "Gulf of Tonkin" and getting the monkey off our back.

Here is where we sit today:

First. We have no facts of what the depth of the problem is or where it is—and yet we give the executive branch ultimate power when they cannot even give us facts.

Second. We allow the executive power over every aspect of American life. I suppose—if they do not like basketball, they could turn it off at night in favor of football.

Third. This bill invades the jurisdiction of many other committees without comprehensive legislation in any.

Fourth. What is a windfall profit?

Fifth. What is the shortage?

Sixth. What is the Executive going to do? They will not tell us.

Seventh. What do we do with emission standards?

In other words we legislate in complete ignorance.

We give power without limit, not knowing who will suffer or whether the administration will be evenhanded.

Do we want to impose gas rationing at the whim of the administration, or are they going to price us home.

We do not know.

Mr. Chairman—a "Gulf of Tonkin"—no, no more!

T.R. was talking to a friend who said he liked young men "because they get things done." T.R. answered that is not important—what they do is important. In fact, we do not know what we are doing.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 7 minutes to the gentleman from Illinois (Mr. YOUNG).

Mr. YOUNG of Illinois. Mr. Chairman, first of all I would like to commend my colleagues who serve on the Committee on Interstate and Foreign Commerce for the diligent work that they have performed with respect to the preparation of this bill. I particularly would like to commend the chairman (Mr. STAGGERS), for his patience in working with all the Members, with the blizzard of amendments that were offered on the bill. I would also like to commend particularly the gentleman from Florida (Mr.

ROGERS) for the work he did on the automobile emission section. I would also like to commend especially the gentleman from North Carolina (Mr. BROYHILL) for the particular attention he has paid to certain sections of this act, including an amendment he is going to be offering which I intend to speak about.

We need this bill. This is a difficult and a complex bill. It cuts across many disciplines. It is an emergency bill. It is for an emergency purpose.

I do also agree with the purposes of this bill that the changes which are made and provided for in this bill must be effected in such a manner as to minimize the effect on the economy and to minimize the effect on the environment.

Now, during the course of markup we amended the bill as originally introduced to provide that with respect to energy conservation plans, which is probably the most important section of this bill with respect to developing energy savings in this country, we amended the bill to eliminate the provision that the Energy Administrator could adopt such plans, and they would go into effect unless Congress vetoed those plans.

An amendment was adopted, which I supported at the time, which provided that the plans would not go into effect unless and until Congress took appropriate action.

Upon reflection and upon further study, I now support an amendment which will be offered by the gentleman from North Carolina (Mr. BROYHILL) on this subject. It appears to me that because of the complexity of that energy problem, Congress will not have the time and it will not have the staff, and it will not be able to conduct the many, many hearings that are going to have to be held throughout this country, and it will not be able to do the job that can better be done by the executive branch of Government.

Mr. Chairman, I also think that since this is an emergency bill, the provisions and the plans which the Administrator will put into effect are emergency types of plans, and he should not be delayed in the institution and implementation of such plans, and, therefore, I think it is appropriate that the Administrator have the right to proceed with the adoption of plans, unless Congress vetoes them.

Now, with respect to the antitrust laws, I would like to commend the gentleman from Ohio on his very excellent dissertation about the protections from abuses that are in this bill.

First, this bill is not for the oil companies, as far as these conservation plans are concerned. These conservation plans are for the public. Further, it is not the oil companies' conservation plans that are going to be adopted under this bill; it is the Administrator's plans that are going to be adopted under this bill.

The exemption is not a broad exemption. It is a very narrow exemption to our antitrust laws.

As far as the importance of the antitrust laws is concerned, there may be an amendment offered here today that I would like to address myself to, because it came up in committee and it contained a provision that we would exempt the energy conservation plans from only section 1 of the Sherman Act. That would be highly wrong and highly fallacious, and I will explain why.

Section 1 of the Sherman Act states that any act which is in restraint of trade, any agreement which is in restraint of trade, would be unlawful unless, of course, it is a reasonable restraint.

Now, it is admitted by many of those who agree with the proposed amendment that was offered in the Commerce Committee that such an exemption from section 1 would be a reasonable and a proper type of exemption to be put into this particular bill. They objected nevertheless to including as an exemption from the antitrust law provisions, section 2 of the Sherman Act. That to me would be a very big mistake, if this Congress were to only limit this antitrust exemption to section 1 and to not also include section 2.

Why? The reason is this: Section 2 provides that it is unlawful to attempt to monopolize. Now, to attempt to monopolize involves two distinct elements of law.

It involves both a wicked act and a wicked mind. I think the Latin terms are mensus rea and actus rea, "actus rea" meaning a wicked act, and "mensus rea" meaning a wicked mind.

Now, in order to prove that one has a wicked mind, since intent is the main element which has to be proven under section 2, prosecutors use the acts which take place which would be circumscribed by section 1 of the Sherman Act. In other words, agreements to fix prices, agreements to allocate customers, and agreements to allocate markets are all evidence of intent to monopolize.

It might very well be an energy-saving provision to have a energy conservation plan which would allocate markets.

I also want to point out that the oil companies which are involved in connection with section 120 of the bill are an oligopoly, according to many economists. Therefore, any act they take which would be in restraint of trade under section 1, if we leave out section 2 from the antitrust exemption, and would be in violation of section 2. So it would be meaningless to give oil companies only an exemption from section 1.

I would like to address the provisions of this bill pertaining to windfall profits. It has recently been stated that the solution to the Middle East war lies within a riddle within a sphinx within a salami sandwich, which reminds me of the definition of windfall profits. I never heard of a satisfactory definition of windfall profits. It is just like a fair tax. A windfall profit is a profit somebody else makes and which you do not. That is what a fair tax is, a tax somebody else pays and a tax that you do not. Windfall profits are defined in terms of saying that they are any thing other than a normal profit, but a normal profit is, of course, a very difficult thing to define. In this particular act it takes average profits in a certain period of time, from 1967 to 1971, as the measure. In my opinion, if we are going to deal with it, it should not be done in this act. If you want to have an excess profits tax, then put it in the Internal Revenue Code and let the Committee on Ways and Means handle it.

Mr. Chairman, I would like to close by acknowledging the excellent work done by the Subcommittee on Health and Environment on the automobile emissions section.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. COLLINS of Texas. Mr. Chairman, everyone in America today agrees that the biggest domestic challenge is energy. Two days ago I overheard four TV commentators who were all perplexed at the sudden arrival of the energy shortage problems. They could not understand how this energy shortage developed.

There are two basic causes of energy shortage in this country. This energy bill does very little to correct either one of them.

Apparently, these commentators do not drive an automobile or they could have understood part of the problem. If you went 100 miles in your 1969 automobile, you would need to buy 6 gallons of gasoline to fill up the tank of your car. If you go 100 miles in your 1974 automobile, you need to buy 11 gallons to fill up your car. This is known as environmental control.

Down home, our environmentalists realize this impact and the need for moderation in environmental controls. So issue No. 1 is to roll back environmental controls for 5 years so that America can move forward for 20 years.

The other big issue requires price control solutions. They are only drilling one-half as many oil wells as they were 10 years ago. Congress cut the incentive depletion allowance and drilling has dropped tremendously. Today it costs $94,708 to drill an oil well while 10 years ago it would have cost $54,518 to drill a well. Yet we try to put price control on new gas discoveries. Oil companies today are making profits on the oil they discovered back in 1950 and 1940 and gradually our oil and gas reserves are being exhausted.

One expeditious way to solve the energy shortage would be to repeal the Price Control Act. The second step forward would be to suspend with a moratorium for 5 years the Pollution Control Acts.

I realize that this might create air which is not as pure as it should be. But I am concerned with this energy shortage impact and what it is going to mean on men and women losing their jobs. When a man loses his job it may cause a heart attack. His wife, in turn, may develop an ulcer. And when there is not income for the family, there will be starving children around the home. We need to think of the overall good health of America. We cannot solve pollution in this 1 year. But we can sure get this country into a depression and lose jobs everywhere from coast to coast with this energy shortage. What we need are two additional bills; one bill to repeal price control and let natural economics adjust itself in the marketplace, the second bill to place a moratorium for 5 years on

pollution controls. Let us enjoy better health in America through full employment and a prosperous Nation.

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

Mr. COLLINS of Texas. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman from Texas (Mr. COLLINS) yielding to me. I want to congratulate him on the fine statement which he has just made.

I think one of the first actions that we should take, as the gentleman has mentioned in the well, is to repeal the Economic Stabilization Act through which mandatory price controls are established. I have introduced legislation, as I think probably the gentleman from Texas has also, to repeal this Act. As the preferred alternative we should allow the marketplace to allocate our scarce resources, and get to the heart of the problem—which is not rationing shortages—but rather the need for increasing production of supplies. Only through the incentives of the marketplace can we provide the increased production so necessary to meeting the shortages we now experience.

WE MUST INCREASE PRODUCTION

Mr. Chairman, seemingly lost amidst the hue and cry for such drastic energy-demand-meeting measures as rationing, end-use allocation, taxes, surtaxes, and controls is the call for increased production of fuel supplies with which to meet current and projected demands.

We have removed price controls from the cement and fertilizer industries for one overriding purpose—to increase production, so why not do the same for the energy-producing industries?

Where amidst all the debate over the most effective means of allocating our available supplies is the most important and most appropriate call of all—a call for increased production of supplies? Increased production is the answer, not trying to live with inadequate supplies—inadequate because there is insufficient production. Government, and the legislation arising from its legislative branch, is wandering over alternative after alternative, trying to make inadequate resources more adequate through Government regulation. Regulation cannot make an inadequate resource more adequate. Just like regulation of wages and prices failed to control the inflation for which it was intended, but rather produced such grievous misallocations in the economy as to create severe shortages in foodstuffs and other commodities, regulation of fuel resources will not, similarly, solve the problem. If we are to resolve this crisis, why not increase production; why not make supplies more available? And, this can be done.

Increased production is the single best answer to this problem. It is the answer most compatible with the preservation of economic freedom without which there can be no political freedom. It is the answer most compatible with the principles of a market economy which has produced the greatest standard of living yet known to man. It is the answer which will produce the greatest number of jobs and workers' wages and promotion of the Nation's economic well-being. And, it is also the answer which will result in the greatest increase in available supplies, for Government regulation historically, no matter how well intentioned or how well conceived, has never produced commodities at rates commensurate with production spurred by the private enterprise system.

PRODUCTION HAS BEEN FETTERED BY GOVERNMENT REGULATION

It might, then, be asked: Why has there not been an increase in production? Principally, because the market principles which would have permitted virtually unlimited increases in production have been fettered by Government policies, programs, regulations, and disincentives to production which arise therefrom. Speculation? No. Fact.

This interference with the marketplace has come in a variety of ways. It has come through the imposition of unrealistic commodity price ceilings, depriving the industries of the available, even minimal, profits from which to make necessary additional capital reinvestments for increased production. It has come through excessive tax rates and tax schemes which have resulted in the misallocation of needed capital. It has come through artificial shipping rate schedules created by agencies of Government—for example, shipping rates for virgin fuels established at lower rates for used oils capable of recycling, thereby discouraging their reuse. It has come as a result of those particular environmental controls which were excessive to real needs when weighed against the need for economic enhancement.

Increased production can be best accomplished through the removal of disincentives to production. We ought to encourage, rather than discourage, the capital formation requisite to additional exploration and development, capital formation from the little man who has carefully saved earnings from the sweat of his brow to the corporations whose business it is to produce fuels, thereby creating jobs and markets. We can increase production by more properly balancing environmental and economic interests, for some statutes and regulations ought to now be relaxed in an effort to enhance production; we need not abandon our national commitment to a cleaner environment by allowing for such short-term remedial measures. We can increase production by removing the strangling regulations under the Economic Stabilization Act of 1971, as amended, the wage and price control statute, for the policies of the Cost of Living Council have added greatly to the creation of this crisis.

PRICE CONTROLS HAVE PRODUCED MISALLOCATIONS

An example—a very real one—of the effects of price controls on production can be seen by looking at the regulation of home heating oil. With the original imposition of controls on the economy in August of 1971, prices on home heating oil were frozen and subsequently maintained at artificially low prices. This encouraged over consumption.

The Cost of Living Council has had the good sense to remove—by exemption—the cement and fertilizer industries from the coverage of the economic stabilization—one should say, "economic disstabilization"—program. Why? They cited one reason in both instances: To increase production.

Why, then, can they not exempt the producers of energy sources? It would allow prices to rise to their natural levels within the free market system, an important byproduct of which is an increase in production with which to meet demands.

The distinguished Senator from Oklahoma (Mr. BARTLETT) has brought to our attention the incapability of the oil companies to substantially increase drilling in search of new untapped supplies. Why? Because drilling equipment—made from steel—is not adequately available. Why? Because the Cost of Living Council by holding down, unrealistically, the price of steel for such equipment has discouraged greatly the production of such equipment. The steel producers have not been making the equipment because they would not make any profit or even would run losses. The Senator has indicated that drilling activity, despite the crisis, has been able to expand by only 13 to 14 percent over the past year, when a full 100 percent expansion is needed to alleviate adequately the present energy crunch. And, unfortunately, even if the Cost of Living Council should seek now to rectify its errors, delivery schedules for oil well casings, tubing, drill pipes, drill collars, valves, and blowout prevention devices would mean an 18-months delay before such equipment gets to the fields.

WILL INCREASED REVENUES TO OIL COMPANIES BE REINVESTED RATHER THAN TAKEN OUT AS WINDFALL PROFITS?

It is not inappropriate to inquire: What assurances do we have that if the industry is deregulated as to prices that the increase in revenues will be diverted to capital improvements and not solely to profits? Again, Senator BARTLETT'S inquiries have produced the most concrete factual answers:

Most people agree that a free market will increase our supplies more rapidly than a controlled market—even a controlled market which provides for price increases for natural gas and crude oil.

But many wonder if the petroleum industry would invest the increased cash flow resulting from decontrol of prices into areas that will help to solve our domestic energy shortage.

Even though I have no doubts that the great majority of increased profits will be used to increase the supplies of domestic energy, I thought that the question deserved a response to clear the doubts raised by some individuals. The people and the Government have a right to be informed and need to be assured that the price of decontrol is worth it—and today I will summarize the replies of those petroleum companies and independent producers of petroleum in America to show that it will be worth it.

I asked over 400 integrated and independent companies engaged in the production of domestic oil and gas to answer the question I read earlier.

My office has received replies from 115 integrated and independent companies. Not one of those replies gave any indication that a large portion of the additional cash flow resulting from the removal of existing price controls would not be used to increase domestic energy capabilities.

On the contrary, 93 of the companies responded by saying that "virtually all or 100 percent of their increased cash flow would be so utilized." The remaining few companies, although they did not say that they would reinvest virtually all the additional cash flow, did imply that they would reinvest significant amounts such as "90 percent, a minimum of 90 percent, or a minimum of 75 percent."

It makes sense that these companies, as they have indicated to me, would continue to invest in that industry which they know best, especially when the opportunity for a reasonable rate of return is improved by price decontrol.

Mr. President, it was interesting to note that all of the 8 largest major oil companies replied to the question and 16 of the top 20 producing companies responded.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart showing a breakdown of the 115 companies based on 1972 oil production.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection it is so ordered.

The material, ordered to be printed in the RECORD, is as follows:

THE FOLLOWING IS A BREAKDOWN OF THE 115 COMPANIES BASED ON 1972 OIL PRODUCTION

1972 daily average oil production (barrels per day)	Number of companies responding	Total production (barrels per day)	Total gas production (million cubic feet per day)
1,000 or less	22	9,430	86,452
1,000 to 10,000	47	161,071	1,380,121
10,000 to 55,000	12	352,944	2,281,592
55,000 and up	16	6,556,535	28,751,662
Letters without production figures	18		
Total	115	7,079,980	32,499,827

Mr. BARTLETT. Mr. President, the replies received represents 7,079,980 barrels per day of crude oil and natural gas liquids and 32,499,827 million cubic feet of natural gas per day. That is 60 percent of 1972's daily average crude oil and natural gas liquids production and over 50 percent of the daily average gas production.

The small fellow—the independent producer—almost without exception said unequivocally that he would invest all additional profits back into the petroleum industry.

Common phrases used by the small producers were—

"I would expect to invest every additional dollar of cash flow generated in new domestic oil and gas exploration."

And—

"Any additional monies received because of decontrol of above products would likewise be invested in exploration for new energy reserves."

And—

"Any increase in our cash flow resulting from higher crude oil and gas prices would be immediately reinvested in a search for, and development of, more reserves."

It is most unfortunate, in light of these facts, that the Congress is considering—instead of a return to the ageless and time-proved principles of the marketplace—the imposition of new laws, embodying new policies, the imposition of authority for new regulations, sustained with vast bureaucracies and power-brokers.

RATIONING CANNOT BE A PREFERENCE

I am opposed to rationing—or, as it is referred to in this bill, "end-use allocation"—and I have here today and on repeated occasions heretofore expressed my preference for the use of the principles of the market economy. But, if we should ever come to the point where rationing is unavoidable, a possibility if we do not increase production, I sincerely hope that the scheme which is deployed will preserve the market economy by allowing the market system, as opposed to some faraway bureaucracy, to establish the price of fuels. It is not impossible to devise a scheme, if essential to the preservation of the national economy, which allows for a basic rationing system for those whose lives and well-being rest upon the use of fuels with the market economy being retained for all other users. It would be difficult, but it is possible, and it is certainly preferable to the loss of freedom which could result from mandatory allocation or rationing systems imposed on all the people.

The soundest solution is probably the one that comes the nearest to being relatively enforceable and equitable. It should leave enough individual freedom of choice to command public confidence and minimize damage to the economy. Whatever tax revenues would be generated therefrom should be then channeled directly into financing alternative transportation systems and the search for new energy sources.

THE CONSUMERS OPPOSE RATIONING OR TAXES AS THEIR PREFERENCES TOO

We have heard it said today that the reason we must go with a mandatory rationing system is the support it enjoys with the consumers—from the big guys to the little guys—as their preferences over paying higher prices. I think this sells the American public short, for its understanding of the nature of this crisis—in all its political, economic, and moral ramifications—appears, to me, to be well perceived by the consumers.

Let me read from a letter which I received from a constituent from western New York:

WILLIAMSVILLE, N.Y., *December 4, 1973.*

Congressman JACK KEMP,
Washington, D.C.

SIR: This letter is intended to convey my strong disapproval of gasoline rationing and/or higher taxes on gasoline and also my disapproval of governmental controls on the price of energy.

Gas rationing would have exactly the opposite effect from that which is desired in the long run. Rationing would force demand to be low and therefore maintain artificially low prices and reduce incentive for oil companies to increase their supply. Let the price of energy increase and the energy companies will find more supply and in a hurry. That is an economic fact of life.

Those in favor of rationing say that high gasoline prices will hurt the poor the most. First, I do not entirely agree with this. The poor generally live in cities and do not need to travel far to reach their destinations, and they have better access to public transportation. Also, they tend not to have automobiles as much as the wealthier. Second, what is different about gasoline than any other commodity. By definition the poor can not afford as much as the rich. If anything else becomes in short supply, the poor can't afford as much as the rich either. What do people expect, that rich and poor can afford the same things? It is not that gasoline is one of the necessities of life. Anyone who owns a car could afford the few extra dollars it would cost to drive to work and other driving should be put in the non-essential category.

The other point brought up by those in favor of rationing is that the oil companies are going to reap huge profits. That is precisely what is *required* so that they will get on with the business of finding and refining more oil. Their explorations and manufacturing capabilities have not kept pace with demand because they did not feel they would make enough profit on these ventures. What the Government must do is ensure that the oil companies remain competitive and not act to fix prices or production. That is where the Government's efforts should lie, not in setting prices or in fixing demand through rationing

An additional strong deterent to rationing is the impossibility of devising a system which everyone would consider to be equitable and the huge amount of red tape that would be required to administer such a system.

I also would like to protest government controls on the price of natural gas. Gas is a convenience fuel. It is clean burning, easy to control, and requires little maintenance. Therefore, its price should be that of a convenience fuel, i.e. higher than competing fuels on the basis of energy content. Government controls have forced the price of gas to be less than other fuels. As a consequence, large users such as industries and electric power plants are using natural gas as their energy source. And natural gas is in the shortest supply of any energy source. Let the price of natural gas reach its own level and I am sure that individual homeowners will bid up the price to the point where large users will switch to other fuels, again tending to solve a portion of the energy crisis.

The above categorization of natural gas as a convenience fuel also applies, perhaps to a lesser extent, to petroleum products. These are our second most critical energy source. Let the convenience factor drive up the price and the really big users, industry and power plants, which are highly influenced by price not convenience, will switch or at least stay with coal and nuclear power which is exactly the direction they should be going from the standpoint of the benefit of the whole country.

In conclusion, I feel the solution of the energy crisis lies not in rationing but in allowing prices to increase especially in the convenience fuels, natural gas and petroleum products.

Sincerely,

DONALD E. ADAMS.

THE NATURE OF THE CRISIS

Mr. Chairman, only one thing is for certain in the debate surrounding the ever-intensifying energy crunch—that the Earth is not running out of potential sources of energy. It is, rather, simply running out of energy supplies readily available.

We can best understand—and deal with—the energy problem when we separate it into time frames within which we have to devise solutions and implement them. We have some aspects of the energy problem which must be dealt with immediately, such as getting through this winter; these are the short-term considerations. We have other aspects of the crisis which must be dealt with over the period of the next 2 to 7 years—the intermediate period. And, we have those other aspects which must be dealt with over the more extended time frame—over a long-range period. All are coextensive during these first few years.

Over the short-term period, we must reduce gasoline consumption through

the use of lighter, more efficient automobiles, car pools, better vehicle operation and maintenance, and those particular auto emission devices and controls which will add to mileage, not take from it. We must improve rail and bus systems for short to moderate length interurban transportation—to provide a better balance between auto and air, and auto and rail traffic. We must, during this period of intense domestic fuel shortages, stop the exportation of any crude or refined oil which could be used domestically. We must speed the pace of nuclear power plant construction, for it takes 7 to 10 years to get such a plant "on the line." We must implement programs to advance the commercial development of oil shale. We must resolve conflicts between environmental goals and energy resource development. We must use coal more directly for the production of heat and energy.

Over the intermediate period, we must use coal indirectly as a source of synthetic oil and gas. We must institute residential and commercial building standards to save energy used for heating, air conditioning, and lighting, and we must build accordingly. We must develop new ways in which to generate power more efficiently, controlling air pollution and energy consumption at the same time.

WE SHOULD USE MORE COAL

On the important subject of coal, as perhaps the single most important and readily available alternative to present quantities of gas and oil, I wish to include in the RECORD, for the benefit of all my colleagues, an excellent article from the Buffalo Courier-Express of November 4, by Peter C. Andrews of their Washington Bureau:

COAL SEEN ENERGY SOLUTION

(By Peter C. Andrews)

WASHINGTON.—It is no surprise that the United States is facing an energy shortage now. It is just poor planning.

There is really no need for it, because the U.S. happens to be sitting on half the known coal reserves in the entire world.

Even at present consumption rates or more, the known supplies will last at least 300 years, plenty of time for alternative sources to be developed.

As for the relative importance of coal to oil or gas in the United States, reliable figures show that 83 per cent of the energy content in available reserves is in coal, while only 2 per cent is in petroleum, 3 per cent in natural gas, 5 per cent in shale oil and 2 per cent in uranium oxide.

While most people don't realize it, coal is a remarkable substance that has, on the average, about 80 per cent—the heating value, by weight, of oil.

It has some drawbacks, to be sure, but it also has some interesting advantages, including the fly ash which, when added to cement, not only extends it by about one third, but also makes much better cement. The nation could conceivably pave a good portion of its roads with the byproduct of heating its homes and operating its factories.

CLOSE TO SURFACE

A good portion of the nation's coal lies relatively close to the ground surface in readily accessible seams. Some of these coal seams in the west, particularly, are as much as 300 feet thick—pure, high grade, low sulfur coal.

The most practical and efficient way to get this coal in marketable form is by strip mining it—a dirty word to conservationists, but there are methods of strip mining now that should please all but the purists.

The biggest cost in coal is transportation, which roughly is a factor of four to six times the mine head cost of the coal, depending on how far it must be carried to its point of utilization. Already some coal corporations are utilizing a unique way of solving several problems at once.

SOLID WASTE

Coal is strip mined, leaving a large hole in the surrounding territory. It is carried by unit freight trains to its destination. The trains, rather than returning empty to the strip mine, pick up solid waste and sewage sludge for the return trip. The waste is dumped into where the coal was removed.

The sewage is used to revitalize the subsoil which was removed to get at the coal and then the topsoil is replaced, replanted and in a few years, the landscape can look, if desired, almost as it did before the mining.

Perhaps that is an idealized situation, but it can be done. And the prices make a lot of economic sense. Oil prices in the past year have practically doubled, and yet the prices for coal have stayed relatively even. The switch to coal becomes more attractive with every rise in the price of coal.

The problem of pollution, technically, can be solved and the only reason why many of the known methods have not already been put into use is governmental and industry inertia, as well as the added cost factor. The cost, however, is not that large, considering the total dollar involved.

Even with a massive national effort, however, it will take at the minimum five years to make an appreciable conversion of the U.S. from oil oriented economy to a coal society. But it can be done.

Engineering students in World War II were warned of the energy crisis coming in the 1970's. It is here and we must do something about it. Coal is probably our only answer.

BASIC PREMISES MUST BE UNDERSTOOD

Over the long-range period, it is important to understand certain basic premises. There is little necessity of diminishing the total consumption of energy among developed societies, or of retarding the growth rates of developing societies, if energy sources can be developed and harnessed which are, essentially, both unlimited in supply and not productive of environmentally detrimental byproducts. All supplies of oil—when recovered, refined, and consumed—will run out at some future point in time. And, with widely varying points at which they too will run out, so too will natural gas, and coal, and all other fossil fuels. Yet, there is no limit to solar power, as long as the sun gives forth light; the power of falling or flowing water, as long as rivers flow and tides run; the power of wind, as long as air currents move; and, geothermal steam, as long as the earth's inner crust remains molten. Our only limitations, at present, are in developing adequate technologies and devices with which to harness such unlimited power sources. And, the ecological consequences of their uses are much less potentially adverse than those of existing fuels and substances. By reliance on unlimited power sources, the development of a society, which depends on continued or expanded energy uses, could go forward unfettered. No developed society would be compelled to reduce, over the long run, its standard of living, and no developing society would be compelled to abandon a course of action designed to enhance that standard. Instead of acquiescing to a notion that we must reduce our standard of living by reducing our percentage of the world's energy consumption, we would be better advised to expand the levels of energy available to all the world. To do this, we must begin now to increase production.

THIS BILL INVITES AN ECONOMIC DICTATORSHIP

There is another dimension to our debate on this bill and on the Energy Research and Development Administration and high seas oil port bills to be considered later this week. That dimension is the extent to which the Congress—as the maker of laws under our constitutional system—seems ready, willing, and able to surrender that law-making authority to the executive branch.

One of my colleagues has even dubbed his National Emergency Energy Act as a "Gulf of Tonkin Resolution II"—referring to a potential repeat of the speed in which Congress is willing to relinguish its authority to the Executive. His point is well made:

The deal is this: With the Nation in crisis, the legislative branch of government agrees to turn over its power to the executive branch and in return, the executive branch allows the legislative branch to wring its collective hands in exasperation after enactment.

With no specific definitions and skimpy limitations, it (the Congress) asks the President to control transportation, restrict recreation, limit the functions of commercial establishments and public services, implement rationing systems, lift the environmental provisions, increase the power of federal agencies and designate which sections of the country are economically deprived.

However muddied the precepts may have become after 196 years of storms, the balancing principle separating powers still exists and the Congress shall "make all laws" and the executive shall "take care" that they "be faithfully executed."

Clearly, the National Emergency Energy Act gives to the executive branch the power to make law and in the area of environment to eliminate law.

In a salient editorial comment appearing in the Washington Post of Tuesday, November 27, George F. Will, amplified on this point with a clarity that few commentators have exhibited:

CREATURE COMFORTS OR LIBERTY?

(By George F. Will)

It has been many years since an acute and sympathetic foreign observer noted that the United States had become more respected abroad for her plumbing than for her liberty. (Not long ago it was a source of foreign wonder and awe that Americans traditionally considered it more important to have a car than a bathroom, which is relevant to our current dilemma, but never mind.)

Much gasoline has flowed through the republic's carburetors since then, and it now seems depressingly possible that Americans themselves have a higher regard for their creature comforts than for their liberty. Indeed, they may equate the greatness of America with the creature comforts Americans enjoy.

In a recent column The Washington Post's David Broder provided this gem of a quotation from a daughter of liberty who called her congressman to bemoan the republic's vanished greatness:

"I grew up thinking the United States was

the greatest country on earth. Now it seems we're short of oil, short of beef, short of everything. We don't seem to be better off than anyone else."

It is hard to decide at which level that statement is most depressing

No, as a matter of fact we are not short of beef. Yes, the government did manage to contrive a beef shortage last fall, using just the kind of economic controls that, I'll bet, the woman is demanding that the government now impose on fuels.

We are not better off than anyone else? The woman doubtless thinks the United States has lost its greatness because gasoline might soon cost almost as much as it costs in, say the United Kingdom where per capita disposable income is much less than it is here.

To prevent such a price rise, and the effect it would have on consumption habits, many Americans are prepared to accept—indeed, to demand—gasoline rationing, with all that must mean by way of expanded government power. Such an expansion would not just mean what all such expansion means—new excisions from the sphere of individual freedom of choice. It also would mean that the expansion would come in the form of the most pernicious form of government power, executive discretion.

For more than 27 months—since August 15, 1971—we have been in a position to learn a lesson about wage and price controls, a lesson that is relevant to chosing an energy policy.

No institution with 535 members—each of whom is understaffed, each staff devoting approximately 80 per cent of its time to answering mail and tracing lost Social Security checks—can exercise detailed control over economic measures through specific, precise laws like wage and price controls. So if we are going to have such controls, Congress must continue its slow-motion hari-kari by expanding the already vast area of executive discretion.

Anyway, even if Congress had the ability, it would still lack the kidney to make the hard decisions about economic controls; such decisions invariably offend some interest or other. That is why the legislation authorizing all Mr. Nixon's tinkerings and "phases" is incredibly lean; only about 20 of its approximately 400 words matter, and they authorize the President to do whatever he wants in order to try to make all good economic things happen.

Congress is about to respond in the same way to the energy problem.

Congress cannot exercise close control over the rationing it seems to favor because it is well nigh impossible to capture in the web of legislation all the nuances and exceptions that rationing must involve if it is to be even barely tolerable. Laws state general rules. Inevitably, economic controls are a quality of ameliorating exceptions to capricious decrees.

Anyway, Congress does not have the gumption even to set the basic contours of energy policy, which is probably just as well because Congress seems to favor the most hamhanded approach—rationing. So Congress will leave it to Mr. Nixon to decide whether rationing, taxes, price rises, or a mixture of these will be used to allocate energy resources.

There is an iron law governing the governing of modern societies: Whenever government power supplants market forces in shaping private choices, the supplementing involves the eclipse of the legislature and the expansion of executive discretion.

The rise in beef prices and the decline in oil supplies is irrelevant to U.S. greatness. What is not irrelevant is the willingness of Americans to equate our greatness with material abundance and to pay for cheap gasoline in the coin of expanded government power and diminished liberty.

This bill, if it becomes law, would usher in a virtual economic dictatorship, giving to the Executive an unparalleled peacetime control over the arteries of our economy, and I, Mr. Chairman, want no part of such an abrogation of economic and political freedom. The shrill cries which we hear in this Chamber today are not dissimilar to those cries we heard for the imposition of wage and price controls—a plan which has turned out to be one of the most dismal records of failure by Government in modern times. The Congress ought never to be stampeded into a giving to the Executive of control over our very lives through regulation of our resources.

We ought to send this legislation back to committee and instruct it to come to the floor with a bill which preserves the liberty of our people and the authority of this body to make laws. If need be, we should be prepared to stay in session throughout the coming holidays, for the people's well-being is paramount to our desires to end this session.

It is hard, Mr. Chairman, to argue with that presentation of the constitutional question posed by the bill before us. No matter how well the Executive does, or does not do, the task given to it and no matter how equipped the agencies are to issue guidelines, it is the Congress which must bite the proverbial bullet here. We surrendered great authority in haste once before in the swift and almost unquestioning passage of the Gulf of Tonkin Resolution. We owe it to ourselves and to our posterity to consider carefully the provisions of the bill before us, for we may not only be setting into motion an impossible scheme, but we may be surrendering the powers of this body to act in the people's behalf.

A CONTEXT FOR THE ENERGY DEBATE

Mr. Chairman, millions of words have been printed and aired on the energy crisis. Many have tried to establish the framework within which the Nation—and the Congress—ought to address the energy crisis and means of resolving it.

An article, entitled "The Energy Crisis in Perspective," by W. Philip Gramm, professor of economics at Texas A. & M. University and a consultant to the Canadian Ministry of Natural Resources, appeared in the Wall Street Journal of Friday, November 30. It is so strikingly appropriate for the energy debate within this Chamber that I ask for its inclusion at this point in our proceedings:

THE ENERGY CRISIS IN PERSPECTIVE

(By W. Philip Gramm)

Much of the prevailing rhetoric on the "energy crisis" expresses this kind of logic: Since there is just so much oil, coal, natural gas and other energy sources, sooner or later we are going to run out. We must, therefore, begin to ration these resources not only to meet the current crisis but to conserve energy in our time and move the day of reckoning further into the future. Americans have been "energy pigs," according to Stewart Udall, and have been operating on the misguided assumption that there is no limit to the quantity of energy. Since we are at the end of the era of cheap fuel and dealing with a problem without precedent, strong and previously unacceptable policies are called for: government regulation of the production and distribution of energy.

Ignored is the fact that mankind has frequently experienced instances of increasing scarcity, and by ingenuity and free action has solved all of them. In fact, we are currently experiencing the second major energy crisis in American history.

From the colonization period until the Civil War the major source of artificial lighting in the U.S. and Europe was whale and sperm oil. Since there were no good substitutes for these oils as sources of light, the world's supply of artificial light depended almost exclusively on the whaling industry. People did not need computers to project that the supply of whales could not keep pace with the rapid expansion in demand.

Sperm oil rose from 43 cents per gallon in 1823 to $2.55 a gallon in 1866. Whale oil rose from a low of 23 cents in 1832 to $1.45 a gallon in 1865. As prices rose, gas distilled from coal became an economically feasible substitute causing whale oil demand to fall off sharply in Europe.

In 1859 sperm oil was over $1.36 a gallon. But that same year, an event which in nine years would end the whale oil crisis forever occurred: petroleum was discovered in Pennsylvania. In the meantime, the demand of the Civil War boomed whale oil prices. Not only was there increased demand, the war disrupted production. Conscription of whaling vessels as freight ships and the capture or destruction of ships by Southern privateers caused a decline of more than 50% in the number of U.S. ships in whaling and a 60% decline in tonnage. By 1866, sperm oil had reached a high of $2.55 a gallon.

The high prices for whale and sperm oil between 1849 and 1867, provided a growing profit incentive to develop an efficient refining process for crude petroleum and induced the investment required for the production of kerosene. Beginning in 1867, kerosene broke the sperm and whale oil market and prices tumbled. By 1896, sperm oil was cheaper than it had been in any recorded period—40 cents a gallon—but whale oil lamps were no more than relics for succeeding generations.

TWO VITAL FUNCTIONS

Aside from providing an incentive for the development of petroleum products rising whale and sperm oil prices performed two other vital functions. Rising prices caused consumers to act out of their own self interest to economize the use of oil. Rising prices gave an inducement for producers to increase output of whale and sperm oil through increases in investment, improvements in technology, and increased labor input. The rise in prices from 1820–1847 induced a rise in the tonnage of whaling vessels of almost 600% and produced numerous technological improvements in the whaling industry. It appears that rising prices caused output to increase perhaps by 1,000% or more. Had government possessed the power and volition to ration whale and sperm oil to hold its price down or to levy a tax on oil to reap the gains from the price rise, the shortage would have been catastrophic and the advent of kerosene and other petroleum products might have been delayed for decades.

The whale oil crisis is a case study of how the free-market system solves a scarcity problem. The end product of this process of discovery and innovation is the Petroleum Age in which we live. We owe the benefits and comforts of the present era to free enterprise and the scarcity of whales.

The history of our first "energy crisis" demonstrates that there is no reason to believe that we face long-term doom. If technology were suddenly frozen, some of the dire projections being made now might be

realized in several hundred years or less, depending on which "expert of the week" one believes. But technology is *not* frozen.

It is instead progressing at a rate unprecedented in history. The Petroleum Age will pass as did the Stone Age (and the Whale Oil Era). The real danger is that we may foolishly restrict the exploitation of current energy sources and allow them to become valueless. Only if we eliminate the market incentives for innovation and investment will we face a real, long-term "energy crisis."

Though there is no long-term "energy crisis" there is a short-term problem. Economic science teaches that shortages cannot exist in free markets. In free markets prices rise in order to eliminate shortages. "Crisis" as opposed to simple scarcity, results from market disruptions; and the *only* sector of society which possesses the power to disrupt a large market is the government. Government price ceilings on natural gas at the well-head have been one of the most disruptive public policies. By setting the price of natural gas artificially low, the government has stifled the incentive of producers to increase supplies, which the artificially low price has stimulated demand. Furthermore, since profits are low at these artificially low ceiling prices, investment and exploration have fallen off sharply.

Price controls have also had a detrimental impact on the supply of petroleum products and the construction of refinery capacity, essential to increasing domestic energy supplies. Due to the pressure to keep prices below what the free market would specify, shortages of petroleum products have occurred at both the retail and wholesale levels. Had prices been allowed to rise, the quantity supplied would have expanded to meet the quantity demanded; and each consumer would have had direct incentive to economize on usage. We are only now beginning to realize the distorting impact on the production of inputs essential for fuel production (drilling equipment, tubular steel, etc.) which four phases of price controls have produced.

Environmental legislation and court action also have had a significant impact on the supply and demand for energy. Injunctions against atomic and conventional power plants have prevented the supply of electricity from keeping up with the demand. The injunction against the Alaskan pipeline has impeded the growth of oil supplies. Pollution control devices on automobiles have increased fuel consumption and, thereby, increased the demand for gasoline. Mass conversion from high sulphur to low sulphur fuels in order to comply with EPA regulations to abate pollution has caused a change in the composition of energy demand from plentiful, cheap sources of energy to scarcer more expensive ones.

The energy crisis has made it clear that pollution abatement has a definite cost to society. Only by understanding the costs involved in various forms of pollution abatement can we choose how much environmental protection is optimal.

The bureaucratic method of looking at the supply and demand for energy products differs substantially from the market-directed approach. The bureaucrat presumes first of all that the supply of the product is absolutely fixed. Price does not matter. A price rise, he argues, will not put more oil in the pipelines—at least not before the next election. People "need a certain amount" of the product, and they will always buy the same quantity regardless of price unless they are too poor to afford it at all. These views are, of course, economic nonsense. In weighing the various courses of action which might be followed in minimizing the cost of dealing with the current energy problem it is useful to make a ball park estimate of the price level that the free market would yield in the shortage period.

ESTIMATING OUTPUT AND DEMAND

Estimates of how much the demand for energy sources would decline in a period less than a year, if prices rose by 1%, range from roughly 0.2% to 1.2%. Estimates of how much the quantity supplied would rise in the same period, if prices rose by 1%, vary from roughly 0.6% to 2%. A reasonably conservative estimate is that a price rise of 1% will provoke a decline in the quantity demanded of 0.5% and a rise in the quantity supplied of 1%.

The practical importance of these estimates is that a 10% shortage in the supply of fuel at current prices would yield a free market rise in price of less than 7%. If we are more pessimistic about the shortage and assume that demand exceeds supply by 20% at the current price, we might expect a price rise of less than 14%.

The above estimates, though conservative, do not take account of the disruption produced by the crisis atmosphere that surrounds this issue. Since the magnitude of the crisis has been blown out of all reasonable proportions and people fear shortages and rationing, hoarding by both the supplier and demanders is a genuine possibility. In the very short run (up to three months) we might expect prices to rise above the long-term market price. After roughly one to three months we should expect the crisis mania to pass and a general dishoarding to occur so that prices would fall to a level below the above estimates. The estimates are of course based on the assumption of unhampered market adjustments. Government attempts to interfere with this market process would tend to shift the estimates upwards.

The first step in solving the energy shortage is to allow the free market system to work. *All price ceilings and government controls should be eliminated.* Such action would greatly stimulate the supply of energy sources and eliminate shortages. Prices would rise but the expansion of output would hold prices to the minimum which current conditions dictate. Furthermore, the free market will insure that energy will be allocated to the highest priority users. Price increases are not pleasant, but they are better than low prices and no energy. If these higher prices work hardships on the less fortunate among us, special provisions, which would be preferable to the distortions and waste of rationing, could be provided for this small minority.

There is an additional advantage of allowing domestic prices to rise. As prices rise in the U.S., the cost to the Arabs of maintaining the restriction on sales to the U.S. will get higher. If we simply allow the market to work, the agreement to restrict sales to the U.S. will break and with it Arab unity will break. The Arabs are playing a dangerous game. If we allow prices to rise we can expect the development of new domestic sources such as oil shale and domestically produced substitutes for petroleum.

COSTS AND CLEAN AIR

Another step in solving the energy problem is to inform society of the cost of environmental and ecological programs and allow the people to choose. If people want the end products of such programs, they will have to pay the cost in higher energy prices. Without adequate information, society will not be able to decide which programs are worth the cost and which are not. If people prefer cleaner air to lower fuel cost they can choose to convert from coal to oil. If they choose lower fuel cost they can burn cheaper and dirtier fuels. Such a system seems preferable to allowing a bureaucrat to decide for them.

To increase supplies we should open the continental shelf for drilling but make firms liable for oil spills and other forms of ecological disturbances. Most oil spills are not from drillings but from tankers. By employing the Naval oil reserves, the continental shelf and areas which will become economically feasible at higher prices, output could be greatly expanded.

We should institute peak-load pricing for electricity in shortage areas. Brownouts and blackouts occur because in peak use periods overloads occur. By charging more for power in peak use periods, nonessential use would occur in nonpeak load periods when power is cheaper. Under the current system there is no incentive to spread out power use. Peak load pricing could minimize overloads in the current system and allow time for supply sources to catch up to peak load demand.

In a free market, when the price of a good starts to rise, three simultaneous forces are produced. First, people start to use the good more judiciously, second, producers and consumers who use the product begin to search for cheaper substitutes, and third, producers of the product attempt to expand output by using and developing technology to meet the demand. It is this process which has always forestalled doom. We will run out of energy only if we prevent the free market from working. Herein lies the real danger of the "energy crisis."

Mr. Chairman, the task before us is great. We must not shrink from the meeting of that task.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from New Hampshire (Mr. WYMAN).

Mr. WYMAN. Mr. Chairman, without belaboring ad infinitum the seriousness of the energy crunch that we are in, I would like to take this time in the general debate to address a hard look toward an answer to the question of where we can save gasoline, and hence oil, without hurting anybody.

One such area is in the field of automobile emission controls. In 90 percent of this country there is no need for automobile emissions controls from the viewpoint of either public health or environment.

I have brought this large map of the United States into the Chamber to illustrate the rather startling fact, that in at least fifteen-sixteenths of the geographical United States there is no significant air pollution related to automobile emissions. We can take the controls off in their entirety from all cars registered in the white areas on this map before us, take them off all cars that are owned, operated, and registered to residents of these areas, without hurting anyone's health or causing them to get emphysema or suffer other adversity.

What would this accomplish? This would save upward of 300,000 barrels of oil a day. Present emissions controls impair gas mileage on the order of 17 to 20 percent. The rest is simple mathematics.

I want to explain the amendment that I shall offer at the appropriate time to this bill to do just this. The amendment will suspend automobile emission controls on autos registered in those parts of the United States indicated in white. It will provide that this suspension continues until January 1, 1977, or until the President shall declare that the petrole-

um shortages that exist in this country are no longer critical, whichever is later.

The amendment would permit an automobile owner who resides in these areas to take off his emission controls and thus increase his gasoline mileage on the order of 17 to 20 percent. If this is done, it is obvious that the amount of gasoline that will be saved is truly substantial. Additionally billions in costs in operation maintenance and original vehicle cost will be saved. Furthermore, the operation of these vehicles on an in-and-out basis into the areas in this country that are shown in red will not significantly adversely impact on the ambient air quality of these areas because the transient factor varies only from 1.5 to 5 percent of vehicular travel.

Now, one says, immediately, "Well, what happens if I have a car that is registered to me in, let us say, Nevada, and I want to drive into Los Angeles where there is a problem?'

The answer to that, as I have stated, is Office of Science and Technology studies showing that the movement in and the movement out of automobiles not owned by residents of the areas in red goes somewhere on the order of 1.5 to 5 percent and concludes that this would not materially, significantly, adversely impact on the ambient air quality of those areas.

If we want to do something to really help meet this gasoline shortage and this oil shortage in this country, we should end the overkill in the current Clean Air Act requirements by ending at least during this petroleum shortage emissions controls that defy both commonsense and responsibility in this country.

I yield to no one in this House as an enthusiast for environmental protection. I would not for one moment advocate suspending emissions controls solely on the basis of energy shortages. But the hard fact of the matter, Mr. Chairman, is that we overdid it a few years back. and the overdoing of it is now beginning to show and is costing this country dearly.

I want to discuss for just a moment a second amendment I will offer at the appropriate time. The amendment I will offer will amend the Clean Air Act to take the ultimately required 96-percent, pollution-free emission standards down to 90 percent. Even in Los Angeles, Calif., with its air inversion problem, emissions controls are not required at the 90-percent level. If we amend the act and effect this overkill we will eliminate the need for the catalytic converter.

I am aware of the fact that General Motors Corp. already is said to have some $700 million invested in the process and development of a catalytic converter. However, taking an estimate of the run of automobiles in the 1975–76 time frame at approximately what it is today; namely, 10 million cars, the cost of a catalytic converter on these cars will be about $250 a car. It may be a good deal more than that. That is $2½ billion to be spent in this country by the owners of automobiles on something that is unnecessary to the public health or actual needs of the Nation.

Chrysler Corp. witnesses testified before Commerce Committee that—

The lead-free fuel required for catalysts will eventually cause a loss of crude oil at the nation's refineries of one million barrels of oil a day.

The so-called improved fuel economy which has been claimed for catalyst equipped cars is largely illusory. The claim for a sales weighted average improvement is little more than a statement that small cars use less gas than big cars, and a larger percentage of small cars will be produced in 1975. The average gain per vehicle is actually on the order of 3 percent. This is easily offset by the crude oil loss of 5 to 7 percent in refining lead-free gasoline.

And Ford witnesses said:

The 1975 fuel economy with catalysts, however, is only 3 percent better than our 1974 models. Unleaded gasoline reduces the yield per barrel of crude oil. If so, we would have to conclude that the effects on our petroleum supplies from carrying over 1974 standards and meeting 1975 standards with catalysts would be equivalent.

The Dupont study of the fuel penalty due to emissions controls, completed this year, is even more devastating. This study reported that:

A 1973 car uses 9.4 percent more gas than a 1970 car, after allowances for weight differences.

1973 cars burn 17 percent more gas than uncontrolled pre-1968 cars, after allowance for weight differences.

The 1975 (now 1976) auto emissions standards are expected to produce a fuel penalty of 24 percent, as compared to pre-1968 (no controls) cars.

The 1976 (now 1977) NOX standards are estimated to increase the fuel penalty to 42 percent, compared to pre-1968 cars.

Mr. Chairman, these figures are dismaying in this period of petroleum shortage. They are shocking against a record of nonnecessity.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield to the gentleman from New Hampshire 2 additional minutes.

Mr. WYMAN. I thank the gentleman.

Indicative of the lack of genuine need for these gas-consuming devices in a September 1973 report from the Yale University Medical School resulting from a study of automobile emissions. This report made three major points:

1. The nation should distinguish between those pollutants which are dangerous to health and those which only affect "quality of life".

2. While certain particulates can be a threat to health to the general population, it is already known that the three controlled automotive emissions are not in this category.

3. The costs of controlling automotive emissions to the degree required by the law as now written far outweigh any expected benefits.

The final report of the Committee on the Cumulative Regulatory Effects on the costs of automotive transportation made to the Office of Science and Technology in 1972 showed conclusively that the cost in the emissions area exceeds the benefits over a decade by better than $60 billion. It indicated that defects in the Clean Air Act will cost American consumers an unnecessary penalty of $50 billion in the same time frame.

Mr. Chairman, this is wrong. It is harmful. It more than justifies the adoption of my second amendment. There is no sense in requiring the same emissions controls for cars everywhere in a land 90 percent of the area of which has no significant auto emissions related pollution. The fact is that the Clean Air Act standards as presently written represent a crude overkill and a bludgeon-type approach that demands the application of commonsense amendment.

It was claimed by some witnesses before the Committee on Interstate and Foreign Commerce that the catalytic converter would improve gasoline mileage by 13 percent. I want to call the attention of my colleagues to the fact that that 13 percent is 13 percent of an already overburdened 17- to 20-percent reduction in mileage caused by application of the 1974 standards now on cars. If this is to be translated into 0.13 times 0.17 to 0.20, the actual reduction of possibly 2 percent from catalytic converters still leaves at the least a 15-percent reduction in gasoline mileage for all of the cars registered and operated by all of the people in the white area on this map, all of the people in better than 90 percent of this Nation that has no requirement in terms of need. This is foolish. It is hugely wasteful.

It is indeed a bludgeon approach in the Clean Air Act to require everybody in this country who has a car to have expensive gadgets installed on them that reduce their mileage and increase the consumption of gasoline, when in 15 or 16 of the United States there is no need for this whatsoever.

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

Mr. WYMAN. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I know of the gentleman's concern. Of course, all of us are concerned in this energy crisis. However, I would suggest to the gentleman that he ought to look at the possibility of not trying to do away with the Clean Air Act where we are at least making some effort to clean up the air of this Nation. Rather I would hope the gentleman would look at the weight factor of automobiles which accounts—and we have the figures here since 1962—for half of the fuel economy lost. Why does he not look at the air-conditioning? Why does he not suggest we turn off our air-conditioners? That accounts for a loss of 9 to 20 percent. Automatic transmissions, 2- to 15-percent loss. That is very simple to do, and yet he only attacks the Clean Air Act, which is to clean up the air of this Nation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 1 additional minute to the gentleman from New Hampshire.

Mr. WYMAN. I thank the gentleman.

I would point out to the gentleman from Florida that the automotive industry and all of us are trying to get smaller engines, lower weight in cars, and economy of efficiency. I am not trying to

destroy the Clean Air Act; I am just trying to stop proponents of continuing the present extreme standards in the Clean Air Act from being such fools in causing such expense and waste in this country. If the gentleman will take the time to look at this map he will see at once that his own State of Florida has no auto emissions related air pollution problem. I cannot believe he wants to continue to impose on all of the residents of his district and State unnecessary emissions controls that reduce their gas mileage by at least a fifth and cost them hundreds of dollars more for their cars and their operation. I cannot believe this.

At the immediate present we will save 17 to 20 percent of the millions of gallons of gasoline our cars consume if we reduce and eliminate these air pollution requirements on emission controls on all but the restricted areas in the United States indicated on this map in red.

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

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

Mr. MILFORD. Mr. Chairman, I support the gentleman in the well. I congratulate him. He is absolutely correct in what he has said.

One very important fact is being overlooked. We are facing a gasoline shortage of about 25 percent. Therefore, we will also have an automatic reduction in auto emissions by 25 percent.

The complete removal of all auto air pollution devices will not cause an increase in present levels of pollution. However, by removing these devices, we will be able to do more driving on the available fuel.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 6 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, during the amendment process, I shall introduce the so-called conflict-of-interest amendment which the rule makes in order on this bill. It is an effort to make possible bringing into Government the people of experience needed to administer this legislation and the mandatory fuel allocation bill already passed.

The utilization of industry personnel, "dollar a year men", is not a novel idea. Oil industry expertise was called on during World War II, during the Korean war, and during the earlier conflicts in the Mideast. The industry people in each instance performed outstandingly in the national interest and there has never been a breath of scandal in connection with that service.

Two important, basic facts merit attention: First, it is not the industry which is seeking to interpose itself into Government; it is the Government following a tradition going back as far as that old curmadgeon, Harold Ikes, which is calling upon the industry's specialized knowledge to assist Government in meeting an emergency situation; second, the Government will not relinquish its policy-making role of determining the order of priority for petroleum use; the Government, in the person of EEA Administrator Simon or the President, will determine priorities, then those men who are intimately familiar with the complex logistics of petroleum distribution—the industry people who know which refiners are best equipped and located to serve particular areas, who know pipeline routes and capacities, who daily participate in terminal and tanker operations—the industry supply and distribution experts will be called on to help the Government make certain the allocations are fulfilled with efficiency and dispatch. It is probably fair to state that there is no person in the entire Government service who could determine the quickest way to get fuel supplies to a darkened, unheated hospital in northern Michigan. Only those who have expert knowledge of the supply and distribution system can make that kind of emergency determination.

That is the limited role the "dollar a year men" are being asked to play. They cannot perform that role effectively without using their specialized knowledge of their own company supply and transportation facilities. They should not be expected to subject themselves to the severe penalties of conflict of interest in filling that role.

Our system of industry-Government cooperation has served our Nation well many times over the years. Is the Congress of the United States, faced with critical fuel shortages, prepared to sacrifice the benefits of that type of Government-industry cooperation on the dangerous and false presumption that Government bureaucrats are all-knowing and American businessmen are all knaves.

Mr. Chairman, the amendment I am offering to this bill is essential if we are to have the necessary expertise and experience in the Federal energy program. The Government does not now have sufficient knowledgeable people on board to maintain a successful energy allocation and conservation program. If it is to obtain such people they must come from the petroleum industry and they will only be willing to come if certain legal stumbling blocks are removed.

Accordingly, I am proposing a provision for limited exceptions to the existing conflicts of interest laws. I stress that these are limited exceptions. They would not permit petroleum people to hold the top jobs in the energy program unless they terminate their relationship with the industry and become regular Government employees. They would not permit exemption from the conflict of interest laws for more than 1 year. They would not permit people presently employed by Government to obtain exemption. Nor would they permit people who come from the industry to assist in these energy programs to take advantage of their inside knowledge after they leave the Government. The existing restrictions on former Government employees in 18 U.S.C. 207 would continue to apply in full.

Let me outline briefly what the proposed amendment does. It permits the hiring of experts from outside Government to assist in the energy program if, and only if, the President or his designee certifies that the appointment is necessary, the duties of the position require expertise, that expertise is not available on a regular appointment basis, and the person under consideration has all the necessary qualifications. When these conditions are met, a person may be appointed to serve in the energy program, without Government compensation, while continuing to be paid by his regular employer.

Such a person may be exempted from certain of the conflict-of-interest provisions for a 1-year period. The exemption would remove such restrictions as the prohibition on outside compensation in connection with any action involving his original employer and the Government—(18 U.S.C. 203—the prohibition on representing others in claims against the Government—18 U.S.C. 205—the prohibition on acting in any area that will conceivably result in his or his family's personal financial gain—18 U.S.C. 208—and the prohibition on receipt of nongovernmental compensation while in Government services—18 U.S.C. 209. These are not total exemptions however. My proposal contains more limited restrictions on persons hired under these circumstances but they are restrictions which, in my view, are adequate to protect the public interest.

Persons exempted from the regular conflict of interest laws would still be barred from negotiating Government contracts with their private employer or with any business in which they have a financial stake or their family has a financial stake. Similarly, they would be prohibited from making any recommendation or taking any action on an application for relief or Government assistance from any business in which they or their family have a financial stake or from their private employer. They would not be able to handle any claims against the Government on matters they worked on as a Government employee and they would still be barred from outside compensation from anyone but the employer they worked for at the time they came into Government service. These restrictions will adequately protect the public interest while at the same time making it possible for us to get the people we need to assist in meeting the energy crisis.

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

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Does subsection (4)(J), found on page 55 of the report, include under the term "household moves" the situation where a soldier moves his family's personal possessions from one base to another in a trailer which may be rented or borrowed or belong to him?

Mr. STAGGERS. That is included in the bill and taken care of in the provisions of movement of persons.

Mr. ANNUNZIO. They would be supplied with gasoline; would your answer be yes?

Mr. STAGGERS. Yes; my answer would be yes.

Mr. ANNUNZIO. I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I yield 9 minutes to the gentleman from Washington, a Member of the committee (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I intend during the course of the amending process to offer two amendments to strike the antitrust exemptions of this bill, which I will hand to the Clerk now and which I have delivered to both the minority and majority council tables. They are entitled "Amendment by Mr. ADAMS to strike section 114" and "Amendment by Mr. ADAMS to strike section 120."

I shall also oppose the amendment that was made in order by the Committee on Rules, at the request of Mr. BROWN of Ohio, and it is made in order as H.R. 11891. The bill was referred to the Committee on Post Office and Civil Service, but it has been made in order in this bill and its effect would be to exempt the oil companies from the conflict of interests provisions of the Federal law.

Prior to my remarks on that, however, I would like to address a question to the chairman of the committee with regard to the particular provisions in the bill in sections 108 and 109 that provide for local boards of balanced composition and ask him as this was debated in the committee in executive session, and I want to be quite sure that as part of that legislative history, it is now recorded, so that we are certain the intent of the House is cleared.

It is stated that the local boards shall be of balanced composition, which is in the bill in sections 108 and 109, mean reflecting the makeup of the community as a whole, mean inclusion of labor and consumer representatives on those local boards?

Mr. STAGGERS. Yes, it would, and that was the intention of the committee.

Mr. ADAMS. I thank the chairman for his comments. That was certainly my understanding and I wanted it to be part of the legislative history.

Mr. Chairman, I want to speak particularly to what has happened in this bill. I do compliment the chairman and other members of the committee for attempting to deal with a situation that certainly was not created by the Congress and which at the present time I assume most Members on this floor and those who will be voting on this bill and who are not here now, will vote in favor of so that they can say, "Yes, we tried to do something about the energy crisis."

But, I have pointed out in my separate views in the report on page 89 that the Defense Products Act has been in existence since 1950, and under that the administration could both allocate products and could control profits; that as of April 30th of this year, there was an amendment placed in the Economic Stabilization Act which provided the power in the President to allocate fuel and control prices.

There appeared before our committee Mr. Simon—who is now going to run this program—during the summer of this year. I asked him specifically the question, because at that time all the independent marketers were being cut off from petroleum supplies, and I wanted to know if they were going to obtain supplies; whether or not the administration was going to allocate products to them, and he said he did not know whether the administration would or whether they would not, so we had to wait to see whether they would do it under the powers that they had.

Finally, they did not do it, and the chairman said, "We have got to hold hearings," and we did and reported out a bill requiring allocation. Then this Congress passed the Emergency Oil Allocation Act which was not signed until the end of last month because the administration opposed it. And, do the Members know what that bill did? It was to require the administration to allocate products so that they would not put the independents out of business, but I think we were probably too late, because they opposed it and held off signing it long enough so that if one goes around looking for an independent distributor, he is not going to find many.

In that bill, it also required that there be equitable prices established on any cost of crude oil, but has there been a setting of prices? No.

We have had Mr. Shultz and Mr. Simon going on to the radio and television and saying that prices are going to go up. I think that is in violation of the equitable price provisions of the Emergency Allocation Act, which was signed 2 weeks ago.

The regulation was enacted, and I want to know why it has not been used or why prices have not been controlled.

That brings us to this bill. This bill has to be passed, because the administration still is not moving. Some earlier speakers in the well said, "Well, you know the President wants to put out energy plans, but does not want to have anything to do with rationing." If the Members will read my separate views closely, I have pointed out that the only way they are going to fairly allocate products in the United States and put a fair price on them is to ration at the gas pump and allocate among distributors who deliver other petroleum products fairly on a base year, or years, and that is the only way we are going to be able to meet the problem the gentleman from Texas (Mr. ECKHARDT) mentioned.

If we have so many million barrels of oil available and so many million being demanded, then the only way we are going to get between the two on a fair basis is to say, "All right, everybody gets their share and at this price," but what has the administration required us to do in this bill?

This is where we are. It has said, "We are not going to ration. We are not going to control prices. What we are going to do is have a voluntary system," and the voluntary system has consisted of cutting off various parts of the economy. Once this bill rejected rationing, and that was done on the first day in the committee, we started on an allocation system and the bill became a Christmas tree. It had to become a Christmas tree because every special interest that had a representative in Washington, D.C.—and some of them had to ship them in from out in the country—had to come in and say, "Protect us some by putting them others by taking them out."

That is why the bill is cluttered with over 75 amendments. Everybody is trying to protect himself in the so-called voluntary system, so we did one thing in the bill that I think tries to protect all groups, and they run from general aviation to the plastic firms to the leather business, the ski resorts, the gasoline carts and every other kind of thing; a bill that would have taken care of a ration.

By introducing a rationing system, we will say to the public, "Here is your 10 gallons. Put it in your motorboat, your pleasure boat; drive to the mountains; car pool; do whatever you wish to do with it, you have freedom of choice to use the limited supply however you wish."

But he does not get freedom of choice under these other plans.

If we do not do that, then, in order to get an allocation, the consumer has to fight it out at the pumps for his supply. Consumers will find stations shut down on Sundays, and this puts the recreation people out of business, or consumers are going to find that the lights are turned off at the stores and shopping centers by agreement of the big stores. We will find that the little camera shops are out of business, as well as all the other shops and small businesses. We will find that the pleasure boats are out of business because if you do not allocate gas, the marinas are going to be shut down.

As far as general aviation is concerned, they will say, "You fellows are going to go down to 50 percent."

This is what I refer to. Now, when you have a man who is too fat and he is consuming too much energy, you put him on a diet. Then you say, "You have 1 year to behave yourself," and then at the end of 1 year you just take him off the ration and let him go; or if not, then you put him back on a diet again.

The other alternative is to cut off a leg or cut off an arm or cut off a foot and hope that is going to help.

In the bill is what the committee put in with the Eckhardt amendment that the gentleman from North Carolina (Mr. BROYHILL) now intends to take out. We said in that amendment, "OK, Mr. President, you cannot come up with any more plans that may amount to cutting off an arm, a leg, of this economy or anything else unless you come back to Congress for approval."

Mr. Chairman, I hope we will have what is in the bill, and that the amendment that will be offered by the gentleman from North Carolina (Mr. BROYHILL) will be defeated.

If we go into a petroleum allocation system and put in antitrust exemptions and conflict of interest exemptions we are right in there with the administration and the oil companies who got us into this crisis and this amendment proposes they will be running the program to get us out.

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

Mr. ADAMS. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, let me just ask one quick question.

Does the gentlemen plan to increase supply, and increase production?

Mr. ADAMS. Absolutely.

First, we will cut off oil exports.

The second thing we will do is that we will have to make a complete study of oil imports; the third thing is that we will have to study both the electrification of railroads and the utilities; and the fourth thing we will do in that area is to put on an excess profits tax which I hope will come out of the Congress and will force these companies to take their profits and put them back into exploration for oil resources.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN of North Carolina. Mr. Chairman, I have a modest proposal. In the midst of a seriously difficult legislative effort to conserve energy and equitably distribute scarce fuel supplies, all Members of the House have been barraged with respects and demands of special consumer interests ranging from "A"—for antique aeroplane enthusiasts—to "Z"—for Zoological Gardens—with even a curious "L"—for large American gas guzzlers. All such entreaties have been pitched as representing a need for priority allocation. There is no way this chaotic situation can be fairly administered even were a modern Solomon to come forth to make judgments.

If we rely on price or taxation alone, the sudden jump in costs will unfairly price lower income consumers out of the market. On the other hand, to rely solely upon a rationing mechanism with market prices frozen will result in both a bureaucratic monstrosity and black market profiteering. This would be especially so if the guiding policy was to provide special treatment in response to the assorted pleas for favored priority.

For the immediate future, the only thing to do with the shortage is to share it.

Instead of trying to set up special categories for extra rationing stamps, instead of "freezing out" the poor—the best approach would be a combination system, which would provide a basic ration to each consumer—with special treatment only for police, firemen, and medical needs—and with an option for others to purchase at a premium, perhaps paying an additional tax surcharge for any available excess over the aggregate basic ration. In this way, everyone would get an essential share with a simple nondiscriminatory administrative framework. Extra shares for special needs or wants would be available only at a higher net price. Each consumer would then be able to exercise personal judgments to decide whether the higher net price for the extra share would be justified.

The salesman, the hobbyist, the sportsman, the tourist, the large car owner, the employee residing a long distance from work—each would have to determine whether to pay the higher price or to ride the bus, join a car pool, use a telephone, or otherwise reduce consumption as an alternative to going above the basic ration.

Such a system would be nondiscriminatory. It would be equitable. It would share the shortage. And it would let economic considerations comparable to the free market determine special allocations.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Chairman, I would like to take this time to ask a question of the Chairman of the Whole Committee, the gentleman from West Virginia (Mr. STAGGERS).

As the gentleman knows, the two of us have had a number of discussions about the importance of using coal in firing electric generating plants.

In my State we do have this. We have a surplus of electricity, and we are trying to get our people to shift over and use some electricity, for heating in both industries and households, rather than to use oil which is in extremely short supply.

As I understand it, the committee's study of this question disclosed that this was indeed in the Nation's interest, where abundant coal was being used for generation, did it not? As I understand it the committee also felt that no excess usage tax should be levied on such coal-generated electricity.

Mr. STAGGERS. Mr. Chairman, in answer to the gentleman's question, we found it would be helpful, and I believe in most areas where there is an abundance of electricity, that is true.

Mr. ANDREWS of North Dakota. In other words, then, what our North Dakota energy people are doing is in the best interest. Any direction in this bill to the Federal energy regulators is to emphasize the use of electricity as a substitute for oil and for natural gas in heating where the electricity is abundant and generated from coal. And that is in the Nation's best interest; is that not true?

Mr. STAGGERS. The terminology is "shall" in the bill. The gentleman has stated the intentions of the committee.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. KUYKENDALL).

Mr. KUYKENDALL. Mr. Chairman, it has been quite interesting to hear several members of this committee so piously say, "It is not our fault." Whose fault was it that we sat on the legislation that did nothing but widen the right of way for the Alaskan pipeline for well over a year without passing it? Whose fault is it that we delayed any development of offshore drilling for month after month after month and finally had to wait until we had the Middle East crisis arise before they got back onto this very important matter? Whose fault is it that we sat and let lie either in court or in committee through actions too numerous to think of important legislation like strip mining or the gasification of coal or the development of the shale deposits in the Western part of this country? Whose fault is it that we went for years with every single site for a dam for hydroelectric power being blocked by the environmentalists until we quit even seeking those sites any more? Whose fault is it that just in these last few days a nuclear powerplant site was turned down by a major city on the West Coast? I wish they could get as cold as Boston this winter; I do not think they would turn it down then.

Mr. Chairman, in this situation we are all at fault—the administration, the courts and this Congress—and believe me there is enough fault to go around.

However, Mr. Chairman, I deeply resent the idea that we who are a major part of the cause sit up here and offer such pious cures. It is just like a person who smokes too much, does not take care of himself, gets emphysema and then suddenly blames the doctor for his disease.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, I appreciate the time.

I am chairman of the committee which has been holding hearings each year for the last 3 or 4 years on some of these actions that we unthinkingly and hurriedly passed through the Congress largely under the sponsorship of my good friend from West Virginia (Mr. STAGGERS) and the gentleman from Florida (Mr. ROGERS).

I am glad to see my friend from West Virginia (Mr. STAGGERS), and my friend from Florida (Mr. ROGERS), now trying to undo some of the things that have occurred in some hasty actions they have taken in the first instance. I can understand their desire to be in on this hasty action here.

Mr. Chairman, I subscribe to the remarks made by my colleague from Ohio (Mr. LATTA) who spoke on the rule, and with my friend from New Hampshire (Mr. WYMAN). The bill before us is much less than an objective, informed, well-prepared effort to meet a very serious problem. It could well make matters worse. It needs to go back to the committee for further study, for additional information before we go off "half-cocked" again.

Mr. Chairman, the Congress has passed air laws, water laws, solid waste laws, noise laws, and almost all kinds of laws restricting the American people, without knowledge of their effect or probable effect. I am sorry to see some of the ill effects of such laws come home to roost. I am glad to see the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from Florida (Mr. ROGERS), under whose sponsorship many of these acts were passed, realize that the American people have had all they can stand in some respects—for a number of those laws call for specific actions, by a given date, many times calling for new inventions or discoveries if they are to be met. Some American industry has been brought to a standstill, food costs have been increased and dangerous substitutes have been forced into use because the safe products have been prohibited. Air pollution has increased, gasoline use per mile is greater, and expensive safety devices are dangerous. Mr. Chairman, for several years now, I have presided over the Appropriations Subcommittee hearings for the Environmental Protection Agency and its operations. It is quite evident from the testimony that the Congress went overboard under the leadership of my friends. Now their efforts here, commendable as they may be, will set up another dictator, another czar, with more power than a good man would want or a bad man should have. How can any busi-

ness or any small investor in any company invest in productive plants to meet the needs of the consumer, when his plant may be closed down at any time? How can a food processor put up his money, when he may have his production taken and destroyed? How can we maintain our economy, our standard of life, our health, with all these people having so much power?

Mr. Chairman, I read excerpts from our report this year, the terms of which we carried out in the law, providing funds for Agriculture, the Environmental and Consumer Protection and other agencies:

I read:

RESEARCH STUDIES

The Committeee recommends $715,000 for research studies, the full amount of the budget request. This year, as was the case last year, the Council on Environmental Quality was unable other than in very general terms to tell the Committee how they planned to use the requested research funds. Therefore, as part of their fiscal year 1974 research studies program, the Committee directs the Council on Environmental Quality to perform the following studies:

The impact of exports of basic raw materials (such as timber, coal, ores or metals and scrap iron) on domestic prices and the competitive position of American industry.

The economic impact on American consumers of actions taken by the government to restrict or ban certain chemicals.

The cost/benefit implications of automobile emission control standards.

The impact of environmental standards and regulations on domestic energy consumption, including increased dependence on foreign sources.

The extent to which American industry is moving to foreign countries because of environmental considerations, and the extent to which American agriculture and food processing are moving to Mexico and other foreign countries.

The hearing record this year shows strong evidence that actions by the Environmental Protection Agency in carrying out these laws have contributed to the energy crisis, have increased the damage from floods because of the delay of flood and soil conservation projects, have increased the cost of production of food thereby contributing to higher consumer prices, and have greatly increased the danger to human health by banning DDT, which according to testimony has never injured a human being. In addition, actions by the Agency have placed American industry and American agriculture at a competitive disadvantage both at home and abroad.

ENERGY CRISIS

The Committee is convinced that the Environmental Protection Agency has played a major role in the current energy crisis. The approval by the Agency of overly restrictive State plans, which call for the meeting of primary and secondary ambient air standards at the same time, has resulted in the need for industry to convert from coal to low sulfur fuels. This increased requirement for oil and gas has been a major contributor to our current fuel problems.

In addition, the automobile emission control standards imposed by the Agency have greatly increased the requirements for gasoline, which is also in short supply and will probably require rationing.

The energy crisis has major implications with regard to our country's national security, foreign policy and balance of trade. These implications were not considered by the Agency in setting the standards and approving the plans that led to the problem. The potential impact on the economic and social well-being of this Nation of actions by the Agency is so great that it is absolutely essential that the Agency be required to consider the impact of their actions.

AUTOMOBILE PERFORMANCE

Emission control standards issued by the Agency, at the direction of the Congress have created serious problems for the American consumer. By setting deadlines that called for the development of new technology, the automobile companies, according to testimony before the Committee, were forced to proceed with the development of the costly catalytic exhaust converters.

Had sufficient time been allotted to meet the standards, then the automobile companies could have devoted their research funds to alternative types of clean burning engines. Instead, deadlines were set that did not provide sufficient time for development of alternative types of engines and the American consumer has ended up with an automobile that costs significantly more to buy, significantly more to maintain, will provide poor fuel economy, with a reduction in performance.

The Committee recommends an increase of $2,000,000 for research on alternative types of clean burning engines so that the Agency can accelerate this important program.

UNSUPPORTABLE PRIORITIES

A decision that a chemical must be banned because it "may" or "could," or stating it another way, "may not" or "could not" be a threat to wildlife and replacing it with a chemical that "is" dangerous to humans would seem to represent a clearly unsupportable set of priorities.

The Committee calls for a complete and thorough review based on scientific evidence of the decision banning DDT, taking into consideration all the costs and benefits and the importance of protecting the Nation's supply of food and fiber. The need for this review is amplified by a recent statement by the President of the National Academy of Sciences concerning the testimony at the DDT hearing:

Two-thirds of what I read I can only call trash; it was not science.

The Committee recommends adding $5 million to the bill for the testing of substitute chemicals. By providing this money the Committee will expect the Agency to avoid taking actions based on insufficient knowledge like they have done in the past.

ARBITRARY DEADLINES

The Committee is extremely concerned about the proliferation of legislation being passed by the Congress which places arbitrary deadlines on the Environmental Protection Agency. Some of these deadlines have even gone so far as to require an invention or the development of new technology by a given date.

Testimony before the Committee indicates that the Water Pollution Control Act Amendments of 1972 impose over 40 deadlines on the Agency. The Federal Environmental Pesticide Control Act of 1972 impose additional deadlines, as does the Noise Control Act. In addition, the Solid Waste Disposal Act and the Clean Air Act also contain numerous deadlines.

In many cases, these legislative deadlines have been imposed upon the Agency after passage of the annual appropriation bill. Since the deadlines are mandated in the law, the Agency must often use resources from other high-priority programs to comply with the law. This was the case recently when the Agency proposed to transfer $6 million from the Solid Waste Program and $3.5 million from the Great Lakes Program to comply with deadlines imposed by the Federal Water Pollution Control Act and the Noise Control Act. The Committee directed the Agency not to transfer funds from these high-priority programs and recommended instead a supplemental appropriation to meet these new legislative mandates.

The Committee is convinced that many of these arbitrary deadlines are forcing the Agency to frequently make unsound decisions or to take ill-conceived actions. The use of deadlines in statutes or regulations may help to encourage a development, but the use of deadlines to attempt to force new inventions or new discoveries would appear to be impractical. The Committee is convinced that the excessive use of deadlines results in the classical situation of "haste makes waste."

Therefore, the Committee has recommended language in the bill providing that funds may not be transferred to meet deadlines. During fiscal year 1974 if legislation is passed calling for additional deadlines, then the Agency will be required to seek a supplemental appropriation. This technique will preclude the transfer of funds and people from high-priority programs merely to meet a deadline with no consideration of the priority of the action called for by the deadline.

STUDY OF ENVIRONMENTAL PROGRAMS

Because of all the problems discussed above, the Committee recommends an appropriation of $5,000,000 for a complete and thorough review of the programs of the Environmental Protection Agency. The studies shall be conducted under contract with the National Academy of Sciences which has a reputation for technical competence and complete objectivity, and shall include, but not be limited to:

(1) The estimated cost of pollution abatement activities over the next decade and the benefits to be derived versus the cost. (If we are to spend $287 billion over the next decade, as estimated by EPA, how can we get the maximum pollution control for our money?);

(2) The degree to which environmental regulations have contributed or will contribute to the current and the long-term energy crisis;

(3) The effect of emission control standards on the cost and performance of automobiles, including the cost/benefit implications of present standards;

(4) The benefits and hazards to humans of agricultural and home use chemicals, such as pesticides, herbicides, rodenticides and fertilizers; and the effect on food and fiber production and the protection of human health of the inability to use those chemicals now banned or restricted; and

(5) The utilization of scientific and technical personnel and the identification of policy level positions that should be staffed with scientific or technical personnel.

Mr. Chairman, I believe I have as fine a record on protecting and developing our environment as any one. In the book I wrote, published in 1966 "That We May Live," I called for the protection of the environment, pointing out that to do the cleaning up job on pollution, we must call on industry, the Federal, State, and city government. We need financing and regulations. In the meantime we must maintain a sense of balance so that we do not tear up more than we correct. We must keep our industry going.

Mr. Chairman, the bill before us would add one more dictator where we have one too many now. We need this committee to go back and reconsider and protect the rights of the citizens far beyond leaving them to the whims of an unknown subordinate of a well known administrator, who could not handle the job whoever he may be or how hard he tried.

Mr. BROYHILL of North Carolina. Mr.

Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Chairman, although I am, as a member of the Energy Subcommittee, reasonably informed and genuinely concerned about the need to conserve and allocate our available petroleum supplies during this period of shortage for the benefit of all parts of our Nation and our economy, I cannot, in good conscience, support the adoption of the Emergency Energy Act, H.R. 11450. The enactment of this bill would be a prime example of the cure being worse than the illness.

The legislation is objectionable for a number of reasons, some of the principal considerations being as follows: It would give the President of the United States virtually dictatorial powers over the economy of the Nation; it constitutes the delegation of the authority and responsibility of the Congress of the United States to the executive branch in a period when the influence of the Congress in the solution of the pressing issues of the day is at a new low, and there are frequent cries by Members to regain the prerogatives and proper congressional authority envisioned by the framers of the Constitution; finally, this legislation will simply not provide acceptable solutions to the so-called energy crisis. Even if it would, it would be unacceptable because of its excesses.

Although the final version of the bill will undoubtedly contain a number of amendments, as originally introduced and as originally considered, this bill would, to paraphrase a recent editorial from a newspaper in my district, direct the President to establish a national program to conserve resources "through mandatory and voluntary rationing." Within 2 weeks of the bill's enactment, the President shall "promulgate requirements for emergency energy conservation and contingency programs to be developed by each State and major metropolitan government."

The President is granted life and death powers over the fuels used by businesses, public services, and individuals. He is directed to fix priorities on fuel consumption. He is given authority over "transport control." He can force oil fields and refineries to produce at a quantity desired by the administration. He can regulate commercial use of fuel, and even direct companies to use only certain kinds of energy.

The President can implement measures which shall include, but are not limited to restrictions on the use of "fuel or energy for nonessential uses." The phrase "nonessential uses" is so loosely defined that the President can apply it to almost anything.

The President can ban "all advertising encouraging increased energy consumption"; for example, a ban on advertising tourism, toasters, electric dishwashers, television sets, garbage disposal units and so on. He can, as well, place "limitations on energy consumption of commercial establishments and public services such as schools."

In addition, the bill calls for "prompt action by the executive branch" to deal with "severe economic dislocations, 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."

Couple all those powers with those already held by the President to fix prices and wages and it is obvious that, with the stroke of a pen, the Chief Executive and his agents can drastically alter the personal and business life of every American. In fact, the administration will have far more economic—and, hence, political—power than Hitler held over Nazi Germany.

At the time of final adoption, the House version of this legislation will most probably provide that these awesome powers can and will be delegated to an appointed "administrator" for purposes of implementation. Transfer of this power to a bureaucracy would be even worse than that originally proposed.

It is inconceivable to me that a majority of this House would, in an overreaction to the hysteria of the moment, fail to see or remove the ominous features of this bill if it is to be adopted, or better still, would not reject this legislation altogether and exert its responsibilities in various and specific programs in dealing with petroleum and other fuel shortages and the energy gap generally.

To adopt this legislation in its present form would permit, by executive action, the virtual elimination of the individual rights of Americans to live and function as free citizens under the free enterprise system which has made this Nation unparalleled in the history of the world.

I cannot, in good conscience, support such an action, and will vote against this legislation. It is my fervent hope that a majority of my colleagues will do likewise.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. J. WILLIAM STANTON).

Mr. J. WILLIAM STANTON. Mr. Chairman, I appreciate the gentleman yielding me this time.

Mr. Chairman, I take this time to ask the chairman of the full committee a question. As the chairman knows, petroleum coke is all that remains after the crude oil has been completely refined. The product is a waste product subsequent to the refinery process. My question is: I want to be sure that the definition on page 4, line 16 of H.R. 11450, that under that definition, petroleum coke would not be included?

Mr. STAGGERS. If the gentleman will yield, that is true, that it is not included in this definition. This is a waste product of the refining process as I understand it.

Mr. J. WILLIAM STANTON. That is right.

Mr. STAGGERS. And it is not defined to be a refined petroleum product, as that term is used in this act.

Mr. J. WILLIAM STANTON. That is correct.

Mr. STAGGERS. It is not included.

Mr. J. WILLIAM STANTON. I thank the gentleman very much for his response.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, if I may have the attention of the chairman, the gentleman from West Virginia (Mr. STAGGERS) I would like to propound a question to the gentleman.

Mr. Chairman, may I have the attention of the gentleman from West Virginia, the chairman of the committee. I should like to propound a question to him.

I am interested in the alternative to gasoline rationing and the limitation of fuel consumption now in use in the state of Israel. Under this plan, each motor vehicle may be used only 6 days a week. The single day each week of nonuse is selected by the owner of the vehicle and identified by an appropriate and distinctive windshield sticker.

We are assured that the data processing equipment of all States in this Nation would make the appropriate recordkeeping of such a system in our country very simple. I would like the chairman's assurance that the proposed legislation is sufficiently flexible to permit regulations imposing this alternative to rationing, if the administrator be so advised.

Mr. STAGGERS. That would be my interpretation.

Mr. BUTLER. Another question, if I may: If such a plan were recommended by the Administrator, would it have to come back to the Congress for approval under this proposed legislation?

Mr. STAGGERS. No, it would not. This would come under section 103.

Mr. BUTLER. I thank the gentleman.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. I thank the gentleman for yielding.

I should like to compliment the committee on the fact that under section 123 the Administrator has the authority, under the act, by rule to restrict the export of various products, including petrochemical feed stocks. I have been very much involved in this part of the shortage that we are seeing with the energy shortage, and in my district alone it directly affects some 11,000 jobs, and throughout the Nation approximately 1.8 million jobs will be lost with simply a 15 percent reduction in petrochemical production.

I would point out, though, that I do not believe that this bill as it now stands goes far enough. I think that some of the language that is employed in title V of the bill as it came from the Senate should have been enacted in this bill, and I am referring to section 501(a) of the Senate bill. That section allows the President to grant to the States the necessary funds to keep unemployment compensation benefits going for those people who need them, who have exhausted their own benefits or, who for other reasons are not eligible for unemployment benefits and yet have lost their jobs as a direct result of the energy shortage and the conditions that are imposed under this act.

I think it is absolutely essential, first

of all, to require that the States utilize their own resources, but then to face up to the fact that the Federal Government has an obligation here, and that the Federal Government should respond to that obligation by allowing some Federal assistance to the States to allow them to continue on with unemployment compensation benefits to those people who are going to be directly affected by the loss of jobs as a result of energy shortages, and directly affected by many of the conditions contained in this bill itself.

Mr. Chairman, I yield back the balance of my time.

Mr. BROYHILL of North Carolina. Mr. Chairman, I do not have any other requests for time. Those who had requested time are not on the floor right now. I reserve the balance of the time.

Mr. STAGGERS. Mr. Chairman, I have had requests for time, but the gentlemen requesting time are not here, so I have no further requests for time.

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

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

Mr. NELSEN. I thank the gentleman for yielding.

For purposes of clarification, I notice the date in the Staggers amendment in the bill dealing with coal is of 1980 as the outside date that the relaxation of use of alternate fuels is permitted. The thing that concerns me is that, for example, my good friend Andy Freeman builds his powerplant on the coal fields of North Dakota. Is it the intention that in the year 1980, if the ambient air quality is still good and not damaged, he will then be permitted to continue the use of coal after the year 1980?

Mr. STAGGERS. I would say yes, but he would have to meet the requirements.

Mr. NELSEN. That is perfectly all right. I thank the gentleman for yielding.

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

Mr. NELSEN. I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Chairman, along the same line, is industry likely to make a huge investment for a coal generating station if it will last such a short time? It will be 2 or 3 years for the constructing of it and then possibly it will get operating only in 4 years. Is that going to make it possible to increase the generation of electricity with the standards reaching only to 1980? Would it not be more useful to go maybe another 10 years to let the investors have a reasonable assurance they will be able to recapture their investment?

Mr. STAGGERS. We are talking about those plants which are already available to enable them to convert right away.

Mr. MYERS. If we do it, it would include any new industry coming on the line.

Mr. STAGGERS. It says that wherever possible they shall be able to build their plants so that they can use coal too.

Mr. MYERS. Mr. Chairman, if the gentleman will yield further, is there any place in this bill to accommodate the coal burning electric generating stations that might be built in the event we give them some assurances of recapturing their investments? I do not think we are going to be able to generate the electricity which is needed today unless we do encourage coal burning generators.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, I might say to the gentleman that on line mine mouth plants are visible, they are those that were built right on the coal mine. What the standards do say is that they must meet certain standards. There are types of plants that can meet the present standards. What we are saying is that they can go ahead and build this type plant until 1979 and as long as the ambient air quality in the area is met, perhaps some type of alternate or intermittent control would be all right, but after that time some continuous-type control would have to be on that plant, and the people in the industry know that at the present time, and they have the understanding if they enter into a plant such as this. The continuous control type of technology will last 40 or 50 years, right along with the life of the plant.

Mr. MYERS. Mr. Chairman, if the gentleman will yield for one further observation, then is it the opinion of this committee that industry has the assurance from this committee?

The CHAIRMAN. Has the gentleman yielded? I would like to know who has control of the time.

Mr. STAGGERS. I did not yield to anybody but the gentleman from Minnesota who was seeking recognition, but now I have a gentleman here who would like to speak, so I cannot yield any further time.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. NELSEN).

Mr. MYERS. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. NELSEN. I yield to the gentleman from Indiana.

Mr. MYERS. Mr. Chairman, it is not clear in my mind and I hate to belabor this point but the committee does feel that the electric companies of this country will build coal-fired generating stations that will be needed now and in the very near future under existing and proposed law. Is that correct?

Mr. STAGGERS. That is correct. The gentleman asked about it and they can get it on their charging for electricity. This will be allowed, I believe.

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

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

Mr. ECKHARDT. As I understand it the right to continue to buy coal until 1980 as long as up-to-date equipment is used is contained in section 106, which as I understand it deals only with those plants which are ordered by the Administrator under the present act to convert to coal because they have the ready ability to do so. Does the gentleman understand the matter in another way?

Mr. NELSEN. It is my understanding that under the terms of the bill the EPA may permit alternate sources of fuel supply to generate electricity. This could be gasified coal or flotation process or cleaning of coal, providing however that the total ambient air quality must remain at a level that will be established.

The thing that bothers me some is this, that if a plant is going to be built on a coal bed, it will take several years to build it. Assuming that the plant has been built on the coal beds of North Dakota and the plant is then in operation in the year 1980 and the ambient air qualities are met, I do not believe it is the intention of the committee to say that in 1980 we have to use petroleum products, providing they meet the ambient air quality.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, I rise in support of H.R. 11450 the bill that the distinguished gentleman from West Virginia has brought to the floor. He has worked on this bill night and day. While he said himself that it is not a perfect bill, it is a good bill in relation to the intent and the purpose that we have at this time of fighting this energy crisis and winning, and thereby making ourselves independent of Middle East oil.

Now, as it happens in the closing days of Congress and as it has happened in other days of Congress, sometimes there are overlapping jurisdictions.

About 2 weeks ago the Speaker and our now Vice President, the gentleman from Michigan (Mr. FORD), the gentleman from New York (Mr. HORTON), myself, and the gentleman from California (Mr. HOSMER), and the gentleman from North Carolina (Mr. BROYHILL), were called down to the Administration for a conference. We were asked if we would take over the task of setting up the Federal Energy Administration. The administration had ready some charts and information which they made available to us and they asked the Committee on Government Operations to take on this task, as a reorganization was needed.

Now, during the discussion of the bill which we have before us, an amendment was offered by the gentleman from California (Mr. Moss), in harmony with the draft that was presented that morning to set up a Federal Energy Administration and the amendment was agreed to, which would set up a Federal Energy Administration and an Administrator. Now, that is just about as far as the amendment went. The Moss amendment did not provide the full treatment for the entity which his amendment created.

In the meantime, the House Committee on Government Operations began holding hearings on the basic reorganization and the basic organization of the Federal Energy Administration. We continued to hold hearings in the Committee on Government Operations.

I brought this to the attention of the gentleman from West Virginia. We agreed that the joint action of our two Committees did not present an insoluble problem.

In the report which we have before us on page 27 there occurs this language; this is in the report, page 27, of the Committee on Interstate and Foreign Commerce speaking:

In addition to the powers under the Emergency Petroleum Allocation Act of 1973 and as may be authorized under this Act,

the President has proposed to transfer other functions of the Executive Department to the Federal Energy Administration so as to consolidate energy related activities. This the Committee has not attempted to do. It is understood that some of these proposed transfers, such as the transfer from the Department of Interior of its Office of Oil and Gas and the Outer Continental Shelf authority, require legislative approval. An appropriate bill has been submitted to the Congress and will be considered by the Government Operations Committees of the House and Senate. The Committee does not believe that the action which it has taken under this Act in any way impairs studied consideration of these proposals by the Government Operations Committee. Indeed, charts of organization of the Federal Energy Administration confirm that the Committee's proposal to act now to place the mandatory allocation program and the authority granted under this Act in an independent Federal Energy Administration is entirely consistent with the President's Executive Order and the proposed legislation now under consideration by the Government Operation's Committee.

Now, I can say that our Committee on Government Operations has been working sometimes until 10 o'clock at night. We have reported out of the subcommittee to the full committee a bill which will put meat on what is a skeleton arrangement or a very sparse arrangement in section 104 of H.R. 11450. The language of the Moss amendment setting up a Federal Energy Administration and a Federal Administrator, I understand was the basis of section 104.

Now, we have given a great deal of time to the problem of establishing by detailed legislation the Federal Energy Administration with its officers, structural organization, its powers, duties and responsibilities. We believe that H.R. 11793 accomplishes that objective.

The bill, H.R. 11793, will be passed out of the full Government Operations Committee, in my opinion, on Friday morning. Now, H.R. 11793 is a complement to H.R. 11450 that is before us today. As to whether the Speaker will schedule it for action now or in January is unknown to me at this time.

Let me emphasize again that I am in support of H.R. 11450 the Staggers bill. It is an operational bill, a bill of broad authority, but it needs an agency, a centralized agency. That agency has been created by Executive order and Mr. Simons and Mr. Sawhill have been put at the head of it until a statutory basis is established. H.R. 11793 will be the statutory authority for a complete organizational structure of the proposed Federal Energy Administration, when and if it becomes law.

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

Mr STAGGERS. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. HOLIFIELD. Therefore, Mr. Chairman, section 104 of H.R. 11450 will be complemented by the full study contained in H.R. 11793, on the organizational structure which is really necessary, and which the chairman agrees is necessary to carry out the overall direction of the energy problem, which is contained in the Staggers bill.

Therefore, I support this bill and I will await the action of the Congress on H.R. 11793, the Federal Energy Administration, the bill which the administration has also requested this Congress to pass before we adjourn, if possible.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. MARAZITI).

Mr. MARAZITI. Mr. Chairman, one of the important sections of this bill is section 121, which calls upon the Secretary of the Interior and Secretary of Commerce to provide a study and report on exports of petroleum products and other energy resources of the United States. It calls for a report within 90 days and a recommendation on legislation.

I would have hoped that the time period would have been limited to a shorter period, but I hope that the report is made quickly and that Congress acts at once.

We have exported gasoline and natural gas in large quantities from the United States. We have exported heating oil to the tune of 1,500,000 barrels in 1973 up to now. That is 3 times the amount that was exported in 1972. The total value of the products is over $400 million.

Mr. Chairman, today we have before us a bill of the utmost importance to the Nation. The Energy Emergency Act gives our President a framework within which he can work to meet the Nation's fuel needs in the face of growing shortages.

I like the fact that this bill addresses itself to our existing environmental commitments, and the impact of energy shortages on employment. I also like the fact that section 121 of the bill directs the Secretary of the Interior and the Secretary of Commerce to prepare a comprehensive report of U.S. exports of petroleum products and other energy shortages.

It is my feeling that when compiled, this report will prove that we need legislation to stop the export of domestically produced crude oil and oil products until our own energy needs have been satisfied. I have introduced legislation which would do this, and encourage my colleagues to consider a similar move.

From the information I was able to gather on this subject, we have exported $317,460,319 worth of petroleum and petroleum products from January through August of this year. This information came from the U.S. Census Bureau.

In just the major classes of products alone for such things as aviation fuel, gasoline, propane, heating oil, lube greases, and similar products we exported 18,288,119 barrels of these refined products during this same period.

Mr. Chairman, we use about 17 million barrels of oil per day at current levels here in the United States. As you know available energy is the basis of our ability to grow and, therefore, our economy. A shortage of energy will undoubtedly mean curtailed production, and a loss of jobs for many Americans.

I feel it is preposterous to permit the export of domestic oil products to foreign nations when we face such serious energy shortages here at home. A 17-percent shortfall is predicted for this winter alone.

For the increased profit of a selfish few companies by allowing domestic oil and oil products exports to continue we are causing increased hardships for American labor, to businesses and industry, and the consumer in general.

Our past track record is not too good. We exported lumber to Japan, and it drove up the price of lumber here at home. We sold wheat to Russia and it inflated the cost of food for the American housewife. Now we are faced with a serious energy shortage, a possible recession, higher inflation levels, and we still are exporting domestically produced crude oil and oil products abroad.

Mr. Chairman, the report specified in section 121 is due to be presented to the Congress 90 days after the enactment of this legislation. I trust that speedy action by the Congress will be forthcoming to halt U.S. oil exports once this information has been made available to the appropriate committees.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Nevada (Mr. TOWELL).

Mr. TOWELL of Nevada. Mr. Chairman, this piece of legislation, perhaps the most important debated in this Chamber this session, is so lacking in direction and content that I—and I hope many of my colleagues—am giving serious consideration to voting against it.

While I am fully cognizant of the emergency status of this bill, it is difficult to understand why such a major bill should be disseminated to the Members just this morning for study and consideration.

Once again we find ourselves faced with legislation that simply hands over to the administration the authority to do whatever it believes is necessary. There is no opportunity for input from Congress other than to vote "no" if we do not like the administration's plans or, most likely, just complain about it when we find the administration's action unpalatable.

One of the few things this legislation actually does is authorize the establishment of a Federal Energy Administration. Here, finally, we have authorization for much-needed long-term research into such essential energy sources as solar power, oil shale, and geothermal steam—something I advocated several months ago.

I am concerned, however, that this bill does not do enough to immediately combat the shortage of energy itself.

Just yesterday the Federal Energy Office announced that the voluntary programs already implemented, as well as those controls the President already has available, have resulted in a reduction of nearly 50 percent of the anticipated daily shortage of petroleum. And today, the same office announced further proposals to eliminate the rest of the anticipated shortage—including a gasoline output cutback of 15 percent at the refinery level. With this kind of action downtown, one quietly wonders just what it is that we are all doing here today.

Nevertheless, I hasten to point out to my colleagues that in my State, fully two-thirds of the work force is directly involved in tourism. Yet this legislation makes absolutely no direct provision for consideration of the economic impact these cutbacks place on States such as Nevada.

One of the most serious provisions missing from the final draft that we are considering here today—and I am told it

will not fit into this bill because we are not actually doing anything in the way of conserving energy—is that by which State governments can actively participate in energy conservation planning and implementation. This bill gives no consideration to essential industries that weigh heavily on the economy of certain areas best known at the State level.

Those of us from States that anticipate extreme economic hardship from such anticipated proposals as Sunday closing, rationing, the 50-mile-per-hour speed limit, have no recourse other than to take our case down Pennsylvania Avenue and hope for the best.

Responsible legislation which provides individual areas to accomplish their own energy conservation within wide guidelines is essential.

Unless this legislation is suitably amended, I urge my colleagues to join with me in sending this bill back to committee and ordering out some responsive, effective proposals.

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

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I rise to ask the chairman of the full committee a question with respect to section 106, having to do with coal conservation and allocation.

As I understand it, Mr. Chairman, this extension of time during which the user of coal, if he uses the most modern equipment, is guaranteed a time until 1980, is limited, as I understand it, to those plants which are under the authority of that section commanded by the administrator to alter from other fuels to coal.

Mr. STAGGERS. Mr. Chairman, that is true.

Mr. ECKHARDT. Mr. Chairman, I understand, too, that if a plant is using coal and has not converted under an order, it would be required to operate on the same basis as a plant running on fuel oil or any other fuel?

Mr. STAGGERS. That is as I understand it. The gentleman is correct.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I thank the gentleman very much for yielding me this time, recognizing the shortness of time available.

I do wish to compliment the chairman of the committee and the members of the committee for bringing to us this emergency energy bill, which I am sure will be extremely important to the solution of some of the problems that face us. I want to make just two points in the brief time which I have.

First of all, I think it is unwise for the Members of this House to feel that what we have is a temporary emergency. Many of us have been exposed to briefings with regard to the long-run nature of the energy crisis which faces this country. It would have been a critical situation in the very near future without regard to the question of the availability of oil from the Middle East.

Perhaps we ought to be grateful for the fact that we are now being forced to take certain actions which in a very short time we would have had to take anyway, and perhaps with worse results than those that will follow when we take them now.

There is no question but what in the long run this country is going to have to do a number of things involving the reduction of the use of energy and the development of new and nonpolluting sources of energy which we have not done before or have not done with sufficient rapidity.

Mr. Chairman, I hope, while we are considering this bill which is labeled as an emergency short-time bill, that we will not forget that we are truly up against a long-run situation which we will have to face in the very near future and on which there will be other legislation which I hope will be before this House soon so that we may deal with it.

There are a number of points with regard to this current bill on which I have some objections.

They are in some cases substantial and in others not so substantial.

I will have some amendments which I will offer when we reach that stage when we consider the bill during the amendment process.

I do wish to point out that this so-called emergency short-range bill has been used as a vehicle for making changes in the automobile emissions standards and in the ambient pollution standards in the years 1975, 1976, 1977, and 1978, which cannot by their very nature have any impact upon the immediate problem which is supposedly the basis for this bill.

I am going to raise some questions as to why we need to act hastily in connection with these various substantial changes in the air pollution control standards.

I understand and I appreciate the fact that the members of this committee are as concerned as I am about clean air in this country, and I am sure that there is a reasonable and rational way in which necessary changes in these standards can be made over a period of time.

Mr. Chairman, I am questioning the desirability of moving to put them into this bill, which by its language expires in a little over a year, instead of doing it on a more considered basis.

The CHAIRMAN. The gentleman from West Virginia (Mr. STAGGERS) has 4 minutes remaining.

Mr. STAGGERS. Mr. Chairman, I yield myself 1 minute.

Mr. YOUNG of Texas. Mr. Chairman, will the gentleman yield for a question?

Mr. STAGGERS. I yield for a question to the gentleman from Texas.

Mr. YOUNG of Texas. Mr. Chairman, I would like to ask the gentleman from West Virginia what the situation would be or what he expects as to this situation:

Down in the Southwestern part of the United States we have many utility companies, power companies, that are located near vast gas reserves, with several of them setting right over them. Of course, that gas is committed by contract to many places back in the East and to other places. As a result, these utilities have never used anything but gas; they have never used coal or anything of that nature.

Now, with the contracts being such as they are, it may very well be that soon some of these utilities will find it necessary to switch to oil, to burn oil instead of gas.

Is there anything in this bill that would prevent them from making that conversion, if necessary?

Mr. STAGGERS. No, sir.

Mr. YOUNG of Texas. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The gentleman from West Virginia (Mr. STAGGERS) has 3 minutes remaining, and the gentleman from North Carolina (Mr. BROYHILL) has 3 minutes remaining.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, when the House passed the mandatory allocation measure a certain priority was given to farmers to receive diesel fuel so that they could bring in their crops. Indeed, that and the independent gasoline people were the very purposes for which the bill was enacted. They had this priority. And yet farmers all over America do not have the diesel fuel to put in their tractors to work the fields. We have made legislative history on the floor saying that they should be given that diesel fuel and that they would not be limited strictly to the fact that the allotment would be based on 1972 as the base period. The Office of Oil and Gas Allocations have issued orders and rules and regulations indicating that they should be given that fuel and have even put this into the orders saying that there will be no prosecution of these companies if they should give them the fuel.

Yet the major companies do not yet give the diesel fuel up in the amounts that they should. They have the fuel on hand. There are lawyers for the major oil companies that state "Unless you can show me in writing that you can use anything except the 1972 base period, you cannot get the diesel fuel, and you cannot sell it to the farmers." This is a narrow-minded approach to attempt to get around what we said should be done.

Either the large oil companies are making a selective distribution of that fuel, or they are holding it for their own resale outlets or purposes or they are hoarding it for speculation when they can get a higher price for the commodity. That may or may not be the case, but I intend to introduce a resolution to say that if the administrator down the street does not see that the fuel goes to the farmers as we have said it should, then he will be guilty of penalties. I know these penalties are already in the law, but we are not getting any action on them.

I want to state this again by this amendment, that we will enforce these penalties if the administrator or suppliers do not comply, because it is our intent that it should be done.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from New York for a question.

Mr. BINGHAM. Mr. Chairman, I would like to ask a question about section 106.

In New York City, of course, they are very concerned about the burning of coal by the electric utilities. As I read that section, if a plant is approved under subsection (d), under certain conditions plants could continue to use coal until January 1, 1980. That section provides for a deadline with plans to be approved before May 15, 1974.

My question is, If the plant is disapproved as submitted, would it mean that the utility would not be permitted to use coal?

Mr. STAGGERS. Unless it would qualify for a suspension under the Clean Air Act. That would be under the regular procedure we have under the Clean Air Act as amended by this bill in title II.

Mr. BINGHAM. But under this act the provisions of 106 permitting use of coal would not apply if the plant were not approved. Is that correct?

Mr. STAGGERS. That is correct.

I now yield 1 minute to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I have an amendment that I plan to offer at the appropriate time which would be a logical extension of the section in the bill which focuses on "windfall profits."

Very simply, this amendment would bring automobile insurance rates under the provisions of this section.

As you know, the one "silver-lining"—the one benefit—of the energy crisis is the result the energy conservation measures will have on automobile traffic accidents and fatalities. In effect, we will most probably witness a reduction in death and disaster on the highways.

Obviously, if we see a 30-percent reduction in vehicle miles traveled, we should see—theoretically, at least—a 30-percent reduction in automobile accidents.

In addition, the lowering of speed limits will result in a reduction of both the frequency and severity of accidents on the highway.

Thus, with the resulting reduction in claims against automobile insurance companies, we should witness a lowering of insurance rates to coincide with these changes.

But to insure that the insurance industry does not reap windfall profits as a result of the energy crisis and the conservation measures mandated by the Government, I believe that the bill should be amended to include insurance companies, as well as oil companies.

Mr. Chairman, the American consumer is being asked to make tremendous sacrifices to conserve energy. The one area where he may be in a position to see some good coming out of this crisis is in the automobile insurance rates.

We need the confidence and the cooperation of the American people to make the energy conservation program work.

Let us give him that confidence by insuring equity in the rates he pays for auto insurance.

I hope that you will join me in this effort to make sure that the consumer reaps some benefit out of the crisis in which we presently find ourselves.

Mr. DON H. CLAUSEN. Mr. Chairman, we have before us the Energy Emergency Act which is extremely complicated and which has long-range ramifications that cannot readily be foreseen by the Congress or the American public.

In a way it is a test of our resolve to meet a problem head on and solve it in a positive way as we have always done. I have reservations about certain portions of this measure as I am sure we all do, but I am pleased that the Congress is now actively seeking constructive solutions to our energy needs.

Two years ago I reported to my constituents in California's First District that we were nearing the end of cheap energy in this country. I followed up that report with six more comprehensive reports on specific aspects of the problem.

Today, I would like to comment on several specific sections of the Energy Emergency Act and the implementation of its provisions.

First, the allocation of petroleum supplies is authorized until May 1975 under section 103 of the bill. It lists certain priority categories such as housing, education, health care, hospitals, public safety, energy production, agriculture, and transportation services.

It is important that these priorities be respected and that allocation decisions be made only on the basis of a full understanding of all the facts and that these decisions be continually reviewed to insure they are consistent with energy conservation goals.

Housing, for example, is basic to our economic and social welfare. We must make certain that construction can go forward but we must also assure a ready and available supply of the raw materials for constructing these houses. Timber resources must be available, and the transportation capability to get them to the mill and then to the market must be given a very high priority.

It goes without saying that education is a necessity. In fact, it is the student of today who will provide the advanced technology to meet our energy needs of tomorrow.

Local school administrators in my district have pointed out that if their transportation system is cut back, gasoline use will actually increase since students will have to get to school individually, in automobiles, rather than in groups by schoolbus.

If we unnecessarily restrict our economy in seeking to achieve energy conservation, we will be acting in a counterproductive way since we will need our economic strength and stability to meet the energy demands we face.

We have seen an abortive example of this recently when an announcement was made cutting general aviation fuel supplies by about half. This decision was obviously arbitrary and based upon a complete lack of understanding on the role of general aviation.

I was pleased we were able to get this order modified and I hope the language in section 105(c) of H.R. 11450 will prevent this from happening again.

The provisions of section 107 permit the Civil Aeronautics Board to "take any action" determined to be necessary to meet fuel conservation requirements in airline service. It is my strong view that "any action" should not consist of depriving a community of its airline service. While I have no objection to modifying the frequency of service or the means by which that service is provided, I would strongly oppose any complete elimination.

The nature of my district is such that I am well aware of the dependence isolated rural areas have on the airplane for transportation needs. This dependence is real and must be considered by the CAB.

Finally, the committee has included a provision in the bill which prevents the Environmental Protection Agency from imposing taxes as a means to control pollution. Taxation is a subject that must remain within the jurisdiction of the Congress and, in particular, the Ways and Means Committee of the House. I fully support the prohibition contained in the bill.

Mr. BROYHILL of Virginia. Mr. Chairman, all of us in America have been in the habit of using energy in great abundance. It has been, in fact, the lifeblood of our country's social, economic, and diplomatic welfare; of our standard of living, of our very way of life.

In June of this year, I reported to the citizens of northern Virginia of the strong possibilities of the crisis in energy that is now upon us and the need for the Congress to take positive action on a number of measures before it to lessen the impact facing the Nation. I also urged the people of the 10th District of Virginia at that time to carefully and wisely use the fuels they needed in the hopes that we could get through this period of tight supplies that was obviously coming with only minor inconveniences. Today the real dimensions of the energy emergency are clear to all.

Suddenly our people have found themselves turning down their thermostats and wearing a sweater in the house, giving up their long Sunday drives, reducing their driving speeds, sweating out their jobs if they sell or make large cars or happen to be in the plastic or synthetic industry, and among many other things facing rising inflationary conditions because oil companies are being forced to pay more for a barrel of crude oil that today is a scarce raw material.

Obviously every reasonable solution must be taken by the Congress, the several States and municipalities and the people themselves to solve this unprecedented energy problem.

The bill before us today, H.R. 11450, the Energy Emergency Act, grants the President specific temporary emergency powers to cope with the energy shortages so as to meet essential needs of our people in a manner which is consistent with the protection of our environment. Moreover, these authorities provide for the maintenance of vital services necessary to health, safety and public welfare and still minimize the adverse impact on employment by providing for equitable treatment of all sectors of the economy.

While there are some provisions of the

bill that I oppose, and I will support amendments to clear up those provisions, I support the bill in concept as necessary legislation required to increase the supply of domestic oil production and to make more effective use of our vast coal resources. Additionally, I am pleased to see that the committee, acting in its wisdom, included a provision in the bill to restrict the power of the Environmental Protection Agency to approve a parking surcharge regulation which has not been adopted and submitted by a State as part of an implementation plan of that State.

I am opposed to section 103 of the bill as it leaves the executive branch with little else than to impose rationing of available supplies of fuel. Section 105 of the bill as originaly introduced was a far more flexibe approach to the problem and required rapid reaction on the part of the executive branch, within 30 days after enactment, to come to the Congress with its specific fuel conservation plans. Congress would have 15 days to eliminate those elements of the plan they disagreed with.

As this measure is now set forth in the bill, it removes the congressional veto and provides for Congress to act affirmatively before any plan can be implemented. This time consuming legislative action required in the bill defeats the use of the phrase Energy Emergency Act and forces the executive branch in effect to impose rationing to prevent chaos in our economy and hardships against our people.

With correction of this and other minor deficiencies in the bill, the Congress will have taken a major step to assist the Nation to cope with the energy crisis.

Mr. JONES of Alabama. Mr. Chairman, I am in support of title II of H.R. 11450, the Energy Emergency Act, and particularly of the amendment offered by the gentleman from New York (Mr. MURPHY) during the committee's consideration of this significant legislation.

In sponsoring the amendment to provide relief for electric power consumers from unnecessary expenditures, JOHN MURPHY showed a knowledgeable understanding of the problems of the Senate-approved proposal. His energetic and skillful activities in the committee should earn him the gratitude of users of electricity throughout the Nation.

While there have been news reports to the contrary, it should be made clear exactly what is involved in the differences between this title and the similar legislation approved by the other body.

Although offered as a temporary suspension of the standards called for by the Clean Air Act of 1970, the sum of the provisions of the other body are nothing more than an attempt to make a major change in the Clean Air Act without adequate hearings and examinations such an alteration should involve.

In so doing, the language of the other body would commit the people of this Nation to a course which is environmentally disastrous, unnecessarily expensive and needlessly wasteful of already short supplies of fuel and energy.

The proposal adopted by the other body introduces for the first time for existing sources—and thus alters the individual state implementation plans—a requirement for "continuous emission reduction measures."

The practical effect of the use of this term would require every producer of electric power to make a present commitment to install scrubbers or burn very low sulfur coal. This ignores alternative technologies which may in certain instances meet the primary and secondary ambient air quality standards at one-tenth the cost.

The citizens who use electric power in their homes, businesses, or factories will be put to unnecessary expense. As you know, in this regulated industry, the costs of production are passed on to the customers.

Section 110 of the Clean Air Act provides that States shall adopt State implementation plans—SIPS—for attaining and maintaining the national ambient air quality standards. The only words in the selection which could be said to limit the measures which a State could adopt to achieve this goal are the following:

> (The implementation plan shall include) emission limitations . . . and such other measures as may be necessary to insure attainment and maintenance of such primary and secondary standards . . .

It is very clear these words mean that a State can use any reliable and enforceable method or methods it wishes in order to achieve the ambient standards. But, if "emission limitations" must be included in each SIP, they do not have to apply to all sources. In any event, the term "emissions limitations" does not mean only continuous and fixed emission limitations, but also includes variable emission limitations which may change as the conditions affecting plume dispersion change.

Studies by the Tennessee Valley Authority, which has been exploring methods of dealing with problems of clean air long before national legislation was enacted, indicate the requirement for installation of scrubbers on existing generating facilities will add at least one-third to the cost of producing electric power. Investigations by other producers of electric power indicate the scrubber requirement may double the cost of producing electricity—and this is exclusive of already frightful trends on the other costs of producing thermal electric power.

The Committee on Interstate and Foreign Commerce has wisely required the Environmental Protection Agency to report on the impact of the scrubber requirement on the Nation's environment and energy supplies.

The members of the committee are to be commended for their informed approach to this problem.

Most of us have been firm and stated repeatedly throughout the years that the greatest threat to our Nation's efforts to clean up our water and air comes from the ill-advised actions of strenuous advocates who, through unnecessary requirements, lose the support and endorsement of the great majority of the public.

Mr. EVINS of Tennessee. Mr. Chairman, the Associated Press has just completed a survey of 20 of the largest oil companies.

The results of this study indicate that the trend of concentration and monopoly in the oil industry continues and accelerates with the Nation's 20 largest oil companies controlling 95 percent of the industry's known oil reserves and dominating new energy sources.

Just 2 years ago this week, the House Small Business Committee which I am honored to serve as chairman, released a similar report based on hearings held by the Subcommittee on Special Small Business Problems, chaired by my distinguished colleague, the Honorable NEAL SMITH of Iowa.

This report pointed up the growing trend of big oil acquisition of a large percentage of coal reserves, uranium reserves and milling, in addition to refining capacity and natural gas production.

The report warned:

> If such a trend . . . is not reversed . . . a very dangerous monopolistic fuel supply could eventuate.

Mr. Chairman, according to this latest of the Associated Press, this trend has not been reversed, but continues as the Nation and the world face growing energy problems.

Because of the interest of my colleagues and the American people in the energy crisis, I place in the RECORD herewith the AP report published in the Washington Post on Tuesday, December 11, 1973.

The report follows:

TWENTY FIRMS CONTROL MOST FUELS IN UNITED STATES

(By Jean Heller)

The nation's 20 largest oil companies control almost 95 per cent of the country's known oil reserves and dominate shares of all known alternative fuels, an Associated Press study shows.

A special Senate subcommittee is investigating allegations of diminishing competition among the oil giants with an eye to defining oil company holdings in other fuels.

The AP study showed that the large oil companies also own:

More than 70 per cent of the U.S. natural gas supply.

Between 30 and 60 per cent of the nation's coal.

More than 50 per cent of the uranium supply used in nuclear power generation.

Virtually all of the oil shale lands currently under private ownership.

While the large oil companies have never made a secret of their diversification into other fuel areas, precise ownership data has been difficult to compile because the oil companies won't disclose the information to anyone, including some of the federal agencies responsible for regulating the industry.

The California legislature recently issued contempt citations against several large companies—including Standard Oil of California, Exxon, Union, Mobil and Texaco—after they refused to comply with subpoenas demanding data on their California operations.

What information is available through government documents and industry reports shows that among the top 20 oil companies as ranked by 1972 sales, all had oil and gas holdings. Eighteen of the top 20 had interests in oil shale lands, 14 had uranium interests and at least 11 had coal holdings.

Critics of the consolidation of ownership of fuel resources charge that the trend is monopolistic. Oil company executives have insisted their industry was highly competitive and that concentration of fuel resources provides for their most economical exploitation.

At least nine of the top 20 companies had fuel resource interests in all five fuel categories: oil, gas, coal, uranium and oil shale.

They were Exxon, the largest oil company in the nation; Texaco, ranked number three, Gulf, number four; Shell, number seven; Continental, number eight; Atlantic Richfield, number nine; Sun, number 14; Standard Oil of Ohio, number 17, and Marathon, number 20.

Only one of the top 20 had interests in fewer than three fuel categories.

Mr. DONOHUE. Mr. Chairman, I earnestly urge and hope that the House will overwhelmingly and promptly approve, with appropriate strengthening amendments, the substance of this bill, H.R. 11450, the Energy Emergency Act of 1973.

Although our Nation is currently and unfortunately afflicted with an unprecedented number and variety of tremendous challenges it is commonly accepted that the most immediately important problem affecting the well being of the American people is the suddenly erupted energy shortage crisis.

On this score, Mr. Chairman, as I have stated before, whoever may be blamefully involved in this crisis and whatever may be the background complexity of its causes our most imperative congressional duty now is to legislatively move as swiftly and as effectively as is humanly possible to equitably alleviate the hardships accompanying this sudden shortage and provide for the most prudent use of our petroleum products supply at hand.

Mr. Chairman, in summary, the bill before us is designed to move toward the speedy accomplishment of this overall national objective by granting, along with many other provisions, specific temporary emergency powers to be exercised by the Chief Executive with congressional concurrence, creating a special agency of combined resources with decisionmaking responsibility to carry out approved conservation programs, authorizing controls on end-uses of petroleum products, placing rigid restrictions on windfall profits, directing efforts to minimize the impact of energy shortages upon employment and to revise unemployment insurance programs to meet the needs of all adversely affected workers, instituting mandatory conservation measures, encouraging action to increase the supply of domestic oil production, requiring that certain steps be taken to promote the more effective use of our Nation's coal deposits and restricting exports of coal, petroleum products and petrochemical feedstocks.

Of course, Mr. Chairman, the measure of our success in trying to overcome the unhappy effects of the energy shortage will be mostly in proportion to the manner in which the necessary regulations and restrictions are applied.

And, in this vein, Mr. Chairman, may I say I am vigorously opposed to any special Federal tax on gasoline and any allowance of exhorbitant price increases on gasoline, oil, and other petroleum products that would permit the extraordinarily high oil company profits to be additionally and unreasonably swelled at the hardship expense of the faultless general public.

I would emphasize, Mr. Chairman, that our predominant legislative duty here today is to make as certain as we can that the energy shortage sacrifices that must be nationally endured will be shared equally among all segments of our economy and all our citizens whatever their status. Any other course, Mr. Chairman, can only result in unconscionable discrimination, with accompanying demoralization, being imposed upon the poor and the fixed, low and middle income people of this country and thereby doom the best intended measure to utter failure. I sincerely trust that the executive department of the Government will fully cooperate to prevent any such tragic failure.

Beyond our prompt determination of this particular bill, Mr. Chairman, we must speedily proceed to the consideration and adoption of a further appropriate bill to initiate and complement long-range plans and programs to make and keep this country forever free and independent of the political pressure whims and threats of our oil supplying sources in the Mideast.

The history of this mighty Nation, Mr. Chairman, repeatedly shows that whenever a particular emergency arises and our people are assured that accompanying necessary burdens and hardships are equally imposed they can and they will exercise the full spirit and dedication, courage and perseverance that is required to meet and solve the challenges of the moment.

Therefore, Mr. Chairman, I indeed hope that our final action on this bill will reflect an exemplary exercise of legislative fairness that will serve to rally and unite our people within the traditional virtues of patriotic good will and cooperation to once again resoundingly triumph over this tremendous but temporary national adversity.

Mr. BURKE of Florida. Mr. Chairman, I voted in opposition to the rule for consideration of H.R. 11450, the National Emergency Energy Act. In all probability I will vote against the bill on final passage.

In my opinion, the bill is a hasty effort to meet a crisis but no matter how well intended by the committee that voted it out it is not a good bill nor well thought-out. Some have stated that "we cannot go home for Christmas" unless we pass an energy bill that we can take to conference as a compromise to the Senate bill. This makes no sense to me at all. Passing bad legislation will only deepen the present crisis. It is the responsibility of the Congress to look out for the welfare and health of the citizens of the United States, and there is no question in my mind that if, our energy situation is as acute as many say, then the people, if drastic measures must be taken, should have good legislation—not expedient legislation.

H.R. 11450 was reported out of committee just 2 days ago and few of us have had sufficient time to familiarize ourselves with the contents of the bill or to digest the testimony or the committee report, particularly since we have been going into session early and have been staying late every night in connection with other important legislation.

If there is an energy shortage, and I feel that many of "so-called" facts are speculative rather than real. I feel that there has been a great deal of crisis comment which has not been accompanied by full proof. I sincerely feel that the crisis is perhaps real but much of the shortage of oil, as it is a ploy by the oil companies to insure the oil companies' profits by suspicious shortages.

Personally I feel we would be serving better if we were to stay in session through the holidays if necessary, and pass a good bill than to vote for this bill which is bad enough but which can only become by compromise and creaking a huge bureaucracy to handle a problem which so affects our people. In fact what we do today may will make or destroy our Nation.

The energy crisis is a surprising shock to all Americans, and unfortunately, the communications with respect to gasoline and other fuel shortages, based upon solid information was not communicated to most of us, myself included. Why also didn't the press and the auto manufacturers know? The automobile manufacturers and the leaders in our industries in the main could not have been accurately forewarned, or they would have spoken out more loudly by the gadget craze. I personally have seen no positive proof other than the cutbacks, and a few statements of the top leaders and advisers.

Too often the Congress has acted in haste to pass legislation to meet crisis situations. An example was the Gulf of Tonkin resolution. The evidence which the Congress was given at that time indicated a threat to U.S. forces and indicated the need for immediate action by the President. Since that time, the Congress discovered that many of the statements that were made then were erroneous. Subsequently the Gulf of Tonkin resolution was repealed but what has the Congress learned?

Gentleman, no wonder our citizens are disillusioned. When we as leaders act hastily on important legislation just to satisfy those that cry wolf, or even worse, for a holiday then we are heading for trouble.

Mr. Chairman, I honestly feel that the House of Representatives is capable of enacting good legislation to meet the energy crisis but not by passing H.R. 11450, amended or otherwise. How gentlemen can we preserve our country if we are to weaken our antitrust laws instead of strengthening them. I favor the right to make a profit—the oil companies should; but it should be remembered that the majority of oil companies are multinational. My loyalty is to the people of my country.

Mr. ASHLEY. Mr. Chairman, in spite of the need to take further steps to conserve and expand our energy supplies, I must rise to express serious reservations about the bill, H.R. 11882, now before us—one procedural and the others substantive.

The grant of authority to the executive to allocate or ration fuels to individual consumers as provided in the bill is far too broad. The power to ration fuels in a society which is as energy intensive as ours can be the power to prescribe economic life or death. Such a power should be closely circumscribed with a provision

for congressional oversight and veto. The bill as amended does not provide this. Under the bill before us, to stop a rationing program that is considered excessively injurious to a particular region or economic sector, Congress would be forced to enact new legislation rejecting such a rationing program. Such legislation would, of course, require support of two-thirds of each body since it would be subject to Presidential veto.

Among the substantive shortcomings of H.R. 11450 is the absence of a requirement that fuels be allocated on the basis of their impact on jobs. There are no criteria which require allocation of fuels to assure, to the extent practicable, that unemployment resulting from shortages would be evenly distributed. For example, if a particular industry can absorb a substantial reduction in fuel while maintaining full or near full employment, its allocation should be appropriately reduced. If employment in another industry would be markedly reduced as the result of only a modest reduction in its fuel supply, legislation without this approach is simply unacceptable.

Further, the bill would allow the Administrator of the new Federal Energy Administration to prevent the burning of natural gas or petroleum by any major fuel-burning institution without first making any attempt to share clean fuels on the basis of environmental need. The President has stated that he intends to exercise such an authority, and the results will be that many plants will be required to convert to the burning of coal, a shift that may well result in emissions beyond safe levels. The widespread conversion of plants from oil to coal prior to an attempt to allocate clean fuels to critical areas may well result in the needless fouling of our cities' air.

Unfortunately, Mr. Chairman, the committee reported bill also adopts a general end use allocation formula which invited numerous groups to pursue their special interests by pressing for amendments to protect themselves either by obtaining a priority status or by specifying that the administration cannot discriminate against them. Thus, the bill has become a Christmas tree with dozens of ornaments in the form of special interest amendments, including provisions for programs that are highly controversial and only marginally related to fuel conservation, and of which many will fall under the jurisdiction of other committees of the House.

Finally, I have reservations about the effectiveness of this bill to maintain stable gasoline and petroleum price levels, including fuel oil. My feeling is that the giant oil industry will reap even greater windfall profits at the expense of the consumer, as they have done for much of the last year, and that it would simply be impossible to return these profits through price reductions or reimbursements.

In closing, I must say that the administration has been totally unresponsive to an energy shortage which many of us have been predicting for more than a year. Unresponsive, that is, to the American public, but not unresponsive to the major oil interests who contributed so generously—and often illegally—in support of the President's campaign last fall.

It is a matter of record that the administration has had ample powers for months to control the energy crisis. In April of 1973 amendments to the Economic Stabilization Act provided the power to allocate fuel. However, it was not until October 3, 1973 that Governor Love issued regulations for the allocation of propane and not until October 16, 1973 that middle distillates were allocated. After awaiting a mandatory allocation program for all fuels for months, Congress finally had to pass the Emergency Petroleum Allocation Act of 1973 and even this legislation faced administration opposition. Because of the administration's misuse of existing authority this legislation must be passed. We must force the administration, no matter how reluctant, toward an equitable program of fuel conservation and rationing.

Mr. BINGHAM. Mr. Chairman, the National Energy Emergency Act, H.R. 11450, we are considering today is crisis legislation, drafted to respond to the fuel shortages which threaten to cripple this Nation. It proposes to authorize and direct the President to take a variety of emergency actions to conserve fuel, and to submit plans to Congress within 30 days for further actions. It is an incomplete package of proposals, plans, studies, and specific short-term authorizations which avoids some of the hardest and most important questions about how this Nation should deal with the impeding shortages of petroleum products this winter. Nonetheless it is important and vital legislation and I intend to support the bill.

I think few of us are not by now convinced that we are facing acute shortages of oil, gas, and petroleum products in the coming months. Prior to the outbreak of the Mideast war, the Department of the Interior predicted that we would suffer from regional shortages of petroleum products during the coming winter, and these predictions have become worse and worse following the embargo of Mideast oil. Estimates of the shortage now run between 15 and 25 percent of demand. There are lingering, persistent questions about the real causes of these shortages and the relative roles of the Government, the oil and gas industries, and a voracious public appetite for more and more energy in creating them. These questions must be answered, but the crisis is a real one and we cannot put off dealing with it any longer.

On November 15, I introduced a bill, H.R. 11509, which would have declared a national energy emergency and directed the President to undertake a variety of actions to conserve fuel during the coming year. Many of the provisions of this bill are contained in the legislation before us today.

H.R. 11450 establishes a Federal Energy Administration to administer the emergency powers granted by the bill. The Administrator of this new agency is directed to draw up a variety of plans for conserving energy and to submit them to the Congress in the immediate future. He is authorized to direct powerplants to shift to the use of coal, to help stores and shopping centers to limit operating hours, and required to study energy conservation measures and report to Congress within 6 months. Other sections of the bill—direct the Department of Transportation to help set up car pools across the country—authorize the Environmental Protection Agency—EPA—to ease air pollution standards for powerplants so they can shift to more available fuels—authorize EPA to suspend for 1 year automobile emission requirements—authorize EPA to review State air quality plans in light of the energy crisis—authorize EPA to designate those sections of the Nation, such as New York, which need clean fuels most to protect air quality—authorize EPA to study the feasibility of establishing a fuel economy improvement standard of 20 percent for 1980 model cars—exempt most energy emergency actions from normal administrative and judicial review and from the antitrust laws.

Most of these authorizations expire on May 15, 1974, but some could continue for years. Several of these provisions disturb me a great deal. For example, the bill leaves the President to institute a gasoline rationing program and rationing is seen as such a hot potato that the word "rationing" is not even mentioned in the bill. The legislation which I introduced would have directed the President to draw up a gasoline rationing plan immediately. Some form of rationing, distasteful as it may be to all of us, seems inevitable at this point.

Congress should bite the bullet and insist that, at a minimum, a rationing plan for gasoline sales at the retail level be drawn up immediately and submitted to the Congress for approval. I am disappointed that the legislation before us today dodges this issue.

Another omission in this bill is a provision for responding to the inevitable economic dislocations and hardships the fuel crisis is going to cause. Factories and businesses may be forced to close, and the layoffs and job losses which have already begun will continue. The present system of unemployment compensation could be bankrupted by the thousands of new claims these disruptions will produce, and a supplemental system must be established. The Government has a responsibility to provide for the welfare of workers and their families who, through no fault of their own or of the companies for which they work, lose their jobs because there is not enough fuel to go around.

An equally glaring oversight in this legislation is the desperate need for increased public support for mass transit transportation systems on the basis of energy efficiency. The greater fuel efficiency of subways, buses, and trains in moving large numbers of people and the precarious financial status of most mass transit operations underscores the need for immediate support from the Federal Government for mass transit. Expanding mass transit systems and making them cleaner, quieter, more comfortable

and less expensive would greatly reduce our national addiction to gas guzzling automobiles and conserve potentially tremendous amounts of fuel. Rather than direct the Federal Energy Administrator to study methods of assisting mass transit and report back in 6 months, as this bill does, the Congress should direct the President and the Administrator to recommend legislation with Federal incentives for the use of mass transit to the Congress for immediate action. At a minimum, Congress must complete action on the $800 million mass transit subsidy legislation which has already passed the House, and I urge the President to sign that legislation into law as soon as he receives it.

The need to conserve energy and the need to clean up our air meet head on in this bill, and in every such clash the bill recommends that the air get dirtier. Clearly some sacrifice in environmental quality are going to have to be made in the coming months. When low sulfur, cleaner oil is in short supply, some powerplants will have to burn high sulfur oil or coal, and the Federal Energy Administrator and the Environmental Protection Agency Administrator will both have roles in deciding which powerplants should make the shift to the dirtier fuels. I am concerned about the amount of authority this bill delegates to make these kinds of decisions. Clean air goals may be amended or postponed without substantiated and convincing evidence of the need for such sacrifices. If the administration's exercise of the discretionary powers this bill grants are biased too heavily against environmental considerations, Congress will have to use the review and approval powers reserved to it to reverse those decisions.

The antitrust provisions in the bill before us are dangerous. I will support amendments to tighten them up or eliminate them.

This emergency legislation should at least start this Nation on a new course of conserving rather than wasting energy. There are many more problems ahead of us and much, much more to be done. We still do not have a comprehensive energy policy or a coordinated approach in either the Congress or the executive branch to energy problems. Governmental reorganization, massive research and development programs to tap alternative energy sources, wide-ranging and specific energy conservation programs, new energy information gathering systems, measures to prevent any slowdown or holdback in the oil and gas industries—all these measures and more are needed and must receive speedy Congressional attention. This bill is only the beginning.

Mr. PRICE of Illinois. Mr. Chairman, I support H.R. 11450, the Energy Emergency Act that the House Interstate and Foreign Commerce Committee has brought to the House for consideration. Under the most difficult circumstances, the committee has done a good job in reporting a bill that seeks to minimize as equitably as possible the potentially severe economic disruptions of the energy crisis.

There are a number of important provisions in the legislation that concern every American. First, I think it is important to note that the Congress has not delegated unrestricted authority to the President for dealing with the energy crisis. Rather, and rightfully so, the Congress, under the terms of this legislation, has required the submission of specific energy conservation plans that are subject to legislative review. This is an important step in reaffirming Congress role in policymaking.

Because of the expected hardships facing the American people with the energy crisis, that the bill contains a provision dealing with windfall profits. I feel that no one should be in a position to take undue advantage of the situation while others are called upon to sacrifice.

Important, also, to the American people is the provision requiring the President to develop programs and plans for protecting the American worker from job loss because of energy shortages. The prospects for a 6 percent or higher unemployment rate at a time corporate profits are reaching alltime highs cannot be condoned. We must not allow economic hardship to hit the worker who makes those profits possible in the first place. The energy crisis should not be used as an excuse for furthering the economic imbalance that already exists in this country.

I am glad to note that the bill also contains language restricting the exports of fuels and energy sources. It seems self-evident that if the American people are called upon to use less fuel, this Government should take every possible step to protect our domestic supplies.

The last provision I want to mention is that concerning the increased use of our coal resources. Coal, one of our most abundant resources, has not been utilized as effectively as it can. It has been estimated that within 1 year, an additional 75 mililon barrels of oil per year saving can be realized by reconverting units to coal use. Moreover, with all conversions completed, the annual savings in residual oil for electricity generation would be approximately 180 million barrels per year or almost 500,000 barrels per day. I think we must move ahead with our coal conversion efforts.

Mr. ROGERS. Mr. Chairman, I congratulate the distinguished chairman of the Committee on Interstate and Foreign Commerce for his leadership and perseverance in shepherding this complicated piece of legislation through his committee. I am pleased that this bill contains provisions of H.R. 11409, developed by the Subcommittee on Public Health and Environment, with respect to stationary fuel sources. I am also particularly pleased that three amendments with respect to the Clean Air Act, on which the subcommittee held extensive hearings, and which the majority of the subcommittee members recommended to the full committee, were ratified by the full committee and are contained in this bill. Let me describe these provisions to my colleagues.

First, the committee adopted a subcommittee amendment which is found in section 202(b) of the bill, beginning on page 77. That amendment places an absolute moratorium on parking surcharge regulations advanced by the Environmental Protection Agency as one of the transportation control methods in order for air quality regions to meet the primary ambient air quality standards. States and localities will still be allowed to impose surcharges on parking, but could not be forced to do so by the Environmental Protection Agency. It is the subcommittee's view that the imposition of parking surcharges by the Federal Government is an extremely unwise and discriminatory method of attaining the standard and that every consideration should be given to methods other than parking surcharges. It is an extremely dangerous practice for an agency to, in effect, impose a tax without specific congressional approval. For this reason, the amendment mandates submission of a report to the committee that would include an assessment of the economic impact of such regulations, reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. The Subcommittee on Public Health and Environment will review the report carefully. I reiterate that the effect of the section is that such surcharges may not be imposed by the EPA until the Congress authorizes use of this method to attain the primary standard.

Second, Mr. Chairman, the subcommittee reported—and the full committee adopted—what is now section 203 which begins on page 79. That section does the following:

It freezes the automobile emission standards for carbon monoxide and hydrocarbons at the Federal interim 1975 level for 1976. It authorizes an additional waiver—for the 1977 model year—of the statutory standard that otherwise would have gone into effect, upon a determination by the Administrator of the Environmental Protection Agency that application of such standard would result in a significant increase in fuel consumption. With respect to oxides of nitrogen, the bill establishes the 1976 level at 3.1 grams per vehicle mile and the 1977 level at 2.0 grams. The standard would revert to 0.4 grams per mile in 1978 unless the EPA authorizes a suspension. Again, the basis for the suspension would be a finding of a significant increase in fuel consumption. One year suspensions are authorized on a year-by-year basis until model year 1983.

Finally, Mr. Chairman, section 209 of this bill, beginning on page 93, would require the Administrator of the Environmental Protection Agency to report to the committee within 120 days of enactment of this legislation on the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. The EPA already has gained great expertise in fuel economy as a result of engaging in a study leading to labeling of automobiles with respect to the miles per gallon they achieve. Upon receipt of this study, the subcommittee will give active consideration to legislative proposals designed to increase fuel economy.

Mr. Chairman, I am grateful to the members of the Subcommittee on Public Health and Environment for their diligence in working out these three amendments. Our hearings continued well into the evening hours, and I believe that this diligence resulted in adoption of amendments which recognize that some adjustment must be made because of the energy crisis, and yet to no violence to the fundamental scheme of the Clean Air Act that mandates a reduction of automobile pollutants and the achievement of primary standards designed to protect the health of man. I particularly recommend these three sections to the Members of the House as products of considerable attention by members of the subcommittee that initiated the Clean Air Act.

Now, Mr. Chairman, permit me to comment on section 105(c) of the bill which mandates that energy conservation plans shall provide for equitable treatment of all classes of fuel use.

This section is deliberately designed to insure equitable distribution of the burdens of a reduction of fuel consumption among all segments of commerce.

I wish to call my colleagues' attention to page 27 and 28 of the committee report, which addresses itself to the issue of equitable distribution. I particularly call their attention to the following statements on page 27:

> . . . there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as *recreational activities* or *various aspects of general aviation*) if to do so would result in significant unemployment. There are, of course, many areas in this nation where recreation and tourism provide the base of the local economy, (emphasis added).

Mr. Chairman, in my view, this equitable distribution would serve to restrain the Administrator of the allocation program from cutting aviation fuels by 42.5 percent as was recommended in the President's November 25 fact sheet on aviation cutbacks. Such a severe cutback on aviation fuels would paralyze the general aviation industry and would cost over 100,000 jobs and over $2 billion loss of revenue to the economy, according to some experts.

Also, Mr. Chairman, I believe that it is abundantly clear that section 105(c) serves to prohibit the Administrator from adopting a proposal which would cause unemployment in the recreational industry. For example, the fiberglass and boat manufacturing industries will be forced to shut down unless they receive an equitable allocation of fuel as proposed by the committee bill. Furthermore, most pleasure boating, long distance automobile travel and many other recreational activities would be severely curtailed without adequate assurances of equitable fuel allocation. I believe it is the committee's intent, as expressed on page 27 of the report, that allocations not be denied to these industries so as to cause unemployment.

It is clear that it is the committee's intent to treat all facets of commerce on an equitable basis. This is essential to the survival of a strong economy in such States as Florida, which has substantial economic interest in recreation and tourism.

I believe that if our Nation is going to overcome this energy crisis, we must take measures which will maintain a strong economy and which are premised upon an equitable distribution of the burdens of fuel economy throughout all sectors of users. We cannot totally sacrifice some sectors at the expense of others. Section 105(c) assures just this.

Finally, Mr. Speaker, I believe we must recognize that it will take much more than implementation of this bill to overcome the energy crisis. It is necessary for our Nation to utilize and develop other potential sources of petroleum if we are to achieve our goal of providing sufficient energy to the Nation. We must establish programs for continued development of alternate oil reserves in our own Nation; for an increase of imports from other nations, particularly from our South American neighbors; and for an extensive research and development program directed toward finding alternate sources of energy other than petroleum.

With respect to alternate reserves, there are extensive untapped petroleum reserves in shale oil in the continental United States which must be developed if we are to provide an adequate supply of energy for the Nation in the future.

Occidental Petroleum Corp. estimates a total potential reserve of shale oil equal to 47 times the total petroleum reserves in the United States and two and a half times the total world reserves. Particularly in view of the fact that an estimated 80 percent of shale oil reserves are on Federal lands, it is imperative for the Federal Government to develop to the fullest extent practicable this alternative.

Second, imports can be increased. I understand that Ecuador has total reserves of approximately 4-billion barrels of oil and that it could gear up its oil production to a level of 400,000 barrels of oil per day by the middle of 1974, provided that its negotiation for the expansion of the existing trans-Andean pipeline are successful.

The proposed new extension of this pipeline would connect with the existing one in Colombia and could convey up to 200,000 barrels per day. A recent study by a U.S. consulting firm, Terramar Consultants of Dallas, Tex., indicates that Ecuador's reserves are substantial, but are undeveloped and untapped.

In addition, Colombia is estimated to have a total reserve of approximately 1½-billion barrels. Colombia now produces only 49,000 barrels per day but has an estimated potential for 1974 of producing 192,000 barrels per day, provided this potential is developed. Presently, the Colombian pipeline extension of the trans-Andean pipeline can convey up to 200,000 barrels per day—which is sufficient to accommodate most of their country's total potential capacity. However, Colombia needs more pumping stations and a new loop to bring in oil from the Putumayo Basin. The United States must provide incentives to these and other South American countries which have untapped oil reserves in order to meet our immediate needs through importation of petroleum.

Lastly, it is necessary for our Nation to implement the use of alternative sources of energy, such as solid waste, solar energy, geothermal energy, energy created by ocean thermal change or by ocean currents, and other nondeveloped sources. We must also expand our efforts to improve existing knowledge and technology with respect to coal gasification and liquefaction. Extensive research and development programs must be initiated in order to realize the potential of these sources.

Mr. Chairman, I urge adoption of the bill.

Mr. MIZELL. Mr. Chairman, in recent weeks, ever since President Nixon asked the American people to join in a national effort to conserve energy, the people have responded in a most admirable and most effective way.

This morning's Washington Post tells us that the energy conservation measures already in effect have been responsible for saving nearly 1.9 million barrels of oil a day, even without the stringent new controls being debated here today.

And the energy officials attribute these savings in large measure to a significant decrease in demand by the public, signifying a real effort by most Americans to do their share to alleviate this energy emergency.

Mr. Chairman, in view of these facts, and in view of the great attitude with which most Americans are approaching this emergency, I believe we should take a long pause before imposing overly restrictive measures on the people that may be unnecessary to the task of reducing energy consumption to acceptable levels.

Gasoline rationing and exorbitant taxes on gasoline are the options currently being bandied about as means to drastically cut fuel consumption.

But I believe that before we start imposing these kinds of programs, which would either be bureaucratic nightmares or woefully inequitable, we should give the people a chance to prove that they can reduce their own levels of energy consumption to a point consistent with the requirements of the present situation.

I believe we should first tell the people what levels of consumption we could tolerate, and then see if they can meet those levels voluntarily before going to programs that no one looks forward to either administering or following.

But if controls are put on consumption, we must make quite sure that those controls are applied as equitably as possible, with no segment of our society being asked to sacrifice more than another. As long as we are all in this situation together. I believe the people will continue to respond as they have responded. But if we create a system that metes out favoritism to some and punishment to others, we will have created a monster that can scarcely be controlled.

I am pleased to note that there is a section of this bill before us today that would prohibit discrimination against

any sector of the economy, including the aviation industry, tourism and the traveling salesman.

Above all, we must make sure that the effects of this emergency on the Nation's economy are as negligible as possible. Accordingly, we must establish priorities that will insure that people can do their jobs and run their businesses with as little interference and interruption as possible.

Working toward these goals, I believe we can be successful in reducing our energy demands while we endeavor to increase our energy supplies to avoid similar emergencies and crises in the future. This is my confident hope and our common duty.

Mr. VIGORITO. Mr. Chairman, on December 13, 1973, I will be offering three amendments to H.R. 11450 as substituted by H.R. 11882:

AN AMENDMENT OFFERED BY MR. VIGORITO TO H.R. 11450

Page 29, delete line 4 through 12 inclusive.

This deletes section 115, Prohibitions on Unreasonable Allocation Regulations.

AN AMENDMENT OFFERED BY MR. VIGORITO TO H.R. 11450

Page 29, delete lines 13 through line 8 on page 32 inclusive.

This deletes section 116, Use of Carpools.

AN AMENDMENT OFFERED BY MR. VIGORITO TO H.R. 11450 AS SUBSTITUTED BY H.R. 11882

At the end of the bill, add a new title as follows:

TITLE III—NONRETURNABLE BEVERAGE CONTAINER PROHIBITION ACT

SEC. 301—To reduce energy waste which is caused by the production of non-returnable containers used for the packaging of soft drinks and beer, and to assure energy conservation, so that the essential needs of the United States are met, by banning such containers when they are sold in interstate commerce on a no-deposit, no-return basis.

SEC. 302—Finding and Purposes:

(a) The Congress finds that the utilization of returnable beverage containers would result in substantial energy savings.

(b) It is the purpose of this Act to assist in the solving of this energy situation by preventing the use and circulation of the offending types of non-returnable containers by banning their shipment and sale in interstate commerce.

SEC. 303—Definitions:

(1) Returnable beverage container means a beverage container which

(a) has a refund value

(b) is not a metal container with a detachable opening in the container

(2) "beverage" means any variety of liquid intended for human consumption

(3) "container" means a bottle, jar, can or carton of glass, plastic or metal or any combination thereof, for use in packaging a beverage.

SEC. 304—(a) No person shall manufactur, for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce any non-returnable container with respect to which no refundable money deposit is required from the consumer.

(b) Whoever violates subsection (a) of this section shall be fined not more than $1,000 or imprisoned for not more than six months or both.

(c) The President or Chairman of the Interstate Commerce Commission shall establish such regulations as are necessary for the purpose of this Act.

Mr. DULSKI. Mr. Chairman, as we debate here today the provisions of the National Emergency Energy Act, I believe it is essential that we not lose sight of the overall aspects of the Nation's fuel and energy problem.

The Congress is and has been acting to provide the legislative authority needed for governmental action by the executive branch. We are giving the executive branch tremendous power—more power than any previous executive has had in our Nation's history.

In acting to deal with the apparent critical shortage of petroleum, our Government is imposing restrictions and requiring allocations that are having an impact on every segment of our economy.

Already, hundreds of thousands of jobs are in jeopardy; workers are being furloughed, some temporarily, others indefinitely. Businesses are closing down left and right, the smaller and less diversified are affected first, but others also are tottering.

The ramifications of the current energy crisis are staggering. It is essential that the side-effects of emergency steps are considered carefully before the steps are taken. And we should not stop there: we must maintain a never-ending vigilance to deal with unexpected side-effects that develop.

In these days of wonder drugs, it is sometimes said that the medicine can be worse than the disease. I hope the people responsible for new energy policies will leave their blinders at the racetrack and consider every prescription they recommend from the broadest possible view.

When the President outlined his proposed energy-saving measures only 3 weeks ago, my reaction then and now is that implementation of these proposals will cause unemployment and could lead to a recession.

Some 20 years ago when the construction of the long-debated St. Lawrence Seaway was being considered by Congress, a prominent labor leader from my home town, who opposed the seaway, warned that if built Buffalonians would be able to stand at the Port of Buffalo and wave to the ships as they pass by. His warning went unheeded. Our area's economy was shaken to the core. I would like to hope that our country will not be critically hurt economically by the steps we take to ease the current energy shortage.

Mr. Chairman, the current pinch is being blamed on the cutoff of oil supplies from the Mideast.

I was informed today that U.S. companies have an investment of $2.5 billion in Mideast oil. This represents 45 percent of the total foreign investment. Yet, the United States is importing only 3 percent of oil leaving the Mideast. Why?

The United Kingdom has an investment of $1 billion, but is importing 15 percent. France has an investment of $600 million and imports 10 percent. Netherlands has a $400 million investment and imports 10 percent. Japan has a $500 million investment and imports 31 percent. Italy's investment is $300 million and imports are 16 percent. Germany and Spain have no investments but import 12 and 5 percent respectively.

These figures are disturbing. The whole picture is not only disturbing, but really frightening. We are being asked to act here without complete understanding of what is at stake. The need for diligent oversight and close vigilance was never greater.

Mr. HARRINGTON. Mr. Chairman, I rise in support of H.R. 11450, the National Emergency Energy Act of 1973.

This legislation provides the executive branch broad powers to promulgate mandatory conservation measures for whole sectors of our society, allocate petroleum products among the Nation's consumers, and require wherever possible the use of coal rather than petroleum or natural gas for any major fuel-burning installation.

To permit the coordination of these actions without national antipollution standards, the bill permits the suspension of any fuel or emission limitation imposed on a stationary fuel-burning installation by the requirements of the Clean Air Act, if it is determined that the installations cannot obtain adequate amounts of low-polluting fuels.

Mr. Chairman, these features of H.R. 11450 leave many Members of Congress, including myself, feeling rather ambivalent for two reasons. First, while it is satisfying to me that Congress has acted quickly to respond to the energy crisis by designing ambitious programs, the vesting of enormous discretionary power in the hands of the Chief Executive, especially this Chief Executive, creates a clear possibility for abuse. Second, I take exception to Congress' decision, as reflected in this bill, to ask much less sacrifice of the major oil companies than of the consuming public.

On balance, the legislation represents an acceptable contribution to meeting the current energy shortage, and safeguards against abuses of the bill's powers do exist. For example, if the President employs his discretionary power to allocate end uses of petroleum products—which approaches rationing—he must also establish procedures whereby users can petition for review, reclassification, and modification of priorities and allocations granted.

Similarly, the Administrator of the Federal Energy Administration, the new executive branch agency created by this legislation pursuant to the President's request, is required to publish any proposed rule or order in the Federal Register, offering adequate opportunity for public comment and responsible revision. In cases where a rule or order is likely to have a substantial impact on the Nation's economy, the Administrator must also create an opportunity for the presentation of oral views, data, and arguments. Moreover, Congress must consider and approve any of the mandatory national conservation programs permitted by the bill.

The existence of these safeguards reduces the chances that this bill will be the "Bay of Tonkin Resolution" of the energy crisis, awarding almost dictatorial power without safeguards. However,

these appeals provisions must be used to their fullest potential, to insure against the abuses of these emergency powers. And, despite the minimal standards which these procedures satisfy, the possibilities for abusing the powers granted by this bill are still quite real. Congress and the public will need to continuously monitor implementation of the sweeping programs authorized here this afternoon.

This brings me to the second area on which I would like to comment—Congress failure in this bill to discipline the oil companies as much as the public. The President is given the discretion to require the production of oil at the maximum efficient rate of production, and to order refineries to adjust their mix of products in order to yield relatively more heating oil.

However, this bill addresses a purported national emergency without addressing the problem of rising consumer prices and resulting windfall corporate profits. It addresses the emergency without requiring the oil companies to volunteer the information on reserves and costs in the absence of which it is impossible to verify whether a company is operating at its "maximum efficient rate of production." And it addresses the emergency by preserving the "production incentives" for the major oil companies under phase IV. At the same time, it omits any provision of funds to aid companies threatened with closing because of their energy needs, funds to create public service employment programs or to increase unemployment compensation aid, or funds to help economically marginal families who cannot afford to pay the increased price of fuel.

Instead, this legislation addresses the emergency by providing an exemption to the antitrust laws for oil company executives who participate in implementing the allocation programs. The exemption is qualified and hedged by reporting requirements, but in turn, these safeguards are themselves qualified and do not apply to every exchange to which the executives might be parties.

Quite obviously, Mr. Chairman, I view H.R. 11450 as only a first step toward solving the energy crisis, even in the short term.

The problems of adequate information from the oil companies, adequate protection against antitrust abuses, and effective programs to hold down prices and preserve jobs will continue unmet after we pass this bill. It seems to me that some of the most critical aspects of our current emergency lie in precisely these areas. This is the beginning—but only the beginning. I sincerely hope that none of my colleagues believe passing this legislation fulfills our obligation to address the energy and economic crises we face.

Mr. MEZVINSKY. Mr. Chairman, in the past few weeks there have been plenty of recriminations about who is to blame for our being backed up to the wall by the energy crunch. The President opened the attack with his November energy message charging that Congress had neglected his warnings and advice. Members of both Houses shot back with the charge that the opposite was actually the case.

If hot air could heat our homes and run our cars and tractors and businesses and industries, we would not need energy legislation now.

The fact is that bickering between the branches is not going to solve the problems we face. However, I certainly agree that we have a duty to take a hard look at the causes which have brought us to this dangerous energy practice.

There are serious questions and charges pending concerning the role of giant oil companies in the events which resulted in the energy problem we face today.

I was out in the First District of Iowa this past weekend and held open town meetings to talk with the people about the energy problem. Time and again, at these meetings and in the mail I have been receiving in the past weeks, the people of Iowa have voiced their concern that the oil companies wield too much power and may be at the very root of the fuel shortage. Gas station owners and operators have told me they believe the "big boys" are trying to squeeze them out of business and consumers have contended—citing oil companies' rising profits as evidence—that this energy emergency might be a tactic for the oil companies to make a buck.

For these reasons, the relaxation of antitrust regulations proposed in the bill before us seems absurd. Right now, when the FTC has antitrust suits pending against several oil companies, this bill would provide broad immunity from the laws which the companies are suspected of violating.

It seems to me that this provision—proposed as a means to solicit the aid of the oil companies in solving a crisis they may have created—is like inviting the suspected fox to dream up a security plan for the chicken coop.

I believe we must strengthen the antitrust provisions in this bill and for this reason I strongly support the amendment which will be offered by Chairman STAGGERS on behalf of Chairman RODINO which will accomplish this goal by eliminating the possibility of secret collusion by the oil companies.

When I was in Iowa last weekend, we were talking about what fuel shortages mean to the people, and industries, and business and farms.

One point that came through loud and clear at those meetings is that the people of the First District recognize the seriousness of the problem. They are willing to do their share to meet the energy crisis. They are willing to sacrifice, as long as any sacrifices are necessary and equitably spread around.

But there is an undercurrent of anxiety that the sacrifices and other remedies called for by the Government may not be fair—that some might profit while the majority sacrifice and shiver through this winter. Of course, this is in no way shocking considering the battering that public confidence in Governmet has take in recent months.

The people I talked with want the energy crisis handled in a way that eliminates as many problems and as much damage as possible. And, they are looking to Congress to do that job for them.

Mr. HAMMERSCHMIDT. Mr. Chairman, although I am deeply concerned over our Nation's energy situation I could not cast an affirmative vote for the passage of the National Emergency Energy Act, H.R. 11450.

Foremost among my reasons is the speed with which Members of the House were expected to consider this complex and comprehensive package which may yield far-reaching Federal authority which could penetrate into the private lives of American citizens. I have full appreciation for the serious hard work of the Interstate and Foreign Commerce Committee and their intensive study and many days of hearings in which they received testimony from Government officials, representatives of the private sector, and concerned citizens. However, as of last night a copy of the legislation as approved by the Committee was not available for perusal or scrutiny by Members of Congress not serving on that distinguished committee, and we were not afforded the opportunity for even a preliminary study of the committee's report. The 3-day rule for consideration of a legislative measure after the report is filed was waived, presenting most difficult circumstances for an individual Representative to make an intelligent decision on the merits of the proposal.

Although I voted for the rule bringing the bill to the floor, it is my great fear that we are legislating imprudently. I recognize the pressing need for affirmative action by Congress in coming to grips with specific actions to meet the Nation's need for fuel and to set guidelines for conservation measures. However, I am apprehensive about such rapid full House action, even in view of the depth of the committee study.

I have full faith in the willingness and ability of the American people to commit, as they have so many times in the past, to take meaningful immediate steps voluntarily to meet a crisis. I do not argue against the need for authority in establishing priorities and to relieve hardships brought forward by market dislocations. The legislation we are considering would take us very deep into the realm of Federal authority which I am afraid, like economic stabilization measures, once we get into it it is almost impossible to work our way out. We would be creating a new independent regulatory agency; we would be authorizing the compilation of plans to restrict public and private consumption of fuel; we would be directing the evaluation of the utility industry on a plant by plant basis. The ICC, the CAB and the Federal Maritime Commission would gain authority and the FTC could get involved into areas of private enterprise such as store operating hours. At a time when our cities' mass transportation systems are losing money due to lack of sufficient ridership, we would establish an Office of Car Pool Promotion and give them $25 million to develop carpooling programs. H.R. 11450 has provisions concerning antitrust statutes and would amend certain environmental standards and would institute several new civil penalties and criminal

violations. And all of this is set forth in a bill of which the final version was filed at midnight on December 10, brought to Rules Committee on December 11, and scheduled for floor action on December 12. In my judgment, this is not responsible legislative procedure.

In summary, H.R. 11450 grants sweeping powers to the President, it addreses areas of private enterprise where literally millions of Americans' jobs are involved and it would amend many major laws to take us further and further away from the free market situation on which the Nation was built.

Certainly I am no expert in this complex matter. To be one would take more knowledge and time in evaluating available statistics than I or my staff possesses. Even sorting our various conflicting statements on what the real energy condition is would be a formidable task.

However, my general feeling is that much of the end product of this bill, no matter what form it takes, will be counterproductive—toward the best interest of people affected and toward the best solution in producing more fuel for them.

In my judgment, two constructive steps for immediate action toward relieving the energy situation would be a removal of price controls from fuel and a careful watch on oil company profits. These basic actions would tend to move us in the direction of a free market situation. I am convinced that restoring incentives into our system of enterprise will realize the benefits of our great American ingenuity which has made this Nation the greatest.

Mr. HANLEY. Mr. Chairman, when the dust clears and this debate is finished, I will probably vote for this bill, the so-called Energy Emergency Act. It appears to me to be a domestic Tonkin Gulf resolution.

Congress failed to determine the true facts of that fateful incident back in 1964, thus paving the way for one of the most tragic chapters in American history.

The House is called upon to consider a terribly important measure with hardly any opportunity to study it. I want to go on record as much as anyone as being interested in solving the energy crisis, but I do not like present procedure at all.

As a first step, the House should adopt a resolution thanking the American people for the voluntary actions they are taking to reduce energy consumption. For myself, I am very proud of what the people are doing, and am appalled at the lack of recognition they are receiving.

The second step should be to lay before the people the true facts of the present situation. Since they are making voluntary sacrifices now, and we are asked to empower some bureaucrat with authority to impose God knows what on them, they deserve an explanation.

Why do we now have an energy crisis or, if you will, a shortage of refined petroleum products? Does the shortage really exist? If it does, how serious is it?

It is personally embarrassing to me to tell constituents that the only information available to the U.S. Government on the oil shortage is the information provided voluntarily by the oil industry. Whatever information is needed to determine the extent of the shortage should be required by law. In view of the geat sacrifices Congress is being asked to impose on the American people, the least we can do is to assure the people and ourselves that this situation is real.

The third step should contain a variety of actions which the Government can take if it is found that the oil industry has not lived up to pledges it has been making through a multimillion dollar advertising campaign. Strict regulation of the industry should be considered, as should possible alternatives to stimulate more competition within the industry.

The possibility of nationalizing oil and gas should be openly and fearlessly discussed, as should be the possibility of a Government-owned corporation competing directly with private oil and gas firms. Instead of turning over resources owned by the people to the industry, why not have the Government develop the resources in behalf of the people?

It is not my intent to blame the industry unfairly for the mess we now face. But I do want to be assured that there is nothing contrived here, that there is nothing left undone by the industry which could be done to ease the shortage.

Before I support additional grants of dictatorial authority to the administration, I would like to know in plain words what this country's policy is and what our present and future plans are to deal with the energy shortage. Congress has a right to know, and certainly the people do. They are bearing the burdens.

I am appalled at the lack of information made available, and the confusion among the five or six Federal agencies which are supposed to be managing the shortage. We have been treated to the spectacle of Federal agency heads almost openly fighting each other for the top spot in energy management.

I believe that Congress has already given the President sufficient authority to allocate existing supplies of petroleum products. However, his claim is in essence that this ability to deal with the energy crisis will be enhanced by the provisions of this legislation and I do not want to deny any opportunity to satisfactorily and quickly resolve the crisis. Thus I am voting for the bill and anxiously await his crisis-corrective action.

The CHAIRMAN. The gentleman from North Carolina (Mr. BROYHILL) has 1 minute remaining.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

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

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment in the nature of a substitute for the entire text of H.R. 11450, the text of H.R. 11882.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. STAGGERS: Strike out all after the enacting clause and insert:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

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Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the RECORD, and open to amendment at any point.

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

Mr. BROYHILL of North Carolina. Mr. Chairman, I object to that.

The CHAIRMAN. Objection is heard.

The Clerk will read.

Mr. BROYHILL of North Carolina. Mr. Chairman, I have an amendment to section 103.

The CHAIRMAN. The Chair feels that the Chair should explain to the Committee that under the rule the whole of the text of H.R. 11882 will be read before any amendment is in order. It will not be read by sections.

PARLIAMENTARY INQUIRIES

Mr. BROYHILL of North Carolina. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROYHILL of North Carolina. Mr. Chairman, my parliamentary inquiry is this: Does that mean that after the entire text of the bill has been read that amendments referring to any place in the bill would be in order?

The CHAIRMAN. The Chair will state that that is correct.

Mr. BROYHILL of North Carolina. Mr. Chairman, a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his further parliamentary inquiry.

Mr. BROYHILL of North Carolina. Mr. Chairman, does that mean that amendments to sections as they are read may not be offered at that time?

The CHAIRMAN. The Chair will state that the whole of the text of the amendment in the nature of a substitute will be read before any amendments are in order. It is one amendment. When that is done, when the entire amendment in the nature of a substitute has been read, that is, the entire text of H.R. 11882 has been read, then amendments will be in order to all of the text.

The Chair will further state that the Chair will attempt to deal with the problem of amendments when that time arrives, and will attempt to do so in an orderly fashion.

Mr. BROYHILL of North Carolina. Mr. Chairman, a further parliamentary inquiry, or perhaps this is not a parliamentary inquiry, but I would ask the Chairman if there is any way in which we can have an orderly procedure for the offering of amendments, starting at the first part of the amendment in the nature of a substitute, and going through the bill, rather than jumping all over the whole bill for amendment purposes?

The CHAIRMAN. The Chair will state that the Chair, with the cooperation of

the Members, will attempt to achieve that purpose. The Chair will say that if permitted by the Membership to do so, that the Chair proposes to bring order into the situation by following the usual custom of recognizing the members of the committee alternately, from one side to the other, more or less in their order on the committee.

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

The CHAIRMAN. Does the gentleman from West Virginia renew his unanimous-consent request?

Mr. STAGGERS. I do, Mr. Chairman. I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

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

Mr. BROYHILL of North Carolina. Mr. Chairman, further reserving the right to object, I will yield to the gentleman from Iowa for an inquiry.

Mr. GROSS. I would ask the Chairman whether there could be some understanding that those who offer amendments will be recognized as we go along, rather than to recognize members of the committee exclusively? So that we can go through this bill in some kind of an orderly fashion, instead of going to section 103, and then to the Lord knows what the last section of the bill may be? Could there be some understanding that they could be recognized in that fashion?

Mr. STAGGERS. Of course, it is within the power of the Chairman who is presiding, but I would ask unanimous consent that we amend the bill section by section as we go along, saying that each section is open for amendment at any point.

The CHAIRMAN. The Chair would have to state that he is afraid that that is not a proper request at this time. The rule that was adopted by the House provides for a procedure, and while most Members feel that any unanimous consent request will do anything, the Chair has a charge from the House, simply by being the Chair, to protect the Rules of the House. The Chair has stated the way in which he will try to provide for an orderly procedure, but the rule provides for a procedure, and bringing order out of that procedure will have to be within the rule.

Mr. BROYHILL of North Carolina. Mr. Chairman, reserving the right to object, would it be in order to read the first title and then open the first title to amendment and complete that before going on?

The CHAIRMAN. Not under the rule adopted by the House under which the Committee is now operating. The rule adopted by the House is clear. The text of the amendment in the nature of a substitute, that being the bill H.R. 11882, has to be read in full.

PARLIAMENTARY INQUIRY

Mr. BINGHAM. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from New York will state it.

Mr. BINGHAM. Mr. Chairman, would it be in order for the Chairman to recognize Members offering amendments in the order in which those amendments appear in the amendment in the nature of a substitute. If he is advised, for example, that an amendment is to be offered to section 3 by the gentleman from North Carolina, will he give priority to that gentleman, and to the extent that the Chair is advised as to which sections amendments apply, will he follow the order of the sections in recognizing Members? Would that be in order?

The CHAIRMAN. The Chairman can say that there is a solution that might achieve that result. A great many of the amendments already at the desk are from those who would be recognized first—members of the committee. If the members of the committee will proceed by self-discipline in that fashion, the situation will then work out. The only solution that the Chair can see is for the members of the committee who have amendments to the first part of the first title to rise first, and the rest not rise, and proceed in that fashion.

The Chair recognizes the situation.

Mr. BINGHAM. Mr. Chairman, I have a further parliamentary inquiry. If the Chair is advised that nonmembers of the committee have amendments to early sections, would he be free to recognize nonmembers of the committee before recognizing other members of the committee for amendments to a later section?

The CHAIRMAN. The custom of the House, and the almost unfailing custom of the House, is to recognize members of the committee, alternating sides from the majority to the minority. The Chair does not propose to discuss the philosophy of that custom, but that is the custom.

Is there objection to the request of the gentleman from West Virginia?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I should like to inquire, if the request of the gentleman is accepted and there is no objection to it, when it would be timely for the amendment made in order by the rule to the text of the substitute to be offered, that amendment being H.R. 11891, which would be the amendment, as the rule prescribes, to H.R. 11882?

The CHAIRMAN. The Chair would repeat what the Chair has already said. The Chair would recognize Members to offer amendments as they are reached in the customary procedure of the House.

There is no particular priority, there is no special priority given to that amendment but the gentleman is a member of the committee and he ranks on the committee and the Chair would seek to reach him in an orderly fashion.

Mr. BROWN of Ohio. Mr. Chairman, I withdraw my reservation of objection.

Mr. MYERS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MYERS. Mr. Chairman, under the rule we are operating on now, later tonight when there is consideration of the amendment to the later sections of the bill, would it still be in order to recognize somebody for amendment of an earlier section which had been already passed over?

The CHAIRMAN. We could not amend text that had been amended but an unamended portion would still be open to amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROYHILL of North Carolina. Mr. Chairman, would that mean another amendment to another part of that section would not be in order?

The CHAIRMAN. The gentleman is getting the Chair into a position where he cannot answer a theoretical question because there are so many different variations. If under the rules of the House a particular section would still be in an amendable condition, the Chair would have to recognize a Member to offer a proper amendment. It might be a situation where the amendment would have been amended and it would not be in order to further amend it. The Chair cannot project all the different variations and possibilities and must meet them as they arise.

Mr. BROYHILL of North Carolina. Mr. Chairman, another parliamentary inquiry and then I will be through. Would it not be possible to ask unanimous consent that the substitute be considered as read and then have a unanimous-consent agreement that we would then go back and read the substitute section by section without having to call up each section one at a time?

The CHAIRMAN. The Chair would not feel that under the present customs of the House, the House having adopted a rule, that he could entertain such a motion to modify the rule.

Mr. HAYS. Mr. Chairman, reserving the right to object, I make this reservation merely to observe the truth of what somebody said earlier, that almost nobody knows what is in this bill and that probably by 6 o'clock this evening the House would be sufficiently confused that a motion for the Committee to rise and strike the enacting clause would be one that the majority of the Members could vote for.

I just make that observation and withdraw my reservation of objection.

The CHAIRMAN. Could the Chair make a brief statement. This is not an unusual amendment situation. The Chair would point out to the Members that this is often the situation in which the Committee finds itself.

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I want to be sure I understand the gentleman correctly. Will only one amendment per section now be in order if we accept this procedure the gentleman proposes?

The CHAIRMAN. There is no special treatment involved here. The general rules provide for certain procedures. For example, one rule is that if a section is amended by a complete substitute, it is not subject to further amendment. But we are operating under the rules of the House and if there is a section that is amendable it will continue to be amendable until the final process is over, but there are certain circumstances under which a section having been amended is no longer amendable. That would be the general limitation, but we are going to

operate under the general rules of the House in as orderly a fashion as the Chairman and the Members of the House are capable of producing.

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

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I also wish to see if I understand the situation clearly.

The Chair is saying that under the rule there is no way that he could have the whole substitute read on a section-by-section basis because it is approved or it falls as a substitute and then as a substitute is open at any point to amendment, and the House procedures on amending the substitute would apply. Is that correct?

The CHAIRMAN. That is correct, and the reason for that, the Chair will add, is that the House adopted that procedure before it went into the Committee of the Whole.

Mr. BROWN of Ohio. The members of the Committee on Interstate and Foreign Commerce will be recognized with priority and, alternately, between the two sides of the aisle and that then if a member of the committee should yield to another Member, it would be possible for amendments to be lodged against any part of the bill, providing those amendments were not precluded by previous action on the substituted by amendment procedure.

The CHAIRMAN. The gentleman has described the orderly and usual procedure and that is the procedure that the Chair will attempt to follow as much as possible.

Mr. BROWN of Ohio. Mr. Chairman, I withdraw my reservation of objection.

Mr. LEGGETT. Mr. Chairman, reserving the right to object, I would just like to observe that under the procedure that the Chairman has prescribed as regular that if a substitute is accepted, then we will be limited to some 24 sections in title I and 9 sections in title II, for a total of 33 sections, which would indicate then that we would have a limitation of some 33 amendments or amendments thereto, which would be in order, since we can only amend a section at one time. Is that the understanding of the Chair?

The CHAIRMAN. No. There are many other ways in which amendments could be offered besides that described by the gentleman from California. The normal procedure will be followed. There are a variety of ways in which an amendment could be offered.

Mr. LEGGETT. But if the Chairman says a section is touched by an amendment, that section is wiped out by further amendment?

The CHAIRMAN. The Chair has never said that. The Chair has said when an amendment to a section is adopted and is in a form which precludes further amendment to that section, that that section would not be further amendable.

The Chair did not say that happened any time an amendment to a section was adopted.

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

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, reserving the right to object, maybe this will not be helpful, but as I listened to the description it seems to me there is a way out and that would be for the Clerk to furnish the Chair the amendments in the order in which they appear in the new bill and then the Chair could tentatively recognize the man who had the next amendment up and say that if there are no Members of the committee who want to be recognized at this point, the gentleman will be recognized.

I cannot imagine the members of this Committee wanting to throw the House into turmoil.

Therefore, I would assume that members of the committee would not insist on being heard out of line, and if they did, it would allow calamity in one or two cases. This would permit us to proceed line by line through the bill.

The CHAIRMAN. I am grateful for the suggestion of the gentleman from Florida. With the cooperation of the members, this situation could be resolved in a manner similar to that suggested.

Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The remainder of the amendment in the nature of a substitute is as follows:

TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. PURPOSE.

The purpose of this Act is to call for proposals for energy emergency conservation measures and to authorize specific temporary emergency actions to be exercised to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable, (1) is consistent with existing national commitments to protect and improve the environment, (2) minimize any adverse impact on employment, (3) provides for equitable treatment of all sectors of the economy, and (4) maintains vital services necessary to health, safety, and public welfare.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Administration.

SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

"(h)(1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

"(2) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product in such manner and in such amounts to permit such users to obtain any such oil or product based upon such entitlements.

"(3) The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs (1) and (2) of this subsection may petition for review and reclassification or modification of any determination made under such paragraphs with respect to his priority or entitlement. Such procedures may include procedures with respect to local boards as may be established pursuant to section 109(c) of the Energy Emergency Act.

"(4) The President may, by order or rule (which rule shall be deemed a part of the regulation under subsection (a)) require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum products produced through such operations if he finds that such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions necessary to attain the objectives of subsection (b) of this section.

"(5) The President shall consult with the

Department of Labor, an if there is an increase in the level of unemployment from the level of unemployment in 1973 based upon the average 1973 figures and such increase reasonably results from energy shortages, then the President is urged to take such actions consistent with the provisions of this Act, as he is authorized to take under this Act and any other Acts to encourage full production by the domestic energy industry at levels of investment return which make possible the expansion of facilities required to assure against a protraction in any such increased levels of unemployment.

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

"(i)(1) The President may, by order, require the production of crude oil at the producer level at the maximum efficient rate of production.

"(2) The President shall consult with the Department of the Interior and with appropriate State governments in order to determine which producers should be reasonably required to produce crude oil at the rates specified in paragraph (1) of this subsection.

"(3) For purposes of this subsection, maximum efficient rate with respect to any oilfield other than oilfields on Federal lands shall be such rate as is determined by the State in which such oilfield is located, and with respect to any oilfield on Federal land shall be such rate as is determined by the Department of the Interior, except that the President may establish after consultation with such State (or with the Department of the Interior, in the case of any oilfield on Federal lands) a maximum efficient rate higher than the rate established by the State or by the Department of the Interior if he determines that such higher maximum efficient rate will not unreasonably impair the ultimate recovery of crude oil or natural gas from any such oilfield under sound engineering and economic principles.

"(4) The President shall direct the appropriate Federal agency to require that all existing and future development plans for oilfields involving Federal leases, permits or other arrangements for production of crude oil on Federal lands shall include or be amended to include effective provisions for the secondary recovery of crude oil, and, to the greatest extent technologically possible consistent with sound engineering and economic principles, for the tertiary recovery of crude oil, before the well is abandoned.

"(j) Notwithstanding any other provision of this act, or any provision of State or local law with respect to the allocation of gasoline or diesel fuel, there shall be provision for adequate supplies of gasoline, diesel fuel related products for essential and purposeful mobility of persons in the armed services of the United States on military orders, for household moves related to employment or displacement due to unemployment, and for moves due to health, educational opportunities, or other good and sufficient reasons.".

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(1) fuels, and

"(2) minerals essential to the requirements of the United States,

and for required transportation related thereto;".

(c) Section 4(c)(3) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "or" immediately before "(B)" and by inserting immediately before the period at the end thereof the following: ", or (C) to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to the date of enactment of this Act as a result of unusual regional climatic variations within the United States".

(d) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

SEC. 104. FEDERAL ENERGY ADMINISTRATION.

(a) There is hereby established a Federal Energy Administration, to be headed by a Federal Energy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator may be removed by the President for cause. The Adminstrator shall serve for a term ending on May 15, 1975. Vacancies in the office of Administrator shall be filled for the remainder of the term of the original Administrator, in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Servce and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under section 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by sections 103, 117, and 118 of this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) Section 27(k) of the Consumer Product Safety Act shall apply to the Administrator. The Federal Energy Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44 United States Code.

SEC. 105. ENERGY CONSERVATION PLANS.

(a) Within 30 days of the date of enactment of this Act and from time to time thereafter, the Administrator shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under other authority of this or other Acts to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section the term "energy conservation plan" means proposed plans for transportation controls (including highway speed limits, and plans for maximizing car pooling arrangements in all communities and business where applicable), priority allocation plans for energy conserving recyclable raw materials for use within the United States, or such other restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption. The Administrator shall submit such plans to the Congress for appropriate action.

(b) Energy conservation plans shall provide for the maintenance of vital services (including new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

(c) Plans submitted by the Administrator pursuant to subsection (a) of this section shall provide that, to the maximum extent practicable, proposed restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restrictions on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof.

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) PROHIBITION OF USE OF NATURAL GAS AND PETROLEUM PRODUCTS BY CERTAIN USERS.—The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in subsection (b) of this section until January 1, 1980. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact.

A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator may require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would be unreasonable or would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether a conversion requirement under this subsection is unreasonable, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the availability of compensation or tax relief for any capital loss incurred through such conversion requirement.

(b) USE OF COAL.—

(1) Except as provided in paragraph (2), any electric powerplant (A) which is prohibited from using petroleum products or natural gas by reason of an order issued under subsection (a), and (B) which converts to the use of coal, shall not, until January 1, 1980, be prohibited from burning coal which is available to such source by any fuel or emission limitation, if the Administrator of the Environmental Protection Agency approves, after notice to interested persons and opportunity for presentation of views (including oral presentation), a plan submitted by the person who operates such plant. A plan submitted under the preceding sentence shall be approved only if it provides (A) that such plant shall make such use of control technology as may be necessary to enable such plant to come into compliance with the fuel or emission limitation to which the suspension applied, as expeditiously as practicable; (B) for a schedule described in section 119(a)(2)(A)(iii) of the Clean Air Act

(excluding section 119(a)(2)(B)(i)); and (C) that such plan will, during the period beginning on the effective date of the approval of the plan and ending at the time such plant complies with such stationary source of fuel or emission limitation, comply with interim requirements which the Administrator of the Environmental Protection Agency shall prescribe to assure that such source will not materially contribute to a significant risk to public health. Such Administrator shall approve any such plan before May 15, 1974, or if later 60 days after such plan is submitted.

(2) Nothing in paragraph (1) shall prohibit the Administrator of the Environmental Protection Agency or a State or local agency, to the extent practicable after notice to interested persons and opportunity for presentation of views (including oral presentations), (A) from prohibiting the use of coal by such a source to which paragraph (1) applies if such Administrator or any such agency determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; or (B) from requiring such source to use a particular grade of coal of any particular type, grade, or pollution characteristic, if such coal is available to such source.

(3) For purposes of this subsection, the term "fuel or emission limitation" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation (including the Clean Air Act) and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels).

(c) COAL ALLOCATION AUTHORITY.—The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in section 4(b) of the Emergency Petroleum Allocation Act of 1973 and of section 205 of this Act. Any rule prescribed under this subsection shall be deemed to be part of the regulation.

(d) EXPIRATION.—The authority under this section (other than subsection (b)) shall expire on May 15, 1975.

SEC. 107. REGULATED CARRIERS.

(a) AGENCY AUTHORITY.—The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier or property which require excessive travel between points with respect to which such motor common carrier is authorized by the Commission to provide service. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) REPORTS.—Within sixty days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975, while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 108. DELEGATION OF AUTHORITY.

The Administrator may delegate all or any of his functions under this Act or the Emergency Petroleum Allocation Act of 1973 to any officer or employee of the Federal Energy Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation of regulations and energy conservation plans under this Act or the Emergency Petroleum Allocation Act of 1973 to officers of a State, or to State or local boards of balanced composition reflecting the makeup of the community as a whole. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed, effective on the effective date of transfer of functions under such Act to the Administrator.

SEC. 109. ADMINISTRATION.

(a) ADMINISTRATIVE PROCEDURE.—

(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title except with respect to any rule or order pursuant to section 107 of this Act, section 205 (a), (b), (c), and (d) of this Act, or section 4(h) or 4(i) of the Emergency Petroleum Allocation Act of 1973, or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) JUDICIAL REVIEW.—Any interested person (including a State or political subdivision thereof) may obtain judicial review of any rule or order described in subsection (a)(1) of this section in accordance with chapter 7 of title 5, United States Code. Review of a rule may be obtained in the Temporary Emergency Court of Appeals. Review of a rule or order shall be pursuant to the procedures of section 211 of the Economic Stabilization Act of 1970.

(c) LOCAL BOARDS.—

(1) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

SEC. 110. PROHIBITED ACTS.

It shall be unlawful—

(1) for any person, who is engaged in the business of marketing or distributing diesel fuel to trucks on bona fide cargo runs, to deny to such trucks full fill-ups of fuel, unless—

(A) there is in effect under this Act, the Emergency Petroleum Allocation Act of 1973, or any other Act an end-use allocation regulation which restricts such full fill-ups by such person to such trucks, or

(B) such person has no such fuel available for sale;

(2) to violate any order under section 106;

(3) to violate any rule under the first sentence of section 123; or

(4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117 of this Act.

SEC. 111. ENFORCEMENT.

(a) CRIMINAL PENALTY.—Whoever willfully violates any provision of section 110 shall be fined not more than $5,000 for each violation.

(b) CIVIL PENALTY.—Whoever violates any provision of section 110 shall be subject to a civil penalty of not more than $2,500 for each violation.

(c) INJUNCTIVE AND OTHER RELIEF.—Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any provision of section 110, 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 command-

ing any person to comply with such provision of section 110.

(d) PRIVATE RELIEF.—Any person suffering legal wrong because of any act or practice arising out of any violation of section 110 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 112. GRANTS TO STATES.

There are authorized to be appropriated such sums as may be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe.

SEC. 113. FAIR MARKETING PETROLEUM PRODUCTS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

SEC. 113. FAIR MARKETING OF PETROLEUM PRODUCTS

"SEC. 8. (a) As used in this section:

"(1) The term 'commerce' means commerce between a State and a point outside such State.

"(2) The term 'marketing agreement' means that portion of an agreement or contract between a refiner and a branded independent marketer (A) which authorizes such marketer to market or distribute refined petroleum products using a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner, or (B) which authorizes such marketer to occupy premises owned, leased, or in any way controlled by a refiner, for the purposes of marketing or distributing refined petroleum products, or (C) which authorizes both.

"(3) The term 'person' means an individual or a corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

"(4) The term 'refiner' includes any person (other than a branded independent marketer) who controls, is controlled by, or under common control with, a refiner. For purposes of the preceding sentence, the term 'control' does not include control solely by means of a supply contract.

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

"(6) The term 'to terminate' includes to cancel or to fail to renew.

"(b) The following conduct is prohibited:

"(1) A refiner shall not terminate a marketing agreement unless he furnishes prior notification pursuant to this paragraph to each branded independent marketer to which such termination applies. Such notification shall be in writing and shall be accomplished by certified mail to each such marketer; shall be furnished not less than ninety days prior to the date on which such agreement will be terminated; and shall contain a statement of intention to terminate together with the reasons therefor, the date on which such termination shall take effect, and a statement of any remedy or remedies available to such marketer under this section, together with a summary of the provisions of this section.

"(2) A refiner shall not terminate a marketing agreement unless the branded independent marketer to which such termination applies failed to comply substantially with one or more essential and reasonable requirements of such marketing agreement or failed to act in good faith in carrying out the terms of such agreement; except that such refiner may terminate such agreement if he does not, during the 3-year period which begins on the date of such termination, engage in the sale of any refined petroleum product in commerce for sale other than for resale in any relevant market within such branded independent marketer operated.

"(c) (1) A branded independent marketer may maintain a suit under this section against a refiner who engages in conduct prohibited by subsection (b), whose actions affect commerce, and whose products he sells or has sold, directly or indirectly, under a marketing agreement.

"(2) The court may award to any branded independent marketer actual damages resulting from the termination of a marketing agreement together with such equitable relief (including interim equitable relief and punitive damages) as may be appropriate, including declaratory judgments and mandatory or prohibitive injunctive relief. The court may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

"(d) A suit under this section may be brought in the district court of the United States for any district in which the plaintiff 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 four years after the date of the termination of such marketing agreement.".

SEC. 114. VOLUNTARY ENERGY CONSERVATION AGREEMENTS.

(a) Within fifteen days of the date of enactment of this Act, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which retail or service establishments may develop and implement voluntary agreements to promote energy conservation by limiting the operating hours of such retail or service establishments, adjusting retail store delivery schedules, and by taking such other actions as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, by rule determines to be necessary and appropriate to accomplish the objectives of this Act.

(b) The standards and procedures under subsection (a) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) A written copy of any agreement under this section shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection;

(ii) Meetings held to develop and implement an agreement under this section shall permit attendance by interested persons and shall be preceded by timely notice to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings; and

(iv) A written summary of the proceedings of any such meeting together with copies of any written data, views, and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection.

(c) Actions taken in good faith, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act, or similar State statutes.

(d) Any voluntary agreement entered into pursuant to this section shall be submitted in writing to the Attorney General 10 days before being implemented. The Attorney General, at any time, on his motion or upon the request of any interested person, may disapprove any such voluntary agreement and thereby withdraw prospectively the immunity conferred by subsection (c).

(e) As used in this section—

(i) The term "voluntary agreement" shall not pertain to, or govern the conduct of, activities relating to the marketing and distribution of any petroleum product.

(ii) The term "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or both) is not for resale and is recognized as retail sales or services in the particular industry, as determined by the Attorney General.

(f) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report on the impact on competition and on small business of the voluntary agreements authorized by this section.

(g) The authority granted by this section (including any immunity under subsection (c)) shall terminate on May 15, 1975.

SEC. 115. PROHIBITIONS ON UNREASONABLE ALLOCATION REGULATIONS.

Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users.

SEC. 116. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a

given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $25,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(h)(1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

SEC. 117. RESTRICTIONS ON WINDFALL PROFITS.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 103 of this Act) is further amended by adding at the end thereof the following new subsection:

"(k)(1) The President shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 so as to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, and coal, produced in or imported into the United States, which avoid windfall profits by sellers.

"(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, refined petroleum products, residual fuel oil, or coal, permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the 'Board') for a determination under subparagraph (A) or (B) or paragraph (3).

"(3)(A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of crude oil, any refined petroleum product, residual fuel oil, or coal, permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for the sales of such item which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified for sales of such item (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

"(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of crude oil, any refined petroleum product, residual fuel oil, or coal, permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller the items the price of which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order, for the purpose of refunding such profits, the seller to reduce the price for future sales of the item the price of which resulted in windfall profits, to create a fund against which previous purchases of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

"(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

"(4)(A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

"(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

"(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

"(6) For the purposes of subparagraph (B) of paragraph (3), the term 'windfall profits' means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of crude oil, any refined petroleum product, residual fuel oil, or coal, determined by the Board to be in excess of the lesser of—

"(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

"(i) the reasonableness of its costs and profits with particular regard to volume of production;

"(ii) the net worth, with particular regard to the amount and source of capital employed;

"(iii) the extent of risk assumed;

"(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

"(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

"(B) the greater of—

"(i) the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971; or

"(ii) the average profit obtained by the particular seller for the particular item during such calendar years.

"(7) Except as provided in paragraph (4), for the purposes of this subsection, the term 'windfall profits' means profit in excess of the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971.

"(8) For the purposes of this subsection, the term 'interested person' includes the United States, any State, and the District of Columbia."

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under section ( ) of the Emergency Petroleum Allocation Act of 1973 shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceeding shall be reviewed in accordance with chapter 7 of such title.

SEC. 118. IMPORTATION OF LIQUEFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"SEC. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however*, That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

SEC. 119. DEVELOPMENT OF ADDITIONAL ELECTRIC POWER RESOURCES.

Not later than ninety days after the date of enactment for this Act, the President shall prepare and submit to Congress a plan for the development of the hydroelectric power, solar energy, and geothermal resources of the United States by Federal and non-Federal interests. Such a plan shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power, solar energy, and geothermal resources, including tidal power and pumped storage.

SEC. 120. ANTITRUST PROVISIONS.

(a) Except as specifically provided in this section, no provision of this Act shall be deemed to confer any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust" laws includes—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 14, 1914 (15 U.S.C. 12 et seq.);

(3) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(4) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c)(1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. 1), shall in all cases be chaired by a regular full-time Federal employee, and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and shall be taken and deposited with the Attorney General and the Federal

Trade Commission. Such transcript shall be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing any petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) Such voluntary agreements and plans of action shall be developed by committees, councils, or other groups which include representatives of the public, and shall in all cases be chaired by a regular full-time Federal employee;

(ii) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings;

(iv) Except as provided in (v) below, a full and complete verbatim transcript shall be kept of any meeting held to develop a voluntary agreement or a plan of action under this subsection and shall be taken and deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code; and

(v) In the case of meetings held for the sole purpose of developing a voluntary agreement or a plan of action which governs the retail marketing or distribution of refined petroleum products, a written summary of the proceedings of any such meeting together with copies of any written data, views and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code.

(f) The Administrator, upon approval of the Attorney General and the Federal Trade Commission, may exempt types or classes of meetings, conferences, or communications from the requirements of subsection (e) where such types or classes of meetings, conferences, or communications are determined to be necessary to implement any such agreement or plan of action. Such meeting, conference, or communication may take place and be recorded in accordance with such requirements as the Administrator may prescribe by rule, subject to the approval of the Attorney General and the Federal Trade Commission, as consistent with the purposes of this section.

(g) Actions taken in good faith, by persons engaged in the business of producing, refining, marketing, or distributing any petroleum product, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary agreement or a plan of action to carry out a voluntary agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act, or similar State and local statutes.

(h) Any voluntary agreement or plan of action entered into pursuant to subsection (d) and (e) of this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 10 days before being implemented. Such agreement or plan of action shall be available for public inspection in accordance with the provisions of section 552 of title 5, United States Code. The Attorney General or the Federal Trade Commission, at any time, on motion or upon the request of any interested person, may modify, amend, disapprove or revoke any such voluntary agreement or plan of action and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (g) of this section.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report of the impact of competition and on small business of actions authorized by this section.

(j) The authority granted by this section (including any immunity under subsection (g)) shall terminate on May 15, 1975.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973 and all actions taken and any authority or immunity granted under such sections 6(c) shall be hereafter taken or granted as the case may be pursuant to this section.

(l) Section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the Emergency Petroleum Allocation Act of 1973.

SEC. 121. COMPREHENSIVE REVIEW OF EXPORT AND FOREIGN INVESTMENT POLICIES.

The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation and shall be submitted to Congress within ninety days after the date of enactment of this Act."

SEC. 122. EMPLOYMENT IMPACT AND WORKER ASSISTANCE.

(a) Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

SEC. 123. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict, exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. In the administration of such restrictions, the Administrator may use existing statutory authorities and regulations including, but not limited to, the Export Administration Act of 1969. Rules under this section shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

SEC. 124. REPORT AND TERMINATION DATE.

(a) No later than September 1, 1974, the President shall submit to Congress an interim report on the implementation of this Act, together with such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

(b) Notwithstanding any other provisions of title I of this Act or of the Emergency Petroleum Allocation Act of 1973, any authorities granted in title I of this Act or by the Emergency Petroleum Allocation Act of 1973 which, but for this section would expire on December 31, 1974, one year after the date of enactment of this Act, or on February 28, 1975, shall expire on May 15, 1975.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"TEMPORARY AUTHORITY TO SUSPEND CERTAIN STATIONARY SOURCE EMISSION AND FUEL LIMITATIONS

"SEC. 119. (a)(1) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before May 15, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under subsection (b) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) of this Act.

"(2)(A) After public notice and public hearing, the Administrator may, for any period beginning after May 15, 1974, and ending not later than June 30, 1979, temporarily suspend any stationary source fuel or emission limitation as it applies to any person if the Administrator finds—

"(i) that such person will be unable to comply with such limitation solely because of the unavailability of types and amounts of fuels,

"(ii) that such suspension (in conjunction with interim requirements under subsection (b)) will not, after the applicable implementation plan deadline, result in or contribute to a level of air pollutants which is greater than that specified in a national primary ambient air quality standard, and

"(iii) that such person has been placed on a schedule which provides for the use of methods which the Administrator determines will assure continuing compliance with the stationary source fuel or emission limitation as soon as practicable (but no later than June 30, 1979), which schedule shall include increments of progress toward compliance with such limitation by such date.

"(B)(i) Any schedule under subparagraph (A)(iii) shall include a date by which a contractual obligation shall be entered into for an emission reduction system which has been determined by the Administrator to be

adequately demonstrated (except that in the case of a person wishing to construct and install such system himself as soon as practicable, but not later than June 30, 1979, the Administrator may approve detailed plans and specifications and increments of progress for construction and installation of such a system). Before the earliest date on which a person is required to take any action under the preceding sentence (but not later than May 15, 1977) any source may elect to have the preceding sentence not apply to it; but if such election is made, no suspension under this section may apply to such source after May 15, 1977.

"(ii) For purposes of subparagraph (A) (ii) and of subsection (b), the term 'applicable implementation plan deadline' means the date on which (as of the date of enactment of the Energy Emergency Act) a national primary ambient air quality standard is required by an applicable implementation plan to be attained in an air quality control region.

"(C) Any person may obtain judicial review of a grant or denial of a suspension under this paragraph and of any interim requirement on which such suspension is conditioned under subsection (b) by filing a petition with the United States district court for any judicial district in which is located any stationary source to which the action of the Administrator applies. The second and third sentences of clause (ii), and clauses (iii) and (iv) of section 206(b)(2)(B) of this Act shall apply to judicial review under this paragraph. No proceeding under section 304(a)(2) may be commenced with respect to any action or failure to act under this paragraph.

"(3) In issuing any suspension under this subsection, the Administrator is authorized to act on his own motion without application by any source or State.

"(b) Any suspension under subsection (a) shall be conditioned upon compliance with such interim requirements as the Administrator determines necessary for minimizing the threat to public health which may exist prior to the applicable implementation plan deadline and for assuring maintenance of the national primary ambient air quality standards during any portion of such suspension which may be authorized after the applicable implementation plan deadline. Such interim requirements and section 110 shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension. Such interim requirements shall include, but not be limited to, (A) a requirement that the source receiving the suspension comply with such monitoring and reporting requirements as the Administrator determines may be necessary to determine the effect on health or air quality of such suspension, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels or emission reduction systems which would enable compliance with the suspended fuel or emission limitations are in fact available to that person (as determined by the Administrator). Such fuel shall not be required to be used if the Administrator determines that the costs of changes necessary to use such fuel during such period are unreasonable.

"(c) The Administrator may by rule establish priorities under which manufacturers of emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution.

"(d) The Administrator shall study, and report to Congress not later than March 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of scrubber technology (including projections respecting the time, cost, and number of units available) and the effects that scrubbers would have on the total environment and on supplies of fuel and electricity;

"(3) number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of scrubber technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities, analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;
requirement on which such suspension is

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of scrubber technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring variance-receiving sources to monitor impact of variances on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (b) or a compliance schedule under subsection (a)(2)(A)(iii), including any requirement under subsection (a)(2)(B)(i)). No State or political subdivision may require any person to use an emission reduction system for which priorities have been established under subsection (c) except in accordance with such priorities.

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) to violate any requirement on which the suspension is conditioned pursuant to subsection (b).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for any person to fail to comply with a schedule of compliance under subsection (a)(2)(A)(iii), including any requirement under subsection (a)(2)(B)(i).

"(g) For purposes of this section:

"(1) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on or specification of the use of any fuel of any type or grade or pollution characteristic.

"(2) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(h) Beginning 60 days after the enactment of this section, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) Up-to-date findings on the emission reduction systems determined to be adequately demonstrated for the purposes of subsection (a)(2)(B).

"(2) A concise summary of progress reports which are required to be filed by any person operating under a suspension pursuant to subsection (a)(2). Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator as a condition for receiving the suspension.

"(3) Up-to-date findings on the impact of the suspensions granted upon—

"(A) applicable implementation plans, and

"(B) ambient air quality in areas where any person has received a suspension under subsection (a)(2) of this section."

SEC. 202. IMPLEMENTATION PLAN REVISIONS

(a) REVISIONS TO REFLECT SUSPENSIONS.—Section 110(a) of the Clean Air Act is amended—

(1) in paragraph (2)(B) by inserting before the semicolon at the end thereof ", and provision for energy conservation measures"; and

(2) in paragraph (3), by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard which the plan implements within the deadlines established under paragraph (2)(A) of this subsection. In making such determination the Administrator shall consider any current or anticipated suspensions under section 119, any action under section 106(b), and any projected shortages of fuels or emission reduction systems. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan (or portion thereof) not later than November 1, 1974.".

(b) LIMITATION ON PARKING SURCHARGES.—Subsection (c) of section 110 of the Clean Air Act, as amended (42 U.S.C. 1857 C-5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 6 months after the enactment of this paragraph on the necessity of parking surcharge regulations in order to achieve national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. In the course of such study, the Administrator shall consult with

other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be promulgated by the Administrator under paragraph (1) of this subsection as a part of an implementation plan. All parking surcharge regulations previously promulgated by the Administrator shall be null and void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) For purposes of this paragraph, the terms 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles."

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975.".

(b) Section 202(b)(1)(A) of such Act is amended by striking out "1975" and inserting in lieu thereof "1977".

(c) Section 202(b)(1)(B) of such Act is amended by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1976 shall contain standards which provide that emissions of such vehicles and engines may not exceed 3.1 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(d) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978".

(e) Section 202(b)(5)(A) and (B) of such Act are amended to read as follows:

"(5)(A) At any time after September 15, 1974, and before January 15, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed, by paragraph (1)(A)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977.

"(B) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year of the effective date of any emission standard required by paragraph (1)(B) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1978. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(B)) to emissions of oxides of nitrogen from such vehicles and engines manufactured during the model year for which such suspension is granted. Any manufacturer may request additional 1 year suspensions until model year 1983, beyond which no suspension may be granted. Each additional request for suspension shall be treated as a separate suspension decision."

(f) Paragraph (b)(5)(D) of section 202 of the Clean Air Act is amended by adding the following new sentence: 'Notwithstanding the requirements of paragraphs (i) through (iv) of this paragraph, the Administrator shall grant any suspension requested pursuant to paragraph (5)(A) or (5)(B) of this paragraph if he determines that application of such standard would result in significant increase in fuel consumption for such vehicles and engines.".

(g) Section 202(b)(5)(E) of the Clean Air Act is repealed.

SEC. 204. CONFORMING AMENDMENTS.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to certain requirements during suspensions and priorities)."

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 113 of such Act is amended by inserting at the end thereof the following new subsection:

"(d) For the purpose of this section, the violation of any provision of an approved plan under section 106(b) of the Energy Emergency Act shall be deemed a violation of a 'requirement of an applicable implementation plan during any period of federally assumed enforcement'."

(5) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(f)" before "209".

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b)(1) For the period beginning May 15, 1974, the Administrator of the Environmental Protection Agency may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and consultation with the Federal Energy Administrator, issue exchange orders to any person or persons requiring the exchange of any fuel subject to any allocation program under title I of this Act or such Act of 1973. The purpose of such exchange orders shall be to avoid or minimize the adverse impact of any such allocation program on public health in those areas of the country designated by the Administrator of the Environmental Protection Agency under subsection (a). Such Administrator may issue an order under this subsection only if he finds that (A) substantial emission reductions will be afforded for one or more emission sources in areas designated under subsection (a), and (B) the costs and fuel availability impact of such order will not be excessive.

(2) Violation of any exchange order issued under paragraph (1) of this subsection shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of an energy conservation and rationing program under title I of this Act.

(c) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of $2,000,000 is authorized to be appropriated for such a study.

(d) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a 6-month period (other than action taken pursuant to subsection (e) of this section), or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(e) Notwithstanding subsection (d) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York, and for any other facilities for the transmission of electric energy between a foreign country and the United States which the Federal Power Commission finds will be subject to adequate environmental review conducted by a State agency pursuant to State law.

SEC. 206. ENERGY CONSERVATION STUDY.

The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and,

not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derives from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

SEC. 208. RECOMMENDATIONS FOR SITING OF ENERGY FACILITIES.

The President shall, within 90 days after the date of entactment of this Act, recommend to the Congress actions to be taken by the executive branch and the Congress regarding the problem of the siting of all types of energy producing facilities.

SEC. 209. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"SEC. 213. (a) (1) The Administrator shall conduct a study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator shall consult with the Secretary of Transportation, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined by the Administrator for each manufacturer. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means.".

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia, Mr. STAGGERS.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 47, line 18, delete the words "the stationary source fuel or emission limitation" and substitute the words "a national primary ambient air quality standard", on line 21, delete the word "limitation" and substitute the word "standard", and on line 23, insert the words ", if necessary to meet a national primary ambient air quality standard," after the word "include".

On page 13, lines 20 and 21, delete the words "the fuel or emission limitation", and insert the following: "national ambient air quality standards".

Mr. MURPHY of New York. Mr. Chairman, the committee of which I am a member has spent a week which was both harrowing and rewarding in drafting emergency legislation to deal with the fuel shortage now facing the country. We were presented with a multitude of proposals and suggestions, many worthwhile; others lacking the thought and study needed to produce sound solutions to our problems.

This activity clearly demonstrates two principles we must adhere to in considering the legislation now before us. First, the Nation urgently needs the tools provided by this legislation to deal with the emergency that is at hand. Second, that in dealing with this emergency we must be careful not to make permanent legal changes which will hinder rather than help us deal with our long range problems.

Guided by these principles I introduced an amendment in the committee to section 201 of H.R. 11450 which was accepted unanimously which reads:

Such interim requirements and section 110 shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension.

The intent of this section is to preserve the availability of a variety of approaches to attainment of national ambient air quality standards. Nothing in section 110 of the Clean Air Act mandates the use of any particular method of achieving air quality, such as scrubbers or low sulfur fuel. Now, when we are acting under the pressure of a crisis, is not the time to enact such a mandate.

Other sections of the bill requiring the Administrator to report to Congress by March 31 of 1974 on the total effects, including environmental impacts, of scrubber technology, show the clear desire of the committee to obtain the full facts necessary to decide if we should amend section 110.

Lest there be misunderstanding, I should point out that my amendment requires that any alternative of intermittent control measure used must be determined to permit attainment and maintenance of national primary ambient air quality standards. In other words the Administrator of EPA must assure that utilization of these measures will not threaten public health.

This is the same burden Congress has placed upon him in the Clean Air Act. The pending bill does not alter this burden. Under the Clean Air Act he is now required to set primary ambient air quality standards which, with an adequate margin of safety, are requisite to protect the public health.

All that the amendment I quoted earlier does is make it clear that he is not forced, in protecting the public health, to choose means which will unnecessarily deplete our national resources, narrow the selection of fuels, or worsen the energy crisis.

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

Mr. MURPHY of New York. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, as I understand the gentleman's amendment, it would simply apply during this emergency period. It would not allow any of the interim measures of satisfactory compliance after June 30, 1979?

Mr. MURPHY of New York. That is correct.

Mr. ROGERS. And it would require the maintenance of the primary clean air standards?

Mr. MURPHY of New York. Yes, it does, precisely.

Mr. ROGERS. Mr. Chairman, I thank the gentleman.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I would be happy to yield to my colleague, the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, there is some question in my mind about this matter.

Does it change the ability of the Administrator to put each source on a compliance schedule?

In other words, as the bill now reads without this amendment, there are certain procedures by the Administrator which require effective review, based upon particular compliance schedules.

Now, if the gentleman is substituting a national ambient air quality standard, is he not really exempting sources from or taking away from the Administrator the right to review the compliance schedule requirement for particular sources?

Mr. MURPHY of New York. Mr. Chairman, we extend the compliance schedule. What we do is we say that with regard to the State plans, if they are not revised, the Administrator, in his efforts to allocate fuels throughout the country to satisfy national ambient standards in certain parts of the country where, for instance, there are people who represent an area with many stacks in the area, may say that is where the clean fuel should go.

This amendment permits the Administrator to advise the other Administrator to move these fuels to that area.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

(On request of Ms. ABZUG and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. Mr. Chairman, this is a trigger to assist the Administrator in allocating cleaner fuels to the areas where there are stack concentrations and where we would have problems with the maintenance of national ambient air qualities.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, if there are these national ambient air quality standards, a particular source—let us take Astoria-Queens—would that not have to fit in with what is presently in the act as a particular compliance schedule? Is that not correct?

Mr. MURPHY of New York. No, it is not correct.

If we are referring to Astoria-Queens, we would have to fit it in with any other source of emissions so that their airshed, along with 26 other counties which are in the common New York-New Jersey airshed, would meet ambient air quality standards.

Ms. ABZUG. Yes. But under the particular compliance schedules, they have to reach a certain standard. This is a substitute for that in effect. This provides a very general air standard eliminating the compliance schedules from review by the Administrator on a source-by-source basis.

Mr. MURPHY of New York. It would only be true if the State plan was amended to permit that particular source to do that.

If the gentlewoman is talking about Ravenswood, for instance——

Ms. ABZUG. Mr. Chairman, I just used Astoria-Queens as an illustration.

My major concern—and I wish the gentleman would address himself to this—is that I believe by putting this general statement in for ambient air quality standards, we are effectively removing from review particular sources which will then not be subject to any kind of administrative procedure, such as we have provided for here.

Mr. MURPHY of New York. No, the Administrator must pass on these, and I am certain in our area that will be true.

I would say to my colleague that in 1964 to 1966, I was responsible for bringing up the first air pollution convention under the Clean Air Act, to New York. This was undertaken with a view in mind to preventing polluting sources to the New York-New Jersey airshed. This gentleman believes that we have taken a strong position against polluting the air and we will not permit a relaxation or rollback of these accomplishments, if that is what the gentlewoman is referring to.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

(On request of Mr. ROGERS and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 1 additional minute.)

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

Mr. MURPHY of New York. I yield to the gentleman from Florida.

Mr. ROGERS. Then, Mr. Chairman, as I understand it, the gentleman is saying that the EPA would have the necessary ability to go into an individual plant, if it is violating or contributing to the violation of national air ambient standards, and take action against such individual plant?

Mr. MURPHY of New York. Yes, he would.

Mr. ROGERS. Mr. Chairman, I thank the gentleman.

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

Mr. MURPHY of New York. I yield to the gentleman from Minnesota.

Mr. NELSEN. Mr. Chairman, I wish to thank the gentleman for offering this amendment.

I might add that in the committee the gentleman and I worked together on the alternate and intermittent part of this amendment. I think that it is a good amendment, and I hope the House adopts the amendment.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I rise only to observe that it did not take long after the unanimous-consent, gentleman's agreement, if it may be called that, to evaporate into thin air. This first amendment to the bill amends section 119 of the bill, which is one of the last, if not the last, section in the bill.

Moreover, it amends H.R. 11450, for which H.R. 11882 has been substituted.

I wonder if in pursuing this matter this afternoon we may have more orderly legislative procedure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NELSEN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. NELSEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. NELSEN to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 7, line 21, strike out the first period and the quotation marks.

Page 7, insert after line 21, following:

"(k) Effective on the date of enactment of the Energy Emergency Act, any provision of the regulation under subsection (a) which prior to such date of enactment provided that any allocation of residual fuel oil, or refined petroleum products was to be based on use of such a product or amounts of such product supplied during calendar year 1972 or any portion thereof, shall be amended to provide that such allocation for each calendar month shall be based on use or amounts supplied during the corresponding month of the preceding year."

Mr. NELSEN. Mr. Chairman, the purpose of this amendment is as follows: Here is a hypothetical example sent to me relating to a school district example. They completed construction in 1972 of a new school building. Throughout the year 1973 it was supplied by a local fuel distributor. If the 1972 base period is to be applied, the supplier of fuel for this school will not be entitled to an allocation of fuel for the school during the month of January and through the months of each year that the allocation program is in effect.

In other words, instead of going back to 1972 for an allocation level, you would use the same month in the previous calendar year to determine the allocation. It seems to me it is really what we intend doing, and I hope the committee adopts my amendment.

Mr. LATTA. Will the gentleman yield?

Mr. NELSEN. I am happy to yield to the gentleman.

Mr. LATTA. I want to thank the gentleman for yielding.

I asked him to yield for the purpose of inquiring. Let us take another hypothetical situation where a farmer last year had a very wet harvest season and did not use very much fuel. That was in 1972. Then in 1973 he had a dry season during those same months while he was harvesting his crops. Would that farmer be entitled to sufficient fuel to harvest his crops this year under those circumstances?

Mr. NELSEN. I have not delved into that. I was using merely the example that I cited. But it seems to me that the claim is an analogous one under the circumstances. I would like to have the staff examine it more carefully, however. This situation came to my attention this morning from my district, where a business would be denied, under the criteria we have, the right of getting any fuel at all. I used this example presented to me as a case in point.

Mr. LATTA. If the gentleman will yield further, as I understood your amendment, you were tying it to 1972.

Mr. NELSEN. No; we are tying it to

the previous calendar year, the same month, rather than the year 1972 only.

Mr. FREY. Will the gentleman yield for a question?

Mr. NELSEN. I will be happy to yield.

Mr. FREY. The Emergency Allocation Act provides for certain adjustments that can be made as set forth under various circumstances. I am worried on a month-to-month basis if it would not unduly complicate an already complicated procedure.

Mr. NELSEN. Under the provisions of the process now, it is on a 1972 basis, which is totally unfair because of the fact that in some cases some businesses have come into being in the following year and therefore they would have no background on which to fall so that they could get any allocation of fuel. But if there is any other way to reach this end, I have no objection to it at all. However, I do feel something ought to be done in this direction.

I would like to have a little colloquy with the chairman and the staff on the other side if they would examine my amendment. It has been over there for quite some time.

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

Mr. NELSEN. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, do I understand the amendment offered by the gentleman from Minnesota, (Mr. NELSEN) is to provide allocation on a history which is related to months? In other words, November 1973, to November 1972, or December 1973, to December 1972?

Mr. NELSEN. That is correct?

Mr. WAGGONNER. And 1972 is to be the base year?

Mr. NELSEN. 1972 under the present allocation process is a basis on which fuel is allocated. But in this case we had this school building that came into being and on the basis of 1972 they had no allocation to this particular project. So what I am trying to do is to use the previous calendar year, the same month, and then allocate on that basis.

Mr. WAGGONNER. Mr. Chairman, if the gentleman will yield further, experience teaches us with the allocation program we have had to this point in time that we cannot relate a specific month of the preceding year to the specific month or the corresponding month of this year, because circumstances change too much.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield further?

Mr. NELSEN. I would be happy to yield further to the gentleman.

Mr. WAGGONNER. In Louisiana, for example, for the months of October, November, and December last year, calendar year 1972, they were extremely wet months, and the farmers did nothing. And if they got fuel for calendar year 1973 for the corresponding months in 1972 they would get nothing this year, because they have not had that same similar weather. Now, we cannot get into that situation.

Mr. NELSEN. They would be in the same position as in the year 1972.

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

Mr. NELSEN. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would like to have a word with the gentleman from Minnesota. In view of the colloquy that we have had, I would wish the gentleman from Minnesota would withdraw his amendment because there is a misunderstanding here, and I am in doubt about some provisions in the gentleman's amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NELSEN. Mr. Chairman, I will be happy to withhold the offering of my amendment at this time, since it may be possible we can work this out.

Therefore, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the amendment in the nature of a substitute offered by Mr. STAGGERS: Amend the amendment in the Nature of a Substitute on page 42, line 11, by striking the period and adding the following language: "except that, for the purposes of this exemption—

"(i) No action which is not necessary to effectuate allocation plans reasonably contemplated to implement the purposes of this Act shall be deemed exempted from application of the antitrust laws of the United States by this paragraph.

"(ii) The second section of the Sherman Antitrust Act as amended (15 U.S.C. 2) and Section 7 of the Clayton Act, as amended (15 U.S.C. 18) are not included in the term "antitrust laws of the United States," as used in this paragraph, and any violation of their provisions is not in anywise made lawful by the exemption granted herein.

"(iii) The term "actions" as used in this paragraph does not include any action the effect of which extends beyond the date, December 31, 1974."

Mr. ECKHARDT. Mr. Chairman, this is an amendment to the so-called Brown antitrust amendment. Under the Brown amendment it is provided that where there are meetings between industry people and the administrator's people with respect to plans of allocation, as long as such meetings are recorded and done in the manner provided in that section, they are excepted from all antitrust laws.

What this amendment does is make some exceptions which narrow the antitrust exemption.

First, it provides that no action which is not necessary to effectuate the allocation plans, reasonably contemplated to implement the purposes of this act, shall be deemed exempted. This does the same thing as the Silver case of the United States Supreme Court did with respect to antitrust exemptions under the Securities Act. Under the Securities Act there can be certain agreements, for instance, by the New York Stock Exchange, which are necessary to implement that act and which are, therefore, removed from coverage of the Antitrust Act.

We are saying the same thing here, that if the agreement is a necessary implementation of this act, it is exempted. No. 2, it says the second section of the Sherman Antitrust Act as amended, and section 7 of the Clayton Act are not included in the term "antitrust act."

The first section of the Sherman Antitrust Act prohibits agreements in restraint of trade. That is all that ought to be exempted under the Sherman Act.

As the distinguished gentleman, Mr. YOUNG, said a little while ago, the second section implies bad faith: a bad intent and a bad result. That is the section that makes it illegal to monopolize.

Section 1 of the Sherman Act deals with agreements in restraint of trade; section 2 with monopolizing. Certainly we do not want to authorize that as an exemption under this act.

Section 7 of the Clayton Act is the one that condemns mergers, and we particularly do not want to exempt mergers, because during this protected period, for instance, certain pipelines and certain elements in the distribution of petroleum products could merge under the protection of the Brown amendment, which mergers could extend beyond the effective date of this act and would be protected by the Brown amendment, because the agreement to merge occurred in the protected period.

Section 3 says the term "actions" as used in this paragraph does not include any action, the effect of which extends beyond the date December 31, 1974, and that is to prevent the protection during this short period from permitting a pattern of action that could freeze out little people for a long period after the emergency ceases.

Those who know something about the petroleum industry know that the people at the beginning of the pipeline, so to speak—and I am using that figuratively—are frequently little people: little producers in competition with major producers. In Texas they constitute about 3,300 independent producers and about 11 majors. The 3,300 could be completely destroyed by agreements in restraint of trade by majors in some line in this conduit of allocation, if agreements could be made at that time which would have effect beyond the date December 31, 1974.

At the other end of the pipeline; that is, the distributors' end, exactly the same thing occurs. The distributors are little people, but in competition with majors. In both instances the majors could destroy both the producers at the beginning and/or the distributors at the tail end if they, the majors, are exempted from antitrust laws.

So all this third section says is it cannot have effect after the emergency date.

The CHAIRMAN. The time of the gentleman has expired.

PARLIAMENTARY INQUIRY

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ADAMS. Mr. Chairman, as I understand it this is a perfecting amendment to section 120. I have previously indicated, and have filed it with the Clerk, that I will offer a motion to strike section 120, the so-called antitrust section. My question is this: If a vote occurs upon the amendment offered by the gentleman from Texas and the section is perfected or not perfected by his amendment, am I precluded from moving to strike section 120 at a later time in the proceedings?

The CHAIRMAN. Regardless of the outcome on the amendment now pending, the gentleman will not be precluded from making a motion to strike at another time because this is a perfecting amendment that does not deal with the whole of the section.

Mr. ADAMS. I thank the Chairman.

PARLIAMENTARY INQUIRY

Mr. SEIBERLING. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SEIBERLING. Mr. Chairman, if the amendment offered by the gentleman from Washington should not succeed and someone else should offer another amendment to section 120, will that amendment be precluded by this perfecting amendment?

The CHAIRMAN. Not necessarily. The Chair will answer the gentleman by saying that section 120 is a long section. Other amendments to the section might still be offered. But in the event the amendment offered by the gentleman from Texas is adopted a further amendment to that particular portion of the language might be precluded. But other parts of the language in that particular section would still be open to amendment.

Mr. SEIBERLING. Mr. Chairman, suppose the amendment were a complete substitute for section 120.

The CHAIRMAN. It would still be in order.

Mr. SEIBERLING. I thank the Chairman.

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas.

Mr. Chairman, this I am sure is the first of several efforts to take the antitrust exemptions out of this legislation and I sympathize with the motivations of the gentleman from Texas to the extent that he does not want the opportunity for the petroleum industry to get together illegally and I certainly sympathize with the objectives of (i) in his amendment. As a matter of fact I sympathize with him so much that it is already in the language of the amendment.

We have prohibited the abrogation of the antitrust procedures except in pursuit of dealing with the energy crisis under the provisions of the Petroleum Allocation Act and the language of this particular bill.

As to item (ii), the second section of the Sherman Antitrust Act and section 7 of the Clayton Act are of course the basic aspect of what we are trying to make possible for the industry to do, to discuss and develop a plan to deal with the problem of shortages.

If they cannot get together and they cannot under the present Antitrust Act, then we have some difficulty in getting a plan that the industry would be able to come to any agreement on. We also have difficulty even if a plan should be promulgated by the administration without industry getting together to help plan it, and we would have difficulty with the industry coming together to implement that plan.

The problem is that we are likely to get parts of the country where there is an emergency need for fuel and there will be a need at that time for either distributors or perhaps refiners or perhaps even people who have crude oil to be able to be in touch with one another and say, "We have a ship that is due in Norfolk that is loaded with oil but we have an emergency because of a cold snap in New England and we would like to move that ship to New England and will you please make arrangements to get that up there?"

In the case of local distributors, if the Gulf distributor in a small community in a farm area has a customer who is out of oil in the north part of the county and that night it is going to go down to zero, he has to be free to call the Exxon distributor and say, "Hey, it's my customer, but it's your oil and take care of it for a few days."

Situations such as this will be taken care of under strict guidelines drawn up in the presence of the Attorney General, in the presence of representatives of the FTC and the Attorney General, with full transcripts of the meetings and with prior notice of the meetings and the possibility for public participation.

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

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I would like to say that the gentleman from Ohio entered into negotiations with me during the mark up of this legislation in the committee. He entered into those negotiations at a time when it was quite evident that he had by far the largest majority in the committee supporting the position of his original amendment. Nevertheless, in good faith negotiations, the gentleman effected substantial modifications of the original amendment.

I stated in committee when this amendment now before us was offered that I felt that we had struck a balance where the public interest was adequately protected, where there was an assured representation under appropriate Federal oversight, where actions could be modified by the Attorney General or the Federal Trade Commission.

I want to make it very clear that I support the position now being stated to this committee by the gentleman from Ohio. He has dealt with me in a constructive and a thoroughly honorable manner. I intend to support him in like spirit.

(At the request of Mr. Moss and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for an additional 5 minutes.)

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the statement of the gentleman from California. He is quite right. We did try to work out the most effective method of temporarily, and I say temporarily, abrogating the antitrust provisions, so that we could deal with this emergency problem.

The gentleman from California, I think, is not known in this body as a defender of monopolies or an opponent of small business or anything that might be suggested by an effort temporarily to provide an exemption from antitrust laws.

I will yield to the gentleman from Arizona in a moment, if I may; but I would like to call the attention of the committee to one other factor of saving language in the bill, that is subsection (h)—in the legislation, which says that all the voluntary agreements which are entered into can be abrogated immediately by the Federal Trade Commission or the Department of Justice on the complaint either of themselves or of some private citizen; so that if they discover or if it is determined that for any reason they are operating in restraint of trade or they are not accomplishing the purpose of this legislation, that is taken care of.

I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I ask the gentleman to verify the statement of what the gentleman from Texas said about the scope of the text of subparagraph (g) on page 42. It was my understanding that the gentleman from Texas felt that under the wording in the bill it would be possible by waiving all the antitrust laws to have a voluntary agreement, including merger.

Now, it strikes me that by the very definition of the term voluntary agreement, as set forth elsewhere in the bill, that there is no way that the voluntary agreement can possibly be so broad as to contemplate a merger of two companies.

As I understand it, the agreement merely is an arrangement whereby the companies would agree to work together to conserve energy.

Mr. BROWN of Ohio. The amendment is not designed to encourage the merger of existing oil companies. It is designed to make it possible for oil companies to work together and deal with distributors in the full light of the Federal Trade Commission, the Attorney General, the public and everybody else. After agreements are entered into and when they are in progress at the distributor level and even perhaps at the service station level, at that point if there is anything occurring in restraint of trade or which does not square with the purposes of this legislation the Federal Trade Commission or the Attorney General, upon the complaint of a citizen or their own offices, can terminate that agreement forthwith and from then on anything that is done

in connection with that exemption would be under the antitrust provisions as usual.

Mr. RHODES. Mr. Chairman, I thank the gentleman for his explanation. I certainly did not want the legislative history of this bill to indicate that anybody felt that a voluntary agreement could encompass a merger. It is my understanding that this is not the situation.

Mr. BROWN of Ohio. First, the agreement is voluntary and the Attorney General approves the agreement. In a merger of major oil companies we would find the Attorney General being criticized severely in this Congress and some action taken to recall him.

Mr. Chairman, I feel the amendment of the gentleman from Texas (Mr. ECKHARDT) should be defeated. I think we have an acceptable arrangement for dealing with this antitrust problem temporarily so that we can go ahead and deal with the energy problem. I would like to remain with it, if we go through this committee and we can make the process work so that we can resolve the energy problems we have in our society.

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

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, let me point out that I understand the gentleman's clause containing section (h), which says that effective on the date of enactment of this act, this section shall apply—the gentleman has authority granted in this section in (j), shall terminate on May 15, 1975.

Mr. BROWN of Ohio. In accordance, I might say, with the termination date of the rest of the legislation.

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

Mr. Chairman, this shows the great danger of trying to deal with the antitrust laws in a bill and with a committee that is not working in the antitrust law field. I have great respect for the gentleman from California (Mr. Moss). He is a very close friend of mine; the statement the gentleman made about him, that he certainly is not one who favors doing away with small business or injuring them, is correct.

The problem that we are into today with this amendment and the problem we are into with what was done by making the amendments of the gentleman from Ohio germane is that we are trying to write into this bill, without any legislative history and without any hearings on what is going to be the effect of exemptions from the antitrust laws by varying types of language. This is exceedingly dangerous. It is the reason why later I shall offer an amendment to strike the antitrust provisions of this, and if somebody has a question about what can happen or how you can have a merger under this, this applies to voluntary agreements and plans as well as voluntary agreements. So that we have a situation here where we can literally force the merger of two small independent companies because they cannot get a product because there has been a voluntary agreement that the product will be divided among the companies who are presently in the field.

I have a memorandum from the Federal Trade Commission staff, and I have tried to research this in the short period of time we have had, and it is literally impossible for them to try and push this out when this kind of provision is in the bill that says that this shall be an exemption, not a defense.

They are not required to supply any information as to what went on in these meetings, nor are they required to supply information as to what has gone on in the implementation of the plan, whereas in the Senate bill, as bad as it may be, at least it says that "If you want to get an exemption, Mr. Oil Company, you have got to prove it in a defense, and you have to supply the information that will support your defense."

And under this bill they are not required to supply any of the information, and it is not a defense; it is a complete exemption.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I am terribly nervous any time we start tampering with the Antitrust Act and the exemptions to it.

I was not a civilian during the Second World War, but I know that we did have gas rationing at that time in our history.

I asked my office to contact the Library of Congress to find out what laws, if any, were passed in the years 1940, 1941, 1942 to handle this very problem we are talking about now, since in 1941 and throughout the war oil companies and officials were counted upon to assist the Government in allocating a short commodity, fuel.

My office has discovered from the Library of Congress that no legislation whatsoever that they could find was passed to give protection to oil companies or their officials when they were called together by the Government to assist in allocating the fuel, with the shortage that we had.

Now, my question to the gentleman in the well is this—or I will ask the question of any Member here who may be on the committee or any Member who remembers that particular time:

What, if anything, has happened since the Second World War in terms of national legislation that would require these exemptions today when all throughout the Second World War we required no such exemptions?

Mr. ADAMS. Mr. Chairman, I would say that what has happened is that a lot of oil companies are nervous because they have had a series of antitrust actions brought against them during the 1950's and during the 1960's.

The second thing is that they were a great deal more integrated than they are now, and, therefore, any of their actions can put independent marketers out of business.

That is why they want an exemption from that, plus the fact that the administration wants to bring in the oil company people and have them run this program, under the amendment that will be offered later by the gentleman from Ohio, and made in order under the rule. That would exempt the conflict of interest provisions, so then you are going to have the very people who have control of the refined supplies of the United States running it and running these voluntary agreements, and they are very nervous about it.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield further?

Mr. ADAMS. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. The gentleman has addressed himself to the economic changes since the Second World War.

I would ask the gentleman to address himself to the question whether or not there have been significant legislative changes since the Second World War that would make these exemptions necessary at this time.

The CHAIRMAN. The time of the gentleman from Washington (Mr. ADAMS) has expired.

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

Mr. ADAMS. Mr. Chairman, in answer to the gentleman's question, there is a provision in section 708 of the Defense Production Act of 1950 that declares that under an emergency they can do many of the things they did in World War II and be protected from the Antitrust Act.

I think that is a dangerous provision that is in the Defense Production Act.

I like the fact that it is taken out by this bill, and we are discussing now whether maybe we should take that out here also.

The main point I wish to make, in answer to the gentleman on legislation, is that if the gentleman wants to exempt companies from the antitrust law, we should let them go to the Committee on the Judiciary and let them bring up a bill and we can be sure it is done right, or they can go to the Committee on Post Office and Civil Service and get an exemption of conflict-of-interest law.

But let us not do it in the name of fuel conservation. Let us not pass a great series of things that are going to do a great deal of harm to the business communities of the United States and to the people of the United States.

So, Mr. Chairman, I hope we will strike the antitrust provisions entirely, although I am willing, if they wish to knock out the antitrust provisions in the Defense Production Act, to knock those out too. I just think we should not tamper with it.

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

Mr. Chairman, I was interested in the remarks of my good friend, the gentleman from Washington (Mr. ADAMS), because this bill does, indeed, I think, encroach on the jurisdiction of a great many committees.

It is interesting to see the reaction to the various sections. For instance, section 117, the restriction on windfalls, is within the jurisdiction of the Committee

on Ways and Means or the Committee on Banking and Currency.

However, this section was ruled germane to the bill as, of course, was the antitrust provision. I think if we could have had a clean bill solely within our jurisdiction, there would have been a lot of us who would have been a lot happier, especially me.

However, you cannot have it both ways. The argument of the gentleman from Washington is as applicable to the antitrust section as it is to 5117—the tax provision. We spent a great deal of time on this bill in the committee. The gentleman from Ohio has a good amendment, which if outside our jurisdiction, is no more outside our jurisdiction than a lot of this bill.

I now yield to Mr. BROWN.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I would like to say first, Mr. Chairman, I think the gentleman from Washington, who is a meticulous member of the committee and for whom I have the greatest respect, misspoke himself when he said that there was no requirement for information about the meetings to provide plans and so forth and so on.

The legislation which we have before us provides that such meetings to prepare a plan would be chaired by a regular Federal employee, but also it would be open to the public and a transcript would be kept of the proceedings and filed as a public record. In addition to that, it would have representatives of the Attorney General sitting in on the preparation of the plans. That was the protection that was put into it.

I might say to the gentleman that the Defense Production Act, to which he made reference, section 708, provides for the encouragement of the making by people covered by this act, with the approval of the President, voluntary agreements and programs to further the objectives of the act. Further on it provides for the Attorney General to review such voluntary agreements.

Our legislation which we have before us, is more restrictive than the Defense Production Act. It is particularly written to be more restrictive.

I do not defend monopoly any more than anybody else on this floor does. And certainly I do not want to kill off small business. All I am trying to do is to deal with the emergency problem which we have and to deal with it in this amendment in the best way that we possibly can. I think that way is not to prohibit the oil companies as a matter of law either from participating in the plans or initiating them.

Mr. ADAMS. Will the gentleman yield?

Mr. FREY. I am glad to yield to the gentleman.

Mr. ADAMS. I do not think I misspoke myself, because if you look at page 41, you have exempted under 5 keeping any of the records of those meetings. They have only to produce a summary. If you look at section (f) on page 41, line 16, the Administrator, with the approval of the Attorney General and the Federal Trade Commission, can exempt all of the meetings from being chaired by anybody or attended by anybody or in any way falling under the provisions of this act. That is what I meant when I said that you give with one hand, but you taketh away with the other.

Mr. BROWN of Ohio. Will the gentleman yield?

Mr. FREY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. The distinction is between the promulgation or the preparation of a plan and the implementation of a plan. The implementation of a plan is where the Gulf dealer calls the Exxon dealer and says "I have a customer out in the county who is out of oil tonight. Under the agreement reached in Washington, we have to provide him with a certain amount of fuel." It is not necessary to have a Federal official sit in on that call or have notes taken on it. But for the development of the plan which calls for that kind of cooperation it is necessary to have a Federal administrator sit in on it and have the Attorney General participate in it and so forth and so on.

Mr. ADAMS. Will the gentleman yield further?

Mr. FREY. I yield to the gentleman.

Mr. ADAMS. The whole pian you have set up here is that in the original planning stage you will set up a rule or regulation under section (c) which will simply say people can get together and meet and decide what they want to do about the distribution of products. That is the key part of the plan.

Mr. FREY. This moderator yields back the balance of his time.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by my good friend, the gentleman from Texas (Mr. ECKHARDT).

I personally would not prefer to have any amendment relating to the antitrust laws in the legislation at all. I do not believe that that is a matter that should be addressed here at this time by this committee. It is a matter that properly should fall within the hands of the Committee on the Judiciary. But if we legislate language relating to the antitrust laws we must see to it that this is done with exquisite care.

It is unfortunate, I must say, that we find ourselves in a parliamentary straitjacket where reforming language of such a technical amendment is done under such impossible conditions.

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

Mr. DINGELL. I yield to my friend, the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I take this time merely to point out that if the Eckhardt amendment is adopted it would not prohibit those who choose to strike the section to do so. It would also not prohibit those who choose later on to substitute another approach to the problem. But I would like to say this: That at the very least this qualification should be put on section G.

The gentleman from Ohio has indicated here that he really intends to terminate this action on the date stated in the act at section J. But that section says that the authority granted by this section shall terminate on May 15, 1975. The effect, though, of agreements made during that period of time would not necessarily terminate.

I would think the gentleman, if his intentions are good, and I feel sure they are, would have no objection to qualifying to say the term "actions" used in this paragraph do not include any action the effect of which extends beyond the date December 31, 1974.

Furthermore, I can see no reason why the gentleman would object, if the intentions of the oil companies are good, to providing that no action would be protected unless that action was necessary to effectuate the allocation plans. The gentleman says this is in his bill. Then why not put it here specifically? And certainly I can see no way to defend an exception to the Antitrust Act to permit mergers during this period or to permit monopolies.

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

Mr. DINGELL. I yield to my friend, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, it seems to me that if we are going to establish these kinds of volunteer agreements that it is appropriate that consideration be given to saying or implying that there should not be a violation of the antitrust laws in connection with them.

I understand that the gentleman from New Jersey, the chairman of the House Committee on the Judiciary, proposes to offer an amendment at some stage which would provide in connection with this section G on page 42 that the good faith provision would be available as a defense, and would not be an interpretation solely made by the persons entering into or engaging in a business as a complete protection against the violation of the antitrust laws, but I do not think the gentleman is quite ready with his amendment at the present time.

I realize that this has not come before our committee, but I realize that these are essential provisions if we are going to secure the necessary voluntary action on the part of these companies that is necessary to carry out a nationwide program.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my friend, the gentleman from Ohio (Mr. BROWN) with whom I disagree on the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I am happy to have my friend, the gentleman from Michigan (Mr. DINGELL) with whom I disagree, yield to me.

I would say to the gentleman from Texas, who raised the question about the termination date in the section of the bill of May 15, 1975, that it is designed to conform to the termination date of all the other termination dates which are included in the legislation.

I think, in accordance with the same position impressively made by the gentleman from Texas, the authority which is given in this section is in fact given to May 15, 1975.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McKINNEY. Mr. Chairman, I

move to strike the necessary number of words.

Mr. Chairman, one of the things that bothers me about this bill—and I would be interested in colloquy from the gentleman from Ohio or anyone else on the committee—is that I happen to come from New England where the name of the game on the part of the big oil companies is, let us get rid of the independents. For some reason or other, I cannot see just exactly how this love affair in Washington between and among big oil is going to take care of the independent oil producers.

We thought we had a love affair going in New England until we found out the Texas Co. could say, "We have got full tanks, and play ball with Tom Siever," but when we turned around to the independent, who supplies 60 percent of the oil in New England, we found out he was 33 percent down or he was 66 percent down. He cannot take on new customers, but Texaco, and all the rest would love to take on new customers.

I just do not see in this bill how we as a Congress can turn around and ask, nor how the administration can even contemplate, these big oil companies running the show when they are the ones that have totally put us into this position. It is absolutely incomprehensible to me how we can turn around and violate and destroy and remove antitrust regulations and give these companies free rein.

In my district alone, after one distributor was cut off back as far ago as last July, my office requested that big oil supply him. Not one major company would offer him one drop of gasoline. We had to go to the Office of Emergency Preparedness, where they got a barge out of Baltimore Harbor which gave that supplier 1 more month of operation before he again ran out.

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

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

Mr. RUPPE. I thank the gentleman for yielding.

Who has supplied this independent distributor with his petroleum product prior to his being cut off? Was it a major oil company?

Mr. McKINNEY. In most cases, no. The oil supplied to the independents is bought through metropolitan distributors, through New England distributors, and through the European market. Of course, they are not getting it from the European market, because the European market does not have any. The gentleman does not think that big oil or anyone else is going to sit around and say, "Well, we are going to give our competition oil." They have not done so in the past. They have been unwilling to now.

Anything we can do to keep the antitrust provisions, I am for.

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

Mr. McKINNEY. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding. I should like to commend the gentleman on his statement.

I should like to address a question to the gentleman from Ohio (Mr. BROWN). In response to a question which was earlier posed, he said that the provisions as drawn would not encourage mergers, but he did not deny that they would permit mergers. As I understand the amendment of the gentleman from Texas, it would permit mergers, and I should like to have a clarification by the gentleman from Ohio. Would the section as drawn by the gentleman from Ohio permit mergers?

Mr. BROWN of Ohio. I think not. I must say to the gentleman I am neither a lawyer nor the world's greatest authority on the antitrust procedures, but I would say to the gentleman that it would require the Attorney General, the Federal Trade Commission, and a voluntary agreement on the part of the companies to have a merger.

I would also say I would assume that absent any provisions of this law that if there were to be a merger of companies that it would require the Attorney General and the Federal Trade Commission and others to make an assessment that it is not going to restrain trade.

Mr. McKINNEY. I would like to ask the gentleman from Ohio a question. Is there anything in this that would prohibit the majors buying up the independent local distributors at rockbottom cost, because their business is going to be at rockbottom value at that time?

Mr. BROWN of Ohio. The Attorney General and the Federal Trade Commission would have that as their charge, and if that did not serve the purposes of this act and I assume it would not, they would certainly not permit that kind of practice.

Mr. McKINNEY. But does the gentleman think the Attorney General and the Federal Trade Commission will look at the activities of hundreds of thousands of small business people across the country? I assure the gentleman they will not. They cannot. I have not been impressed by their past performance.

Mr. BROWN of Ohio. I would assume they will do their job.

Mr. YOUNG of Illinois. Mr. Chairman, I move to strike the last word. I would like to discuss the antitrust laws for just a minute. The antitrust laws are not complicated. There is not anyone in this House who cannot understand them. The purpose of this amendment reminds me of a contract, as Members will recall, where the gentleman looked at the contract and read it and said, "My, I have read the big words and that gives it to me," and then he looks at the small words at the bottom of the contract and he says, "This takes it away from me." That is the type amendment we have before us today.

There are three parts to the amendment. The first part of the amendment is superfluous and does not add anything and does not detract anything. It says:

> No action which is not necessary to effectuate allocation plans reasonably contemplated to implement the purposes of this Act shall be deemed exempted from application of the antitrust laws of the United States by this paragraph.

That does not add anything and it does not hurt anything and is not really necessary.

The second part of the amendment has to do with excluding from the exemption provision of the antitrust laws section 2 of the Sherman Antitrust Act. This is the bad part.

The third part has to do with mergers. It is my opinion that by no stretch of the imagination I can think of would it be proper for the Attorney General or the FTC to permit a merger by virtue of any exemption provided in the language of this bill.

I would also reply to the question of the gentleman from Connecticut (Mr. McKINNEY) with respect to whether or not this would permit the big oil companies from gobbling up small companies. I would say absolutely not, because the only type exemption we have provided in this bill is the exemption which applies to an energy plan adopted by the Administrator. That is a plan adopted by the Administrator, and not by oil companies, and the actions to effectuate and to implement that plan.

Let me tell the Members why section 2 of the Sherman Act should not be excluded from the antitrust exemption provisions of this bill. The reason is section 2 and section 1 are interrelated. Section 2 relates to attempts to monopolize. It makes it unlawful to monopolize. The big oil companies according to economists are known as oligopolies. That means any action which they take which is in restraint of trade but which is taken under an energy conservation plan, could also be deemed to make them guilty of violating section 2.

How do we prove there is an attempt to monopolize under section 2? We do it by proving that the oil companies take actions that are restraints of trade which are illegal under section 1 of the Sherman Act. Section 1 of the Sherman Act says restraints of trade are unlawful.

If the Administrator decides after he has adopted an energy conservation plan that it would be desirable to have oil which is being brought in by barge from the Caribbean to go to the refinery of Company X when the oil is owned by Company Y and we have some other oil coming from another direction that is owned by Company X, then it would be possible that we could conserve energy by allocating the oil to the closest refinery plant, and that would save energy.

Now, that could be deemed to be an allocation of supplies between two competitors and unlawful. In order to effectuate the emergency energy conservation provisions of this plan, some of these provisions or arrangements that would be made would be acts which would also under other conditions, amount to restraints of trade, or would be considered agreements to divide markets or supplies which would be in violation of section 1, if it were not for the exemption provisions of this bill.

So if we are going to exempt actions under conservation plans from section 1 of the Sherman Act, and if we do not exempt such acts also from section 2, we

would in effect permit acts under section 1 that would put persons so acting in violation of section 2 of the Sherman Act. That is the problem we have. That is why this amendment should be defeated. That is the reason our commitee defeated it.

There were some statements made that antitrust laws are not understood by the gentleman on the Committee for Interstate and Foreign Commerce. I do not think that is right. There are some very able lawyers on that committee; Mr. DINGELL, Judge PREYER, Mr. ECKHARDT, Mr. ADAMS, and others, that are quite aware of the antitrust laws.

(At the request of Mr. EVANS of Colorado and by unanimous consent, Mr. YOUNG of Illinois was allowed to proceed for 1 additional minute.)

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I will ask the gentleman the same question that I asked the gentleman from Washington, because I am concerned any time we start suspending portions of the Sherman and Clayton Acts. During World War II, when we as a nation faced a great energy crisis, we got through that period of time with rationing, bureaucracy, and what have you, with the great help of the oil companies, but without amending any of these acts.

This bill proposes we suspend some provisions of the Clayton and Sherman Acts.

My question is, what if anything has changed in the law since World War II that would require suspending the acts now, when in 4 years of war we did not have to suspend any of the provisions of the act?

Mr. YOUNG of Illinois. I will reply that it is necessary under this act, because we want to have energy conservation plans that are voluntary. We want, in effect, the oil companies to tell the Administrator, give their advice, as to how they can best help solve this energy crisis.

Under this act, it is necessary for these oil companies to take action under plans adopted by the Administrator. Remember, the FTC and the Department of Justice will be called in on this. There will be many meetings and the meetings will all be open to the public. If the Administrator adopts a plan that requires, in effect, cooperation of the oil companies which cooperation in turn saves energy, it is necessary that the companies have an exemption from the antitrust laws to enter into arrangements and agreements, which would otherwise be unlawful.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, this was done during World War II without the benefit of any special laws suspending portions of these acts.

Mr. YOUNG of Illinois. First of all, I have to take the gentleman's word for it, that there were no such provisions then. It was a wartime situation. I am not familiar with it. I can only suggest to the gentleman why it is necessary under this act.

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

Mr. YOUNG of Illinois. I yield to the gentleman from Texas.

Mr. MILFORD. The answer to the gentleman's question is that during World War II this was not then exempted.

Mr. STAGGERS. Mr. Chairman, I want to see if we can arrive at a time limit for this amendment. We have debated it pretty thoroughly and most of the debate is sort of repetitious now.

Mr. Chairman, I ask unanimous consent that all debate on the amendment to the amendment in the nature of a substitute close in 10 minutes. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. MEZVINSKY).

Mr. MEZVINSKY. Mr. Chairman, I would like to say that I oppose this amendment at this particular time, because there will be an amendment offered by the gentleman from New Jersey, the chairman of the Committee on the Judiciary, and the chairman of the Antitrust Subcommittee, which I think will perfect and handle the matter in a much better way.

For that reason, I would hope we would not have to vote on this amendment, and will object and vote against this particular amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. MCCLORY).

(Mr. MCCLORY asked and was given permission to revise and extend his remarks.)

Mr. MCCLORY. Mr. Chairman, I feel that this section is essential. I do not think that it is necessary that we adopt this amendment which has been offered by the gentleman from Texas (Mr. ECKHARDT). I do understand, as the gentleman from Iowa indicated, that there will be a clarifying amendment offered at a later time by the chairman of our committee, the gentleman from New Jersey (Mr. RODINO).

I have been made aware of this proposed amendment. I do not know exactly the language of it, but it is my understanding that it will be clarifying and protective as far as the public interests are concerned, and yet will enable the import of this entire section to be carried out.

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

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

Mr. ECKHARDT. Mr. Chairman, is the gentleman saying that the Committee on the Judiciary has worked out an amendment that will take care of this particular proposition?

Mr. MCCLORY. Mr. Chairman, I am not saying it is just the same one as the amendment offered by the gentleman from Texas, but I say it does clarify the situation so that there is no question of any danger arising from this legislation insofar as violations of the antitrust laws are concerned—unrelated to the subject of plans approved under this bill.

Mr. ECKHART. Mr. Chairman, I ask unanimous consent to withdraw this amendment at this time in order to permit the Rodino amendment to be considered.

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

Mr. DERWINSKI. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, it looks as though this amendment may be a moot one at this point by our committee, yet this legislation directs the companies to get together in helping to form a marketing program or distribution program.

The Members can understand our concern that they be given some protection. Various proposals were submitted by various interests on this antitrust provision. It is my understanding that the two gentlemen who have sponsored this amendment had gone to the Justice Department and asked for their consideration and help in drafting the amendment. The amendment before us is a result of this request, and received approval of the Justice Department. Therefore, I think the public interest is protected in it. I do not think anyone would want to vote for it if the public interest was not protected. We would not want to eliminate the normal requirements of the antitrust act.

However, the public interest is protected, and I would certainly think that the amendment that is in the bill is proper and should be voted on favorably.

Mr. ECKHARDT. Mr. Chairman, I ask unanimous consent to withdraw the amendment at this time.

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

Mr. FROEHLICH. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, I merely want to make this observation:

Here we are in the consideration of the first major amendment to this bill. We have an amendment to an amendment to that offered, and now we have had an attempt to withdraw that amendment because our constitutional lawyers on the Committee of the Judiciary are going to lift a new amendment out of the clear blue sky.

We have already, on the first major amendment, moved to cut off debate. Presumably we have hundreds of amendments pending.

God only knows how contradictory a piece of legislation or what a legislative fiasco we will have produced before the end of this day.

It is essential that we develop as soon as possible a long-range plan through which we would provide for the energy needs of American homes and industry and of the personal use of our citizens.

The House Democrat leadership is evidently willing to run the risk of treating this very complex bill on this absolutely vital issue in the classic technique of railroading legislation through a legis-

lative body. Poor legislative procedures generally produce a poor law. The American public will properly question this legislation as much as any measure subject to consideration in the Congress. I hope against hope that the pattern exhibited at this early stage of consideration will not continue and that somehow we will produce a workable National Energy Act.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

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

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

Mr. ECKHARDT. Mr. Chairman, I would like to ask my colleagues to vote against this amendment, since I have not been permitted to withdraw it, because I do want the Rodino amendment to be before the body, and I shall offer it as soon as I have an opportunity so to do and yield to the gentleman from New Jersey the distinguished chairman of the Committee on the Judiciary.

Mr. SEIBERLING. Mr. Chairman, I wish to commend the gentleman from Texas (Mr. ECKHARDT) not only for his magnanimous gesture but especially for his initiative in trying to clean up this simply terrible antitrust exemption in this bill. I practiced antitrust law for 21 years before I came to this House, and I happen to know what the implications of this bill would be without a proper amendment.

I want to say that the amendment to be offered by the gentleman from New Jersey has been approved by the Federal Trade Commission and by the Justice Department. The gentleman from New Jersey is not only the distinguished chairman of the Judiciary Committee, but he is also the chairman of the Subcommittee on Antitrust. I am a member of his subcommittee, and I think the Members can rest assured that the amendment addresses itself to the problem in a comprehensive way.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I concur with the gentleman from Texas (Mr. ECKHARDT).

I also hope that this amendment will be voted down.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. For what purpose does the gentleman from Texas (Mr. ECKHARDT) rise?

Mr. ECKHARDT. Mr. Chairman, I wish to yield to the gentleman from New Jersey (Mr. RODINO).

The CHAIRMAN. The Chair cannot recognize the gentleman for that purpose.

The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

AMENDMENT OFFERED BY MR. BROYHILL OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. BROYHILL of North Carolina. Mr. Chairman, I offer an amendment to section 105 to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. BROYHILL of North Carolina to the amendment in the nature of a substitute offered by Mr. STAGGERS; section 105, H.R. 11882 is amended as follows: Delete subsection (a) and insert in lieu thereof the following:

"(a)(1) Within 30 days of enactment of this Act and from time to time thereafter, the Administrator shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under other authority of this or other Acts to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section the term 'energy conservation plan' means provisions for transportation controls (including highway speed limits) or such other restrictions on the public or private use of energy (including limitations on operating hours of business) which are necessary to reduce energy consumption.

"(2) An energy conservation plan which takes effect as provided in subsection (c) shall have the force and effect of law and shall apply according to its terms in each State except as otherwise provided in a State or local exemption order which has been proposed under subsection (b) and has taken effect under subsection (c).

"(3) An energy conservation plan may not deal with more than one logically consistent subject matter. An energy conservation plan or State or local exemption order under subsection (a) may be amended or repealed only in accordance with subsection (c) except that technical or clerical amendments may be made in accordance with section 553 of title 5, United States Code.

"(4) No provision of an energy conservation plan may remain in effect after December 31, 1974.

"(b) STATE OR LOCAL EXEMPTION ORDERS.—The Administrator may at any time after an energy conservation plan takes effect propose a State or local exemption order which provides that such plan does not apply in a State or political subdivision which has submitted a plan which the Administrator finds accomplishes the objectives of subsection (a) and is otherwise in the public interest. Such exemption order shall take effect only as provided in subsection (c).

"(c) DISAPPROVAL BY CONGRESS.—

"(1) For purposes of this subsection, the term "energy action" means an energy conservation plan proposed under subsection (a), an exemption order proposed under subsection (b), or an amendment (other than a technical or clerical amendment) or repeal of such an energy conservation plan or exemption order.

"(2) The Administrator shall transmit any energy action (hearing an identification number) to the Congress. The Administrator shall have such action delivered to both Houses on the same day and to each House while it is in session.

"(3) Except as otherwise provided in paragraph (4) of this subsection, an energy action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

"(4) For the purpose of subsection (a) of this section—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-day period.

"(5) Under provisions contained in an energy action, a provision of the plan may be effective at a time later than the date on which the action otherwise is effective (subject to subsection (a)(3)).

"(6) An energy action which is effective shall be printed in the Federal Register.

"(d) DISAPPROVAL PROCEDURE.—

"(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2) For the purpose of this subsection, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the does not favor the energy action numbered transmitted to Congress by the Administrator on ,19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

"(3) A resolution with respect to an energy action shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

"(4)(A) If the committee to which a resolution with respect to a reorganization plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the reorganization plan which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy action, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy action, and motions to proceed to the consideration of other business, shall be decided without debate.

"'(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy action shall be decided without debate."

Redesignate subsections (b) and (c) as (e) and (f) respectively.

Mr. BROYHILL of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

Mr. DINGELL. Mr. Chairman, reserving the right to object—I am not sure I will object—I would like to know why the gentleman is proposing to have the reading suspended.

Mr. BROYHILL of North Carolina. Mr. Chairman, this is the language stricken from H.R. 11450 in the committee concerning the disapproval procedure of energy conservation plans.

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

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

There was no objection.

Mr. BROYHILL of North Carolina. Mr. Chairman, as I stated, the purpose of this amendment is to restore language that was stricken from H.R. 11450 which provided for a disapproval by congressional procedure for energy conservation plans that were submitted by the Administrator. If you have a copy of H.R. 11450, as many of you do, the bill which has the language stricken out, all you have to do is refer to that stricken out language and the page immediately preceding section 105 printed in that bill.

Section 103 of the bill which we are considering gives authority to the executive branch, to the President, to ration gasoline, to ration available supplies of petroleum products, if that becomes necessary. I think in the view of many people this is the ultimate weapon that most people do not want to see used unless it has to be. It is an unpleasant weapon, and we hope it can be avoided in some way.

But if it is going to be avoided or if undue emphasis is not going to be placed on the rationing section, then we have to have available other programs in order to conserve fuels and to conserve energy.

Now, what does section 105 do? Section 105 in the bill as introduced was aimed at trying to avoid rationing by trying all of these other possibilities. There are many programs or combinations of programs which we could try which when used, maybe in conjunction with allocation, could mean less emphasis just on allocation. Lowering speed limits is one, and we have already responded to that; the kinds of travel which could be temporarily restricted or uses of fuel or electric energy are other examples. However, these things need to be done now and not wait until next spring or next fall or next winter.

The way it was intended to work was that the President would recommend a series of energy conservation plans within a certain number of days and then Congress would have 15 days to single out those they liked and those could go into effect. They could then look at those they do not like and pass a disapproval resolution and they would not go into effect. At any rate, the procedure outlined there was designed to prevent delay and to get some action.

In the course of marking up this bill an amendment was agreed to which emasculated this approach because it removed this congressional disapproval procedure. What it provided for was that each one of these plans would have to be submitted to the Congress and would have to be acted on as a bill or as a piece of legislation before it could be implemented.

So in effect we have really not changed the present law. The executive branch can suggest legislation at this time. Individual Members could come up with legislation calling for some type of energy conservation plan.

But what has happened here is that the Executive is limited in its efforts to try to beat this fuel crisis in developing and submitting legislative recommendations which could take months to pass.

Ordinarily, of course, any proposed action of any kind granting authority to be exercised over the people or the economy should come to the Congress, should come here for some deliberate consideration, and some positive action before we let these plans go into effect. But this is a definite exception to that general policy.

I want it to be clear that the amendment that I have offered, is the language which is in the original bill——

The CHAIRMAN pro tempore (Mr. HOLIFIELD). The time of the gentleman has expired.

(By unanimous consent, Mr. BROYHILL of North Carolina was allowed to proceed for 2 additional minutes.)

Mr. BROYHILL of North Carolina. As I say, this amendment makes it clear that this authority would expire on December 31, 1974. This is not an unlimited grant of authority from now on; there is a time limit to it. But in the case of the present energy crisis it is essential that action be taken on these energy conservation plans as rapidly as possible so that the full impact of fuel shortages can be prevented, and of course to prevent the consequent damage to our economy and to our entire society.

So, Mr. Chairman, I would urge that this amendment be adopted. This is the language in the original bill that was stricken, and I think that it should be restored. And that is the purpose of this amendment.

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

Mr. Chairman, this portion was voted on in the committee. It was debated for some length of time. I do not remember what the vote was, but it was enough to knock out this portion. This would just restore what was knocked out, and which was discussed thoroughly in the committee.

That is my main reason for opposing it.

We have heard currently throughout the country statements that we are wrongfully delegating authority to the administration, and that we are not accepting our responsibilities here. Mr. BROYHILL's amendment would let the Administrator legislate for America unless we override his proposed conservation plans. If we are in a time of pressing business and do not have enough time to take it up, why, then it would become law.

So I say that that is the wrong way for us to legislate. We would be abrogating our rights as legislators.

I say that no person or group of persons outside of this Chamber can legislate for America. I do not think we should permit this. It is just as simple as that.

I do not see how any Member can go back home to his or her district and report that he has delegated his legislative responsibility to an agency. And where the only way that we can kill the actions of such an agency is in a negative way, we are doing just that.

The committee's amendment, on the other hand, calls upon the Administrator to submit a legislative proposal.

Then, if we wish we can change it, we can amend it, we can do as we please. I think this is the way it should be done in an affirmative way by an affirmative vote, and not a negative way.

We have been delegating our responsibilities to the executive branch for a long time, and the time is now here to stop. We, the Members of the Congress, should have enough courage to stand up and decide whether this should be the law of the land and not let somebody else do so. When we have lost that courage, then we have lost the right to govern in America. This is an essential part of that. We should not stop now and say we will give up our rights to somebody else.

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

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

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

I would ask the gentleman from West Virginia do the concepts the gentleman is now describing apply to rationing also?

Mr. STAGGERS. Rationing.

Mr. ROUSSELOT. Are we delegating the authority of rationing to the President in this bill?

Mr. STAGGERS. Actually it is, and it is the wrong way for it to be done.

Mr. ROUSSELOT. So the gentleman is then saying that we should apply the same concepts to rationing or what you call end-use allocation?

Mr. STAGGERS. Let me only say—and I want to make this very clear—I am not in favor of rationing. And every member of the committee well knows that wherever the word "rationing" appeared in the bill I had it stricken out, because I do not believe in it.

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

Mr. Chairman, Gertrude Stein once wrote: "A rose is a rose is a rose."

Whether we call it rationing or end-use allocation, it is rationing, and I do not think we can kid anybody about it. That is exactly what we have in the bill, rationing. In fact the word was used in the original bill in section 103.

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

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

Mr. ROUSSELOT. I thank the gentleman for yielding.

In other words, what the gentleman is telling the House is that even though the bill does not say "rationing" but calls it another name, we should know what that name is. What do we call it in this bill?

Mr. FREY. End-use allocation.

Mr. ROUSSELOT. "End-use allocation" is just another name for "rationing." I thank the gentleman for calling that fact to our attention.

Mr. FREY. I think we get paid more if we use three words instead of one.

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

Mr. FREY. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. I thank the gentleman for yielding.

I am sure the gentleman recalls a vote in committee where we amended section 103 of the bill, and we put the words into this bill on page 6, line 4, that notwithstanding any other definition, the words "end-use allocation" shall not be deemed to exclude the end-use allocation to individual consumers.

I do not know how the gentleman construes that. I call it rationing.

Mr. FREY. This matter hits right at the great inconsistency we have in this bill. We are talking out of both sides of our mouth. We have section 103 in which we say, delegate to the President, and administrator the question of rationing, because we do not have the courage to face this issue. We do not want to touch it. It is a hot political football, so shove it downtown and let them do it, and then we can complain about it.

The only justification for this is we do not want to face the issue and that is wrong.

In section 105 of the bill that the gentleman from North Carolina is trying to straighten out we say, no, no, we do not want to delegate any authority, we are going to handle everything ourselves. We will let the Administrator act, and then bring it back in front of us, and after due delay—and let me tell the Members if this bill is any example of how we are going to rush into this thing, the energy crisis will be over before we solve the problem—after due delay, we will come back here and vote on each proposal by the President, individually.

We cannot be inconsistent. We must treat the problems in the same manner—even if it is tough politically.

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

Mr. FREY. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

Will the gentleman support an amendment that would make gas rationing something that would have to be approved by the Congress?

Mr. FREY. Certainly. This would make the legislation consistent and force Congress to act.

Mr. McKINNEY. Would the gentleman support an amendment that this action be taken by privileged motion on the floor of the House? Will that solve the problem?

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

Mr. FREY. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. I thank the gentleman for yielding. I should like to state to the gentleman that I have at the desk such an amendment to section 103, the rationing authority section, and I intend to offer it at a later time.

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

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

Mr. McCOLLISTER. I thank the gentleman for yielding.

The way the substitute bill is presented, is it not more difficult for us to adopt the other forms of energy conservation in the energy conservation plans than it is under rationing or end-use allocation that we are talking about?

Mr. FREY. I should think so.

Mr. McCOLLISTER. Is not rationing a lot easier for the President to accomplish since he does not have the need to do anything more here?

I am certainly opposed to rationing and object to that provision in the bill. For that reason I am supporting the amendment of the gentleman from North Carolina.

Mr. FREY. I am, also. I think that is a good point.

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

Mr. FREY. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Just for the information of the Members, if we get through all of the amendments the members of the committee will have and get down to the other Members of the body, I have an amendment which will strike the end-use allocation term and insert "rationing" so we could clear up the semantics. After all what is wrong with calling a spade a spade—I think it would be better if the Members know what they are voting on. It is my intention to vote against this bill.

Mr. FREY. I thank the gentleman.

Mr. MOSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, that was a very interesting discussion a few moments ago, but it was quite erroneous. We are dealing in an effort to restore section 104 of the bill originally considered by the committee. H.R. 11450, printed in strike-out type language, provides "within 30 days of enactment of this act, and from time to time thereafter, the President shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under authority of this or other acts to result in a reduction of energy consumption."

This is not a section that deals with end use allocation. That occurs in section 103 and remains in the act. That is where we find the language touching upon end use allocation.

The question here really is whether in this restricted area of energy conservation plans we are going to delegate to the President or the Administrator the authority to promulgate energy conservation plans which will become law unless Congress, within 20 days in one or the other of the two Houses, disapproves.

I do not like that method of legislating. It is repugnant to me. It does not vest in the Congress the legislative responsibility. On the contrary it delegates and it says unless we act in 20 days, regardless of the comprehensiveness of the scope of the plan, to disapprove it, it becomes the law of the land.

The language was stricken by an amendment offered by the gentleman from Texas (Mr. ECKHARDT). He said go ahead and promulgate these plans and file them with the Congress and then the Congress, using the normal legislative procedures available to it, following in orderly and more meaningful pattern, can adopt them if after appropriate hearings, if after careful study, it feels they are worthy of being adopted.

It may also under the conditions of the bill as it is now written exercise its responsibility to modify the plan, to amend it, to act like a full grown, full fledged legislative body.

I think the American people have a right to expect that this Congress undertake its role as a legislative body. I do not know who will finally exercise this authority. Today it is Mr. Simon. A week ago it was Governor Love. Before that it was someone else. I have heard that former Admiral Reich had control over allocation. I understand there was a disagreement and the admiral is no longer on the scene. And so only the fates or Almighty God know who would exercise the power under the conditions of the amendment proposed by my very good and distinguished friend, the gentleman from North Carolina (Mr. BROYHILL).

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

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

Mr. HAYS. Did I understand the gentleman to say that in the language of the bill as it is now in the substitute that they could not promulgate rationing downtown unless the Congress then approved?

Mr. MOSS. No. The gentleman did not understand me to say that.

Mr. HAYS. Well, that is the way it ought to be.

Mr. MOSS. Because that is not dealt with in section 104. Now it is dealt with in section 103 and I agree with the gentleman that if we want rationing, and I feel that there is no way we can avoid rationing, I would prefer to see the Congress do it and I am willing to take the heat in doing that. But this is not the section of the bill that deals with it directly or indirectly.

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

At the outset I would like to address one question to the gentleman from California (Mr. Moss) if I may.

Mr. MOSS. Yes.

Mr. HEINZ. A moment ago the gentleman stated he would be willing to see the Congress take a position on rationing and, therefore be willing to make modifications to section 103 of the bill. In a few minutes I will offer, if recognized, an amendment to section 103. The gentleman is familiar with it. It will give the gentleman and the other Members a chance to do exactly that.

I would like to ask the gentleman, will he support that amendment or will he not support it?

Mr. MOSS. If the gentleman from California and the gentleman from Pennsylvania will yield.

Mr. HEINZ. I yield to the gentleman.

Mr. MOSS. As I said the other day, after 25 years of legislating I have learned that until I have a text before me, I do not give an unequivocal answer; but I will tell the gentleman from Pennsylvania that I will support mandatory rationing under specific language dictated by this Congress. If his amendment does that, then I will support it.

Mr. HEINZ. I thank the gentleman.

I would like to speak a moment, if I may, on a couple of points that are rather important.

The gentleman from California has indicated that the method of disapproval in Mr. BROYHILL's amendment is repugnant to him. We have on the books two laws that use this same procedure of disapproval.

I wonder whether the gentleman from California voted for or against the war powers bill when it came to the floor of the House. I wonder how he voted on the executive reorganization procedures.

I am not particularly interested so much in how he voted as the fact that both those bills provide for congressional disapproval as it is found in the gentleman's amendment which I support.

I would urge my colleagues to support the Broyhill amendment as a very effective amendment, to make sure that we make some progress in conserving our vital material resources. If the gentleman really wants to vote for conservation and against shortages, the gentleman will vote for Mr. BROYHILL's amendment.

Mr. MOSS. Mr. Chairman, will the gentleman from Pennsylvania yield further?

Mr. HEINZ. I yield to the gentleman.

Mr. MOSS. I would be most pleased to respond to his inquiry as to how I voted.

Mr. HEINZ. I was not asking how he voted, but I would be pleased to yield to the gentleman.

Mr. MOSS. My answer is that in both instances, consistent with that sense of repugnancy, I voted against both measures.

Mr. HEINZ. I thank the gentleman for clarifying that point.

Mr. DINGELL. Mr. Chairman, I rise in regretful opposition to the amendment offered by my good friend from North Carolina (Mr. BROYHILL).

I think that the issue before us should be made clear. The question is whether the Congress will exercise its traditional responsibility and prerogative in laying down broad national policy and in deciding great national policy questions.

The question which would be addressed by section 104 of the original bill as now it is placed before us is whether the executive branch as provided in the amendment before us, will decide how the energy resources of this Nation will be conserved and utilized. A reading of the original language of section 104 of H.R. 11450, as originally considered and rejected, by the committee thus vests in the executive branch power to wholly decide upon the utilization, allocation, and conservation of energy in this country.

I think from a reading of that language Members will understand that industries, that communities, that jobs, may literally be destroyed at the whim of one man. It may well be said that the amendment gives the Congress 15 days in which we might act to vote yes or to vote no, upon his proposals. The amendment now before us, does not permit any amendment whatsoever of the President's actions. If Members are concerned about the energy supplies of their constituents, if Members are concerned about how the action of the President might affect them, let them remember that if they vote yes on this amendment, the only question that will be before them when they act on the President's conservation plans will be a yes-or-no vote.

If the Members are concerned with an energy conservation plan which will shut down a major industry in their district, remember that in the amendment now before us they will only be able to vote yes or no. If a Member is concerned with the possibility that industries in his area may not be able to function at certain hours or that his constituents will be denied right to drive their autos on Sunday, then he must necessarily vote no or else he will forfeit for all intents and purposes, for all the period of the pendency of the legislation before us, the opportunity to amend or to change Presidential action.

If Members want to have the questions presented to us for a debate, discussion, and decision and if they want to have an opportunity to represent their constituents, to make judgments as to how these energy supplies of this Nation may be conserved or protected then they must vote no on the amendment.

If my colleagues are concerned that the President might fix the hours of work, the routes of truck lines, school terms, and vacations, then they should vote no. There are many other questions which would be decided by these energy conservation plans on which my colleagues will only be able to vote yes or no if the amendment prevails.

The question here really is a very simple one. Do the Members want to have a say in how these energy conservation plans will be decided on? Do they want to have them decided for us by the executive under conditions when the Congress will have only the opportunity to vote yes or no?

I intend to vote no on the amendment. What we must do is to reserve to the Congress the decisions—on a question as important as those which will be handled in energy conservation plans. If this amendment is not rejected we will have no opportunity to amend or modify or change that executive action which can destroy whole industries and whole communities.

If the Members do not so vote, and do not vote down this amendment, then they will forfeit in the future any opportunity to have any impact on important energy decisions which may decide the whole viability of major interests and of the citizens of their districts and of industries within their districts.

For this reason, I urge a no vote upon the amendment offered by my good friend from North Carolina, and a vote for the bill as drawn, by rejection of the amendment offered by my good friend and colleague.

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

Mr. Chairman, I do not rise to either support or oppose this amendment. The Members are looking at a freshman Congressman who has been up here only since January; who has tried to ride with and tried to understand legislative procedure, to understand the laws which are legislated in this great Congress of ours.

Mr. Chairman, I was able to rationalize and compromise in my own mind the agriculture bill and some of the problems experienced there, but I must say today that I find it very hard to rationalize or accept what I see going on. I find it very hard to understand, when my colleague from California (Mr. Moss) states that it is repugnant to him to have to feel as though we have to make a decision within 20 days as this particular amendment requires. Well, I find it extremely offensive to me that I have to make a decision that is going to affect the very future of the economy of this country, the future of this country, the people who are going to be employed next month or the month after, and yet I have to make that decision, as my colleagues do, in 8 hours or 5 hours from whenever I received the bill.

I find it repugnant to me. My colleague from California states that in 25 years of legislating, in the experience he has had, he would never make a decision without reading all the facts and figures because it would go against his professional grain. Well, I feel the same way, and yet I have to go back and face the people of my district and say, "We have done what is best for you."

I voted against the 10-day recess. We had no more business going on a 10-day recess when we should have been sitting here trying to work things out and having this bill out so that the people like myself, freshmen who do not know what is going on in Congress, can sit back and study and listen and ask questions.

But when I go out and I ask questions of members of the committee who are putting out this stuff and they say, "I do not know," then I find this repugnant and I cannot be responsible for it.

In many cases I really feel that the only way I can be legitimately responsible to the people in my district is to vote "present" on a lot of this stuff. Mr. Chairman, I just felt overwhelmed, and I just had to offer my opposition to the way this whole thing is messed up.

I could care less about the Christmas holidays, and I could care less about what the American people are going to think about our lack of activity or our lack of action. We are dealing here with a big ball game, one that is going to affect the future of this country. If we put politics ahead of this, as the people think we do and as we have done so often before, and do the things which have gotten us into this situation before, I say we are in trouble, and God help us.

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

Mr. Chairman, let us consider what the amendment is that is before us. Let us get down to that point and get down to it calmly.

This amendment has nothing whatsoever to do with rationing; it has nothing whatsoever to do with section 103.

Now, section 103, as was said in general debate, gives general authority to the Administrator with respect to allocation. That includes allocation to various groups. That includes provisions with respect to refining so that more crude oil is used for fuel oil production, and so forth.

This amendment has nothing to do with that. At present the statute gives that authority to the Administrator. If we do not like that authority, we can amend section 103 to make it impossible and illegal for the Administrator to ration. But this amendment does not do that.

What this does is this: It would give additional authority to the Administrator. What this would do is, in addition to permitting allocation, it would permit the Administrator authority to do a legislative act. It would permit him to determine the times, for instance, that grocery stores would stay open at night and determine when they must close.

It would permit mandatory requirement of the use of the highways at certain times and certain lanes by persons in carpools. It would even permit, if the President or the Administrator decided to do so, a general curfew, that everybody has to turn off the lights at 11 o'clock.

It would permit, if it were required by the Administrator, the absolute prevention of the use of any airplane gasoline for private airplanes.

Now, all these things may be good. Maybe the Members want them. But do the Members want to give that authority to the executive department without giving the persons affected by it the opportunity to come before this Congress to present their views on a bill?

I say no. Besides, that is not necessary.

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

Mr. ECKHARDT. Surely, I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I was intrigued by what the gentleman said about making people turn off the lights, because, as I understand it, the basic problem is that we have too many people using up our resources too fast, and if we make them turn off the lights at 10 o'clock or 11 o'clock, we are going to exacerbate that problem in the long run.

Mr. ECKHARDT. Mr. Chariman, let me say that the gentleman's point is well taken. It is certainly deserving of consideration at the very least.

Let me suggest to the Members that what we would be doing is simply delegating our legislative authority to the administrative branch.

I was searching for a statute that would justify this. I can go further back than bills like the War Powers Act, which, incidentally, I voted against.

In the Statute of York of Edward II, 1322, it was provided that—

> Matters which are to be determined with regard to the estate of our lord, the king, and his heirs, or with regard to the estate of the kingdom and the people shall be considered, granted and established in parliament by our lord, the king and with the consent of, the prelates, earls and barrons and of the community of the kingdom, as has been accustomed in time past.

We do not legislate that way. We do not permit the king to make the laws and then come to us and say that if we do not negate them within 15 days they go into effect. If you want to insist that Congress only shall ration, why, just strike it out of the bill and then make the king come to us and ask for legislation.

However, what is sought to be done here is to provide that a rule made by the Executive Department which results in an ability to put a man in jail for violating it becomes the law if we do not speak up in 15 days. That is the most extensive executive authority that has ever been granted in peacetime or otherwise.

Mr. DENNIS. Will the gentleman yield?

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

Mr. DENNIS. I agree with the gentleman from Texas. I do not see why my colleagues here want to take this position personally, but I also do not see why this honorable committee is not consistent. If you are such a great one for consistency, why do you not do the same thing on rationing instead of giving that authority to the President?

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. ECKHARDT. Let me say on this point I think I agree foursquare with the gentleman from Indiana (Mr. DENNIS), and I think I have agreed with him throughout on this proposition.

The point I am making is that if you want to call for authority to be exercised in the Congress, either under the rationing section, 103, or under 105, you do not accomplish that objective simply by permitting the Executive to come in and promulgate a plan which becomes the law unless it is vetoed, because that plan provides for no hearing, it provides for no such debate as we are having here at the present time, it provides for no amendment; it must either be voted down or, if nothing happens, it becomes the law after 15 days.

Mr. DENNIS. You would like the bullet both ways.

Mr. ECKHARDT. I do bite the bullet both ways. I denounce that type of a procedure. I think it is grossly in conflict with the constitutional plan and probably unconstitutional. I know some of my friends will say we have done it in the Reorganization Act.

Mr. STAGGERS. Mr. Chairman, let me see if we cannot reach some agreement on debate on this amendment. I think most everyone here knows what it is, and it has been discussed pretty well. I wonder if 10 minutes will be time enough to finish debate on this amendment.

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

Mr. FREY. Mr. Chairman, I object.

Mr. STAGGERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 15 minutes.

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

Mr. KAZEN. Mr. Chairman, reserving the right to object, and I shall not object except that I take this time to ask the chairman a question. Is it the intention of the chairman to finish this bill tonight?

Mr. STAGGERS. I think if we can get through with three important amendments, the rest will go very quickly.

Mr. KAZEN. Is it the intention of the gentleman to stay tonight until we finish this bill?

Mr. STAGGERS. I would hope that we can finish by 9 o'clock.

Mr. KAZEN. Is it the intention of the gentleman to finish this bill or go to 9 o'clock if the bill is not finished and rise at that time?

Mr. STAGGERS. No. I would say within half an hour or three-quarters of an hour after an assessment we will see where we are and if things are not progressing, to adjourn until tomorrow. But I would hope that we could proceed

because there are other important matters facing the Congress.

Mr. KAZEN. I do not know that there is anything more important than this.

Mr. STAGGERS. That is true. That is the reason why I hope we can proceed.

Mr. KAZEN. Mr. Chairman, I withdraw my reservation.

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

Mr. HAYS. Further reserving the right to object, did I understand the gentleman to say that he hoped to be through by 9 o'clock tonight?

Mr. STAGGERS. That is correct.

Mr. HAYS. Well, I am not above a little wager. I wil talk to the gentleman privately.

Mr. Chairman, I withdraw my reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia that all debate on this amendment to the amendment in the nature of a substitute close in 15 minutes?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. YOUNG).

Mr. YOUNG of Illinois. Mr. Chairman, I just want to say that the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) is a very important provision in order to make this bill workable. I originally voted in favor of the bill as it was passed, and as it was presented to the Members today, which would provide in effect that before these energy conservation plans could go into effect they would have to come to the Congress for approval. But the more I studied the matter the more I realized that the fact there will not be one, but probably 50 or 60 different energy conservation plans involving very technical subjects such as atomic energy, hydroelectric power, and would involve environmental concerns, and many, many different hghly technical types of energy conservation plans that will have to be adopted and implemented. These plans are going to require a great deal of cooperation from a large number of the population. So I do believe that under the circumstances if the Administrator has to come back to the Congress with all of those energy conservation plans for congressional action, before they can be implemented, we are going to seriously delay the benefits of these plans.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. ROY).

Mr. ROY. Mr. Chairman, I would submit to my colleagues that an aye vote for the Broyhill amendment is saying to your constituents that you no longer have confidence in the Congress to legislate, and that you are willing to pass the legislative duties to the executive branch.

I am very surprised that there are members of our committee who are willing to do that.

I would also submit to the Members that it should take as long to make a proper consideration of whether to veto a proposal as it would take to enact that proposal into law by affirmative action.

I also wish to state that in addition to what the gentleman from Texas (Mr. ECKHARDT) said, that I talked to legislative counsel and there is no definition of an energy conservation proposal. An energy conservation proposal might include an increase of 40 cents a gallon taxes on gasoline. Do we want to give the President, any President, the power to do that, subject only to the power to veto such a proposal by congressional action.

I say to the Members that if you vote "yea" on the Broyhill amendment, and if you extend the Economic Stabilization Act, then we might as well all go home and come back some nice, Indian summer week in October, and affirm that which the President has done, just as the Supreme Soviet does in Soviet Russia.

So, Mr. Chairman, I urge very strongly a "no" vote on the Broyhill amendment. I think this is the most important part of the bill.

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

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

Mr. PICKLE. Mr. Chairman, I would suggest the gentleman from Kansas uses rather strong language. The amendment the gentleman from North Carolina has offered is the exact language the chairman of the committee, Mr. STAGGERS, introduced in the original bill. There is nothing foreign about the language of the original language.

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska (Mr. MCCOLLISTER).

Mr. MCCOLLISTER. Mr. Chairman, this bill in section 103 deals with the supply of available petroleum products, and in section 105 it deals with the demand. In section 103 the supply side of it may be dealt with, may be allocated, may be limited in any kind of a plan that the President proposes, without any further action by this Congress. If we are interested in balancing supply and demand, then we ought to pay some equal attention to the limitation on demand which is dealt with in section 105, and under the terms of the Broyhill amendment the demand side of the equation is put on the same basis as section 103 relates to the supply.

It would seem that, unless we want to tip the scales in favor of only the allocation and the distribution of the available supply, what we ought to do is to make it just as readily possible to deal with the reduction in demand under the energy conservation plans in order that they can be dealt with to reduce the demand to the point equal to the supply, so that we will not have to depend on rationing. If we do not have the Broyhill amendment, then what we are doing is making rationing under section 103 about the only possible way in which to resolve the balance. I oppose rationing and believe we should give more attention to energy conservation plans as proposed by the gentleman from North Carolina. I support his amendment.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Ohio (Mr. HAYS).

Mr. HAYS. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. HEINZ).

(By unanimous consent, Mr. HEINZ yielded his time to Mr. BROYHILL of North Carolina.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. KAZEN).

(By unanimous consent, Mr. KAZEN yielded his time to Mr. ECKHARDT.)

Mr. ECKHARDT. Mr. Chairman, I shall not take it, but I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. FREY).

Mr. FREY. Mr. Chairman, there are just several things that I think I should like to point out. To begin with, I do not think under any stretch of the imagination the Broyhill amendment is a complete giveaway by the Congress of its responsibility. The Broyhill amendment requires that the Congress can act in disapproval within 15 days.

Second, I think the need for consistency in this legislation is extremely important. The same principle should apply to section 103 or to section 105.

Third, in the original version of his bill the Chairman introduced, the Broyhill language was the original language. This is where we started. I thought it was a good idea then. I agree with the gentleman from West Virginia then. Apparently we are in disagreement now, but I think we should end up with what the Chairman originally desired.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I can state to the Members precisely why it is that there is a different system used in section 105 under the energy conservation plan, and every member of that committee knows why. It is because the President put out a series of plans during the period of time from October 16—and I hold the proposed rules here in my hand—and they just simply scared the pants off of everybody in the United States. Somebody said, for example, as one little thing, your priority use is limited to: "public passenger service transportation, but excluding tour, recreation, or excursion services."

That happens to put out of business ski resorts, pleasure-boat people, and a lot of general aviation people.

They came out with another regulation saying part of our plans are for: "industrial manufacturing uses, other than for space heating purposes; cargo, freight, and mail transportation, but excluding air freight."

The airlines laid off 25 percent of their people.

Mr. Chairman, we want Congress to control the plans he comes up with, because these plans decimate individual parts of the economy, and we have to protect them.

The reason we could not pass the rationing plan is because the President

came down and said: "I do not want to ration." He had the votes in that committee, particularly on this side of the aisle—and some of the Members on this side of the aisle said: "We do not want to have anything to do with it."

I agree with the gentleman that if there is a rationing plan put in and it comes to the Congress, just like any other plan, we would have to vote on it one way or the other, but that is the reason why we had to have two different systems.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL of North Carolina. Mr. Chairman, the gentlemen on the other side here are most inconsistent. In section 103, the allocation section, they are granting to the President wide powers to impose rationing. We may call it end use allocation in the bill but it is rationing, allocating scarce resources among all users. There is no requirement in that section of the bill that the provisions of the rationing plan or the regulations that are drawn pursuant to that authority are sent back to the Congress. At least in the provision that we are considering here, the alternative I have presented, we are going to have a look at the plan submitted by the Administrator.

I agree with the gentleman from Nebraska. I liked his description. Allocation, which is what it says, dividing the scarce resources, is one side of the equation. It is the supply side. But what are we going to do about the other side of the equation, the demand side?

We know from today's paper, and the Members saw the article, that the voluntary programs on energy conservation are working. It is estimated we are saving 9 million barrels a day as a result of these voluntary energy conservation plans that are in effect.

What assurance do we have that we are going to have expeditious action on any energy conservation plans that are brought up here? I do not know if they are going to be filed in a file cabinet or acted upon expeditiously.

Allocation, as the gentleman from Washington said a few moments ago, those regulations under the allocation authority enacted prior to today, those are the ones that are hurting, not the conservation plans we are operating under now on a voluntary basis. In an emergency situation, we need emergency action. This amendment gives us assurance that action will be taken to conserve energy, reduce the demand, and preserves the legislative's right to have a say in what is contained in those regulations. I urge you to vote for the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS) to close the debate.

Mr. STAGGERS. Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

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

RECORDED VOTE

Mr. BROYHILL of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 152, noes 256, not voting 24, as follows:

[Roll No. 658]

AYES—152

Anderson, Ill.	Gettys	Pickle
Andrews, N. Dak.	Gilman	Powell, Ohio
Arends	Ginn	Price, Tex.
Bafalis	Goldwater	Pritchard
Baker	Goodling	Quillen
Beard	Grover	Regula
Bevill	Gude	Rhodes
Bray	Guyer	Robinson, Va.
Breaux	Hammer-schmidt	Robison, N.Y.
Brinkley	Hanrahan	Roncallo, N.Y.
Broomfield	Hansen, Idaho	Rousselot
Brown, Mich.	Harsha	Ruppe
Brown, Ohio	Harvey	Ruth
Broyhill, N.C.	Hastings	Satterfield
Broyhill, Va.	Heinz	Schneebeli
Buchanan	Henderson	Sebelius
Burgener	Hillis	Shriver
Butler	Hinshaw	Shuster
Camp	Hogan	Sikes
Carter	Hosmer	Skubitz
Cederberg	Jarman	Smith, N.Y.
Chamberlain	Johnson, Pa.	Spence
Clancy	Jones, N.C.	Stanton, J. William
Clausen, Don H.	Jones, Tenn.	Steiger, Ariz.
Cleveland	Keating	Stephens
Cohen	Ketchum	Taylor, N.C.
Conable	King	Teague, Calif.
Coughlin	Kuykendall	Teague, Tex.
Daniel, Dan	Landrum	Thomson, Wis.
Daniel, Robert W., Jr.	Lent	Thone
Davis, Ga.	Lujan	Treen
Devine	McClory	Van Deerlin
Dickinson	McCollister	Vander Jagt
Dorn	McEwen	Veysey
Downing	Madigan	Waggonner
Duncan	Mailliard	Wampler
du Pont	Mallary	Ware
Edwards, Ala.	Mann	Whitehurst
Esch	Martin, Nebr.	Widnall
Eshleman	Martin, N.C.	Williams
Evins, Tenn.	Mathis, Ga.	Wilson, Bob
Findley	Mayne	Winn
Fish	Milford	Wydler
Flynt	Miller	Wyman
Forsythe	Minshall, Ohio	Young, Alaska
Frelinghuysen	Mitchell, N.Y.	Young, Fla.
Frenzel	Mizell	Young, Ill.
Frey	Mosher	Young, S.C.
Froehlich	Nelsen	Zion
Fuqua	Nichols	Zwach
	Parris	
	Peyser	

NOES—256

Abzug	Brotzman	Delaney
Adams	Brown, Calif.	Dellenback
Addabbo	Burke, Fla.	Dellums
Alexander	Burke, Mass.	Denholm
Anderson, Calif.	Burleson, Tex.	Dennis
Andrews, N.C.	Burlison, Mo.	Dent
Annunzio	Burton	Derwinski
Archer	Byron	Diggs
Armstrong	Carney, Ohio	Dingell
Ashbrook	Casey, Tex.	Donohue
Ashley	Chappell	Drinan
Aspin	Chisholm	Dulski
Badillo	Clark	Eckhardt
Barrett	Clawson, Del	Edwards, Calif.
Bauman	Clay	Eilberg
Bell	Cochran	Evans, Colo.
Bennett	Collins, Ill.	Fascell
Bergland	Collins, Tex.	Flood
Biaggi	Conlan	Flowers
Biester	Conte	Foley
Bingham	Conyers	Ford, William D.
Blackburn	Corman	Fountain
Blatnik	Cotter	Fraser
Boggs	Crane	Fulton
Boland	Culver	Gaydos
Bowen	Daniels, Dominick V.	Giaimo
Brademas	Danielson	Gibbons
Brasco	Davis, S.C.	Gonzalez
Breckinridge	Davis, Wis.	Grasso
Brooks	de la Garza	Green, Oreg.
Green, Pa.	Mazzoli	Roush
Griffiths	Meeds	Roy
Gross	Melcher	Roybal
Gunter	Metcalfe	Runnels
Haley	Mezvinsky	Ryan
Hamilton	Michel	St Germain
Hanley	Minish	Sarasin
Hanna	Mink	Sarbanes
Hansen, Wash.	Moakley	Scherle
Harrington	Mollohan	Schroeder
Hawkins	Montgomery	Seiberling
Hays	Moorhead, Calif.	Shipley
Hébert	Moorhead, Pa.	Shoup
Hechler, W. Va.	Morgan	Sisk
Heckler, Mass.	Moss	Slack
Helstoski	Murphy, Ill.	Smith, Iowa
Hicks	Murphy, N.Y.	Snyder
Holifield	Myers	Staggers
Holt	Natcher	Stanton, James V.
Holtzman	Nedzi	Stark
Horton	Nix	Steed
Howard	Obey	Steele
Huber	O'Brien	Steelman
Hudnut	O'Hara	Steiger, Wis.
Hungate	O'Neill	Stratton
Hutchinson	Owens	Stubblefield
Ichord	Passman	Stuckey
Johnson, Colo.	Patman	Studds
Jones, Okla.	Patten	Sullivan
Jordan	Pepper	Symms
Karth	Perkins	Thompson, N.J.
Kastenmeier	Pettis	Thornton
Kazen	Pike	Tiernan
Kemp	Poage	Towell, Nev.
Kluczynski	Podell	Udall
Koch	Preyer	Ullman
Kyros	Price, Ill.	Vanik
Landgrebe	Quie	Vigorito
Latta	Railsback	Waldie
Leggett	Randall	Whalen
Lehman	Rangel	White
Litton	Rarick	Whitten
Long, Md.	Rees	Wiggins
Lott	Reid	Wilson, Charles H., Calif.
McCloskey	Reuss	Wilson, Charles, Tex.
McCormack	Riegle	Wolff
McDade	Rinaldo	Wright
McFall	Roberts	Wylie
McKay	Rodino	Yates
McKinney	Roe	Yatron
McSpadden	Rogers	Young, Ga.
Macdonald	Roncalio, Wyo.	Young, Tex.
Madden	Rooney, Pa.	Zablocki
Mahon	Rose	
Maraziti	Rosenthal	
Mathias, Calif.	Rostenkowski	
Matsunaga		

NOT VOTING—24

Abdnor	Gray	Rooney, N.Y.
Bolling	Gubser	Sandman
Burke, Calif.	Hunt	Stokes
Carey, N.Y.	Johnson, Calif.	Symington
Collier	Jones, Ala.	Talcott
Cronin	Long, La.	Taylor, Mo.
Erlenborn	Mills, Ark.	Walsh
Fisher	Mitchell, Md.	Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STAGGERS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by Mr. STAGGERS.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS to the amendment in the nature of a substitute offered by Mr. STAGGERS:

On page 3, line 3, after the word "welfare.", add the words ", and (5) insures against anti-competitive practices and effects, and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources."

On page 38, line 6, strike all of section 120 through and including the word "1973.", on page 43, line 17, and insert in lieu thereof the following:

"SEC. 120. ANTITRUST PROVISIONS.—(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed

to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

"(3) the Federal Trade Commission Act (15 U.S.C 41 et seq.), as amended;

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c)(1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular fulltime Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

"(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b)(1) and (b)(3) of Title 5, United States Code.

"(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

"(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of Title 5, United States Code. They shall provide, among other things, that—

"(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular fulltime Federal employee.

"(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

"(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

"(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552(b)(1) and (b)(3) of Title 5, United States Code.

"(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c)(3) and (e)(4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carryout out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

"(g)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

"(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

"(h)(1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

"(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

"(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

"(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to 'the purposes of this Act' or like terms, the reference shall be understood to be this Act.

"(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

"(1) Such action was

"(A) authorized and approved pursuant to this section, and

"(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

"(2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

"(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

"(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

"(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Peroleum Allocation Act of 1973.

"(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

"(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on December 31, 1974.

"(o) The exercise of the authority provided in section 107 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act."

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD, and I will call on members of the committee to explain it.

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

Mr. McKINNEY. Mr. Chairman, I object.

Mr. BROWN of Ohio. Mr. Chairman, I reserve a point of order on the amendment.

Mr. STAGGERS [during the reading]. Mr. Chairman, I renew my unanimous consent request that the further reading of the amendment be dispensed with, and that it be printed in the RECORD.

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

There was no objection.

The CHAIRMAN. Does the gentleman from Ohio (Mr. BROWN) insist upon his point of order?

Mr. BROWN of Ohio. Mr. Chairman, I withdraw my point of order.

Mr. STAGGERS. Mr. Chairman, I have offered this amendment as a courtesy to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO). I now yield to that gentleman for an explanation of the amendment.

Mr. RODINO. Mr. Chairman, I would not have taken the time of the Committee to intrude upon the matter before it except for the fact that I believe that what we have under consideration at this moment is of such gravity that unless this were called to the attention of the Committee I am afraid that we would be doing a great disservice to our constituents, and in fact to the Nation.

Mr. Chairman, I believe that while we have an emergency situation before us, and all of us recognize that we must act with some haste, nonetheless I believe that this legislation before us provides for a broad exemption to the oil industry in a matter that is of such vital concern to every consumer that we could hardly pass this by without showing that we are protective of the interests of the consumers.

I offered this amendment through the chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS), after having conferred with many including the Department of Justice, the Deputy Assistant Attorney General in charge of the Antitrust Division, and the Director of the Bureau of Competition of the Federal Trade Commission, who have stated that these amendments are necessary to limit the exemptions that are provided within this bill in order to insure against anticompetitive practices and to enact competitive safeguards along the lines of the Senate-passed bill that are now absent.

The antitrust immunity provision of H.R. 11882 accepts the need for some protection from prosecution for antitrust violations. However, immunity from antitrust laws should never be granted except in language that limits and narrows the extraordinary exempting language.

Section 120(g) is shocking in its overbreadth. Moreover, the present statutory language would create a unique prosecutorial burden of showing that challenged behavior is outside the scope of immunity. Normally this burden is on the party best able to produce appropriate evidence. Obviously this burden should be on the oil industry and not on the Government.

The "good faith" standard sought to be enacted is particularly objectionable. The antitrust laws already provide a rule of reason as a judicial standard. The provision is therefore unnecessary. The proposed standard is also dangerous. Clearly, if relevant, evidence of "good faith" is in the possession of the oil industry. The Government would be charged not only with obtaining that evidence but also with negating it. In most areas of the law where there is a "good faith" defense available it is an affirmative defense and not, therefore, a part of the prosecution's affirmative burden. I hasten to add that a "good faith" defense is itself a rare statutory loophole. This fact alone signals caution.

Section 120(g), moreover, provides an incentive to the oil industry to avoid documentation of their actions. It does not seem to me that the growing problem of destruction of evidence is well served by new legislation that encourages the absence of documentation altogether. Moreover, the subsection runs counter to provisions of more recent legislation that requires documentation that also mandates availability to public scrutiny in large measure.

Finally, empowering the Administrator to approve agreements that are "necessary to accomplish" the objectives of the Energy Emergency Act creates a subjective standard that is not subject to any legislative standards or guidelines. In effect, the provision also could make moot the legislation's required approval of the Attorney General and the Federal Trade Commission.

Section (h) permits the participation of the Attorney General and the Federal Trade Commission in the formulation of the voluntary agreements. This is a significant improvement over their merely reviewing the agreements after they have been formulated. It also gives the two agencies additional procedural powers in executing their responsibilities under this section in order to insure their ability to act quickly and effectively.

The U.S. Department of Justice as well as the bureau of competition of the Federal Trade Commission support these amendments to provide competitive safeguards along the lines of the Senate-passed bill that are now absent in H.R. 11882. This is what we do here. What we do, very simply, is, No. 1, insure that the Department of Justice, through its Attorney General and the Federal Trade Commission, have an initial input before any plan which is presented is actually formulated and foisted upon the public so that Department actions afterward would be actually an action against a fait accompli. I believe this is certainly something that we could handily go along with.

If we have to be protective of the interests of the consuming public at this time, then we surely must realize the role of the Federal enforcing agencies, the Department of Justice in its Antitrust Division, and the Federal Trade Commission. I believe that it becomes absolutely necessary that we have them play a role initially in the formulation and development of these plans. We do not do any more than that.

Second, what we do is assure that the Attorney General and the Federal Trade Commission act as a watchdog by insuring that they have an input in the rules and regulations that are being implemented in these plans, again, not impeding, but insuring that there is a protective device to insure that there are no anticompetitive practices in implementation.

Third, what we do is provide that there is some sort of defense, that there is available a defense to any civil or criminal action brought under the antitrust laws, providing certain conditions are met. The conditions are reasonable conditions. I think we are not asking too much. What we would be doing if we placed our stamp of approval on this bill as written would be to provide a broad exemption from all antitrust violations. I think if we were to do that, we would be violating our trust and we would surely be contravening the very purposes of the laws that have been written to insure against anticompetitive practices.

Mr. Chairman, this amendment in essence substantially strengthens the antitrust provisions contained in section 120 of the bill. Present section 120 contains an unfettered immunity provision for the petroleum industry. The effort at including safeguards in present section 120 is noble. Unfortunately, given the realities of how the allocation program will work, they are virtually meaningless.

This amendment to section 120 adopts the framework of the tough Senate antitrust provision and improves upon that based upon additional knowledge and information brought forth since Senate adoption of that provision.

The amendment contains no general immunity from antitrust laws. A limited defense only is created under section 120(i). Additionally, procedural and monitoring mechanisms are adopted to protect the public interest. The antitrust provisions adopted by both the Senate and the House of the Emergency Petroleum Allocation Act of 1973 are tailored to provide more flexibility and greater safeguards agains abuse. And, the section 120 provisions supersede and apply to that act notwithstanding any inconsistent provisions in section 6(c) of that act. Competitive values are made a watchword in section 101(5) for guidance in carrying out the act's purposes.

To carry out the act's purposes, certain authority is conferred upon the Administrator in subsection 120(d), subject to approval by FTC. But, authority respecting antitrust and competitive matters and advice is vested exclusively with the Department of Justice and the Federal Trade Commission.

Because of the elaborate mechanism to protect the public interest incorporated in section 120, subsection (1) is designed to assure that the section's important safeguards and procedures incorporated as a condition for the granting of a limited antitrust defense and to protect the public interest are not bypassed. Thus, subsection 708 of the Defense Production Act cannot be invoked with respect to any

activity which is authorized to be taken under this act or the Emergency Petroleum Allocation Act of 1973, whether or not such activity is also authorized or implemented under the Defense Production Act.

It is recognized that during the emergency, plans of action, voluntary agreements and the establishment of advisory and interagency committees may be necessary to effectuate the purposes of the act. Although these activities in and of themselves may not necessarily amount to violations of the antitrust laws, they present circumstances which increase the possibility of abuse. Thus, the Administrator may set these activities in motion under subsection (d) if necessary to achieve the purposes of the act and the immunity provisions do not attach unless the condition of (i) are satisfied. Even then the Attorney General and Federal Trade Commission must approve it. Subsection (e) requires participation by the public and other interested persons.

To protect against abuse and to insure compliance with the purposes of fostering competition and preventing anticompetitive effects, advisory committees are made subject to the Federal Advisory Committee Act of 1972 and may not be chaired by a person who is not in the ordinary course a full-time regular employee of the Federal Government. With respect to any advisory committee meeting, the Attorney General and the Federal Trade Commission must have advance notice and may have an official representative attend and participate. Also, a full and complete verbatim transcript of advisory committee meetings must be kept, together with any resulting agreement, which shall be deposited with the Attorney General and the Federal Trade Commission where it shall be made available for public inspection. National security and certain other information may be excised therefrom by the Federal Trade Commission and the Attorney General before making it available to the public. In sum, it is intended that such meetings be held in a fish bowl atmosphere.

Subsection (f) provides a degree of flexibility so that the "fish bowl" atmosphere will not become unnecessarily burdensome. The Federal Trade Commission is authorized to exempt certain meetings from the mandatory transcript requirements of (c)(3) and (e)(4) when they are ministerial in nature and are solely for the purpose of carrying out and implementing a plan or agreement which has already been approved. However, the promulgation of regulations are required to assure adequate records in the form of logs or memoranda, so that the monitoring function can be performed. This provision is not intended to limit the more general authority given to the Attorney General and the Federal Trade Commission in subsection (h).

Subsection (o) provides that the purposes of the act in the regulated sector of common carriers will be effectuated with as little loss to competition as possible. To this end the two authorities charged with responsibility for the enforcement of the antitrust laws are required to assess the competitive impact of any actions taken in this sector before exercise of the authority provided in section 107. The scope of their participation should be viewed in its broadest sense in keeping with the intent of these provisions. It is expected that, if necessary, the Department of Justice and Federal Trade Commission will propose alternative actions that would effectuate the purposes of this act with as little loss to competitive values as possible.

Subsections (g) and (h) specifically and affirmatively involve both the Attorney General and the Federal Trade Commission as continuing guardians of competition within the framework of this act.

The thrust not only is constant vigilance by the Attorney General and the Federal Trade Commission, but also mandates their active participation and input from the very beginning into any plans of action or voluntary agreements. They are required to propose alternatives to avoid or overcome to the greatest extent practical any anticompetitive effects.

Additionally, at any time the Attorney General or the Federal Trade Commission may amend, modify, or disapprove any plan of action or voluntary agreement.

Similarly, they may review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement that has already been implemented. Revocation will terminate the limited immunity conferred.

In addition to the protection of the public interest in the foregoing manner, specific requirements, procedures, and monitoring are included as conditions to obtaining the limited immunity conferred. Section 120(b) defines antitrust laws and section 120(a) provides for such limited immunity in accordance with the provisions of subsection (i).

Subsection (i) limits the possible immunity conferred to designated persons engaged in certain aspects of the petroleum business provided the enumerated activity was conducted solely for the purposes of achieving the objectives of this act and the persons are in compliance with the procedural and other safeguards and requirements of this section.

Subsection (i) confers the limited antitrust defense provided:

(1) Such action was

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

Subsection (k), (m), and (n) are adopted from the present section 120.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I request the attention of the gentleman from New Jersey, the respected chairman of the Committee on the Judiciary (Mr. RODINO) to ask him just a couple of questions about the language of his amendment. If I understand the amendment—and it necessarily takes a little time for a newspaperman to read seven pages of this amendment and understand the legal implications of it—I would like to ask, since I am not a lawyer, if he would explain the language of (g)(1). It says:

The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements and plans of action authorized under this section.

I used the example earlier of the necessity of one dealer in home heating oil in, say, a rural community where there might be two or three dealers who would have no product available to distribute and would have a customer in the north end of the county on a night that it is going to go down to zero degrees could he call some other dealer and ask him to deliver his product to the first dealer's customer?

In other words, if the Gulf man could call the Exxon man and say, "You take your tank truck and go up and deliver heating oil to my customer up in the north end of the county"—if I understand the language of (g)(1) correctly—and I may not—it says:

The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements . . .

Does that mean that the first call would have to be made either to the Attorney General or to the Federal Trade Commission and they would have to get on a conference line to monitor the discussion between the Gulf dealer and the Exxon dealer to deal with this problem?

Mr. RODINO. I think the gentleman well understands all we are seeking to do with this provision is to insure that there is a minimum of any possible anticompetitive practices that may develop.

Mr. BROWN of Ohio. I assure the gentleman that is my objective too, but that is not really I think responsive to my question. Is it necessary, in view of that language, that the Antitrust Division of the Department of Justice or the Attorney General or somebody from the Federal Trade Commission sit in on that telephone conversation or that personal conversation to get the material delivered?

Mr. RODINO. I do not believe that it is necessary at all and I believe that would not be necessary even if strictly construed.

Mr. BROWN of Ohio. That language is repeated again in (h)(1) where it says:

The Attorney General and the Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anti-competitive practices and effects.

Once again, does that mean the Federal Trade Commission and the Attorney General would have to sit in on this effort to provide service to people who might be in an emergency situation and out of heating oil?

Mr. RODINO. I do not believe that is

the intention. I believe the intention is spelled out rather clearly and I am sure the gentleman is aware of the fact that there could be options. As a result it becomes necessary, in order to insure that we do not just provide the opportunity to develop plans, and then after the plans have been developed, to say then to the Attorney General, "We developed these plans and now you take them willy-nilly," to choose the procompetitive alternatives.

Mr. BROWN of Ohio. Let me ask the gentleman about page 6, (i) (1) (B) which says that anyone who participates in these plans:

There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect to actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

And they have to say that:

(1) Such action was—

As a defense against antitrust action—

(B) Undertaken and carried out solely to achieve the purposes of this section, and the rules promulgated hereunder—

We took "solely" out of ours because we understood if this dealer in Podunkville had antitrust action brought against him, he would have to prove, before a court, in a prosecution by the Justice Department that the action he took was solely to carry out this legislation or the thrust of this legislation.

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

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

Mr. BROWN of Ohio. Mr. Chairman, it was solely to carry out this legislation or the thrust of this legislation and there was no possibility that they would be anticompetitive in any way. In other words, the individual little dealer would have to prove that against the Justice Department which would be prosecuting him for antitrust procedure. Is that correct?

Mr. RODINO. No. I believe all we do in this section is merely sustain the same kind of requirement as to proof and not a shifting of the burden as the gentleman has in the bill which is presented. I think these are reasonable requests. These are reasonable requirements.

Mr. BROWN of Ohio. The burden of proof under this amendment would then be on the Justice Department to prove that this dealer was in anticompetitive practices?

Mr. RODINO. The burden would not be on the Department.

Mr. BROWN of Ohio. Then the burden of proof would be on this little dealer to prove that the action he took was just to carry out the provision of this act.

Mr. RODINO. The gentleman is talking about the little dealer. We are talking about matters that are of moment. When we talk about antitrust we are talking about not the little single islands or little single incidents that are taking place but we know what we are dealing with.

Mr. BROWN of Ohio. If I may change the example, let us say there is an oil company that wants to get one of its tankers to go to Boston to take care of an emergency in the New England area, instead of stopping at Norfolk, because another company does not have the oil.

Let us make that understanding.

Let us take those two big companies. If they make that understanding, if the Attorney General is there, does he have to sit in?

Mr. RODINO. The Attorney General has to sit in on the development and the formulation of plans.

Mr. BROWN of Ohio. To move a tanker from one place to another and the burden of proof is on the company; is that correct?

Mr. RODINO. It is an affirmative defense that the company would have to sustain.

Mr. ADAMS. Mr. Chairman, I rise in support of the amendment of Mr. RODINO. I think the members of the Committee on the Judiciary have done a service to the House in producing this type of amendment. It is certainly far better than what was placed in the bill originally. It goes to the very system used by the Department of Justice and the Antitrust Division to control anticompetitive practices.

We always hear about the little dealer in various places. The little dealer is never the one that has a problem with the Antitrust Division or the Federal Trade Commission, coming in and saying he has improperly delivered a tank of gas to a customer.

It is the situation discussed right at the end of the discussion between the gentleman from Ohio and the gentleman from New Jersey, where the major oil company says it will not supply the whole region and transfers it to one of its other major oil competitors with whom it has a pattern of agreement that we are talking about.

This is the thing we are trying to prevent. The key parts we are trying to correct in the bill are on page 6 of the amendment. They cannot and should not be able to violate the antitrust laws and carry out an agreement and have a defense, unless it is solely because of the energy crisis. If they do this, it should not be an exemption as in the original bill, but should be a defense, because then the parties that are carrying out the program and have the information available are required to carry that affirmative defense. If they are going to set up a plan and are going to implement the agreement, then it is as I said in the well when I was opposing what the gentleman from Ohio suggested, we want the Government and in this case the Antitrust Division saying, "This is what you can do and this is what you cannot do"; not having an industry group go off in a room under an exemption, holding a meeting, putting together an anticomeptitive system then putting their competitors out of business before the Federal Trade Commission or anyone else can even find out it is happening, let alone do anything about it.

Finally, there are provisions here, particularly provision (l) and provision (k) which limit the exemptions that are set forth under other acts and say that if it is for energy then it is only under a limited set of circumstances. This follows what is done in the Senate bill. It does not destroy the antitrust laws and the Federal Trade regulations, as the bill provisions would do.

I think the members offering this amendment have done a service to the House in offering this amendment. I am very pleased it has been offered and I shall support it and if it is carried, I will not make a motion to strike section 120.

I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I associate myself with the remarks of the gentleman from Washington. I feel the amendment is adequate to protect the interests of the Antitrust Act.

I compliment the gentleman from New Jersey and the distinguished chairman of the committee for offering this very worthwhile amendment.

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

Gentlemen, I think we should understand the import of what the proposed amendment offered by the gentleman from New Jersey means to this bill. Essentially what is happening, by the words of this amendment, is that the amendment gives the Federal Trade Commission and the Department of Justice some of the prerogatives, some of the responsibilties, that would ordinarily and should be given to the Energy Administrator.

The Attorney General is an adviser. The Federal Trade Commission, particularly in the field of antitrust laws, is an adviser. This particular amendment gives the Federal Trade Commission and the Attorney General certain administrative powers and duties and responsibilities under this act which the act presently gives to the Energy Administrator.

The Energy Administrator, under the bill as passed out by the committee, has the right, and as a matter of fact has the responsibility to keep the Federal Trade Commission and the Attorney General advised, and gives them an opportunity to be heard at every step of the way, which in effect is also in the provisions of the amendments offered by the gentleman from New Jersey. However, in his amendments he makes them mandatory by statute that they perform certain functions. For example, he provides that any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented. This, despite the fact that in the committee bill and also in the earlier sections of the same amendment they have the right to be heard every step of the way, to be present at all of the hearings, which are all public hearings, where there is a public written record kept and where they have the right to advise the Energy Administrator.

The amendment also goes on to say that the Federal Trade Commission shall monitor the development and implemen-

tation of the carrying out of plans of action. Section 2 says that: "The Attorney General and Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act."

They are not going to be advising the Energy Administrator; they are going to be telling the Energy Administrator; they are going to be telling the Energy Administrator and the public what should be done. Further, there are some other significant changes with respect to this amendment. For example, an important change has to do with the transcript and record, which shall be kept available for public inspection and copying, which is set forth under section 552 of the Administrative Procedure Act.

Under the committee bill, we have provided that the record available for public inspection not apply to certain matters which were set forth in nine different subsections of section 552. The amendment narrows those exceptions down to two particular exceptions, so it makes a significant change there.

Now, the amendment with respect to the provisions which are set forth on page 6, in my opinion, which in effect apply to when the defense of exemption from the antitrust laws is available, is merely declaratory of what the committee bill now provides.

It is not necessary to set this out in detail. I would state that the proposed amendment makes the FTC and the Attorney General's office, in effect, administrators along with the Energy Administrator, and we are giving powers to those two agencies which we have denied the Congress under the bill and the Broyhill amendment. So, I believe that the amendment is not desirable. I believe that we have all of the same safeguards which are necessary in the committee bill.

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

Mr. Chairman, many of our friends who bring this bill here have, in the past, taken hasty action, overlooking to some degree the necessity that we must live, that industry must continue; that our economy must remain strong if we are to do the maximum toward protecting our environment. Earlier in the debate I quoted excerpts from the report of our Appropriations Committee on Agriculture, Environmental and Consumer Protection.

Mr. Chairman, much of what the bill before us tries to reach, but which I believe impossible to administer, ignores the sound advice I gave in my book, "That We May Live," published by D. Van Nostrand in 1966 and translated into Spanish and German. I think it well to quote from pages 176–81 here for we need to take heed to the statements made. I quote:

POLLUTION

That is not to say that pollution of air and water does not exist; for, of course, it does. Pollution is part and parcel of man's unplanned and unthinking change of his environment; and particularly is it a part of the subject under discussion in *Silent Spring* and here. Public opinion here seems to be on the move toward action. This public temper can be good if held in balance. It can do more harm than good if not kept on an even keel.

Pollution comes from many sources and becomes greater as our population increases; unless we take corrective action, it will become worse as we become more and more industrial. We do have pollution of the air and water and apparently are going to do something about it. These facts lead me to point to some of the factors with which we must deal as we attempt to meet this problem.

"The fact that air is essential to life is as old as knowledge. The fact that polluted air can cause discomfort is probably just as old. As soon as primitive man moved his fire into his cave, he certainly became aware of air pollution in the form of smoke. He also probably soon learned to reduce the smoke in his cave by careful placement and stoking. He then decided to accept some smoke in return for the warmth and convenience of the fire nearby.

"We have been weighing pollution against convenience ever since. Now we are beginning to realize that more than convenience is involved and that the air around us is not a limitless sea into which we can continue to pour waste without serious consequences.

"Our health and our well-being are threatened."

Thus did the *Agriculture Yearbook of 1963: A Place To Live*, describe one of the serious problems of our day, air pollution.

Pollution degrades the physical, chemical, biological, and esthetic qualities of the water. The degree depends upon the kind and amount of pollution in relation to the extent and nature of reuse. Pollution can be just as effective as a drought, or excessive withdrawals, in reducing or eliminating water resources.

Over 2600 new or enlarged sewage treatment works are needed to serve 27.8 million persons living in communities presently discharging untreated or inadequately treated sewage, Another 2598 new sewage collection systems and treatment works are required to serve a population of 5 million living in urban areas where individual disposal systems have failed to function properly. (Funds for this have been frozen.)

By the year 2000, thirty-four years from now, we will be around 330 million Americans as against today's 194 million. We will have nearly doubled the quantity of sewage going into our streams and protecting the public health will really be a problem.

Today's 194 million Americans are abusing our resources so far as our use and handling of water is concerned. Our lakes and rivers have become catch basins for the residues of our factories, automobiles, household and agricultural chemicals, for human wastes from thousands of villages, towns, and cities. How well we clean up this situation and learn to handle it without restricting man's means of providing our high standard of living may well determine the future of our nation.

As we approach this problem we must keep in mind that the power to control is not only the power to make or break business but is a power over the life of the nation itself.

* * * * *

If we closed all our manufacturing plants, that would greatly improve the purity of the water in our streams; if we stopped driving automobiles, just think what that would do to improve the atmosphere—and a single departmental head could have done that under several bills; if we could return to the 800,000 population level of this country at the time it was discovered by Columbus, nature would be able to largely eliminate the pollution problem. But with 194 million people we could never live in the simplified way of that day. Neither can we ask nor could we force the residents of New York City to quit eating, quit living, and quit breathing while we clean up the Hudson. The same is true for Washington and the Potomac, as well as the people of thousands of towns and villages. The power to set standards is the power to control, yet some Members of Congress have urged that such power be granted to a single government department.

Agriculture's claims and responsibilities for the use of water are second to none, for agriculture provides our food, clothing, and shelter, the basic necessities for life. In addition, agriculture has a great responsibility in the use of water, for land is the great gathering place and reservoir for storage of water. Just a few years from now we will need three times the water we use today, all of which points up the need to protect and manage the quality and quantity of our water supply.

In our work with the Appropriations Subcommittee for Agriculture, we find the close cooperation and coordination of efforts by both the Corps of Engineers and the Soil Conservation Service are necessary in watershed and flood control programs, both of which are highly essential to water protection. We would not expect a skilled surgeon to use only one instrument for all operations, nor a mechanic to fix our car with a sledge hammer. Thus it is with pollution; we must use the tools required for the job; and most importantly, we must keep the factory running in the process and not turn the surgeon's scalpel over to the mechanic or vice versa.

To do the cleaning up job on pollution, we must call on industry, on the federal, state, and city governments, and on individuals. We need financing and regulations; in the meantime, we must maintain a sense of balance, so that we do not tear up more than we correct. We are not merely limited to the practical but to the possible.

Mr. Chairman, it is a shame that the Congress has not always followed that advice given in 1966. Today, we pay the penalty not only in energy shortages but in many other areas.

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

Mr. Chairman, I rise to inform the House that a decision has been reached that when we arrive at the end of this amendment, the committee will rise until tomorrow morning.

Mr. Chairman, I wish to inform the Members that I will ask at that time for unanimous consent that all Members may revise and extend their remarks in the RECORD.

Mr. BROYHILL of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a seven-page amendment, and we have not really had a chance yet to study it. I think the amendment offered by the gentleman from Ohio (Mr. BROWN) has been very carefully worked out by not only the Members but in consultation with the staff, as well as judicial experts. Mr. Chairman, I would hope that we could maintain the language that is in the bill.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BROYMILL of North Carolina. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman from North Carolina yielding to me.

I would like to ask the gentleman from New Jersey (Mr. RODINO) who is the chairman of the Committee on the Judiciary, if his amendment includes any provision for exemption from State and

local antitrust legislation, or would the companies and the dealers, and so forth, who participate in the implementation of plans be subject to local and State antitrust laws, even if they could get a Federal exemption to go ahead and deal with the energy problem.

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

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

Mr. RODINO. Mr. Chairman, this does not direct itself to State and local antitrust legislation.

Mr. BROWN of Ohio. So, if the gentleman will yield further, they would not be exempt from State and local antitrust laws? Is that the answer?

Mr. RODINO. Whether or not they would be is not material, I think, to this question.

Mr. BROWN of Ohio. In effect, they would not, because they are not affected by them in any way?

Mr. RODINO. They are not exempt under this, no.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman.

Mr. Chairman, if the gentleman will yield further, I would just like to advise the committee that I have been advised by the administration that while Mr. Clearwater has apparently referred the chairman of the Committee on the Judiciary to a letter from Governor Love—do the Members remember him?—saying that the language of the Senate bill was appropriate, and, therefore, the language which the gentleman from New Jersey has proposed would be appropriate.

That letter was dated November 23, or at least late in November, and we are now into the month of December.

Mr. Clearwater sat down with us and wrote the language which is in our amendment. He is apparently somewhat embarrassed by the fact that he has offered his approval to both amendments, both the gentleman's amendment and my language.

However, I am advised that the administration and the Office of Management and Budget have also sat in on the drafting of language in the bill as it now stands, and the White House and the Antitrust Division of the Department of Justice all find our language perfectly acceptable, and they agree that it will accomplish the thrust of what we are trying to accomplish here.

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

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

Mr. RODINO. Mr. Chairman, I would like to state that Mr. Clearwater's position was stated to us only today, and he recognizes the fact that there was a need for this limiting exemption.

I think when we consider that we have both the Federal Trade Commission and the Department of Justice agreeing that this measure is, indeed, necessary in the interests of competitive safeguards then I cannot see how the gentleman can dispute the fact that we have a very good amendment here, one which provides a limited exemption and yet protects the consumer at a time when he needs protection most.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

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

Mr. BROWN of Ohio. Mr. Chairman, I will say to the gentleman that Mr. Clearwater and I were on the phone. I guess we might as well say it was largely a one-way conversation.

But when I offered him the opportunity to respond, he advised me that he did, in fact, sit in on the discussions and helped create the agreement that was reached among the Antitrust Division of the Department of Justice, the Office of Management an Budget, the industry, the staff of the counsel of the committee, the gentleman from California (Mr. Moss), and myself, just 6 nights ago.

He told me just a few moments ago, in fact, that he found the language perfectly acceptable and also told you your language fell within the purview of the letter or the framework of the letter Mr. Love wrote apparently to the House on November 23.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word. I will try not to take 5 minutes.

Mr. Chairman, I spent a good deal of my life advising corporate officials how to live with the antitrust laws. I have pulled my clients out of advisory committee meetings because the particular Government official presiding did not lay down the very kind of careful procedures that this amendment requires.

One of the things about the antitrust laws, as business lawyers know, is to save businessmen from themselves, because if there is one thing separating us from a serious drive toward socialism in this country, it is the antitrust laws.

The one big thing we have to justify our system—and I believe in our system—is the fact that it does work in the public's interest, so long as it remains a competitive system. The thing that keeps it working as a competitive system is the antitrust laws.

If the gentlemen from the oil industry want to end up being nationalized, all they have to do is just proceed in the way that the committee's section 120 sets it up. I guarantee you you will see the darndest drive to nationalize the oil industry you have ever seen.

The amendment before us is very carefully drawn. Someone a little earlier in the debate said that the antitrust laws are simple. After many years of practice in this field I will say that if there is one thing they are not, it is simple. You can see why that is so when you consider that they apply to just about every facet of the economy of the United States.

Mr. McCLORY. Will the gentleman yield?

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

Mr. McCLORY. As I understand the amendment offered by the gentleman from New Jersey, it is intended to exempt from the antitrust laws those arrangements and voluntary agreements which the producers or the refiners enter into pursuant to the direction of the Administrator and which are approved by the Attorney General and the Federal Trade Commission. Is that correct?

Mr. SEIBERLING. That is my understanding.

Mr. McCLORY. And that is all. So if they do engage in any anticompetitive practices in violation of those antitrust laws, then, except as allowed under this amendment, they are subject to the antitrust laws just as they are at the present time.

Mr. SEIBERLING. Yes. Let me say further there is nothing in this amendment preventing any group of businessmen, whether small or large, from making an exchange agreement to meet emergency shortages or anything else if it is lawful under the antitrust laws. But if they want to get together and make a comprehensive plan for allocation of oil, they had better follow the procedure we propose in this amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman.

Mr. HECHLER of West Virginia. I think we ought to also consider the attitude of the man who is in line to administer this law, Mr. William E. Simon, how he feels toward the antitrust laws. On the 17th of July the Federal Trade Commission filed an antitrust complaint against eight major oil companies. Mr. Simon, as Deputy Secretary of the Treasury and head of the Oil Policy Committee, tried to get the Federal Trade Commission to back down on it. It seems to me we have here a perfect example of where we have to strengthen the language in order to protect the antitrust laws. Mr. Simon even went so far as to warn that the FTC antitrust case against the eight major oil companies might worsen the energy crisis.

On the front of the Archives Building is written "What is past is prologue," which means "you ain't seen nothing yet." With an administrator like Mr. Simon, it is essential this amendment be adopted in order to make sure the antitrust laws are protected and the power of the Federal Trade Commission is protected.

Mr. DINGELL. Will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman.

Mr. DINGELL. I would simply note a recent study by the Federal Trade Commission found all manner of anticompetitive actions going on in the oil industry. Guess who it was who rushed downtown to denounce it. Nobody but the Department of the Treasury of which Mr. Simon was a top-ranking official.

They said the oil industry is one of the most competitive in the country, and does not need any additional supervision since it engages in no anticompetitive actions.

Mr. SEIBERLING. It was not just the Treasury that said it, it was Mr. Simon himself.

If you really want to keep the fox from taking charge of the chicken coop you need this amendment, and you need it to protect the oil industry from itself as well as the country from the oil industry.

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

Mr. Chairman, I just want to say that

I strongly support the amendment which has been offered on behalf of the gentleman from New Jersey (Mr. RODINO). I think it strengthens the antitrust provisions but, as important, what it does do is to give the public access. I think it will help the public to find out better what is happening. I think it provides a monitoring plan whereby we can understand what is going on. But, above all, it really places the burden upon the oil companies to show good faith. I think the oil companies are going to win no matter what happens with this legislation, but I think this does provide the public with access, and that it is in the public interest.

For that reason, Mr. Chairman, I support the amendment offered by the gentleman from West Virginia (Mr. STAGGERS) on behalf of the gentleman from New Jersey (Mr. RODINO).

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MEZVINSKY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, has the gentleman looked at the amendment and at the language in the bill to see that there is a requirement of public notice for planning meetings in the bill at present; that the public is supposed to participate under the language of the bill at present, and that there is also participation by the Department of Justice and the Federal Trade Commission?

I trust that the gentleman from Iowa is not suggesting that the language now in the bill does not provide for public notice either prior to a meeting or after the meeting on what the plan is.

Mr. MEZVINSKY. Mr. Chairman, I will state to the gentleman from Ohio that I am aware of that. I might also point out that the Federal Trade Commission made it very clear when they presented their arguments against the language in the bill, as reported, that access was of vital interest to the Federal Trade Commission, the Justice Department, as well as the public. Their participation will be enhanced by the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 286, noes 112, answered "present" 1, not voting 33, as follows:

[Roll No. 659]

AYES—286

Abzug	Annunzio	Biaggi
Adams	Arends	Biester
Addabbo	Ashley	Bingham
Alexander	Aspin	Blackburn
Anderson, Calif.	Badillo	Boggs
Anderson, Ill.	Bafalis	Boland
Andrews, N.C.	Barrett	Bowen
Andrews, N. Dak.	Bennett	Brademas
	Bergland	Brasco
	Bevill	Bray
Breckinridge	Gunter	Podell
Brinkley	Guyer	Preyer
Brooks	Haley	Price, Ill.
Broomfield	Hamilton	Pritchard
Brotzman	Hanley	Quie
Brown, Calif.	Hanna	Randall
Burke, Fla.	Hanrahan	Rangel
Burke, Mass.	Hansen, Wash.	Rees
Burlison, Mo.	Harrington	Reid
Burton	Hawkins	Reuss
Butler	Hays	Riegle
Byron	Hechler, W. Va.	Rinaldo
Carney, Ohio	Heckler, Mass.	Rodino
Casey, Tex.	Heinz	Roe
Chappell	Helstoski	Rogers
Chisholm	Henderson	Roncalio, Wyo.
Clark	Hicks	Roncallo, N.Y.
Clausen, Don H.	Hogan	Rooney, Pa.
Clawson, Del	Holifield	Rose
Clay	Holtzman	Rosenthal
Cleveland	Horton	Rostenkowski
Cohen	Howard	Roush
Collins, Ill.	Huber	Roy
Conte	Hungate	Roybal
Conyers	Hutchinson	Ryan
Corman	Ichord	St Germain
Cotter	Johnson, Colo.	Sarasin
Coughlin	Jones, Ala.	Sarbanes
Culver	Jones, N.C.	Satterfield
Daniel, Dan	Jones, Okla.	Scherle
Daniels, Dominick V.	Jones, Tenn.	Schroeder
Danielson	Jordan	Seiberling
Davis, Ga.	Karth	Shipley
Davis, S.C.	Kastenmeier	Shriver
de la Garza	Kazen	Sisk
Delaney	Kluczynski	Skubitz
Dellenback	Koch	Slack
Dellums	Kyros	Smith, Iowa
Denholm	Landrum	Smith, N.Y.
Dennis	Latta	Staggers
Dent	Leggett	Stanton, James V.
Derwinski	Lehman	Stark
Diggs	Litton	Steed
Dingell	Long, Md.	Steele
Donohue	McClory	Steelman
Downing	McCloskey	Steiger, Wis.
Drinan	McCormack	Stephens
Dulski	McDade	Stratton
du Pont	McFall	Stubblefield
Eckhardt	McKay	Stuckey
Edwards, Ala.	McKinney	Studds
Edwards, Calif.	Macdonald	Sullivan
Eilberg	Madden	Taylor, N.C.
Eshleman	Madigan	Thompson, N.J.
Evans, Colo.	Mallary	Thomson, Wis.
Evins, Tenn.	Mann	Thone
Fascell	Maraziti	Thornton
Findley	Matsunaga	Tiernan
Fish	Mayne	Udall
Flood	Mazzoli	Van Deerlin
Flowers	Meeds	Vanik
Flynt	Melcher	Vigorito
Foley	Metcalfe	Waldie
Ford, William D.	Mezvinsky	Wampler
Forsythe	Miller	Whalen
Fountain	Minish	White
Fraser	Mink	Whitehurst
Frenzel	Mitchell, N.Y.	Whitten
Froehlich	Moakley	Widnall
Fulton	Mollohan	Wiggins
Fuqua	Moorhead, Pa.	Wilson, Charles H., Calif.
Gaydos	Morgan	Wilson, Charles, Tex.
Gettys	Mosher	Winn
Giaimo	Murphy, Ill.	Wolff
Gibbons	Murphy, N.Y.	Wright
Gilman	Natcher	Wydler
Ginn	Nedzi	Wyman
Gonzalez	Nichols	Yates
Grasso	Nix	Yatron
Gray	Obey	Young, Ga.
Green, Oreg.	O'Hara	Zablocki
Green, Pa.	Owens	Zion
Griffiths	Patman	Zwach
Gross	Patten	
Grover	Pepper	
Gude	Perkins	
	Pettis	
	Pickle	
	Pike	

NOES—112

Archer	Carter	Esch
Armstrong	Cederberg	Frelinghuysen
Ashbrook	Clancy	Frey
Baker	Cochran	Goldwater
Bauman	Collins, Tex.	Goodling
Bell	Conable	Hammer-schmidt
Breaux	Conlan	Hansen, Idaho
Brown, Mich.	Crane	Harsha
Brown, Ohio	Daniel, Robert W., Jr.	Harvey
Broyhill, N.C.	Davis, Wis.	Hastings
Broyhill, Va.	Devine	Hinshaw
Buchanan	Dickinson	Holt
Burgener	Dorn	Hudnut
Burleson, Tex.	Duncan	Jarman
Camp	Keating	Myers
	Kemp	Nelsen
	Ketchum	O'Brien
	King	Parris
	Kuykendall	Passman
	Landgrebe	Poage
	Lent	Powell, Ohio
	Lott	Price, Tex.
	Lujan	Quillen
	McCollister	Rarick
	McEwen	Regula
	McSpadden	Rhodes
	Mahon	Roberts
	Mailliard	Robinson, Va.
	Martin, Nebr.	Robison, N.Y.
	Martin, N.C.	Rousselot
	Mathias, Calif.	Runnels
	Mathis, Ga.	Ruppe
	Milford	Ruth
	Mizell	Sandman
	Montgomery	Schneebeli
	Moorhead, Calif.	Sebelius
	Moss	Shoup
		Shuster
		Snyder
		Spence
		Stanton, J. William
		Steiger, Ariz.
		Symms
		Talcott
		Teague, Calif.
		Teague, Tex.
		Towell, Nev.
		Treen
		Vander Jagt
		Veysey
		Waggonner
		Ware
		Williams
		Wilson, Bob
		Wylie
		Young, Alaska
		Young, Fla.
		Young, Ill.
		Young, S.C.
		Young, Tex.

PRESENT—1

Beard

NOT VOTING—33

Abdnor	Hébert	O'Neill
Blatnik	Hillis	Peyser
Bolling	Hosmer	Railsback
Burke, Calif.	Hunt	Rooney, N.Y.
Carey, N.Y.	Johnson, Calif.	Sikes
Chamberlain	Johnson, Pa.	Stokes
Collier	Long, La.	Symington
Cronin	Michel	Taylor, Mo.
Erlenborn	Mills, Ark.	Ullman
Fisher	Minshall, Ohio	Walsh
Gubser	Mitchell, Md.	Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

Mr. STAGGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill which has been under consideration today, and to include extraneous matter.

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

There was no objection.

HOUR OF MEETING ON THURSDAY, DECEMBER 13, 1973

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m., tomorrow, Thursday, December 13, 1973.

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

There was no objection.

THE INEQUITY OF GAS RATIONING

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

Mr. CRANE. Mr. Speaker, with characteristic incisiveness, Prof. Milton Friedman, in his article appearing in Newsweek December 10, 1973, explodes the foolish notion that rationing provides an "equitable" solution to fuel shortages. Since superstition on the subject of rationing abounds in many quarters, I commend to the attention of this enlightened body the illuminating remarks of Professor Friedman:

THE INEQUITY OF GAS RATIONING

(By Milton Friedman)

There is wide agreement that the most efficient solution for the energy-and-oil crisis is to let the free market reign—to let prices rise to whatever level is necessary to equate the amount people want to buy with the amount available. Higher prices would give each of us a private incentive to conserve energy, would give producers an incentive to add to the supply, and would assure that energy was used for purposes valued most highly by purchasers.

The one argument against this traditional free-market solution is that it is "inequitable." Any solution requires that we use less energy than we would like to use at present prices—that is precisely why we have a crisis. Any solution will therefore "hurt" all of us. But it is maintained that the free market imposes the burden disproportionately on the poor, that government rationing would avoid this "inequity" and hence should be adopted, despite all its defects—waste, bureaucracy, black markets and corruption.

The argument has a strong emotional appeal. But it has no rational basis.

THE ARITHMETIC OF RATIONING

Consider one scheme for rationing gasoline that has been proposed: give each family coupons entitling it to purchase a specified number of gallons a week at present prices, but then permit it to purchase additional gasoline at free-market prices. Since my concern is with equity, let me waive all questions about the feasibility of assuring that coupons would be honored and about the effects on production incentive. Suppose the allotment per family is 15 gallons per week, that every family uses its allotment, that the fixed price is 45 cents a gallon and that the free-market price, in the absence of rationing, would be 75 cents a gallon *for the same total amount of gasoline* (I shall discuss below the reason for this condition). The scheme is then precisely equivalent to sending each family in the United States a check for $4.50 a week (30 cents times 15 gallons), financing the payment by a tax on the oil industry, and letting the free market distribute the gasoline.

Is there anyone who would favor such a national dividend, distributed regardless of need? If there be such a person, would even he favor having its size determined solely by the price of gasoline? If the scheme is bad when stated in its naked form, how can concealing it in ration coupons make it good?

Or consider another variant: distribute coupons covering all gasoline that will be available (say 20 gallons per week), fix the price at 45 cents a gallon, but permit the coupons to be sold in a "white" market. Assuming the same facts as in the preceding paragraph, the price of the coupons would be 30 cents a gallon. The scheme would be precisely equivalent to imposing a tax of 30 cents per gallon on gasoline and using the proceeds to send each family in the United States a check for $6 a week (30 cents times 20 gallons). Again, stated nakedly in that way, does the scheme really have any appeal?

Note that I have considered the least inequitable schemes. Alternatives that would prohibit the sale of coupons or that would allocate coupons on the basis of number of cars or "normal" mileage driven rather than equally to all families are equivalent to sending *larger* checks to high-income than low-income families.

THE ECONOMICS OF THE MARKET

Because of my emphasis on "equity," I have omitted a major defect of these rationing schemes—the deficit that required me to assume *the same amount of gasoline*. Both schemes would reduce the incentive of producers to add to the supply and would therefore mean *less* gasoline than under the free market.

The effect on production is important both in the current emergency and in the longer run. Suppose that shortages in any commodity or service are always met by taxes designed to absorb the increase in price. What incentive would that give private enterprise to provide excess capacity to meet such a possibility? As it is, the prospect of occasional bonanzas makes it profitable for enterprises to maintain greater productive capacity and larger inventories than are required under normal circumstances. With that prospect eliminated, the government would itself have to provide such reserves—a task it has hardly demonstrated the competence to perform.

The free-market solution is not only more efficient, it is also more equitable. True "equity" calls for making provision for special hardship cases. It does not call for raining government checks on all and sundry.

URBAN MASS TRANSIT OPERATING SUBSIDIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 1 minute.

Mr. CRANE. Mr. Speaker, the New York Times recently carried a very disturbing report concerning the attitude of the administration toward operating subsidies for mass transit systems. As my colleagues are aware, I have consistently opposed this form of assistance in our Mass Transit Subcommittee, in the full Banking and Currency Committee and here on the floor of the House.

Until this report of December 1, I assumed that the administration was also persevering in its opposition to operating subsidies. The implications of the article concerned me and, as a result, I wrote Secretary Brinegar to receive a clarification of his views.

While I am awaiting a response to that inquiry, I must say that my mind has been greatly relieved by a reply to an earlier inquiry which I have just received from the Honorable Roy Ash, Director of the Office of Management and Budget.

I particularly call my colleagues' attention to the fact that this letter from Mr. Ash was dated December 5, 1973, after allegations of a change of position on the part of the administration.

Mr. Ash makes the particular point that in speaking both for his office and for the Secretary of Transportation:

The Administration continues to oppose operating subsidies and if legislation comes to the White House we intend to recommend to the President that he veto the legislation.

On the eve of the meeting of the conference committee on this legislation, I believe that this letter is particularly timely and, therefore, I ask unanimous consent that it be printed in its entirety at this point in the RECORD.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., Dec. 5, 1973.

Hon. PHILIP M. CRANE,
House of Representatives,
Washington, D.C.

DEAR PHIL: Federal operating subsidies for mass transit are of great concern to the Administration, particularly as we look at an array of similar problems during this busy budget season. I read with great interest your letter of October 30 and your remarks on the House floor on October 3. Not only do I greatly appreciate your strong opposition to a Federal role in subsidizing mass transit deficits, but I also believe that your grasp of the problems and the eloquence with which you have represented your position should serve as a forceful rallying point to strengthen opposition to the operating subsidy legislation continually before the Congress.

It is unfortunate that subsidy supporters are currently suggesting that environmental concerns and the energy crisis are reasons for instituting such subsidies. Analysis does not support that rationale. We intend to make the case that, quite to the contrary now is precisely the time that local offiials and transit property managers could be working to get mass transit back on the road toward self-sufficiency.

We need to redouble our efforts to inform your fellow legislators of the pitfalls and pernicious nature of these subsidies. Your points are particularly well taken about the never-ending nature of operating subsidies, the fact that they would become part of the budget "uncontrollables," and that they represent an attempt by a few local and State officials to unburden themselves by shipping their local problems and artificially low fares to Washington and thence on to smaller cities and rural America.

Secretary Brinegar and I will continue to look to you as one of the most well-informed opponents of Federal transit operating subsidies. Needless to say, the Administration continues to oppose operating subsidies and if legislation comes to the White House, we intend to recommend to the President that he veto the legislation.

Sincerely,

ROY L. ASH,
Director.

AMENDMENT OF TARIFF ACT OF 1930

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, as a means of facilitating transportation for pilots and boaters in Alaska, I have introduced a bill to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees.

Taking into consideration Alaska's geographic proximity to Canada and the absolute necessity of air and boat travel, the present Customs regulations impose a definite hardship on pilots and boaters and an unnecessary hindrance which my bill would remedy.

I call your attention to similar legislation introduced by Senator BURDICK of North Dakota and Congressman SHOUP

of Montana. This discriminatory situation exists in those border States as well.

H.R. 11923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) is amended—

(1) by striking out "of a highway vehicle" in the proviso to the fourth sentence and inserting in lieu thereof "of a private aircraft arriving or departing on a flight between the United States and Canada, or of a highway vehicle";

(2) by striking out "by motor vehicle" in the proviso to the fourth sentence and inserting in lieu thereof "by private aircraft on a flight between the United States and Canada, or by motor vehicle";

(3) by striking out "by motor vehicle" in the fifth sentence and inserting in lieu thereof "by private aircraft on a flight between the United States and Canada, or by motor vehicle";

(4) by striking out "such highway vehicle" in the sixth sentence and inserting in lieu thereof "such private aircraft, highway vehicle"; and

(5) by adding at the end of such section the following new sentence: "As used in this section, the term 'private aircraft' means any aircraft licensed by the United States other than an aircraft which is engaged in the transportation of merchandise, baggage, or persons for hire."

(b) The amendments made by subsection (a) shall take effect at 12 o'clock noon of the first Monday following the thirtieth day after the date of the enactment of this Act.

NATIONAL EMERGENCY ENERGY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, our country is now nearly 20 percent short of its current energy needs. While voluntary efforts have been extremely helpful, it is clear that the United States will be plagued by serious shortages for years to come. Only by passage of such legislation as H.R. 11450 can we hope to alleviate some of the most adverse effects of present shortages.

Briefly stated, the National Emergency Energy Act responds to many of the requests presented in the President's energy messages. It authorizes him to establish priorities among petroleum users. H.R. 11450 sets up a Federal Energy Administration. The bill provides for coal conversion. It restricts windfall profits, allows importation of liquefied natural gas, reviews export and foreign investment policies, and, on a case-by-case basis, the Environmental Protection Agency may suspend air pollution standards. In addition, the legislation calls for a fuel economy study, an EPA report, and a September 1 report by the President on the implementation of the act. In sum, the National Emergency Energy Act is one of the most comprehensive and most important bills designed to combat the energy crisis, and I urge its immediate passage.

I might note that I was particularly encouraged by the fact that there are research provisions in this legislation. It is my hope that attention will be given to future alternatives to present energy sources. For example, I am particularly interested in full consideration of solar and fusion energy. In this respect, I have detailed to my constituents what steps we must take for a comprehensive energy program. These steps are as follows:

WHAT EACH OF US CAN DO

1. Urge your elected officials to work for a program that should include the following as priorities:

Development of fusion energy

Development of breeder reactors

Development of fuel capacities (synthetic)

Development of new oil fields—both on shore and offshore;

Such efforts should lead to domestic independence in this important area.

2. Encourage the establishment of a national energy center which would be charged with the responsibilities of researching energy procurement and deployment (including research on electrical needs in the future);

3. Encourage the creation of a center which would examine the economic, environmental, social, military, and political consequences of any decisions in the field of energy;

4. Support the development of talks between countries of the world. Such talks could provide the forum for exchanging what knowledge is thus far available on the subject of energy. Legislation to authorize the President to set up a conference to accomplish this goal has been introduced in the House of Representatives, and is before the Foreign Affairs Committee for action. I intend to speak and vote for such legislation.

Mr. Speaker, early in the 92d Congress many of us—particularly those from the Midwest—warned of an energy crisis. It is clear that crisis is now upon us, and we must act now before the energy crisis leads to other crises—none the least of which is an economy crisis.

ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAMS) is recognized for 5 minutes.

Mr. WILLIAMS. Mr. Speaker, President Nixon has created a Federal Energy Administration, and has asked Congress and all Americans to consider ways of conserving fuel. While some ways will be voluntary, some will ultimately be enacted into law. Congress quickly passed a bill to reinstate daylight savings time until 1975. The bill grants sunrise-to-sundown radio stations a waiver to operate 1 hour before sunrise. Energy experts calculate the extra hour of daylight will save up to 450,000 barrels of crude oil a day.

As this letter is being written, the House moves to consider the National Emergency Energy Act. This legislation will authorize ways in which this country will combat the energy crisis and conserve fuel. I am hopeful that ways other than gas rationing can be found to help us in this situation.

Current pending measures would utilize other sources of energy: Solar, coal, and nuclear. Pennsylvania and other States are rich in coal desposits. Coal is inexpensive to process, a ready substitute for gas or oil, and easily available. The USS *Johnston,* DD–821, used oil made from coal for a recent cruise. The voyage proved most satisfactory and the commander reported fewer odor problems with oil made from coal than from regular fuel oil. The Environmental Protection Agency should be conducting research to learn how to remove impurities from coal smoke and coal as it is being converted into other forms of fuel, such as oil and gas.

The United States must move into energy independence. This huge country, with a GNP of almost a trillion dollars, should not be dependent upon foreign oil. The Alaskan Pipeline bill, a first step toward energy independence, had my complete support. Since then, I have introduced H.R. 11654, to strike section A of the Clean Air Act for the duration of the energy crisis, which prohibits installation of future emission control devices on automobiles. Emission control devices are responsible for greatly increased gasoline consumption and now when gas rationing appears possible, these inefficient devices are unnecessary. My bill is a companion measure to H.R. 10664, which I introduced to prohibit the installation of the expensive and complicated interlock seat belt-ignition system.

Season's greetings. I would like to wish all of my constituents a very joyful holiday, and a most Happy and Prosperous New Year. Christmas 1973 is particularly meaningful to us all this year. For the first time in decades, U.S. soldiers are not fighting anywhere in the world. I hope that we will maintain this record of peace.

CONFIRMATION OF GERALD R. FORD

It was a privilege to join with 387 Members of the House of Representatives to confirm Hon. GERALD R. FORD as 40th Vice President of the United States. Selection of Congressman FORD was met by acclaim by all. Mr. FORD served ably and with distinction for 25 years in the House of Representatives, winning the esteem and respect of both parties. He takes with him to the Office of the Vice Presidency our good will and warmest wishes for many more successful years.

SOCIAL SECURITY

It was a pleasure on November 15, 1973 to support H.R. 11333, the social security benefits increase legislation. This bill is of great importance to the Nation's elderly, providing an 11 percent increase in benefits by mid-1974, 7 percent in March and 4 percent in June. Hopefully, it will be sent to the White House soon.

I have consistently worked in behalf of our senior citizens, and this year introduced measures which would include prescription drugs, flu shots and eyeglasses in medicare. I have also sponsored bills to grant a combined earnings benefit to married couples, raise the social security death benefit to $750, and provide elderly with half-price air fare on a space-available basis.

DISTRICT OFFICE—NEW ADDRESS

The population of the 7th Congressional District was 423,000 persons in the 1970 Census. The congressional redistricting which was accomplished by the Pennsylvania General Assembly increased the population of the 7th District to approximately 473,000. Almost 3 years later, that has increased by

15,000, and I now represent some 488,000 people. For this reason, I have had to seek larger quarters for my Springfield District Office. After the first of the year, the new address will be: 616 Baltimore Pike, Springfield, Pa.

I am happy to help you with your problems, and have found that the best way to achieve results is by having you write letters to me, giving all details of your problems. Having all the facts in writing enables me to deal more effectively with the Federal Government, and solve your problems. If you have a problem, or want advice, please do not hesitate to write to me. I am available almost every weekend in the District for those who deem it necessary to see me personally. Please call my district office, KI 3-2082 to arrange an appointment.

RAILROAD REORGANIZATION ACT

On November 8, 1973, the House passed H.R. 9142, the Regional Rail Reorganization Act with my support. This much-needed legislation creates a Federal National Railway Corporation and provides $1.4 billion in grants and guaranteed loans to reorganize the six bankrupt railroads in the Northeast into one profitable enterprise. Improved rail service in the Northeast is vital to meeting our Nation's commerce and defense needs, and thousands of people would be out of work if our railways were permitted to go bankrupt. Congress has provided Federal subsidies for other modes of transportation but has sorely neglected our railroads.

This act also authorizes $250 million for labor protection costs. The Interstate Committee redefined the term "protected employee" which now means any employee of an acquiring railroad adversely affected by a transaction, and any employee of a railroad in reorganization. Such employees must be offered employment by the new Corporation, and for those whose jobs are at lower salaries than before, a monthly displacement allowance may be paid.

SMALL BUSINESS COMMITTEE INVESTIGATION

An investigation I called for in October has uncovered that a Government agency has poured millions of taxpayers' dollars into questionable, if not fraudulent, loans. The Small Business Subcommittee probe into the Small Business Administration has already found evidence of irregular loan activities in 20 SBA offices. In addition, testimony this month appears to indicate that some Hurricane Agnes victims were shortchanged as part of a coverup for fraudulent loans made by the Richmond, Va. SBA office, which comes under Philadelphia's region III jurisdiction.

My interrogation of SBA officials from the central office raised the issue of why that office assigned a "B" rating to the Agnes disaster—the worst ever covered by the SBA loan program. An "A" rating would have allowed the national office and other regional offices to directly assist flood victims. Instead, the Philadelphia office handled the Agnes loan relief effort for months, successfully diverting the regional director's attention from what are obviously questionable loan practices in the Richmond district office. If top SBA officials played politics at the expense of Pennsylvania's flood victims, I will do everything possible to see that they are removed. And if there is evidence of criminal activity, I will press for a Justice Department investigation.

FIRST SESSION SUMMARY

The House of Representatives has devoted considerable time this year to floor activity, and has approved 635 pieces of legislation. Among those are the following items: Urban mass transportation, trans-Alaskan pipeline, Comprehensive Manpower Act, emergency medical services systems, export administration, trade reform, Amtrak financial aid, emergency employment, Public Health Service programs, law enforcement assistance and national flood insurance. As this letter is written, my voting record is 96.9 percent and I look forward to another busy and productive year.

RATIONING MUST BE EQUITABLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 5 minutes.

Mr. MARTIN of North Carolina. Mr. Speaker, I submit for the information of the House of Representatives an amendment which I expect to offer to H.R. 11882, the Energy Emergency Act, while that bill is under consideration by the House. The purpose of this amendment is to provide that in the event the President or Federal Energy Administrator finds it necessary to propose end-use allocation—or rationing—of gasoline, that proposed system will be equitable and will not provide a framework conducive to blackmarket profiteering. It provides that in addition to a basic nondiscriminatory allocation—ration—for personal automobiles or recreational vehicles, consumers will have an option to purchase extra ration stamps or otherwise qualify for an extra share by paying higher net price.

An elaboration of my views and arguments are contained in remarks made from the well of the House during general debate today.

The text of my proposed amendment follows: Amendment to H.R. 11882, as reported, by Mr. MARTIN of North Carolina.

On page 6, line 6, strike the period, and add: ": *Provided, however*, that any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic nondiscriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel upon payment of a fee or user charge on a per unit basis to the Federal Energy Administration."

FARMERS HOME ADMINISTRATION: THE TAIL WAGS THE DOG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, one of the greatest domestic needs facing our Nation today is the revitalization of our countryside communities and towns. Since I came to the House of Representatives in 1969, I have been working for the establishment of programs which would help the Federal, State, and local governments and private groups and individuals operating in partnership to achieve this goal.

In 1970 Congress established a national balanced growth policy in the Housing and Urban Development Act and in the Agriculture Act. Almost 16 months ago the Rural Development Act became law. This legislation is designed to give momentum to the revitalization of the countryside. Achievement of this objective is vital to solving our problems of metropolitan area congestion.

It is imperative that the Federal agencies charged with the responsibility for administering these programs be equipped with the tools and sufficient qualified personnel to carry out the intent of Congress in an efficient and effective manner. Comprehensive community and regional development includes a wide array of activities such as: Communication systems, comprehensive planning, environmental protection, education, job development, housing, health care delivery, recreation facilities, transportation networks and water and sewer systems.

One of the Federal agencies carrying the heaviest burden in administering rural development programs is the Farmers Home Administration. FmHA began basically as an administration intended to give assistance in farm ownership and operation. In the late 1930's the first elements of a rural water system program were added. About 25 years ago the agency's responsibilities were expanded to include rural housing. Then, in 1965 FmHA was authorized to operate waste disposal programs to assist countryside areas. And with the passage last year of the Rural Development Act FmHA was given a major new role in comprehensive community development in the countryside.

As I noted a moment ago, housing is an integral part of comprehensive development. FmHA administers the rural housing programs. Generally these programs are making a significant and valuable contribution to the quality of life in rural areas.

Today the House Committee on Government Operations has released a report on the manner in which FmHA has administered the rural housing programs. This report, prepared by the Subcommittee on Intergovernmental Relations as part of an ongoing study of the programs which was begun more than a year ago, cites a number of serious deficiencies. These deficiencies are impairing the effectiveness of the housing program.

The subcommittee's investigation was begun at my request. I began working in this area in 1969 after receiving repeated complaints about the rural housing programs from constituents in the First Congressional District.

Due to the lack of sufficient and competent personnel in the FmHA, citizens of the countryside are beginning to join the increasing number of Americans who

have lost faith in Government solutions to national problems. If these serious deficiencies we have found in the Farmers Home Administration are not properly and promptly corrected, it could lead to an abandonment of the balanced national growth policy.

I bring this report to the attention of my colleagues because I would urge your consideration of the problem areas which have been identified by the subcommittee's investigation and report and of recommendations made in the report. The problem areas are:

A lack of sufficient, qualified personnel to handle the program which has been expanding rapidly for the past decade;

Failure of responsible officials to demonstrate an acceptable degree of administrative initiative and competence;

Serious and widespread deficiencies in sewer and water systems in rural subdivisions, creating health hazards for FmHA borrowers;

Substandard construction quality in many FmHA-financed homes, both manufactured and of conventional construction;

Many instances in which required FmHA construction inspections have been inadequate or not made at all;

Approval of rural housing loans to borrowers who are ineligible or clearly lack resources to repay;

Excessive appraisals of property securing rural housing loans;

FmHA reports on default losses which are confusing, contradictory and unreliable; and,

Inadequate precautions against use of false and misleading information to obtain loans.

The subcommittee expects to make further findings in a future report, particularly with respect to irregularities which have been alleged in Arkansas and Mississippi.

Actions which were recommended in the report are:

That the Office of the Inspector General in the Department of Agriculture conduct a comprehensive review of FmHA rural housing operations. The review, the report said, should give particular attention to the adequacy of corrective action taken concerning the deficiencies cited by the subcommittee's report and the 1971 OIG comprehensive review of FmHA rural housing operations;

That FmHA review its policies with respect to the use of packaging to determine whether the benefits of continued use of this procedure is likely to outweigh the disadvantages. Packaging is a procedure by which home builders recruit homebuyers and assist them with making applications for FmHA financing. In the report we said that if FmHA continues to use packaging it should take steps to insure that the interests of the borrower and the public are adequately protected;

That FmHA should immediately establish an effective system for prompt and accurate reporting of actual and potential housing loans losses; and,

That FmHA provide the committee a status report as soon as possible concerning the corrective action taken or planned on the problems cited in the report.

As an example of the depth of the problems we found during the subcommittee's investigation thus far, let us consider the question of FmHA personnel qualified as housing specialists. To put this into perspective it should be kept in mind that while the funding for FmHA rural housing programs increased 700 percent between 1960 and 1971, the number of FmHA employees rose only 74 percent.

During the subcommittee hearings in June, FmHA presented data showing that there were only 382 housing specialists working at the county, district, and State levels. At the same time there were 3,225 agricultural specialists at the district and county level.

In December 1972, FmHA had reported having 222 construction inspectors. By July 31, 1973, this number had been reduced to 105. The FmHA personnel in the county and district offices are the employees most directly responsible for overseeing the housing programs. By 1972 housing funds made up 58 percent of the FmHA budget.

For instance, in Arkansas there were only 24 housing specialists at the county level and six at the State level. Yet FmHA in Arkansas made 5,289 housing loans worth $59,313,000 in 1971 and 4,889 loans worth $61,838,000 in 1972. And, FmHA estimated, during the June hearings, that 2,952 loans worth $40,325,000 would be made in 1973 in Arkansas.

While the Federal expenditures for rural housing total almost 60 percent of the FmHA budget, housing specialists represent only 10 percent of the professional personnel. It thus appears that the tail is wagging the dog.

Again, I would urge my colleagues to review the findings and data contained in this report with two major objectives in mind: What can and should be done to correct the problems it identifies and what can and must be done to insure that FmHA, and similar agencies with responsibilities in community development for nonmetropolitan areas, have the tools and resources they must have to carry through in an effective and efficient manner.

CONGRESSMAN DRINAN REVIEWS PROGRESS ON BEHALF OF THE FREEDOM OF SOVIET JEWS AND THE SECURITY OF THE STATE OF ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 20 minutes.

Mr. DRINAN. Mr. Speaker, on December 11, 1973, the House passed legislation which will assist in the advancement of freedom for Soviet Jews and enacted a grant of $2.2 billion for the State of Israel which will guarantee to that small country the security and stability which it needs in order to negotiate effectively with its Arab neighbors.

I was pleased to see these two separate developments come together on the same day by a happy coincidence. I was also pleased to see the final enactment of the Jackson-Vanik amendment by which the United States may give the most-favored-nation status to Russia as well as a guarantee of credits and credit guarantees only if Russia establishes and implements a policy by which any Russian citizen may, if he so desires, emigrate to another nation.

I have supported the Jackson-Vanik amendment enthusiastically from the beginning and have advocated its enactment on every appropriate occasion. For months we have seen the inherent moral logic of the Jackson-Vanik amendment accepted by more and more Members of Congress of all political and ideological backgrounds. It is indeed gratifying to note that on December 11 the House of Representatives cast the overwhelming vote of 319 to 80 on behalf of the freedom of immigration of Soviet Jews.

It is indeed heartening to recognize that the U.S. Congress has by its vote insisted on the full implementation of the mandates of the Universal Declaration of Human Rights to which both the U.S.S.R. and the United States subscribed in 1948.

For many months, Mr. Speaker, some individuals have been alleging that the Jackson-Vanik amendment would diminish détente and impair our relations with the Soviet Union. As much as all of us want détente, it is overwhelmingly clear that the vast majority of the Members of Congress want that détente only on the condition that the Soviet Union make available to its citizens that most basic of all rights—the right to emigrate and go to the nation of one's choice.

I am happy to say also at this time, Mr. Speaker, that the Soviet Union within the past few days has assured me that I will be able to obtain a visa to visit Russia when such a visit may be arranged. This is a reversal of a position of the Soviet Government which on two previous occasions had denied to me the right to travel to Russia as a representative of the National Interreligious Consultation on Soviet Jewry.

I look forward therefore to visit the Soviet Union and, in particular, to bring the greetings of the Congress and the people of the United States to the Jewish communities in Kiev, Moscow, Leningrad and elsewhere.

THE HOUSE GRANTS $2.2 BILLION TO ISRAEL

On December 10, the House of Representatives not merely enacted the trade reform legislation which contained the Jackson-Vanik amendment, but it also authorized and appropriated $2.2 billion for military assistance to Israel. In an overwhelming vote of 364 to 52 the House recognized that this grant recommended by the administration was necessary to restore the balance of power in the Middle East.

Speaking on behalf of this bill I stated on the floor of Congress on December 11 that "this bill has two objectives: it will allow Israel to negotiate from strength and stability and, second, it will be a signal to Russia and to the world that the United States will abide by its commitments to protect Israel from its enemies." I went on to note that it is "overwhelmingly significant that in the years 1946

to 1972, according to the AID, the United States gave $55 billion to all the nations of the Earth, and not a single dollar of that went to Israel."

I concluded my defense of H.R. 11088 by stating that the bill was "intended to make the Day of Atonement War in 1973 the war that will end war forever in the Middle East."

I also voted against a motion to include language in the Emergency Security Assistance Act of 1973 which would state that the bill is "intended to support the implementation of United Nations Security Council Resolution 242—1967—and United Nations Security Council Resolution 338—1973. This particular amendment was well intentioned but it was rejected by the House because it was felt that the proper place to decide upon the precise meaning of Resolution 242 was at the peace conference which convenes on December 18, 1973, in Geneva.

Hopefully, Mr. Speaker, the grant for $2.2 billion for Israel can be enacted by the Senate and signed by the President prior to or shortly after the beginning of the Geneva Conference so that Egypt, Syria, and U.S.S.R. will know that Israel will once again in the immediate future be militarily invulnerable.

Mr. Speaker, tomorrow I shall testify before the U.S. Senate Foreign Relations Committee on behalf of the $2.2-billion grant for Israel. I attach herewith the testimony which I shall give before the Senate committee of which Senator FULBRIGHT is the chairman. That testimony follows:

TESTIMONY OF CONGRESSMAN ROBERT F. DRINAN ON S. 2692

The grant to Israel proposed in S. 2692 is but a continuation of that commitment and that agreement of friendship which has always characterized the United States' relationship with Israel. From the very day of the estabilshment of Israel as a nation in 1948 by what I call "international eminent domain," the Congress of the United States has consistently offered and authorized assistance to that small nation.

That policy was set forth in the Mutual Defense Assistance Act of 1949. The same policy was updated and enacted in Section 651 of the Foreign Assistance Act of 1967. The same commitment can be seen in Section 501 of the 1970 Armed Forces Appropriation Authorization Act. The authority for military sales provided by previous acts of Congress was further extended in the recent past to December 31, 1975.

When President Nixon on October 19, 1973 urged the Congress to appropriate 2.2 billion dollars for Israel he moved well beyond anything that the United States had ever done at any time for Israel. The recommendation of the President was made because Israel in the three week war conducted on two fronts in October, 1973 had received much more damage from her enemies than Israel had sustained in the wars of 1956 and 1967. Indeed, President Nixon's recommendation was based upon the very clear fact that Israel, by its own estimate, needed more than 3 billion dollars to replace the military equipment which had been destroyed by the Russian-supplied tanks and aircraft of Egypt and Syria.

In all previous years Israel had been able to purchase the military equipment which was indispensable for its defense against neighbors who, although not hostile themselves to Israelis, were incited and inflamed to become so by the intervention of the USSR and by the massive injection of sophisticated military hardware by the Soviet Union.

I am sure that the decision to request this grant from the United States was painful to Israeli officials. The leaders of this proud nation had never before been required to ask for any such assistance to make their borders militarily defensible. The people of Israel have taxed themselves to an incredible extent to protect their citizens from sniping along the exposed borders of Israel and to protect the entire nation from a devastating attack by their surrounding enemies.

The granting of 2.2 billion dollars to Israel does not mean that the United States or the United Nations should cease in any way to offer their good offices to bring about peace in the Middle East. We can hope that the emerging detente with Russia will give an opportunity to the United States and to the entire family of nations to induce and persuade Russia to withdraw from the Middle East and no longer to furnish the weapons of war to the Arab nations. We can hope also that the deepening of a sense of solidarity among all the countries that belong to the United Nations will bring about a collective resolution of the agonizing problems of the Palestinian refugees.

However desirable these solutions should be, however, there is no denying that Israel simply must protect itself from the hostile nations which surround it and which even at this very moment are receiving massive re-supplies of military equipment from the Soviet Union.

The war against Israel that Egypt and Syria began on the Day of Atonement in October 1973 appears to have caused an erosion of support in the world community for Israel. Hopefully that support may be restored. But until that time the United States, which has never wavered in its friendship towards Israel, should make that nation capable of rising above the disastrous military losses which Israel has recently suffered.

With the overwhelming vote in favor of the grant of 2.2 billion in the House of Representatives on December 11, 1973, it would appear that Israel can go to the peace conference scheduled for Geneva on December 18 with the expectation that the entire world will know that Israel is in the process of making itself once again militarily invincible. With that assurance Israel is in a position to negotiate from a position of strength with Egypt and Syria—nations which have never questioned the commitment which the Soviet Union has to supply and resupply them with arms.

No one pretends that the United States or any nation finds it attractive to furnish the weapons of war. At the same time, the options for the United States in the Middle East really offer no alternative. The fact is that in the short run and in the long run the strength and stability which this grant from the United States will bring to Israel offers the only hope of peace.

U.S. BANKRUPTCY LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, under the provisions of the U.S. Bankruptcy law, after payment of secured debts and the expenses of administration of bankruptcy, wage earners and commission salesmen are given priority in payments for past due wages and commissions of no more than $600 per claimant. I am happy to see that the Federal Government has provided protection by law for the wages of those, who through no fault of their own, are employed by a firm that becomes bankrupt.

I rise today to ask that section 104(a)2 of title 11 of the United States Code be amended to give employees a $3,000 priority for life insurance premiums, health insurance premiums, wages and commissions, pension fund payments accrued to the employee within 1 year of the filing of bankruptcy, employee income tax deductions, and social security payments. These changes are needed to bring the Bankruptcy Act up to date and to insure that an employee and his family will be protected by life and health insurance if the firm he works for goes bankrupt.

The case for change in this statute was brought home to me when the Shepard & Gladdings department stores in my State went bankrupt 2 months ago. Many local employees who worked for the firm when it went bankrupt have recently learned that the company failed to pay their life and health insurance premiums for some months before it filed for bankruptcy. Additionally, those who had not been paid when due, but who had loyally stayed with the company in an attempt to help it through its time of financial crisis learned that they could only expect to receive a priority on $600 in wages.

That $600 figure was set in 1926. We all know that a dollar in 1926 was worth many times what a dollar is today.

For this reason I suggest that the $600 priority be raised to $3,000. Hopefully, when the suggestions which I make today become law, there will never be another Shepard-Gladdings with employees who learn too late that their health insurance and life insurance premiums are unpaid and that the maximum that they can look forward to receiving from their company in back wages is a paltry $600.

ENERGY AND MONEY SAVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, today I am introducing a measure which will save the consumer both energy and money. I am asking all owners of gas cooking ranges with automatic pilot lights to take the appropriate steps to convert those cooking stoves to manual top burner ignition.

By requesting the local utility company to shut off the top burner pilot lights, millions of American families can save valuable natural resources as well as cut down on their monthly gas bills. Energy experts estimate that pilot lights on the family cooking stove use between one-third and one-half of all gas consumed by the stove. Since there are approximately 41 million gas cooking ranges currently in use in the United States, consuming an estimated 1 trillion cubic feet of natural gas, almost 400 billion cubic feet of gas can be saved if this simple, yet safe measure of turning off burner pilot lights is implemented. In 1970, residential consumption of natural gas was listed as 4 trillion cubic

feet. Since that time, the amount of gas consumed by the American public has increased while available supplies of natural gas are dwindling.

Millions of gas cooking stoves without automatic pilot lights are in use throughout Europe, Asia, and Great Britain without any evidence of serious danger. I know that American consumers see the value of conserving this important natural resource. Natural gas customers would willingly request their utility companies to turn off the automatic pilot lights for the top burners on their gas stoves. In these times of increased prices and general inflation, the consumer will have a unique opportunity to reap substantial savings on monthly gas bills.

It is with these reasons in mind that I am introducing a sense of the Congress resolution enlisting the cooperation of those citizens with automatic pilot lights on their gas ranges to request that the local utility company shut off their burner pilot lights for the course of the energy emergency.

The following is a text of the measure:

CONCURRENT RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE USE OF NATURAL GAS FOR COOKING STOVE PILOT LIGHTS

Whereas, there are in use in the United States approximately 41,000,000 cooking stoves which consume nearly 1 trillion cubic feet of natural gas per year; and

Whereas, pilot lights consume thirty to fifty percent of the amount of natural gas used by each such cooking stove; and

Whereas, the amount of pilot lights per cooking stove could be reduced to zero through the use of manually-lit and burners on each such stove: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that during the current energy emergency, each citizen of the United States who utilizes a cooking stove which consumes natural gas should take the appropriate measures to convert such stove from the use of a pilot light to the use of manually-lit burners.

PANAMA CANAL TREATY NEGOTIATIONS: NO SURRENDER OF U.S. CANAL ZONE SOVEREIGNTY WILL BE TOLERATED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 15 minutes.

Mr. FLOOD. Mr. Speaker, as a participant in a colloquy in the CONGRESSIONAL RECORD of September 26, 1973, on the "Overthrow of Chilean Marxist Regime Dramatizes Necessity for Firm Stand by United States Against Any Surrender at Panama," I addressed this body emphasizing the grim realities of the present situation at this focal danger spot in the Caribbean.

Since then the frustrated 9-year treaty negotiations with Panama, at that time dormant, have been reopened, with Ambassador Ellsworth Bunker arriving on the isthmus on November 26 as the new U.S. chief negotiator. Heralded in advance by massive propaganda in the Spanish-language press of Panama that aimed to create the illusion of Panamanian "solidarity" in support of the drive to win sovereign control over the Canal Zone, he was greeted by published threats attributed to Omar Torrijos, the present "Jefe Maximo" of Panama.

Among the threats laid to Torrijos—El Panama America, November 26, 1973—were these choice morsels:

If negotiations fail, we have no other recourse but to fight. I am not making a threat but acknowledging a reality.

This is the last opportunity. This will be the last peaceful negotiations.

There have been 70 years of colonialism, 10 years of negotiations, 5 years of national revolution and the result is zero. If we fail this time, we are not responsible for the consequences.

The people are losing their patience and the arrival of Bunker is their last hope. It depends on him whether or not the time bomb that is the Canal Zone explodes.

Mr. Speaker, could there be anything more provocative? Ambassador Bunker is certainly walking through a "minefield" and exposed to all its dangers. I trust that authorities in both Panama and the Canal Zone will take steps to protect him from harm for Panama has admitted many leftists from Chile going into exile who have been cooperating with Castro agents. These infiltrators do not wish solutions of problems but violence. Their goal is to have the United States expelled from the Canal Zone as this would open the way for a Soviet control of the Panama Canal and for completion of the transformation of Panama into another Cuba.

As I have stated on other occasions, Panama is not a strong power capable of protecting itself, but a small, weak, and unstable country located at one of the major crossroads of the world. The American Isthmus has always been a target for predatory attack and the geographical position of Panama means that it always will require the presence of the United States if it is to remain free. These are the stark truths that our Government must face in the formulation of its Isthmian canal policies.

Basic to these policies are two major principles: First, security of transit, and second, Panamanian independence and well-being. In regard to the latter, Panama, as a direct result of the presence of the canal, has been its greatest single beneficiary and has attained the highest per capita income of all Central America. No amount of demagoguery or sophistry in either Panama or Washington can change these facts.

In viewing the Isthmian situation, it must not be singled out as an isolated affair, but as part of a global struggle for control of strategic areas and water routes. In the Near East, U.S.S.R. nuclear warheads were sent to Egypt almost a month before the outbreak of the October 1973 Arab-Israeli war—American Security Council Washington Report, December 1973. In Cuba, its Communist government has mounted heavy artillery in the Sierra Madre Mountain ranges in hastily constructed revetments overlooking our naval station at Guantanamo. In addition, Cuban patrol boats are being fitted to carry Soviet Styx surface to surface antiship missiles, with a combined artillery-styx attack against the U.S. naval base and warships in the bay as a distinct possibility. In Southeast Asia, a large scale North Vietnamese Vietcong strike, supported by Mig fighter aircraft operating from reconstructed former U.S. airbases in Communist-occupied sections of South Vietnam, seems to be in the making. In the eastern Mediterranean, modern Soviet vessels with powerful capabilities stand ready to attack the 6th Fleet. In addition, U.S.S.R. presence in strength at Malta places that middle sea choke point under Soviet control.

Because the Panama crisis is a part of the global situation, I am keeping in close touch with the current treaty discussions for the prime purpose of exposing and blocking any trickery, chicanery, or other skulduggery. Though this language is harsh, I have learned from long observation that the Panama Canal is not a subject for illusions in dealing with military strongmen of Panama or its demagogic politicians. Above all we should understand the real character of Omar Torrijos, his close ties with the Moscow puppet Castro, and his secret machinations with other Red stooges, among them Libya's bombastic dictator, Col. Muammar el Qaddafi. These are not mere happenstances, but the consequences of Communist infiltrators in the Panama Government who have counted on the complicity of Torrijos. Otherwise there could be no valid explanation of the truculence that has been exhibited by present Panamanian leaders over a period of years.

Mr. Speaker, I would repeat that I am acutely aware of the negotiations now in progress, and have no intention of allowing the administration, the State Department, or any negotiator to get away with anything. Other Members of the Congress and myself are determined that there should be no diminution of U.S. sovereignty over either the Canal Zone or Panama Canal. Based upon an extensive correspondence from various parts of the Nation and numerous conversations with leaders in both major parties, Senate as well as the House, I believe that the view just expressed reflects those of the people of our great country and well-informed leaders in the Congress.

Again, Mr. Speaker, the machinery of our Government as regards important Isthmian Canal policy matters has been on dead center entirely too long. The time has come for action to authorize the major increase of capacity of the existing Panama Canal and its operational improvement, as provided in pending legislation in both House and Senate.

Panama provides much of the work force for U.S. Government agencies in the Canal Zone. Because what is good for the canal in the way of construction is inevitably good for Panama, the major modernization of the canal will revitalize the isthmus in many ways. More over, in addition to the large benefits that would accrue to Panama, the work would probably lead to other U.S. benefactions. One that I have proposed would be to help Panama plan, relocate and construct a new and larger free zone in Panamanian territory east of the Canal Zone where there is indefinite room for future expansion, and connecting it with

the Cristobal docks by a railroad or road. Another that I have proposed would be the construction of a major bridge across the Atlantic sea level section of the canal comparable to the Thatcher Ferry Bridge across the Pacific end. The latter proposal, by the way, was recently recommended by the Panamanian National Assembly of Community Representatives—Critica, November 20, 1973.

When such constructive projects are undertaken, the covertly and overtly inspired agitations that have plagued United States-Panamanian relations during recent years should vanish like a morning fog in the tropical sun.

As partial documentation for my remarks attention is invited to my address in the CONGRESSIONAL RECORD of November 15, 1973, on "Panama Canal Pilots Association Urges Major Modernization as the Solution for the Canal Problems," and the following translations from two Spanish-language newspapers:

TITOIST COMMUNISM CREEPS OVER PANAMA

The ones who have gotten the most out of each one of the phases of the cold war, have been Tito and Yugoslavian communism. The alienation from Moscow and the rapprochement with Washington were exploited to the hilt by the old chief of warriors who dared face up to Stalin.

Because of rendering the service of a wedge placed within the communist world, Tito has received millions of dollars. Huge sums of money were wasted, inasmuch as Titoist communism is as inept as the Soviet-type and much more sly than all those in existence, including the one recently liquidated in Chile.

The regime of self-management" was invented in 1949, by Kardelj Djilas—still a non-resident—and Kidric, the three most outstanding ideologists of Titoism. After "self-management" there came the system of social property", which has only served to waste capital, energy and labor on minuscule enterprises that have been victims of the assurance of technocrats and bureaucrats!

The sad chronicle of Titoism's communist formulas, applied in Yugoslavia was written by Milovan Djilas, after his most famous work "The New Class", in his book "The Imperfect Society". There, and above all in reality, is evidenced the magnitude of the failure of Titoist communism and of each one of its applications in the economy of the country which at the present time is the victim of one of the most devouring inflations, after that of Chile.

Marshall Tito has just unleashed a large-scale offensive against corruption and inefficiency and has made, during the course of his campaign, sensational revelations concerning Yugoslavia's economic disaster.

According to the Yugoslavian constitution "only work can be a source of incomes", which is a real dead letter, since it has been proven that in Tito's country there are hundreds of multi-millionaires, who move substantial capital in and out of Yugoslavia.

Alongside this prosperity of the high communist leaders is evidenced the existence of around half a million unemployed within the country, alongside a massive emigration that supports some two million workers, doing unskilled jobs in the European capitalist countries, Austria, Switzerland, Italy and above all, West Germany, employ those millions of workers who cannot find a job under the communist regime of their country.

Tito's communism has been able to face the crisis that scourges all the communist countries of the world, thanks to the prodigal cooperation it has been getting from the United States during the icy periods of the Cold War.

Tito performed, for a good while, the service of promotor and organizer of the organization of Unaligned Countries, for the purpose of preventing these from shifting toward the Soviet orbit. Titoism has played a role of prime importance in the bosom of the third world movement, both to infiltrate its own form of communism and to interfere in both the Soviet and Chinese penetration.

The end of the Cold War has signified a severe blow for Tito and for Titoism, inasmuch as his previous services have lost value and, at the present time, lack the importance they had before.

At the present stage, Titoism is being transformed into an instrument of the large transnational enterprises. Through the infiltration of the economic regime of "autosuggestion" and the "social property" system, it deadens resistance to communism in people and scatters and dilutes the economic powers of a country. In this way it prevents developing nations from creating the power necessary to go out on the open market to fight it out in open competition with the multinational enterprises.

With the object of lending this service to the big partnerships—Americans above all—Titoism has been oriented with tenacity and steadfastness toward the nations of Latin America.

To this time, it has absolutely controlled the whole economic and political process of the Peruvian revolution; it is making extraordinary efforts to infiltrate, not Titoist communism directly and frontily, but rather the so-called "Peruvianist tendency [or trend]" in the armed forces of Argentina, Uruguay, Chile, Ecuador, Honduras, El Salvador: and it unleashes a great activity of economic more than ideological type, in order to assure itself of positions in diverse Latin American nations and in the heart of the Christian-Democrat parties.

In this advance, which never ceases to be vigorously pushed from Belgrade, Titoist communism has set eyes on Panama, where it has encountered the opportunity of an available government. General Omar Torrijos heads a police dictatorship, a movement without ideology and without principles, that lacks orientation, a program, a way, a system, and goals.

With the object of deploying and organizing a penetration similar to that developed in Peru since 1970, the government in Belgrade has urged General Torrijos to visit Yugoslavia, accompanied by a select retinue of officials all duly treated from the brainwashing point of view. Essential changes in the military dictatorship's policy are going to depend on this visit.

THE TRUTH ABOUT PANAMA

CASTROITES ALREADY CONTROL TORRIJOS

The efforts of the communist international to take over Latin America have been doubled in recent weeks and the digging-in task and the destruction of the institutions and government seems to have attained a victory for them in Panama, where they practically have control of the nation.

After the defeat suffered in Chile, it centered its efforts on different countries and especially in Mexico and Panama.

IN PANAMA

In Mexico the communists are on a war footing. In Panama, on the other hand, they are counting on the complicity of dictator Torrijos and the activities of control and direction are dominated by a few Panamanian military men and special agents sent by Cuba's tyrant, Fidel Castro.

In short, it can be assured that Torrijos and other members of the supposed government have delegated their functions to the communists, while they devote themselves to getting rich.

THE COMMUNIST COMMAND

According to the news we have captured in this respect, the responsibilities for the government in Panama have been taken over by well-known members of the Communist Party with the leadership of Licentiate Juan Materno Vázquez, central figure of the screen organization known as the People's Party, who manages the civil affairs. The military men are under the control of colonels Rubén Darío Paredes, Manuel Antonio Noriega and Rodrigo García, heads, respectively, of the G-1, the National Guard, the Intelligence Service, and the armed body itself. The rector of the civil command is in charge of the Ministry of Justice and Government.

In accordance with the scheme worked out, Omar Torrijos, at this time, is a figurehead, having surrendered, for convenience—according to what is assured—all his commands.

THE GREAT EARNINGS

After the supposed dictator favored a tragic cadre such as the one just announced, colonel Rodrigo García Ramírez devoted himself to getting rich and preparing his future, aware of what will happen if the implementation of a communist regime prospers. To this end—according to the comments gathered—the above-mentioned military man began to make large investments in the United States, especially in Key Marathon and Miami, where he owns several condominiums.

CHECK ON POSITIONS

Recently, *Patria* also reported the communist activities in Panama and the direction of the same from Havana, pointing out the disembarcation at Malek airport in Chiriquí, of high-ranking Cuban communist miltary men, among them comandantes Filiberto Rivero Moya, Demetrio Monseni, known as "Comandante Villa" and Armando Acosta, this latter being the former head of the Army in Oriente Province.

The Cuban military men have occupied positions in the zones of Las Tablas, province of Los Santos, and Chitré, province of Herrera, where the Chilean and Bolivian extremists who came to the country after the fall of Salvador Allende's regime are located.

Satrap Fidel Castro designated comandante Armando Acosta Cordero as head of communications, guerilla contacts and reception and supply of weapons and ordnance depots.

Furthermore, we have succeeded in learning that planes have landed at Malek airport with supplies sent by the regime in Havana to the communist clan which has assumed power in Panama.

THE COMMUNIST MILITARY MEN

Following we offer the identity of the officers from Cuba's red tyranny who are in Panama, in the sinster activities of communizing the country.

Armando Acosta Cordero, was chief of Culture and Che Guevara's assistant at La Cabaña Fortress. He presided over the United States expulsion event organized in Holguin on July 10, 1960. Afterwards, they named him member of the Communist Party Central Committee and later military head of Oriente.

Comandante Demetrio Monseni presided over the appeals court of those sentenced to death, rejecting the same in almost their totality and ordering firing squad executions of various patriots, among them Manuel Beatón. He was in charge of the leadership of Industrialization of the INRA and made numerous trips to communist countries.

URBAN REFORM IN PANAMA

The communist clan in Panama recently decided on the so-called Housing Law, which consists of a freezing of rents in order to initiate the disposition of the proprietors. Cuba sent, as technicians, many of those who acted in that plan and brought about the total theft of the properties.

Foreseeing what was being prepared, the Chamber of Commerce of Panama organized a strike; but the government headed it off and designated the day set to begin it as a holiday, termed the measure "sedition", and brought about the arrest of numerous persons, among them the leader Ramón Mejdoub.

FLIGHT OF CAPITAL

The communist infiltration into the government to the point of obtaining control brought about a large popular unrest and a certain reaction in the press. A reporter published the notice that this had been worsened by a statement by Torrijos, who said:

"We should send opponents of the government to Miami so they can join the worst Latin elements settled there."

Hours later, because of the fear instilled by the government, as soon as the banks opened, numerous entities and persons withdrew the money from their bank accounts, and sent it outside the country. Over thirty-five million has left recently and almost all of it went to the United States.

NATIONAL SECURITY AND INTERNATIONAL POLICIES ON CHEMICAL WARFARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, I would like to take just a few moments to advise my fellow representatives of some recent indications of public interest in pursuing the actions which I have proposed in House Resolution 713. These actions concern the need for a comprehensive review of this Nation's national security and international policies on chemical warfare.

I was very pleased to note in Wednesday's Washington Post, December 12, 1973, an editorial which discusses basic issues I have asked to be reviewed. Perhaps it is because the editorial expresses the same views I have about this issue that I feel an even greater sense of urgency about the resolution of this matter. I want to insert this editorial in the RECORD in order that you all may have a chance to read it.

I feel rather strongly about the closing paragraph in this editorial. This is a good time to review the whole question of chemical warfare. We are in a time of test in our economy and we are finding it necessary to scrutinize all of our expenditures. We can no longer afford the luxury of weapons systems of questionable effectiveness—in addition to the fact that the possession of chemical weapons seems to place us in an untenable political situation in the eyes of many of our friends and allies in the world community.

As may be noted in both the Washington Post editorial, and the article published in the New York Times on December 10, the urgency for this examination is heightened for one additional reason.

As noted in other statements I have presented to the Members, the U.S. Army is very near to a decision which might result in the destruction of our current stockpiles of nerve agent and the production and inclusion in stocks of a new binary chemical weapons system. The cost of this conversion has been variously estimated. The estimates indicate that as much as $200 million—Science magazine has estimated $750 million—may be required to prepare the weapons destruction system and destroy the existing stockpiles, and at least as much to produce binary munitions. These production costs would not provide for all of the variety of binary munitions which the military would probably desire to have in our arsenal.

I cannot see how we can continue on this course of restructuring our chemical weapons inventory without assuring ourselves that these actions are really necessary to the national defense. I have heard oversimplified explanations by armed services representatives. The position I have heard officially is that the issue has been carefully evaluated and a determination of definite need established. In other conferences, less formal, I have had my uneasiness about this determination of need confirmed—still I doubt very much that there is as near a unanimity of opinion among representatives of the armed services, the State Department, the Arms Control and Disarmament Agency, and the National Security Council as has been indicated in the brief discussions thus far. I think that we are obligated by our responsibilities to our constituents to examine in the public forum all of the ramifications of our chemical warfare policies and the proposed introduction of these new binary chemical weapons before we proceed any further on this course of action.

I plan to reintroduce the resolution in the near future and I welcome the support of any other Members having an interest in this issue.

If there is no objection, I would like to have both of these articles included in the RECORD:

[From the Washington Post, Dec. 12, 1973]

CHEMICAL WARFARE

A major opportunity exists to move toward a more responsible policy on chemical warfare but the opportunity may be overwhelmed by Army singlemindedness unless others pay heed. The opportunity was created by a wave of public concern over the storage, testing and transport of nerve gas. Plainly, this was the moment to question whether the United States needed to be in the chemical warfare business at all. The Army, however, plans to solve the problem—which it defines as a public relations problem involving storage and transport—by producing a new brand of nerve gas. To produce the new and destroy the old will cost something like half a billion dollars. As any close student of government ought to know, once a new investment of that scale has been made, the Army's institutional interest in protecting it will be very large.

In fact, what is the reason for this country to remain ready to engage in chemical warfare? The Army's reason is to deter the Soviet Union from using chemical agents. This is like saying that in order to deter the Russians from trampling us with elephant herds, we must raise our own elephant herds. It is, in a word, ridiculous. No canon of war requires the United States to respond with the same weapon used by a foe. We would still retain a broad range of other choices if we relinquished nerve gas and like chemical agents. By relinquishing chemicals, however, the United States would be making a modest but real contribution to a more civilized international society. For the truth is, chemical warfare conveys an image of horror out of proportion to its military potential. Mere possession of chemical agents has come to be a political debit. Whatever the military effectiveness of the chemical agents used by the United States in Vietnam—certain tear gases and herbicides—few detached observers would contend that they outweighed the political opprobrium attached to their use.

In his first term, of course, President Nixon did renounce "the first use of lethal chemical weapons" and of "incapacitating chemicals" as well. He has not, however, moved on to sign the international treaty, known as the Geneva Protocol, which outlaws first use in war of chemical (and biological) agents. Mr. Nixon submitted the Protocol to the Senate in 1970. But because he explicitly excluded control of "riot control agents and chemical herbicides"—not "lethal" or "incapacitating," he claimed—the Foreign Relations Committee referred the treaty back to him. The committee's entirely reasonable view was that it would lower rather than raise the barrier against chemical warfare to ban all forms except the ones which the United States actually was equipped to use.

This is a good time to review the whole question of chemical warfare. The pending need for a half billion dollars for changing models of nerve gas makes the issue acutely topical. The end of American combat in Vietnam makes it possible to consider the Geneva Protocol in an atmosphere free of the turbulent currents of the war. One of the moral highlights of President Nixon's first term was his courageous renunciation of biological warfare—the production of biological agents, their possession and their use. He could well match that achievement with a step forward on chemical warfare now.

[From the New York Times, Dec. 10, 1973]

ARMY WILL SPEND $200-MILLION FOR SAFER TYPE OF NERVE GAS

(By John W. Finney)

WASHINGTON, December 9.—The Army plans to spend at least $200-million producing a new type of nerve gas for its larger artillery shells. At the same time, it will cost the Army about as much to destroy the munitions that the new nerve gas will replace.

Behind this decision, which ultimately will cost more than $500 million, lies a conviction within the Army that the new type of nerve gas represents a "significant improvement in modernizing" its chemical-warfare capability.

The principal advance, however, will not be in the lethality of the new nerve gas; in fact, there are indications it will be less lethal than the present family of nerve gases. Rather, the major advantage is that the new nerve gas will be far safer to handle, transport and store and this, the Army hopes, will alleviate some of the public concern that has followed the storage and transportation of the present nerve gases.

The new type of nerve gas is known as binary gas. It consists of two chemical agents, one of them closely resembling insecticides used in the home. Kept separately, the two agents are relatively harmless, but when combined they produce a lethal nerve gas.

In an artillery shell, for example, the agents would be kept in separate compartments. When the projectile was fired a diaphragm would be ruptured, permitting the two agents to combine into a nerve gas.

The fact that the Army was moving toward production of binary nerve gases has gradually become known in recent months, largely because of the critical questions raised by two junior members of Congress—Representatives Les Aspin, Democrat of Wisconsin, and Wayne Owens, Democrat of Utah. Under the Congressional pressure, the Army finally admitted in September that it

planned to construct a plant at its Pine Bluff Arsenal in Arkansas to produce one of the components of the binary gas. The other component is a commercial chemical similar to alcohol, that can be obtained from industry.

UNDER 1969 STATEMENT

Production of nerve gases is permissible under the chemical warfare policies laid down by President Nixon in November, 1969. At that time, the President renounced the use of biological warfare weapons and ordered their destruction. As for other chemical warfare weapons, such as nerve gases, the President repeated the previous policy that the United States would not be the first to use them in war but permitted their continued development and production.

The Army contends that it needs a stockpile of nerve gases to deter the Soviet Union from engaging in chemical warfare. Like the United States, the Soviet Union is believed to have nerve gases, but it is not known whether it is moving toward the binary family of gases.

Defense and Army officials in the chemical-warfare field acknowledge that the present stockpile of nerve gases provides the desired deterrent. When asked why it is necessary then to proceed with the production of the binary gases, officials cited the problems of storing and transporting the present gases.

INITIAL REFUSAL

In keeping with the secrecy that has traditionally surrounded its chemical-warfare program, the Army at first refused to discuss the cost of producing the binary nerve gases. The explanation was that this was classified information whose disclosure would permit the Soviet Union to obtain some idea of the size of the Army's stockpile of nerve gas.

It was only when the question was raised of how the stockpile would provide a deterrent unless the Soviet Union had some idea as to its dimensions that an Army spokesman reluctantly provided a general estimate: the cost of producing the binary gases would amount to "a few hundred million dollars."

That estimate, however, covers only the cost of producing nerve gas shells for the Army's 8-inch and 155-millimeter artillery pieces. Both shells are now in an advanced state of development and nearing production.

Beyond the artillery shells, the Army foresees other weapons, such as land mines, that will require nerve gases. In addition the Air Force, which feels that some of its nerve gas weapons could no longer be used on its high-performance aircraft, has established a requirement for some new air-delivered weapons carrying the binary gases.

DESTRUCTION PLAN

The Army plan is to destroy the existing nerve gases as they are replaced by the binary gases. The destruction of the toxic gases presents a costly technical problem for the Army, which was blocked by a public and scientific outcry in 1969 from further dumping of its surplus chemical weapons in the oceans.

As a result, the Army will be forced to dispose of most of its surplus chemical weapons at their storage locations. According to Congressional sources, Army estimates of the cost of "detoxifying" the present nerve gases range around $200 million.

Another problem confronting the Army is whether to conduct some open-air tests of the new binary gases before they are certified ready for military use. Such open-air testing has been a particularly sensitive issue ever since testing of nerve gases at the Dugway Proving Grounds in Utah got out of control in 1968, killing more than 6,000 sheep. As a result of that incident, Congress imposed legal and environmental restrictions on future open-air testing of nerve gases.

OPEN-AIR TESTING

Following the traditional military approach of "test before you use," the Army makes no secret of its belief that some open-air testing of the new binary gases will be necessary.

In contrast, some Defense Department officials believe it should be possible to prove out the new weapons in simulated tests in the laboratory.

The sensitivity of this issue was underscored by a recent Defense Department rebuttal of Army Secretary Howard H. Callaway's statement that the Army planned to test the new nerve gases in the open air "because it seemed to be far more reliable to have an open-air test than a test you might have in some closed environment."

SENATOR RIBICOFF KEEPS NEW ENGLAND ELECTRIC POWER ON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I want to take this moment to praise the distinguished senior Senator from Connecticut, ABRAHAM A. RIBICOFF, who has played a key role in averting major electric power shortages in New England this winter.

Senator RIBICOFF's close and personal working relationship with the Federal Energy Director William Simon has resulted in new regulations, issued today, which assure New England electric utilities sufficient fuel to prevent economic disaster.

Massive electric power shortages were predicted for New England this winter because about 70 percent of the region's generators are oil-fired versus 15 percent nationally. Thus the drastic curtailment in residual oil supplies caused by the Arab boycott could have idled up to 35 percent of the six-State area's generators.

More than any other member of the New England congressional delegation, Senator RIBICOFF is to be commended for convincing Secretary Simon of the area's plight and suggesting policies to alleviate the problem. We are not out of the woods, but thanks to Senator RIBICOFF New England will be no worse off this winter than the rest of the Nation.

ENERGY CRISIS—A BLESSING?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. LITTON) is recognized for 10 minutes

Mr. LITTON. Mr. Speaker, the energy crisis facing our country is very bewildering and frustrating to all Americans. It has brought a concern for the personal, economic, and national security of America. It threatens to inconvenience and possibly change the lifestyle of every American citizen. And yet the energy problem is not limited to the United States. Industrialized Europe and Japan are great consumers of energy and are much more reliant on imported energy than are we. The world problem viewed by comparing the needs and objectives of the consuming countries—primarily the United States, Europe and Japan—and the producing countries—principally in the Middle East and Africa, which have an estimated 73 percent of the world's proved oil reserves—presents some very alarming and dangerous possibilities, both politically and economically. The world is almost totally reliant on fossil fuels to sustain lifestyles, generate economies, and provide military protection. Because of this world problem, we have entered upon an era which will pose potential threats to existing treaties, friendships, and alliances between and among nations of the world. Until the energy problem is resolved, both in the United States and throughout the world, peace and stability in the world will hang in balance

The United States must first achieve an immediate and positive solution of its own energy crisis. This can and must be done. But it will not be accomplished without positive and creative forethought and guidance by elected officials, and without the cooperation of American citizens.

First, let me say that the energy crisis could very well be a blessing in disguise. In recent years the United States has relied more and more on imports to meet our energy needs. Our reliance on the unstable Middle East for oil has been increasing at a rapid rate. Had the Arab nations waited another 5 years before turning off their spigots to the United States, we might have reached the point of no return. Figures now becoming available show how rapidly this Nation was becoming dependent on the Middle East for oil. That percentage of our oil consumption in the United States that originated in the Middle East was increasing month by month at an alarming rate.

In my opinion the Arab nations have made a colossal mistake. They have told all Americans in a dramatic way what we should have realized, but in a land of plenty were unwilling to accept. If the Arabs had not tipped their hand at this time, would the United States have continued on a collision course destined to lead the country into a time when the Arabs could have controlled the economic and political vitality of America? Would Arab oil have pulled the major powers of the world into a third world war with oil going to the victor?

I cannot help but believe that the Federal Government was fully aware of the potential threat of blackmail as our dependence on Arab oil continued to increase. But for reasons which have not yet been fully disclosed and explained, nothing was done to curb our dependence on the Arab countries.

There is another factor we must keep in mind—we were headed for an energy crisis this winter even before the most recent Mideast conflict and the resulting Arab oil boycott. This should tell us something about the magnitude of the shortages facing us.

One of the most heated issues in my campaign for Congress in 1972 was the Pattonsburg Dam. Throughout the campaign whenever this subject was discussed—which was often—I pointed out that we were short of fossil fuels with

which to produce electricity, and that a dependable source of energy was important to the growth and development of North Missouri. I stressed the importance of peaking power—production of power at times during the day when there is need for excess electrical power—which is the kind of power which would be produced at the Pattonsburg Dam.

Time and again I stated in the campaign that I did not want this country to become dependent on the Soviet Union for natural gas or the unstable countries of the Middle East for oil. We have since signed a long-term agreement to buy natural gas from Russia and we now see the error in relying on the Middle East for oil. But just saying I told you so is not enough. Now we have to understand how it happened, how to cope with the problem, how to solve it, and how to see that it does not happen again.

Last month a constituent of mine asked why we ran out of gasoline all of a sudden. I answered by saying that if you put 20 gallons of gasoline in your car and drive it all morning, afternoon, and evening, you will run out, and when you do it will happen—all of a sudden. That is how this country ran out of gas. While it seems we ran out all of a sudden, it really has been happening over a period of time.

Some wonder why we ran out of all petroleum products at the same time. Again there is a logical explanation. When there is a shortage of beef, people shift to pork, and all of a sudden we find there is a shortage of pork. When soybean prices set record highs—because of a soybean shortage—we saw linseed oil and cottonseed oil prices go sky high as people shifted from soybeans to linseed or cottonseed for protein. This shift eventually caused shortages in linseed and cottonseed.

And so it was with the energy crisis. As we developed shortages in one product people shifted to another alternative source of energy. One of the reasons we have a shortage in natural gas is because we regulated its price at the wellhead at a price so low that it discouraged exploration of new natural gas reserves. At the same time, artifically low wellhead prices encouraged the use of natural gas, often in inefficient and wasteful manners. Propane is made from natural gas, as is most of our nitrogen fertilizers. It does not help much to shift from natural gas to propane. A shortage in natural gas or propane would cause a shift to heating oil.

A shortage in heating oil—used mostly for essential uses—causes the government to urge refineries to shift production from gasoline to heating oil, creating shortages in gasoline. Many refineries in the United States have shifted production—at the request of the Government—from gasoline to heating oil at the very time they are usually building up reserves for spring and summer driving. This gives you some idea as to what the gasoline situation is going to be starting next spring.

As you can see, with the domino theory at work a shortage in one area eventually produces a shortage in another. We will be made painfully aware of how the domino theory works in another area next year. I am speaking of how even slight shortages will be translated into higher unemployment and in a leveling off and probable reduction in the economic growth pattern of this country.

I do not mean to be an alarmist and I do want to point out that I have the utmost confidence in both the American people and in our system in overcoming this problem. But, I think the first step we must take in overcoming the problem is in admitting that it exists and being truthful about it. Had we faced up to this problem with more honesty sooner it would not have moved into crisis proportions.

Let us assume that we are successful with programs of allocations, whether it be in the form of rationing, taxes, or some other device. If successful these programs would see to it that shortages are equitably spread around and that essential uses will receive priority over nonessential uses.

Even with this success we must anticipate problems. For example, gasoline stations which are not open on Sunday will obviously employ fewer people. If there is less gasoline for pleasure driving there will be less miles driven. This means fewer tires sold at gasoline stations or other tire outlets. This means the tire companies will need to lay off some people. The companies who sell fishing tackle to the employees no longer working at the tire company will have to lay off some people because the ex-tire company employee can no longer afford the fishing tackle.

Companies that make the nonessential products that are bought by the people who are no longer employed by the company making fishing tackle will be forced to lay off some people. Again, this is the domino theory at work. Even though the previous illustration is simplified, it points out the impact which an energy crisis will have on unemployment. I am convinced that we will see our unemployment figures climb from the present 4.7 percent to over 6 percent in the next 6 to 8 months.

If we knew we would face an energy shortage this winter why did not the Government move quicker? This is a fair question. In offering a possible answer to this question let me say that this has been an unusual and difficult year for the American Government. Confidence in it is low. We have had more than one President keep the truth from us with regard to the Vietnam conflict. We have been lied to with regard to the Vietnam conflict. We have been lied to with regard to the bombing of Cambodia. We have heard our Vice President label as lies those charges made against him, only to have him resign and plead what amounted to an admission of guilt. We have heard many high-ranking officials in important positions near the power of leadership in our Government lie with regard to Watergate. We know they have lied because there have been conflicting statements. We don't yet know who is telling the truth.

When this same Government goes to the American people and says there is a fuel shortage, is there any wonder why the American people refused to believe it? The fact that the average-aged American has not lived through a depression or a world war didn't make it any easier for Americans to believe we really had a shortage. Even with gasoline stations out of gas, most Americans still did not believe the shortage was real.

This situation was fully recognized by those within the administration who had the power to take steps—which they later took—when the situation became critical. But both the administration and the Congress realized that there were problems with rationing during World War II when the America people were united. They knew it would require the support of Americans to work during peacetime. They knew also that faith in governmental leaders is low and growing lower with each new Watergate revelation.

Did a weakened American Government, anxious of regaining the support of the American people, go to food price freezes even when they knew that to do so would discourage food production at the very time it should be encouraged in order to prevent food shortages and even higher food prices? Because of this confidence gap between the people and the Government did we see the food shortage become a food crisis?

Did we not create shortages in other items—paper, fertilizer, and so forth—with the same approach? Did the desire to come up with short-term solutions in order to regain popularity with the people cause some of the economic problems of 1973?

Did the Soviet Union—in spite of supposed improved relations with the United States—act with more boldness in the Mideast situation because of the weakened position of our Government? Did our Government react with more boldness than it would have under more normal conditions at home? Did our home situation cause the Mideast conflict to become a Mideast crisis as the two major world powers moved closer to war?

And more to the point—did the lack of confidence by the American people in their Government cause us to eat up valuable lead time before we took positive measures to conserve our energy? I was suggesting in early May that we would see speed limits reduced. And yet we went 7 more months, including the heavy-use summer months, before we took action. How much fuel did we use for nonessential uses in those months that will not be available to us for essential uses this winter and next spring?

While I am convinced the weakened position of the American Government in 1973 was partially responsible for its inability to act more quickly in building fuel reserves for essential uses, I recognize that we started running short on oil long before Watergate.

Perhaps this shortage points to another side benefit from the energy crisis. With both the executive and legislative branches of our Government mostly interested in popular short-term solutions, who is supposed to be looking out for us in the future? Americans are asking why our Government did not tell us we were running out of oil.

Politicians like myself are saying, "I told you, but you did not listen." The President is saying he warned the people and the Congress. The Congress is saying the President would not support energy legislation when it was offered. Perhaps because of the energy crisis, our Government will establish some system whereby long-term problems can be forecast so that solutions can be found to counteract those problems before they become crisis in nature and cost billions of dollars to solve in expensive crash programs. I would be willing to suggest that we set up an agency for just that purpose—an agency where information having to do with long-term needs of this Nation might be funneled. At least with such an agency we would have an answer to the question—"Why was not someone on top of this?"

Let us turn to the basic causes of the energy crisis in America. Some of the more significant ones are:

First. The very dramatic increase in the demand for energy, brought about in part by the booming U.S. economy;

Second. Federal and State environmental and ecology restraints placed on the production of energy;

Third. Environmental standards which have increased the consumption of fossil fuels in shortest supply—low sulfur oil and coal;

Fourth. Wasteful and inefficient use of fossil fuels;

Fifth. The shortage of and actual decline in domestic refining capacity compared to the increasing demands for refined petroleum;

Sixth. Concerns for the operating and public safety of nuclear reactors;

Seventh. Heretofore low-key efforts given toward the development and utilization of nonfossil and alternative energy sources such as hydroelectric power—Pattonsburg Dam project—solar and geothermal energy, coal gasification and liquefaction, and nuclear fusion;

Eighth. The absence of any deep water ports capable of handling imports shipped via new supertankers;

Ninth. The recent embargo of Arab oil destined for the United States;

Tenth. Regulation of the price of natural gas at the wellhead, an action which has discouraged production and encouraged its most wasteful and inefficient uses;

Eleventh. An unwillingness to believe that in this land of plenty we would be short of anything, especially something as essential as energy.

The reasons behind the contributions each of these have made to the current energy problem would fill many volumes. I will attempt to summarize some of the more important of these reasons in order to give you a clear perspective of the problem.

The majority of America's energy supplies is commonly viewed in terms of fossil fuels, primarily oil, natural gas, and coal. Petroleum and natural gas products combined account for 78 percent of our total consumption of energy, with coal accounting for about 17 percent. The remainder consists of hydroelectric, nuclear, and a small amount of geothermal energy. The demand for energy has been projected to rise by an annual rate of from 4 to 5 percent, with the demand for various fossil fuels rising at an even faster rate of from 5 to 7 percent. Because of environmental and economic factors, our demand for fossil fuels is outstripping our ability to produce them, thus the balance between domestic production and consumption is being met through increased imports of petroleum products. These imports are coming in increased percentages and quantities from oil-producing countries in the Eastern Hemisphere, chiefly the Middle East. The ability to produce and refine crude oil within the United States appears to have peaked out at about 11 million barrels per day. This means that the United States must not only rely on increased imports of crude oil, but must also continue to increase imports of refined petroleum products to meet our increasing demand.

Many look to the trans-Alaska pipeline as being able to solve our energy crisis. It will be 1977 or 1978 before the Alaskan pipeline is completed. At first it will handle 600,000 barrels a day. At capacity it will handle 2 million barrels a day. At the present we are using 1 to 1½ million more barrels of oil per day each year than we used the previous year. At this rate we would be using from 4 to 6 million more barrels of oil per day in the United States by the time the Alaskan pipeline is completed than we now use, and the pipeline will give us only 2 million barrels per day.

Of course we are now bluntly aware of what many petroleum experts have feared for many years—that our increasing dependence on imported petroleum would add emphasis for its use as a tool to influence America's foreign policies. Even though our Western Hemisphere import supplies are from stable and reliable sources—Canada, Venezuela and the Caribbean—a very significant and alarming percentage of the world's oil reserves, 73 percent, lie in the Middle East and in Africa, areas which are politically volatile and susceptible to reacting in a manner unfavorable to American interests. By contrast, the United States contains only about 6.5 percent of the world's proved reserves, with South America having less than 5 percent and all of Europe—excluding Russia—containing less than 2 percent. The Soviet Union contains about 11 percent.

The Arab embargo presents an unusual and thorny problem for the United States in that any methods of retaliation would likely be ineffective and very risky. American agricultural and manufactured products could easily be replaced by the Arabs in order to fulfill the needs of their relatively small population and economies. Military hardware could be purchased from France or the Soviet Union. American technology is a higly sought after item by the Arabs, but could very easily become an inessential item. American military intervention would carry the very real threat of confrontation from the Soviet Union. It appears there is nothing we have that the Arab nations couldn't obtain through other sources. On the positive side of the issue, the Arabs have a great fear of possible domination if they become too dependent or alined with the Soviet Union. In addition, the Arabs look upon the United States as the only country which could be effective in trying to negotiate an acceptable settlement between the two Middle East factions. It appears that the United States must resort to some hard bargaining with the Arabs in order to reestablish our imports. Even if a breakthrough comes, however, it is unlikely tht the Arabs can be counted on for an increase in their exports to the United States—and it is equally possible that previous levels will be reduced as world petroleum prices increase, and foreign dollars continue to flow into Arab pockets. A break in the embargo would mean a leadtime of at least 30 days before tankers would again arrive at U.S. ports. The Middle East does not have an infinite supply of oil reserves and has recently expressed a fear that they could be allowing too much production at too fast a rate. Being principally a one-economy region of the world, they have only one resource to sell or trade.

Another factor to consider is that even if we could buy the oil we project we will need, would our economy stand it? During the last 2 years—1971 and 1972—our great productive America bought more goods than it sold for the first time since 1893. Our balance-of-trade deficit was over $2 billion in 1971 and nearly $7 billion in 1972. Trade is exactly what the world implies. It involves products moving both ways. A country cannot continue to buy more goods than it sells for too long any more than a person can continue to take more money out of his bank account than he puts in. Even if we can find foreign sources for oil and even if we did decide to rely on oil from the Middle East to keep this country running, we would have to find something to sell so that we would have the dollars to buy the oil. Unfortunately, much that our Government has done in the past year has worked to discourage rather than encourage production of anything. I might add that the direction the American people have been moving in recent years toward the establishment of individual priorities and values has not helped the situation in this area much either.

Our increasing demand for energy, chiefly fossil fuels, has led to environmental and ecological problems within our country. In efforts to resolve these and future problems, the Congress placed very stringent environmental requirements and standards within the framework of our historic usages of energy. Most of these restraints have led to a significant decrease in the efficiency with which energy is consumed, and an overall decrease in the supplies of environmentally acceptable fossil fuels. Many of these environmental standards have placed severe limitations on the construction or expansion of petroleum and natural gas refineries. These standards, along with the decreasing proved reserves of domestic crude oil, and the increasing reliance on what has been heretofore more cheaply imported petroleum, have led to a leveling off of domestic refinery capacity. There is now occurring a slight

reduction in the percentage of America's crude oil needs which can be refined in America.

In 1953, our consumption of petroleum and natural gas liquids averaged 8.1 million barrels per day—bpd—with 12.7 percent of that figure being imported. By 1963 our consumption had only increased to 10.8 million bpd. but imports accounted for 19.4 percent of the total. Consumption of these products in 1973 will average 17.5 million bpd, 34.6 percent of which will be imported.

Before the Arab embargo and recent conservation announcements, consumption was expected to rise to approximately 19 and 21 million barrels per day in 1974 and 1975, respectively. These increases could only come from corresponding increases in petroleum imports. Imports have risen from 2.5 million bpd in 1965 to approximately 6 million bpd in 1973, and can be expected to exceed 10 million bpd in 1975, assuming the oil embargo is of short duration.

I believe that all of these figures—and they are only a few among hundreds of alarming figures and comparisons—point out very easily that America must immediately embark on a highly organized and dynamic program to greatly expand and develop our proved and potential reserves of fossil fuels, at the same time emphasizing efficient utilization of existing supplies and new production. The same effort must be given toward development of nonfossil and alternative sources of energy. We have consumed nearly 100 billion barrels of crude oil since petroleum began to be a vital part of American economics and society in the late 1850's. Our present proved crude oil reserves of approximately 36 billion barrels will only last about 9 years, assuming no further reserves are developed. Domestic reserves of natural gas are roughly 275 trillion cubic feet, and will last about 11 years, again assuming no further exploration is undertaken.

The United States is not short of known and unproved crude oil and natural gas reservoirs, however. In addition to the 36 billion of proved oil reserves—economically recoverable with present methods and price structures—an additional 280–300 billion barrels are known to exist; this does not include a projection of 600 billion barrels which exist in the form of oil shale deposits in Wyoming, Colorado and Utah. A report by the Colorado School of Mines indicates that potential reserves of 1.1 quadrillion cubic feet of natural gas exist. Production of natural gas in 1973 will reach around 23.5 trillion cubic feet. You can see from the projected reserves of both oil and gas that the United States does have sufficient quantities of those fossil fuels to supply our needs for a long time. Problems which must be resolved in recovering these resources include: First, environmental restrictions on drilling, refining and transporting, second, domestic import policies—which are being partially changed by rising world prices, thus making domestic exploration and production more advisable both from an economic and political viewpoint—and third, the ability of the oil industry to gear up for a massive push toward domestic production by building and expanding refineries and pipelines, purchasing drilling equipment, et cetera.

The oil industry claims that they must be given further tax advantages and economic incentives in order to drill deeper for known reservoirs. I do not favor either because it would appear the already rapidly increasing profits of the industry—as represented by the profit statements of the major oil companies—would indicate that the incentives are already there. I do not favor "opening the price gate" by letting the industry reap large windfall profits from consumers simply to let high prices regulate consumption and create "financial incentives." The industry must prove beyond any doubt that "incentives" in any form will be used for the advancement of petroleum supplies at reasonable and competitive prices.

The President recently announced plans to initiate a Federal Energy Administration which will be designed to assume guidance, direction and policy-making regarding Federal energy efforts and problems. I support the theory and intent behind the President's proposal because I have always felt that too many Federal agencies, over 60, claim partial jurisdiction over energy matters, and that no single agency was capable of "taking the bull by the horns" in coping with this mounting problem.

The Arab embargo did not bring on the energy problems in our country—it only added to them. We have become very wasteful and inefficient consumers of energy in every form. All in all, we waste about 50 percent of our energy consumption, a percentage which is expected to increase in the future unless strong countermeasures are taken. Our wastefulness has been created quite innocently and inadvertently through the tremendous economic growth which America has undergone in the past two decades, growth which has filtered throughout the economy reaching virtually every home and improving the lifestyles of millions of Americans. This is a matter which cannot be argued negatively, as our free enterprise system has brought about this needed and desirable growth. As part of the greatest economic power in the world, we have had the opportunity to heat our homes, fuel our automobiles, businesses and industries, and enjoy recreational and leisure activities, as cheaply and abundantly as possible.

In looking back over the many hundreds of reasons why we now face a critical and potentially damaging energy crisis, we must realize and take into account that a continuation of our past habits concerning energy consumption will lead us further toward potential economic and political turmoil. This is a time to recognize the energy problem as a very critical and immediate matter, the total scope of which I believe escapes most Americans.

I became aware of the energy situation sooner than many people because of the area I represent. Of those States hit the hardest by fuel shortages this summer and fall, my State and those which border my northwest Missouri district, Kansas, Iowa, and Nebraska, made up four of the five States that led in reported shortages to the Office of Oil and Gas.

The two main causes for my district's being in the heart of the shortage were: First, location in relation to supplies and second, weather. Under the Federal allocation program, dealers were allocated fuel on the basis of the amount sold during the same period the previous year. Bad weather greatly reduced gasoline usage in my district in the fall of 1972. Farmers were unable to do their fall plowing and most had delayed harvests. Thus, getting the same amount of gas in 1973 as they used in 1972 presented a difficult situation. These inequities were vividly presented to an official of the Office of Oil and Gas at an energy hearing I held on July 28, 1973, in Liberty, Mo. As a result of this hearing, we were able to get some concessions which brought relief to some hard-hit areas in my district.

I might add that when it became obvious that the voluntary allocation program was not working, I was one of many Congressmen who asked for a mandatory allocation program. We were promised action along these lines for several months. It was not until just 1 day after the Rules Committee of the House of Representatives voted out an allocation program that the administration finally announced what we had been promised for months.

I have personally introduced a bill which would suspend until 1981 the requirements for emission control devices on cars and would make it possible for individuals to have such devices removed from their present cars.

I have also introduced a bill which would encourage automakers to manufacture cars which get better mileage.

I think most Americans feel automakers can manufacture cars which get better gasoline mileage. My bill would establish higher Federal excise taxes on those new car models which were not able to meet minimum gasoline standards, with the funds collected from the tax going into a trust to be administered by the new Federal Energy Administration, and to be used for research designed to find additional sources of energy.

This bill would encourage the manufacture of cars capable of achieving good mileage by placing future inefficient models at a competitive disadvantage. By discouraging the purchase of "gas burners" we will be providing an incentive to greatly improve gasoline efficiency. Legislation suspending emission control devices until 1981 would make it easier for carmakers to manufacture cars which get better mileage.

Through my bill, those people who deside to buy cars which did not get good mileage, and those who do not mind using more than their share of gasoline by buying such cars, would be the ones to contribute to the trust fund designed to find sources of energy to replace those being heavily consumed by such cars. Thus, this bill penalizes automakers who manufacture cars which get poor mileage, and at the same time penalizes those

who buy such cars. The additional Federal excise tax would apply only to those new cars purchased after the enactment of the bill which did not meet minimum gasoline mileage standards.

The bill would call for a separate Federal agency to set a gasoline mileage standard for each year through 1980 in determining a level of efficiency designed to decrease the consumption of gasoline by automobiles. The joint action of my two bills will allow an immediate increase in fuel efficiency, and will call for an intermediate range method by which more emphasis will be placed on improving engine efficiency at the very point of manufacture of an automobile. In addition, further engineering time will be allowed for the development and future imposition of emission control devices which will not penalize fuel efficiency.

Minimum standards would be established for each year, beginning with the 1975 models, and would be increased with each succeeding year. The Federal excise tax charge would be $25 for each mile per gallon under the initial standard for 1975. The tax would be raised to $50 for the 1976 models, and to $100 for the 1977 and succeeding models. Litton said the graduated increase in the standard and tax was designed to give automakers more time to meet the standards.

My bill sees to it that people have the right to buy the car of their choice, but if that choice involves the wasteful use of a valuable energy resource which belongs to all Americans, the buyer would be expected to pay for research which would replenish this important resource.

At this point I think it would be well to touch briefly on the subject of pollution, the environment and ecology. Everyone will admit that the desire to clean up the air and the overall environment is a good one. Unfortunately, the timing behind this effort was not too good. We decided to clean up the air at almost the same time we ran out of gas. The cost would have been less had we started sooner. But, this does not mean we must abandon all efforts along these lines.

Environmentalists who pushed for emission control devices, who delayed the trans-Alaska pipeline, who brought about the shifting away from our use of plentiful supplies of high sulfur coal and oil to limited supplies of low sulfur coal and oil, and so forth, have gotten the image of being impractical, idealistic, unrealistic and could well be made the goats of the energy crisis. If those who are cold or without jobs or gas this winter blame the environmentalists, the environmental cause they seek to support could be set back 20 years.

This energy crisis could be an important time for environmentalists. By being flexible and by admitting we have a crisis on our hands and by working with those who are seeking to find solutions to the present problem, they could elude the image which has hurt their cause and lessen the likelihood of their taking the brunt of the criticism this winter when people might be out of heat and work. If they take this approach, they stand to have the allies they need when this present energy crisis is in hand which they will need to continue their worthy cause. Theirs is a problem just like the energy crisis which can be solved only with support of a large majority of the American people. A 51 percent vote may win an election, but it will take more than that to solve the problems of either energy or the environment.

The United States is blessed with many ways of effectively meeting the energy shortage. Unfortunately most of the alternatives available call for increased technology and development before they can become viable means of attaining self-sufficiency. Following are several examples of alternative energy sources which I feel should be researched and developed to the point of domestic availability in as quick and orderly a time frame as possible:

First. Coal gasification.—This is a process whereby coal is converted into methane gas. There are many technological problems involved in this process, but they are being rapidly overcome, and it is hoped that commercial gasification plants can be ready by the mid-1980's. Some efficiency is lost in the conversion process, but the overall environmental acceptance of gas versus coal, and the abundant resources of coal in the United States make gasification a very promising energy source in the near future. Based on projected increased needs, we have enough coal to last America 500 years or 3,500 years at our present usage rate.

Second, Coal Liquefaction.—Liquefying coal will be a means of providing petroleum liquids in the future when natural petroleum reserves are being greatly depleted. The liquefaction process has received too little support thus far, and is therefore far less advanced than gasification of coal. Nonetheless, this process holds great potential in view of the reserves of coal available.

Third, Nuclear Energy.—The present light-water reactors have met with growing public concern for the operating and public safety surrounding their contribution to the generation of electricity. These fears will have to be satisfactorily answered before nuclear fission will be fully acceptable to the public. Nuclear energy carries a great potential for meeting the energy needs in the future, and I am hopeful that the President's proposal to segregate the Atomic Energy Commission's regulatory and research functions will prove to provide this factual assurance. Nuclear fusion is being researched as a future energy source. Fusion will be a process whereby clean and safe energy can be utilized to generate electricity. The anticipated fuel for fusion reactors—either deuterium or tritium—will be abundantly available.

Fourth. Hydroelectric Power.—Only 29 percent of our hydroelectric power resources have been developed to date. Hydropower supplies approximately 4 percent of our total energy and about 15 percent of our generation of electricity. I believe that potential hydroelectric power sites should be closely examined with a goal of developing those which can provide significant sources of electrical power. This energy source is environmentally safe, renewable and reliable. The President has already expressed his interest in this area.

Fifth. Solar Energy.—This potential resource probably has as much potential for solving America's problem as any alternative presently known. The technology for developing it is undergoing continued study in order to provide an efficient and reliable means of capturing the natural energy of the sun, storing it and transmitting it into electrical energy. It has the potential for supplying hundreds of times our present requirements. A number of methods are under study to convert solar energy into electricity. Among these possibilities are allowing solar radiation to act as a heat source; using photocells which produce an electric current when exposed to light; and constructing a flat collection device which, together with a thermal receptor, will convert visible sunlight into electricity. Government funding of this program has not previously been very large; however, there is a strong effort being exerted in Congress to speed up our research and development of this potential source.

Sixth. Geothermal Energy.—California has geothermal wells which are providing much less than 1 percent of our present electric power capacity. Italy has been producing electricity by geothermal means since the early 1900's. The Earth's naturally hot interior contains many pockets which carry a great potential for conversion into electrical energy. The problems with developing geothermal energy have been locating suitable sites; the low rate of efficiency with which the Earth's heat is transformed into energy; and the great amount of thermal and noise pollution which is created by the low efficiency and by the entire process.

Seventh. Oil Shale.—This resource consists of deposits of shale oil embedded in shale rock. Through a process requiring large amounts of water and much stripping of rock layers, the oil can be extracted and converted into a form of synthetic oil. Estimates are that 600 billion barrels of oil are capable of being extracted from shale rock formations in Wyoming, Colorado, and Utah. Problems are in the economical methods of producing shale oil, and in the large amount of strip mining which must accomplish this process. The Department of the Interior recently announced an intent to make leases available for increased production of shale oil.

Following are some views which I hold concerning several of the proposals being reviewed to resolve the immediate shortage, as well as my thoughts regarding other energy issues:

First. I do not believe that the energy crisis has been contrived by the oil industry. Factors I have previously discussed account for much of the overall problem. However, I do believe that the major oil companies have been the direct financial beneficiaries of the shortage and that they have not done all they could to better equalize the existing shortage of petroleum. It has been alleged that oil companies are manipulating available supplies in order to gain

higher profits. It is also alleged that multinational oil companies are selling oil from their overseas drilling and refining operations directly to European countries because of higher world prices of petroleum. Both of these allegations need careful review by the Federal Government and by Congress.

Second. I believe that an increase in the Federal tax on gasoline would discriminate against those on low and middle incomes, and would not lead to the desired reduction in fuel consumption which must be achieved. The American economy and lifestyle is so highly generated and motivated by previous habits and customs that a large increase in the price, whether by tax or wholesale price increases, would not present a significant or fair way to reduce consumption. The retail petroleum marketer cannot be blamed for the shortage, and I feel should not be jeopardized by placing arbitrarily low controls on his markup. He must be given a reasonable profit in order to survive in business.

Third. I believe that rationing is becoming more of a certainty with each passing day. It would appear from my mail that the Sixth District is divided over this issue. Of the alternatives available, a fair and equitable form of rationing would have merit at a time when consumption must be reduced. I emphasize the words fair and equitable because America does not operate under the same characteristics which paralleled rationing during World War II. Our economy and lifestyle is very diversified and complex; we have more people, automobiles, industries, businesses, and private requirements; the free enterprise system, although controlled through Government sanctions on prices and wages, is much more sophisticated and dynamic.

Any form of rationing must be flexible and must allow for the necessary amount of mobility which the economy must have in order to avoid a potential or serious recession. If rationing is indeed being seriously viewed, I would hope that the President will quickly present a proposed plan of rationing for review by the public and by Congress. We have seen in our voluntary and mandatory allocation programs that implementing a program without sorting out the views and potential hardships of consumers only leads to inefficient and ineffective programs.

Fourth. A bill to return to daylight saving time successfully passed the House of Representatives on November 27, by a vote of 311 to 88. The President has indicated that if the National Emergency Energy Act is adopted, he will create a return to daylight saving time in order to conserve an estimated 2 percent of our energy.

Fifth. Auto emission control devices are significant contributors to increased gasoline consumption. Estimates of the penalty involved range from 7 to 19 percent, with the loss in terms of gasoline being estimated at between 140,000 and 185,000 barrels per day. I favor suspending until 1981 the legislation requiring emission control devices on automobiles with the hope that by then we will have developed such devices which will help clean up the air without hurting gas mileage.

Sixth. I believe a reduction in speed limits is necessary to conserve fuel. Informed sources tell me that reducing the speed of an automobile from 70 to 60 miles per hour will decrease gas consumption by an average of 10 percent, and that reducing speeds from 70 to 50 miles per hour will save an estimated 22 percent of gasoline. I have some reservations about lowering the speed of automobiles below that set for trucks, especially on noninterstate highways, because of safety consequences which could result. I have had my share of experience at truck driving and I suspect trucks will get better mileage at 55 or 60 than 50. I do think it is time we get answers to some of these questions.

Seventh. I believe that for the Federal Government to encourage the public to conserve energy, it must first set an example. Administration and congressional officials cannot continue to take unnecessary trips by airplane and ride to work in gas-eating limousines, and rightfully expect the American people to offer the only sacrifices. I have greatly reduced my number of speaking engagements, we have turned the thermostats down to 68 degrees in our home, and my family and I are driving as few miles and using as few electrical appliances as possible.

Eighth. Many reports have been presented and debated concerning the export of petroleum from the United States. In an effort to gather facts and data concerning this timely issue, I contacted the Departments of State, Commerce, Interior, and Transportation as well as the Library of Congress to put together what I feel is a necessary account of our exports of petroleum.

The largest figure I received was 82.5 million barrels for 1973; this came from the Department of the Interior's Bureau of Mines and accounts for 1.3 percent of our total annual consumption for 1973 of about 6.3 billion barrels of petroleum and natural gas liquids. The figures I received for the export of distillate fuels—heating oil, diesel, jet fuel, kerosene—range from 2,958,600 barrels by the Department of Commerce to 2,712,800 barrels by the Department of the Interior. An average of these approximate figures would represent about 0.1 percent of our consumption of distillates.

Our exports of distillate fuel for 1973 will be 274 percent above the total for 1972; however, it is important to keep in mind that the 1973 figure will be 68, 88, 66 percent of 1969, 1970, and 1971 exports, respectively. About one-half of our exports go to territories and possessions of the United States in the Western Pacific. Other exports go to Mexico and Canada as trade-offs. This is petroleum we have exported to areas of Canada and Mexico not easily reached by their transportation systems; in turn they repay us with similar amounts of their petroleum. Still other exports are shipped to refineries in the Netherlands and other European countries, refined and returned to the United States. This occurs principally because of inadequate refinery capacity in our country.

Ninth. Many people have expressed a concern that our manned space program is consuming large amounts of fuel. I have contacted NASA and have learned that fuel used in manned and unmanned flights is chiefly pure liquid hydrogen and oxygen, fuels which are not used for domestic consumption. They do, however, consume an average of 130,500 gallons—about 3,100 barrels—per year of rocket propellant—kerosene.

Tenth. Many people have written to express concerns for many other wasteful means by which we needlessly consume petroleum. I feel that each nonessential use of petroleum must be reduced as much as possible in order to preserve supplies for more essential usages, and that if we are given mandatory rationing and conservation programs, nonessential and wasteful consumption of energy will be the primary targets of these programs.

POINTS TO CONSIDER ON SPEED LIMIT VARIANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DULSKI) is recognized for 5 minutes.

Mr. DULSKI. Mr. Speaker, one of my constituents has presented some thoughtful comments on proposals to permit higher speed limits for trucks and buses.

There is a good deal of merit in what he has to say, and I am inserting his letter for consideration by my colleagues:

ADVERTISING AGENCY, INC.,
Buffalo, N.Y., December 10, 1973.

Hon. THADDEUS J. DULSKI,
Rayburn House Office Building,
Washington, D.C.

MY DEAR MR. DULSKI: I am greatly concerned over the possibility that trucks might be permitted to exceed the speed limit of passenger cars.

If a higher speed limit were set for trucks, it would place drivers and passengers in an extremely dangerous position, and would result in needless deaths, personal injury, and property damage.

I would appreciate it if you would do everything possible to see to it that regardless of *possible* fuel savings, trucks and buses are *not* permitted to exceed speed limits set for automobile traffic *under any circumstances.*

No savings in fuel are worth the risk to drivers and passengers.

I make this statement, not only as a member of the community, and as a parent, . . . but also as one who has been active in automobile safety, as a member of the Board of Safety of the City of Buffalo, and as Chairman of the Traffic Coordinating Board of the City.

Further, I believe that such selected permissiveness may well be discriminatory in nature, violating the constitutional rights of drivers of passenger vehicles and their passengers.

I am extremely concerned, and would appreciate your interest and efforts.

Sincerely yours,

ROBERT S. RISMAN.

RSR ADVERTISING AGENCY, INC.,
Buffalo, N.Y., December 7, 1973.

The following are some of the reasons why I am personally so concerned about the possible effects of a 55 mile speed limit for trucks as opposed to a 50 mile speed limit for passenger vehicles . . . or any form of

legislation which permits the heavier trucks, buses and similar vehicles to go faster than passenger car traffic, which makes up most of the traffic on the roads today:

1. Safety must be paramount, according to New York State Transportation Commissioner Raymond T. Schuler, and I agree. According to Schuler, "The stopping capability of heavy vehicles is considerably less than for private cars . . ."

With the emphasis going to even smaller private cars, and with the trucking industry pushing for tractor/trailer "trains", with tandems and sometimes three trailers, this becomes even more dangerous than ever before.

2. Anyone who has ever been in front of or next to, or anywhere near an "aggressive" driver of a passenger car is in a bad position. An equally "aggressive" driver of a truck presents an even greater danger. At least, with a higher speed limit (such as some states now have), or an equal speed limit, the driver of a passenger car has an opportunity to "hold his own" under such circumstances.

In a circumstance where a driver would be forced to go five miles under the speed of truck traffic, the passenger car would be at the mercy of a constant line of trucks, all presumably driving at higher speeds.

3. On more than one occasion, members of my family have literally been forced off the road by aggressive truck drivers, or drivers who were "barreling along" in inclement weather. Such a terrifying experience happened to my wife on the Grand Island (New York) Bridge, and she was forced against a curb, damaging her vehicle, and scaring her completely.

There was no need for such an incident, and the truck driver merely kept on going, not even bothering to stop.

4. It is, to the best of my knowledge, a fact that you are safer when you drive at the same rate of speed as the rest of the traffic on a particular road. Encouraging the heavier vehicles to drive at faster rates of speed will produce a reverse "dual" speed situation, which will result in damage, injury and needless danger to the occupants of the slower moving (smaller) vehicles. Check this one out with your local law enforcement agency, incidentally.

5. Statistically, we are told that defensive driving produces safer results than the more detrimental aggressive driving commonly associated with some of our passenger car operators and some of the professional drivers who drive trucks and buses.

Remember that trucks and buses are on schedules, and as such, they are often inclined and/or required to "push". When they push, it is advisable to stay out of the way. Giving them legal license to push five miles an hour will not prevent them from pushing for an extra five. (Check the roads next time you look.)

6. In foul weather, rain or windy (windblown snow) or snowy conditions, it is extremely difficult to pass a truck. In times of bad weather, when visibility is at a minimum, very often this is made worse by having your windshield splattered with a combination of moisture, road dirt, salt, etc.

The driver now has the option of avoiding this, when passenger traffic is legally permitted to move at the same or greater rates of speed than buses and trucks.

However, if the speed limits are set higher for trucks, this means that the operator of a passenger car will have no choice in the matter.

Trucks will continually be passing, putting the driver in continuous jeopardy.

He will have no choice as to when and whether to pass, but will be passed by a continuing line of heavier vehicles . . . some of them many, many times longer than his own vehicle.

If it's a windy day, with poor visibility, and he is in a light car . . . the driver faces an added problem of holding the car on the road.

7. Though damage to property certainly should not be a major concern, we all have encountered overloaded gravel trucks inadvertently dropping debris on the road. When you pass such a truck, you almost always take a chance on having your car damaged, particularly the paint, and in some cases, the windshield. This is not an infrequent occurrence.

Once again, when a passenger car passes such a truck, as things now stand, the driver does so at his own risk.

There can be no control over such a situation if the driver is held to a speed slower than that of the truck.

I doubt that most of the drivers realize that their load is "spraying" the fenders, hoods, and windshields of other traffic.

But whether or not they realize it, the damage goes on.

8. I am enclosing a Xerox copy of several newspaper pages, referring to the actions of truck drivers in blocking roads. [Not printed in the RECORD.]

Can you imagine these same drivers, with the very same "temperaments" as they drive along our country's highways.

Surely, men who take the law into their own hands in order to gain special treatment have shown by their very actions that they do not deserve this special treatment.

If any single action points out the fact that these men should not be afforded higher speed limits, and preferential treatment at the expense of the safety of the other users of the road, surely it is their recent actions.

These wanton violations of the law, and indiscriminate, forceful blocking of the rights and privileges of the rest of the population . . . and the total disregard for the safety and welfare of the others who must use our highways certainly prove that these aggressive individuals should not be thus permitted to intimidate our lawmakers into putting them in a position to further jeopardize the safety of the overwhelming number of Americans who ride in or operate passenger vehicles.

The overwhelming number of truckers and the members of the American Trucking Association are solid citizens, I am sure. And I am equally certain that those who make their living by driving trucks and buses are going to have some problems due to the current energy crisis.

But . . . in one way or another, just about everyone in this country can expect to be affected financially, not to mention their personal inconvenience.

In this respect, the truck drivers are no exception.

Please make every effort to stop any two-tier speed limit that favors trucks and buses at the expense of the safety of passenger cars.

Sincerely,

ROBERT S. RISMAN.

A CURE FOR AMERICA

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, I know there is a continuing concern by my constituents over the deepening crisis caused by the Watergate spectacle. Superficial analysts would have you believe that those who seek strong corrective measures are bent on further destruction of the remaining faith of the public in their Government. The truth is that if we fail to move effectively to punish all the wrongdoers, to put an end to secrecy in Government, to aggressively pursue all the facts which underlie the pervasive corruption which is evident in our political system, and to enact measures to strictly limit campaign activities, and instead succumb to the demands that we put all these revelations behind us, shove it under the rug, get on with the pressing business of our country, then I think we shall indeed be participating in the destruction of the vital signs of our great democracy.

The following is an interview with Gunnar Myrdal which reflects my views on the significance of our present political crisis. He expresses the optimism I feel for our system and I hope my colleagues share these views.

The interview follows:

A CURE FOR AMERICA

Through his window you can see the green Swedish countryside stretching away from Stockholm, but the office has a decidedly American air. Above his desk, thumbtacked to the wall, is a copy of the Declaration of Independence, and next to it is a quotation from Lincoln: "To sin by silence when they should protest makes cowards of men."

For more than 40 years, Sweden's Gunnar Myrdal, Ph.D., one of the world's most renowned social scientists, has been speaking his mind about America—often in exasperation, sometimes in anger, but always with a deep emotional concern for the country that he knows and loves nearly as well as his own. "I think like an American, react like an American," he says. Nodding toward the Declaration of Independence, he adds: "I have the same value system as Thomas Jefferson."

Ever since the publication of his book *An American Dilemma: The Negro Problem* (1944) Myrdal has kept closely involved with American life, visiting the country as often as six times a year and avidly studying American publications. When the Watergate scandal erupted, *Today's Health* sought out Dr. Myrdal because he is uniquely qualified to analyze and comment on this phenomenon that has astonished and sent shudders of revulsion throughout American society. Myrdal stands far enough away to speak with objectivity.

Now 74, Myrdal is still enthusiastic and has a quick incisive mind. Throughout one long afternoon in late spring, he discussed how Watergate happened, how it is affecting the American public, and what therapy must be applied to prevent a similar tragedy from occurring.

Q. Dr. Myrdal, has Watergate disillusioned you about the chances for getting and keeping honest and good government in Washington?

A. Let me say first that Watergate is a much worse scandal than, say, that of Teapot Dome under (President Warren G.) Harding, which was only a case of some officials trying to get rich. This time the White House was after power, and it was willing to turn the American system upside down to get it.

But having said that, am I disillusioned? No. Not a bit. In fact, the reaction to Watergate underlines my conception of what American democracy is all about.

Given the nature of the American system, the incident at the Watergate was bound to be uncovered. These people simply did not know the society they were operating in. Their acts not only were illegal but also ignorant and stupid. In America, truth will out. America is an open society. When the system discovered Watergate, it did something about it—a lot, in fact.

The press had a big role here, of course, but then the press is a vital part of the American system, a vehicle for the expression of what the people want.

Now then, if some of the news of Watergate had leaked out and then there had been a cover-up, if the system had failed to react, I would have been very disillusioned. But it was all brought out in the open, which is the characteristic American way of handling messes like this.

You'll note that some of the leading members of the Republican party helped to drag Watergate out into the light of day. They had been deeply offended by the high-handed way the administration had dealt with them, for one thing. But they were also reaffirming to themselves and the voters that they were men of integrity, that they honored the American creed that said this is a government of law, not of men. Nixon's men felt responsibility to the office and the man, and that's absolutely against American thinking. Their true responsibility was to the nation.

Q. How do you evaluate the American reaction to Watergate?

A. It's a conversion, really, and conversions are very much a part of American history. You can go very, very wrong for a while, but then you can change overnight. It's part of your Puritan legacy—when you change, you change fast. I don't know of any country that is more prepared to switch policies than America.

Q. Can you cite another example of such a conversion?

A. One of the best examples was the overnight repudiation of McCarthyism, which was very similar to what has been happening in the Watergate affair.

I vividly remember touring America during the McCarthy era and hearing my friends say that the country was doomed, that democracy was on the way out. I didn't believe it, because McCarthy was acting so much against American tradition. But it certainly was a frightening time. Very few of the intellectual, moral, and political leaders of the United States stood up against McCarthy at first.

Then publicity finished McCarthy, just as it rooted out the Watergate. They put the McCatrhy hearings on TV and suddenly every American could get a good look at the man and how he operated, and people said, "What the hell is going on here?"

The people turned against McCarthy. That's the important thing. Then Congress took action. But it was the people who started it and destroyed this powerful demagogue.

In the same way, I think that the Watergate scandal will make it impossible for a President and his aides to act this way ever again.

Q. Dr. Myrdal, what factors were responsible for Watergate? How did it happen?

A. The background factor, I think is the long history of a spoils system in American politics. Some countries in Western Europe have been able to develop a stronger tradition of independent civil service than that of the United States. But that's not enough to explain away Watergate. I'm afraid that you have to blame President Nixon himself and the men he picked to surround him.

Q. In other words, there was no special sickness or weakness in American society itself that produced Watergate?

A. That's correct. Watergate clearly was an aberration. The American society wasn't sick. The White House was sick. Several men appear to have put themselves above the law, which was terribly wrong. America is meant to be governed by law, not men.

And Congress, incidentally, must take some of the blame for what happened. Congress stood back and let the President seize power. The war in Vietnam is the best example, but it was more than that. Congress took one slap in the face after another. It should have stepped in earlier and more firmly.

Q. Specifically, what steps must be taken to prevent another Watergate?

A. First, the President must not be allowed to isolate himself from the American people. He has to live an open life that agrees with American ideals. He's not a king. He has to be accessible. The people have to feel that he is concerned about their problems and is listening to them.

For that matter, I don't believe that a man will be able to even run for the Presidency again in the same isolated way that Nixon did last time.

Second, there has to be a diffusion of power in Washington. The White House cannot have it all. Cabinet officers must have real strength, and they must have access to the President. They also must be men of stature and independence who will not automatically do anything they are told to do.

Third, the obsessive secrecy of the White House has to be abolished. The whole system of classifying documents has to be liberalized. The press and the people have to get a better—and quicker—idea of what is going on. We can have much more access to important papers without compromising any government action that really must not be revealed for a while. All my experience as a scholar, and occasionally as a politician in Sweden, has taught me that when a government claims something is secret, it most often is a secret kept from its own people.

Fourth, there must be better control of campaign contributions. Perhaps some limit should be set on expenditures, and certainly the sources of the funds should be fully disclosed. The present laws would solve a lot of these problems if they were enforced, but they're not. Whether old laws are kept or new ones created, they have to be enforced. And I think they will be.

Fifth, and this is the most difficult task: Participation of the American people in politics, at least in voting in elections, must be increased. Even with all the hullabaloo about a presidential election, little more than half of the voters take part, and in municipal elections the percentage is often much less. In Sweden, almost 90 per cent of the electorate votes regularly.

The excuse you often hear is that America is a "new" country still developing traditions, but that's not true. You established the first modern democracy in the world. The problem, I think, is that you are still not a very well integrated nation as, say, Sweden is. You have so many racial and ethnic divisions that it is hard for an individual to feel responsible for his society, which is the key thing.

America will have to move towards a more integrated society in the years ahead, which means struggling with all the problems that have been piling up—integration, poverty, the decaying cities, and all the rest. It's a tall order, but taking the long view over the decades, as I can, I think that America is moving in the right direction.

Q. What would you tell the young people of America in light of Watergate? Aren't they likely to become cynical about American politics?

A. When I talk to young people I always make the point that in a short time they will have all the power—they will be running the government, the factories, the courts, everything. With that point in mind, it would be a tragedy, and a senseless one, if young Americans did become cynical over Watergate.

As I said, Watergate is a cancer in the White House, not in American society. And, as with a patient with cancer, some treatment is needed in order to prevent the cancer from spreading to other organs of the body. The general public revulsion, the uninhibited hearings in congressional committees, and the regular functioning of the courts represent this treatment. I believe it will be effective.

It would be criminal and cynically reactionary for young people to turn away from the American system. It would also be unnatural, because a fundamental optimism is built right into them just because they are Americans. It comes right out of their bodies. Fatalism should be completely foreign to them and to America.

Young people should study the facts and get down to work to bring about the changes that are needed. They shouldn't just throw slogans around. The young sometimes argue that the "system" is too big to be changed, but that's not true. I tell them that the "system" is a horribly complex thing made up of a great many factors, and it is up to them to find out how it works and to get it to work their way. And to do that, they need the basic optimism that they have, that they grew up with, because they are Americans.

Q. How does Watergate leave you feeling about America?

A. I'm still optimistic about America, just as I always have been. That's the American side of my nature. Watergate has given America a chance to make a new beginning, to make changes, to get back to fundamental principles and to do it quickly, and that's a very American characteristic.

I don't believe that America will ever turn cynical or veer away from democracy. The people have too much of a sense of their own history for that. All the great figures of the past are, in a sense, still living today—their influence is everywhere and they're quoted all the time. Men like Franklin, Jefferson, Lincoln, and both the Roosevelts.

Sure, America very often breaks its own rules. The country is like a human being, somewhat, because there's always a struggle going on in its own soul between different standards, different valuations. Behavior always is a compromise. For America, the high ideals may not always dominate, but they are always there, and Watergate has brought them out.

American society is still a wideopen society, thank God, and it will be even more so after this. I still believe that this deep sense of moral behavior is the essence of America—that it is the glory of the nation, its youthful strength, and, in the end, perhaps the salvation of mankind.

ARTHUR STEED DIES

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on the third day of October died one of my longtime and most treasured friends, Mike Steed, of Orlando, Fla. He was an able lawyer and for 10 years he served with outstanding distinction as State attorney in the ninth judicial circuit of his area in the course of which he rendered splendid public service. He was a man of the utmost of integrity, of deep devotion to the public interest, fair in the discharge of his official duties, and indefatigable in labor in the service of the public interest. He loved America and nobly served it in war and in peace. He was a charming gentleman, a friend whose friendship was treasured by anyone fortunate enough to have it. He lived a life of rectitude and honor and he is not only mourned by a lovely and loving wife but by a host of friends in whose memories he will always vividly live with tender affection. To my own words, Mr. Speaker, I would like to add the tribute of Charlie Wadsworth to Mike and the obituary which appeared in the Florida Sentinel Star on October 4, and insert these two articles in the RECORD immediately following these remarks:

ARTHUR STEED

(By Charlie Wadsworth)

Mike Steed once took a long, searching look at the question of life and backed by all of his native born wisdom opined:

"There has to be an end to everything and everybody. That's the law of living."

For Arthur L. "Mike" Steed the end came Wednesday morning, swiftly, which is consoling to the man's family and many, many friends.

But even that fact could not remove the sadness from the half dozen or so who sat with him at lunch just last Monday.

Mike had suffered a couple of physical setbacks during the past year, but on Monday he looked great, and he was ready to go.

"I'd paw the ground if there was any around. That is what the knowledge that the hunting season is just around the corner will do for a man," he grinned.

If he could have arranged it, I think Mike would have spent every daylight hour of his life in a hunting field somewhere.

But that was impossible, an impossible dream, you might say, so Mike Steed became a public servant. Part of his physical shortcomings stemmed from the years when he was the state attorney in the Ninth Judicial Circuit from 1959 to 1968, when the circuit covered eight counties and Mike Steed covered those counties like dew.

It was from this duty that he came on to become a powerful and highly respected figure throughout the state.

He never looked back on those years of almost devout dedication and of exhaustingly long work schedules.

When it was over I remember his saying once that, "Maybe I helped pay some of my debt I owed this world for allowing me to be a part of it."

A down to earth guy who was a brilliant attorney, Mike Steed walked a straight line for every one of his 64 years. He stayed on the right track. This moved a friend to comment:

"If Mike had a fault it was that he was just too nice."

Time flies and fame and reputation are fleeting, but when the hunting season opens in November a lot of Mike's old buddies are going to pause and remember him. He was the kind of man you would pause and remember.

ARTHUR STEED, 64, DIES; FORMER STATE ATTORNEY

Arthur L. "Mike" Steed of Orlando, state attorney of the old 9th Judicial Circuit for nine years, died Wednesday morning at his 1705 Pepperidge Drive home. He was 64.

He was appointed state attorney of the eight-county Central Florida circuit by Gov. LeRoy Collins in 1959, succeeding Murray Overstreet of Kissimmee, who had been named to a newly created circuit judgeship.

Mr. Steed, a Democrat, was reelected unopposed in 1960 and 1964. He withdrew from the 1968 race to run for circuit court judge, but was defeated by Bernard Muszynski.

He was born in DeLand, spent his boyhood in Kissimmee and received his degree in law from the University of Florida in 1934.

He began practicing law with the U.S. Treasury Department in 1938, becoming an expert in income tax procedures.

Before he resigned from the Treasury post in 1948, he took time out to serve with the U.S. Army during World War II as an agent in its criminal investigation section.

Mr. Steed served as assistant U.S. attorney in Tampa from January 1948 through August 1951. He then returned to Orlando to practice law with his late brother, W. J. "Funie" Steed and later with James A. Urban.

He was one of six private citizens selected by Collins to advise him on state problems.

After his defeat in the 1968 race, he returned to private practice in Orlando. At the time of his death, he was a member of the Steed and Collins law firm.

He was a member of the Orange County, Florida and American bar associations, past president of the University Club of Orlando and member of the Orlando Kiwanis Club and Solomon Lodge No. 20, F. & A.M.

Dr. I. Howard Chadwick will conduct funeral services at 10 a.m. Friday at the First Presbyterian Church.

Interment will be in Rose Hill Cemetery in Kissimmee.

Survivors include his widow, Mrs. Dorothy H. Steed; sister, Mrs. Josephine Cuttle, Lake Wales; 10 nieces and nephews and 19 grandnieces and nephews.

Carey Hand Chapel is in charge of arrangements.

EMERGENCY CHLORINE ALLOCATION ACT OF 1973

(Mr. ROGERS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ROGERS. Mr. Speaker, in recent months many of the Nation's municipalities have been facing a major problem in obtaining adequate amounts of chlorine for treatment of drinking water and waste water effluent. The chlorine shortage has required cities to pump nontreated sewage into the Nation's lakes, rivers, streams, and coastal waters. New York City was forced to cease chlorination at 4 of its 12 sewage treatment plants and many other major cities have been down to a few day's supply. Producers and Government agencies predict that the impact of the chlorine shortage will be felt by the Nation particularly next summer when demand for chlorine again peaks.

Unless prompt action is taken in 1974, communities across the country will be forced to terminate chlorination of their drinking water and waste water plants. Since the chlorination of drinking water and waste water treatment is necessary to kill certain bacteria which are the source of typhoid, cholera, and dysentery, a substantial threat to the public health is imminent unless we take immediate preventative measures.

Today 95 percent of all chlorine processed in the United States is being distributed to industrial markets due to increasing industrial demands. Much of the remaining 5 percent, which has been sold to utilities in the past, has been diverted to industry thereby shortchanging our cities.

To alleviate the problems resulting from the chlorine shortage crisis, I introduced yesterday the Emergency Chlorine Allocation Act of 1973. Nine of my colleagues on the Subcommittee on Public Health and Environment and five other Members of the House—Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, Mr. HUDNUT, Mr. GIBBONS, Mr. GUNTER, Mr. ROBISON of New York, Ms. SCHROEDER, and Mr. WOLFF—have joined me in cosponsoring this bill.

The bill requires the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce, to promulgate regulations establishing a mandatory allocation system for the sale and distribution of chlorine for drinking water and waste water treatment purposes. In addition, if the Administrator finds that a shortage exists in the supply of other chemicals and substances, such as activated carbon, lime, ammonia or soda ash, he may also promulgate regulations for mandatory allocation of these substances for drinking water and waste water treatment purposes.

The allocations prescribed by EPA would enable all publicly, cooperatively, and investor owned utilities, as well as private companies and unincorporated cities, to indicate their chlorine and other water and waste treatment substances needs and receives priority in filling their orders over industrial users. EPA regulations will require each company to equitably allocate a portion of their processed inventory to these users. If the user still cannot obtain chlorine in the open market, it can notify EPA or the Department of Commerce of its needs and they will assist in locating other sources, or investigate any violations of the allocation regulations and seek compliance. If voluntary compliance of violations of the regulations cannot be obtained, the Administrator of EPA is authorized to issue orders to the violator and obtain injunctive relief in the courts through the Department of Justice, if necessary. Violators can be subject to criminal fines up to $5,000 for each offense if they violate a rule or order "knowingly" or civil fines up to $2,500 for each offense for "malum prohibitum" violations where knowledge of the violation cannot be proved in court.

Due to the short-term nature of the chlorine emergency the bill provides that the legal authority of the proposed allocation system shall terminate on June 30, 1975. It is my earnest belief that the chlorine industry can gear up its production levels to meet the needs of the Nation's drinking and waste water treatment needs by that date and that a further extension of the law will not be necessary.

Mr. Speaker, I believe that the shortage of chlorine for treatment of drinking water and waste water is an emergency situation presenting a substantial public health danger which warrants immediate legislative action by the Congress. The legislation that I introduced yesterday with several of my distinguished colleagues is necessary to prevent potential health disasters in our Nation's communities and to assure them an adequate supply of chlorine in the future. I strongly urge my colleagues to join in support of this legislation.

NEW DIALOGS ON WESTERN HEMISPHERE COOPERATION

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, Secretary of State Henry Kissinger has taken several steps indicative of his desire to renew the spirit of cooperation which once characterized inter-American relations.

Most important, at a luncheon he hosted in New York October 5 for hemisphere delegates to the U.N. General Assembly, Secretary Kissinger invited the suggestions of Latin American and Caribbean governments in the shaping of a new U.S. policy for the Western Hemisphere.

In response to Dr. Kissinger's invitation the Foreign Minister of Colombia, Alfredo Vazquez Carrizosa, invited diplomats from Latin America and the Caribbean to a special Conference on Hemisphere Cooperation which was held in Bogota from November 14 to 16. At that conference representatives from our fellow American nations agreed upon a specific set of "bases for a new dialog between Latin America and the United States." The Colombian Foreign Minister presented the text of the "bases for a new dialog to Secretary Kissinger in Washington at the end of November with the understanding that the document would serve as a starting point for a meeting to be held between Dr. Kissinger and other hemisphere foreign ministers in Mexico early next year.

Because of the potential importance of these developments for the future course of inter-American relations I want to take this opportunity as chairman of the Inter-American Affairs Subcommittee to call to the attention of the House the full text of Secretary Kissinger's October 5 statement and the response of the Latin American and Caribbean foreign ministers:

A WESTERN HEMISPHERE RELATIONSHIP OF COOPERATION

(Toast by Secretary Kissinger at a luncheon honoring Western Hemisphere delegations to the United Nations General Assembly, October 5, 1973)

President Benites [Leopoldo Benites, of Ecuador, President of the 28th U.N. General Assembly], Excellencies, ladies and gentlemen: There is a story of an Englishman who visited Sweden, and when he was going through passport control, he was confronted with two lines. One was marked for Swedes; the other one was marked for foreigners. After a while an official came by and found him sitting between these two lines. And the official said, "Sir, will you please go into one line or the other?" And he said, "That's just my problem. I am not a Swede, and I am obviously not a foreigner." [Laughter.]

I think that story is symbolic of our meeting today. We obviously do not belong all to one country, but we obviously are also not foreigners in this room.

I am grateful that you came and for this opportunity to tell you that we are serious about starting a new dialogue with our friends in the Americas.

As we look back at the history of the relationships of the United States to its neighbors to the south, it has been characterized by alternating periods of what some of you have considered intervention with periods of neglect.

We are proposing to you a friendship based on equality and on respect for mutual dignity.

And such a relationship is needed for all of us, and I believe it is needed also for the rest of the world.

In the United States in the last decade, we have experienced many dramatic changes. Throughout most of our history we could overpower most of our foreign policy problems, and we could also substitute resources for thought. Today, without understanding, we can do very little.

Throughout much of our history, indeed throughout much of this administration, we used to believe with respect to agriculture, for example, that our primary problem was how to get rid of seemingly inexhaustible surpluses. We have now learned that we share the world's problem: how to allocate scarce food resources in relation to world needs.

When I came to Washington, the discussions with respect to energy concerned means of restricting production and allocating it among various allies. Today the problem is to find energy sources around the world that can meet world needs.

So we in this country are going through a revolution of sorts, and the whole world is undergoing a revolution in its patterns. And the basic problem we face is whether we will choose the road of nationalism or the road of cooperation, whether we will approach it from the perspective of each party trying to get the maximum benefit for itself, or whether we can take a common view based on our common needs. And this is why our relations in this hemisphere are so crucial for all of us in this room and for all the rest of the world as well. We in this room, with all the ups and downs in our relationships, share a common history and similar values and many similar experiences. The value of human dignity is nowhere better understood than in the countries of our friends to the south of us.

So if the technically advanced nations can ever cooperate with the developing nations, if people with similar aspirations can ever achieve common goals, then it must start here in the Western Hemisphere.

We in the United States will approach this dialogue with an open mind. We do not believe that any institution or any treaty arrangement is beyond examination. We want to see whether free peoples, emphasizing and respecting their diversity but united by similar aspirations and values, can achieve great goals on the basis of equality.

So we are starting an urgent examination of our Western Hemisphere policy within our government. But such a policy makes no sense if it is a U.S. prescription handed over to Latin Americans for your acceptance or rejection. It shouldn't be a policy designed in Washington for Latin America. It should be a policy designed by all of Latin America for the Americas.

And so as we examine our own policy, we must also ask for your help. We know that there isn't one Latin America, but many different countries. We know also that there are certain subregional groupings. But it isn't for us to say with whom to conduct the dialogue. That has to come from our guests here in this room.

And so as we form our policy, I would like to invite your suggestions, whatever form you think appropriate, as groups or subgroups or individual nations.

And when our final policy emerges, we will all have a sense that we all had a share in its making, and we will all have a stake in maintaining it.

So, President Benites and Excellencies, I would like to propose a toast to what can be an adventure of free peoples working together to establish a new relationship that can be an example to many other nations. I would like to propose a toast to Western Hemisphere relationships, to our distinguished guest of honor, President Benites.

LETTER FROM THE FOREIGN MINISTER OF COLOMBIA TO THE SECRETARY OF STATE, NOVEMBER 28, 1973

BOGOTÁ, *November 28, 1973.*

His Excellency HENRY A. KISSINGER,
Secretary of State of the United States of America, Washington, D.C.

YOUR EXCELLENCY: As Chairman of the Latin American Foreign Ministers Conference for Hemispheric Cooperation held at Bogotá on November 14–16 last on the initiative of the Government of Colombia, I have the honor to inform you that, pursuant to your statements, the Conference approved the "Bases for a New Dialogue between Latin America and the United States" which I am happy to enclose.

During my meeting with Your Excellency on November 30 I shall also be happy to reiterate to you, on behalf of the Foreign Ministers who attended the Bogotá Conference, our very sincere desire to establish a "New Dialogue" between the Latin American countries and the United States for the purpose of discussing matters of interest to the Western Hemisphere.

Please accept, Mr. Secretary, the assurance of my highest and most distinguished consideration.

ALFREDO VÁZQUEZ CARRIZOSA,
Minister of Foreign Affairs.

REPUBLIC OF COLOMBIA, MINISTRY OF FOREIGN AFFAIRS

The Latin American Foreign Ministers Conference for Hemispheric Cooperation, held at Bogota, approved the following document on November 16, 1973:

BASES FOR A NEW DIALOGUE BETWEEN LATIN AMERICA AND THE UNITED STATES

On October 5, 1973, at the invitation of Dr. Henry A. Kissinger, Secretary of State of the United States of America, representatives of Latin American countries attending the Twenty-Eighth Session of the United Nations General Assembly met with Dr. Kissinger.

On that occasion the Secretary of State, in proposing to Latin America "a friendship based on equality and respect for the dignity of all," offered to open a "new dialogue" with the Latin American countries for the purpose of discussing matters of interest to the Hemisphere.

In view of that initiative, the Government of Colombia extended an invitation to Secretary of State Kissinger, who indicated that he expects "to be able to participate actively and personally in such a dialogue at the opportune moment." The Government of Colombia then called a Conference of Foreign Ministers for the purpose of exchanging opinions on how best to establish the bases for a new dialogue.

The Conference was held at Bogotá on November 14–16, 1973 and was attended by the Ministers of Foreign Affairs of Barbados, Chile, Peru, Venezuela, Ecuador, Honduras, El Salvador, Costa Rica, Nicaragua, Guatemala, Panama, Mexico, Dominican Republic, Trinidad-Tobago, Guyana, and Colombia and the Special Representatives of the Ministers of Foreign Affairs of Jamaica, Bolivia, Haiti, Brazil, Uruguay, Paraguay, and Argentina.[1]

The Conference reiterated the validity of the principles and concepts which the countries of Latin America have committed to various public documents, such as the Consensus of Viña del Mar of 1969 and other documents which have been approved subsequently, as well as the need to take the necessary steps to implement such principles and concepts.

Bearing in mind that in that "new dialogue" which is to be conducted in the near future with the Secretary of State it will not be possible to examine exhaustively each and every one of the current problems of interest to Latin America, the Conference concluded that it would be advantageous to initiate an exchange of opinions on the following subjects and positions:

DEVELOPMENT COOPERATION

Inter-American development cooperation should contribute effectively to comprehen-

[1] Note: Order of precedence established by lot.

sive development and should therefore be applied in all fields of activity, including the economic, trade, financial, social, technological, scientific, educational, and cultural fields. The cooperation carried out through the multilateral mechanisms of the Inter-American System should be a comprehensive cooperation and should not be subject to unilateral conditions imposed by the country lending assistance or be discriminatory in its nature.

A system of collective economic security should be established for the purpose of protecting the conditions that are necessary for the comprehensive development of countries.

Urgent measures should be adopted to permit free access of Latin American products to the United States market, where they are now subject to unjustified restrictions of various natures, such as tariff, nontariff, health, quota and other such restrictions.

Strengthening and, above all, effective use of the mechanism of consultation and negotiation (CECON) in order that it may be able to achieve the objectives for which it was established cannot be postponed any longer.

ECONOMIC COERCION MEASURES

An effective mechanism should be established to protect against the purpose, adoption, and implementation of such measures.

RESTRUCTURING OF THE INTER-AMERICAN SYSTEM

It is necessary to intensify the work of restructuring the Inter-American System for the purpose of adapting it to the new political, economic, technological, social, and cultural conditions of the American States and to Hemispheric and world circumstances, and it is necessary for the United States to share Latin American aspirations and to join in Latin American efforts to achieve the radical changes which the System demands.

SETTLEMENT OF THE PANAMA CANAL QUESTION

In view of the news that the bilateral negotiations begun in 1964 between the Republic of Panama and the United States of America concerning the Panama Canal question will soon be resumed, the other Latin American countries, reaffirming their solidarity with the Republic of Panama, state that settlement of that question is a matter of common interest and high priority for Latin America and express the hope that the already delayed negotiating process may reach a settlement which will satisfy the just aspirations of the Republic of Panama.

STRUCTURE OF INTERNATIONAL TRADE AND THE INTERNATIONAL MONETARY SYSTEM

The Latin American countries are decided to help correct existing economic distortions and to protect their rights to prosperity and peace. To that end, they must participate fully and effectively in multilateral trade negotiations and in the reform of the international monetary system in order that their development efforts will not be prejudiced by decisions in which they have not participated. Likewise, the principle that the obligations of each country should be proportional to its economic capacity and, consequently, that developing countries should receive differential treatment, must be observed, especially in trade negotiations.

The United States should urgently implement its general scheme of preferences and apply it without reciprocity or discrimination. Preferences now in effect should not be impaired during the multilateral trade negotions; they should be expanded. Preferences granted within the general system should be regarded as international legal obligations.

During the international trade negotiations, or independently from them, it will be necessary to reactivate agreements and mechanisms or to create new ones relating to basic commodities of interest to the region, so as to bring about fair market prices for such commodities and to maintain the stability of such prices on a long-term basis.

TRANSNATIONAL ENTERPRISES

There is serious concern in Latin America regarding the attitude of transnational enterprises that meddle in the internal affairs of the countries where they operate and attempt to remain outside the law and the jurisdiction of competent national courts.

Transnational enterprises constitute a suitable means of Latin American development provided they respect the sovereignty of the countries in which they operate and abide by those countries' development plans and programs.

Latin America considers United States cooperation necessary for the purpose of surmounting the difficulties or frictions arising from the conduct of transnational enterprises that violate the principles stated above and of preventing such difficulties and frictions.

TRANSFER OF TECHNOLOGY

The comprehensive development of the Latin American countries requires adequate technology. In order to meet that requirement it is essential to supplement national efforts by transferring technology from the various world sources, among which the United States is recognized as specially important. In this area, Latin America hopes to obtain the greatest possible cooperation from that country.

The transfer of technology should contribute to raising the economic, social, and cultural levels in such fields as education, health, housing, nutrition, agriculture, and industry. Such transfer should be adapted to the needs, possibilities, and characteristics of the Latin American countries and should take their development plans and programs into account.

GENERAL OUTLOOK OF THE RELATIONS BETWEEN LATIN AMERICA AND THE UNITED STATES

Consideration of political problems of Hemispheric interest in the light of the present world and regional situations.

The foregoing subjects have been selected on a priority basis; consequently, the fact that they have been selected does not mean that other problems may not be dealt with on another occasion.

The Conference also wishes to express the willingness of the participating countries to discuss any other subjects the United States may wish to propose.

Lastly, it is considered desirable that the date of the proposed meeting, to be held in Mexico, be set as soon as possible by common agreement.

AMENDMENTS TO H.R. 11510, ENERGY RESEARCH

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the energy crisis has been building for years and it will continue for many years to come. Decisions we make will affect our own lives and the lives of future generations. While speed is essential in dealing with the immediate emergency, caution should characterize our efforts to create a new structure for solving our long-range problems.

Legislation to create a new organization to handle energy research and development is long overdue and offers a hopeful solution to our long-term energy problems. We cannot afford to continue to handle these problems in a piecemeal fashion, fragmenting our efforts as we face one crisis after another.

However, the committee bill to establish the Energy Research and Development Administration (H.R. 11510) has several major weaknesses which may seriously hinder, rather than help, our efforts to meet our country's energy needs.

The bill does not specify what the funding will be for ERDA, nor does it specify how priorities will be set. Instead, the Administrator will be given broad and vaguely defined powers with which to administer massive grants for energy research and development. The bill sets no standards for the qualifications of the Administrator, and his deputy and assistants, to insure that the persons selected are experienced and competent in the broad range of energy research and development. Nor does the bill require them to divest themselves of any financial interests they may have in industries or corporations who might profit from the new Administration.

Furthermore, there are no standards in the bill to protect the public interest, to insure that the research and development of energy resources provide adequate, reliable, economical and environmentally acceptable energy systems that support the essential needs of society. Although the bill does provide for advisory committees, the make up of these committees is not defined and could potentially be controlled by special interest groups.

I intend to offer amendments which attempt to solve some of these problems, by setting standards by which the Administrator and his deputy and assistants are selected and by assuring that the public interest is protected and that special interest groups do not, in fact, dominate this new organization which will have such impact on the future energy needs of our country.

Amendment No. 1 requires the Administrator and his deputy and assistants to divest themselves of financial interests in any enterprise which engages in the production or development of, or research in, any energy source subject to the act.

Amendment No. 2 states that the Administrator shall consider the public interest in exercising his responsibilities and lists some of the areas of public interest that should be considered.

Amendment No. 3 limits membership on advisory committees so that no more than one-third of the total will be composed of representatives of industries which engage in the production or development of, or research in, any energy sources subject to the act.

The text of the three amendments I intend to offer is as follows:

AMENDMENT NO. 1 TO H.R. 11510, AS REPORTED, OFFERED BY MR. SEIBERLING

SECTION 102

Page 31, after line 5, insert the following and renumber succeeding sections accordingly:

"(d) The Administrator, the Deputy Administrator, and the Assistant Administrators shall be appointed with due regard to their fitness to perform the duties vested in each such office by this Act. Each such person shall be a citizen of the United States. No such person shall hold office in, have any pecuniary interest in, or own any stock in

or bonds of any enterprise which engages in the production or development of, or research in any energy source which is subject to the provisions of this Act, nor shall any such person engage in any other business, vocation, or employment."

AMENDMENT NO. 2 TO H.R. 11510, AS REPORTED, OFFERED BY MR. SEIBERLING

Page 32, lines 20 through 21, strike out "The responsibilities of the Administrator shall include, but not be limited to—" and insert in lieu thereof "(a) The Administrator shall consider the public interest whenever he exercises his functions and responsibilities under this Act, including, but not limited to—"

Page 34, between lines 10 and 11, insert the following:

"(b) In the exercise and performance of his powers and duties under this section, the Administrator shall consider the following, among other things, as being in the public interest:

(1) The development of a plan for energy research and development that defines the essential energy needs of present and future generations and the probable alternatives for meeting such needs;

(2) The research and development of energy resources to provide adequate, reliable, economical and environmentally acceptable energy systems that support the essential needs of society with minimum loss of scarce resources;

(3) The development of the technology and information base necessary to encourage a wide range of options for future energy policy decisions;

(4) The development of methods for the conservation of energy resources which maximize the efficiency of energy development, transportation, production, conversion and use;

(5) Prevention of adverse environmental, health and safety effects associated with the discovery, production, conversion, transportation and use of energy sources;

(6) Investigation of the capability for energy self-sufficiency for the United States through the development of socially and environmentally acceptable methods of utilizing domestic energy sources;

(7) Priorities for research and development of conventional and unconventional energy systems in which adverse social, economical and environmental impacts are minimized;

(8) Promotion of competition among corporations engaged in the exploration, development and production of energy resources."

AMENDMENT NO. 3 TO H.R. 11510, AS REPORTED, OFFERED BY MR. SEIBERLING

SECTION 108

Page 42, line 2, immediately after "matters." insert "No more than one-third of the total membership of each such advisory board shall be composed of representatives of any industries which engage in the production or development of, or research in, energy sources which are subject to the provisions of this Act. For the purposes of this section, any person who has been retained as a consultant or employed by any such industry during the two-year period preceding his appointment to such a board, shall be deemed to be a representative of such industry."

POSTSECONDARY EDUCATION CONSUMER PROTECTION ACT OF 1973

(Mr. PETTIS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PETTIS. Mr. Speaker, a recent article concerning abuses of the federally insured student loan program quotes a young victim of an unethical, yet legal, trade school. She was confident of the school's reliability because, as she said, "if they are approved for Federal aid, they must be good." She is just one of a growing number of Americans who are deeply in debt to the Federal Government because of loans acquired to attend worthless classes. Another recent example of abuse involves Riverside University, a small private California school which went bankrupt, was put into receivership at the direction of the California State attorney general, and is now under investigation by the U.S. attorney in Los Angeles. Closure of the school left many students with no transferable credits but with a continuing obligation to repay their student loans. Attempts to settle with the Claims Collection Branch of the U.S. Office of Education have met with little success.

Mr. Speaker, a fine industry which is fulfilling an ever increasing need for good postsecondary education is being discredited by con men, hustlers and run of the mill incompetents. Consumers are being victimized. And taxpayers are footing the bill.

Together with my California colleague (Mr. BELL) I am today introducing legislation that will permit the Congress, the executive branch, and the various organizations and citizens concerned about this growing problem to take a comprehensive look at procedures by which postsecondary educational institutions secure eligibility for participation in federally assisted student aid programs. Our bill specifically does not prohibit the continued eligibility of legitimate postsecondary educational institutions, nor does it alter the well-established and, until recently, generally successful cooperation between Federal agencies and the various private and State accrediting and approving entities.

What the bill does require is a comprehensive study by the Secretary of Health, Education, and Welfare of all existing statutes, regulations, procedures and criteria utilized by the Federal Government concerning institutional eligibility. Upon completion of this analysis, the Secretary shall, if necessary to achieve the purposes of the bill, promulgate new or strengthened criteria governing the reliance of Federal agencies on non-Federal approving bodies and/or request additional statutory authority in this area. The Secretary will be required to monitor these non-Federal entities and discontinue Federal reliance on any that he finds are failing to meet the criteria promulgated pursuant to the legislation. The bill provides a grace period for affected individual educational institutions and permits temporary accreditation procedures established by the Secretary.

The bill further provides for forgiveness of the loan obligation in the event a student is denied the primary educational benefits for which he contracted where the quality of a school is such that it should not have been approved for participation in the federally insured loan program. Hopefully, this provision will be needed only for a short time if the purposes of our bill are fully met.

Congressman BELL and I are very hopeful that this legislation will provide a useful vehicle for comprehensive hearings. We seek and will enthusiastically welcome the suggestions of those with expertise in this area, and look forward to a cooperative effort to eliminate the kind of substandard of fraudulent practices that are costing our Nation, human, educational, and financial resources it can ill afford to lose.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JOHNSON of California (at the request of Mr. O'NEILL) for today, on account of illness.

Mr. THOMPSON of New Jersey, for December 13, 1973, on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. YOUNG of South Carolina) and to revise and extend their remarks and include extraneous matter:)

Mr. WYMAN, for 5 minutes, today.

Mr. CRANE, for 5 minutes, today.

Mr. CRANE, for 5 minutes, on December 13, 1973.

Mr. YOUNG of Alaska, for 5 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. WILLIAMS, for 5 minutes, today.

Mr. MARTIN of North Carolina, for 5 minutes, today.

(The following Members (at the request of Mr. STUDDS) to revise and extend their remarks and include extraneous matter:)

Mr. ALEXANDER, for 30 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. DRINAN, for 20 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. TIERNAN, for 5 minutes, today.

Mr. WOLFF, for 5 minutes, today.

Mr. DINGELL, for 10 minutes, today.

Mr. FLOOD, for 15 minutes, today.

Mr. OWENS, for 10 minutes, today.

Mr. COTTER, for 5 minutes, today.

Mr. LITTON, for 10 minutes, today.

Mr. DULSKI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. YOUNG of South Carolina) and to include extraneous material:)

Mr. WYMAN.

Mr. VEYSEY.

Mr. TREEN.

Mr. MARTIN of North Carolina.

Mr. SHOUP in two instances.

Mr. ESCH.

Mr. DERWINSKI in two instances.

Mr. MADIGAN.

Mr. WYDLER.

Mr. ASHBROOK in four instances.

Mr. WILLIAMS.

Mr. MCKINNEY.

Mr. HANSEN of Idaho.

Mr. MICHEL.
Mr. SYMMS.
Mr. JOHNSON of Pennsylvania in two instances.
Mr. YOUNG of Alaska.
Mr. SARASIN.
Mr. MARTIN of Nebraska.
Mr. CARTER.
Mr. SNYDER in two instances.
Mr. VANDER JAGT.
Mr. ANDERSON of Illinois.

(The following Members (at the request of Mr. STUDDS) and to include extraneous matter):

Mr. DIGGS.
Mr. ROONEY of New York in two instances.
Mr. VANIK in two instances.
Mr. DRINAN in three instances.
Mr. HARRINGTON in three instances.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. FUQUA in five instances.
Mr. SYMINGTON.
Mr. REES in two instances.
Mr. YATRON.
Mr. JONES of Tennessee in six instances.
Mr. FLOOD.
Mr. HAMILTON.
Mr. MINISH.
Mr. WOLFF.
Mr. STOKES.
Mr. STUCKEY.
Mrs. CHISHOLM.
Mr. JAMES V. STANTON.
Mr. WALDIE.
Mr. EVINS of Tennessee.
Mr. DULSKI in five instances.
Mr. RODINO.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1745. An act to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes; to the Committee on Interstate and Foreign Commerce.

ADJOURNMENT

Mr. STUDDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until Thursday, December 13, 1973, at 11 o'clock a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee of conference. Conference report on S. 14 (Rept. No. 93–714). Ordered to be printed.

Mr. POAGE: Committee on Agriculture. S. 1945. An act to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, so as to authorize certain grapefruit marketing orders which provide for an assessment against handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expend directly for marketing promotion (Rept. No. 93–715). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. H.R. 11273. A bill to provide for the regulation of the movement in foreign commerce of noxious weeds and potential carriers thereof; with amendment (Rept. No. 93–716). Referred to the Committee of the Whole House on the State of the Union.

Mr. NEDZI: Committee on Armed Services. S. 2714. An act to amend section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, relating to cost-of-living increases, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect changes in the Consumer Price Index (Rept. No. 93–717). Referred to the Committee of the Whole House on the State of the Union.

Mr. FISHER: Committee on Armed Services. H.R. 3418. A bill to amend section 505 of title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons (Rept. No. 93–718). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE of Illinois: Committee on Armed Services. H.R. 5621. A bill to provide for the presentation of a flag of the United States for deceased members of the National Guard and Selected Reserve; with amendment (Rept. No. 93–719). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2166. An act to authorize the disposal of opium from the national stockpile; with amendment (Rept. 93–720). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2316. An act to authorize the disposal of copper from the national stockpile and the supplemental stockpile; with amendment (Rept. No. 93–721). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2413. An act to authorize the disposal of aluminum from the national stockpile and for other purposes (Rept. No. 93–722). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2493. An act to authorize the disposal of silicon carbide from the national stockpile and the supplemental stockpile (Rept. No. 93–723). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2498. An act to authorize the disposal of zinc from the national stockpile and the supplemental stockpile (Rept. No. 93–724). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 2551. An act to authorize the disposal of molybdenum from the national stockpile, and for other purposes (Rept. No. 93–725). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. S. 1773. An act to amend section 7305 of title 10, United States Code, relating to the sale of vessels stricken from the Naval Vessel Register; with amendment (Rept. No. 73–726). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Texas: Committee on Rules, House Resolution 745. Resolution providing for the consideration of H.R. 11510. A bill to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions (Rept. No. 93–727). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 746. A resolution authorizing the Speaker to entertain motions to suspend the rules (Rept. No. 93–728). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 11907. A bill to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DON H. CLAUSEN:

H.R. 11908. A bill to authorize the Secretary of Agriculture to permit the use of DDT to control and protect against insect infestation on forest and other agricultural lands; to the Committee on Agriculture.

H.R. 11909. A bill to amend chapter 2 of title 16 of the United States Code (respecting national forests) to provide a share of timber receipts to States for schools and roads; to the Committee on Agriculture.

H.R. 11910. A bill to establish a contiguous fishery zone (to the outer limits of the Continental Shelf) beyond the territorial sea of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. COHEN (for himself, Mr. BURKE of Massachusetts, Mrs. HECHLER of Massachusetts, and Mr. STOKES):

H.R. 11911. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. SEIBERLING, Mr. RIEGLE, Mr. REUSS, and Mr. ROE):

H.R. 11912. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop standards relating to the rights of patients in certain medical facilities; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. RIEGLE, and Mr. SEIBERLING):

H.R. 11913. A bill to establish in the Department of Housing and Urban Development a direct low-interest loan program to assist homeowners and other owners of residential structures in purchasing and installing more effective insulation and heating equipment; to the Committee on Banking and Currency.

By Mr. COHEN (for himself, Mr. WOLFF, Mr. SEIBERLING, and Mr. RIEGLE):

H.R. 11914. A bill to amend the Internal Revenue Code of 1954 to encourage greater conservation of energy in home heating and cooling by providing an income tax deduction for expenditures made for more effective insulation and heating equipment in residential structures; to the Committee on Ways and Means.

By Mr. DORN:

H.R. 11915. A bill to amend chapter 36 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to continue making educational assistance and subsistence allowance payments to eligible veterans and eligible persons during periods that the educational institutions in which they are enrolled are temporarily closed pursuant to a policy proclaimed by the President or because of emergency conditions; to the Committee on Veterans' Affairs.

By Mr. MADIGAN:

H.R. 11916. A bill to require oil producers, refiners, and distributors to provide certain

information as requested by the Federal Energy Administration, to authorize auditing of such information by the General Accounting Office, and to provide for enforcement; to the Committee on Interstate and Foreign Commerce.

By Mr. MINSHALL of Ohio (for himself, Mr. KEMP, Mr. HELSTOSKI, Mr. FORSYTHE, Mr. DUNCAN, Mr. MILLER, Mr. ICHORD, Mr. CONTE, Mrs. COLLINS of Illinois, Mr. YATES, Mr. PEPPER, Mr. LEHMAN, Mr. GUDE, and Ms. ABZUG):

H.R. 11917. A bill to encourage increased use of public transit systems by amending the Internal Revenue Code of 1954 to allow a credit against individual income taxes for funds expended by a taxpayer for payment of public transit fares from his or her residence to his or her place of employment and from his or her place of employment to his or her residence; to the Committee on Ways and Means.

By Mr. PARRIS:

H.R. 11918. A bill to amend the Clean Air Act to prohibit the Environmental Protection Agency from imposing parking surcharges; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSE:

H.R. 11919. A bill to amend title 38 of the United States Code to remove the time limitation within which programs of education for veterans must be completed; to the Committee on Veterans' Affairs.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. BRASCO, Mr. BROWN of California, Mr. DELANEY, Mr. DRINAN, Mr. HARRINGTON, Mr. GUYER, Mr. HAWKINS, Mr. LEHMAN, Mr. STARK, Mr. WALDIE, and Mr. YATRON):

H.R. 11920. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the labels on all foods to disclose each of their ingredients; to the Committee on Interstate and Foreign Commerce.

By Mr. TALCOTT:

H.R. 11921 A bill to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes; to the Committee on Interior and Insular Affairs.

By Mr. VEYSEY:

H.R. 11922. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to dietary supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska:

H.R. 11923. A bill to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees; to the Committee on Ways and Means.

By Mr. YOUNG of Illinois (for himself, Mr. HANRAHAN, and Mr. CRANE):

H.R. 11924. A bill to encourage increased use of public transit systems by amending the Internal Revenue Code of 1954 to allow, for income tax purposes, a deduction for funds expended by an individual for payment of public transit fares from his or her residence to his or her place of employment and from his or her place of employment to his or her residence; to the Committee on Ways and Means.

By Mr. ASPIN:

H.R. 11925. A bill; temporary tax on energy corporations; incentive investment deduction for increased net capital outlays; to the Committee on Ways and Means.

By Mr. ASPIN (for himself, Mr. RANGEL, and Mr. ST GERMAIN):

H.R. 11926. A bill to direct the President to halt all exports of gasoline, distillate fuel oil, propane gas, and residual fuel until he determines that no shortage of such fuel exists in the United States; to the Committee on Banking and Currency.

By Mr. BELL (for himself and Mr. PETTIS):

H.R. 11927. A bill to establish criteria to be observed by approving entities for federally assisted post-secondary education programs in order to protect students in such programs; to the Committee on Education and Labor.

By Mr. BLATNIK (for himself, Mr. JONES of Alabama, Mr. HARSHA, Mr. WRIGHT, Mr. GROVER, Mr. JOHNSON of California, Mr. DON H. CLAUSEN, Mr. ROBERTS, and Mr. HOWARD):

H.R. 11928. A bill to amend the Federal Water Pollution Control Act to establish the ratio for allocation of treatment works construction grant funds, to insure that grants may be given for other than operable units, and to clarify the requirements for development of priorities; to the Committee on Public Works.

By Mr. JONES of Alabama (for himself, Mr. BEVILL, Mr. FLOWERS, Mr. EVINS of Tennessee, Mr. FULTON, Mr. KUYKENDALL, Mr. BAKER, Mr. QUILLEN, Mr. DUNCAN, Mr. BEARD, Mr. JONES of Tennessee, Mr. STUBBLEFIELD, Mr. CARTER, Mr. WHITTEN, Mr. BOWEN, Mr. DAVIS of Georgia, Mr. LANDRUM, and Mr. WAMPLER):

H.R. 11929. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments; to the Committee on Public Works.

By Mr. LITTON (for himself, Mr. BRAY, Mr. MILFORD, Mr. STUBBLEFIELD, Mr. COLLINS of Texas, Mr. DAN DANIEL, Mr. LOTT, and Mr. CAMP):

H.R. 11930. A bill to amend the National Emissions Standards Act in order to conserve fuel; to the Committee on Interstate and Foreign Commerce.

By Mrs. MINK (for herself and Mr. HAWKINS):

H.R. 11931. A bill to provide for the regulation of financing with respect to campaigns for election to certain elective offices; to the Committee on House Administration.

By Mr. SNYDER:

H.R. 11932. A bill to amend the Public Works and Economic Development Act of 1965, as amended; to the Committee on Interior and Insular Affairs.

By Mr. VANIK:

H.R. 11933. A bill to amend the Internal Revenue Code of 1954 to provide for the amortization of facilities used for the manufacture of solar heating and cooling equipment; to the Committee on Ways and Means.

By Mr. COUGHLIN:

H.J. Res. 856. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning April 21, 1974, as "National Volunteer Week"; to the Committee on the Judiciary.

By Mrs. MINK:

H.J. Res. 857. Joint resolution proposing an amendment to the Constitution of the United States to provide for an election for the Office of President and the Office of Vice President in the case of a vacancy both in the Office of President and the Office of Vice President, or in the case of a vacancy in the Office of President if the person serving as Vice President was chosen as provided by the 25th article of amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. PICKLE (for himself, Mr. O'NEILL, Mr. MCFALL, Mr. RHODES, Mr. ANDERSON of Illinois, Mr. ARENDS, Mr. BLATNIK, Mr. GRAY, Mr. WRIGHT, Mr. ROBERTS, Mr. MILFORD, Mr. PATMAN, Mr. MAHON, Mr. POAGE, Mr. FISHER, Mr. TEAGUE of Texas, Mr. BURLESON of Texas, Mr. BROOKS, Mr. YOUNG of Texas, Mr. CASEY of Texas, Mr. GONZALEZ, Mr. DE LA GARZA, Mr. ECKHARDT, Mr. KAZEN, and Mr. PRICE of Texas):

H.J. Res. 858. Joint resolution to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac; to the Committee on Public Works.

By Mr. VEYSEY:

H.J. Res. 859. Joint resolution to designate the third week of September of each year as "National Self Pronouncing Alphabet (SPA) Week"; to the Committee on the Judiciary.

By Mr. CEDERBERG:

H. Con. Res. 398. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. WOLFF:

H. Con. Res. 399. Concurrent resolution to conserve gas; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LEGGETT:

H.R. 11934. A bill for the relief of Manuel Bonton; to the Committee on the Judiciary.

By Mr. SNYDER (by request):

H.R. 11935. A bill for the relief of Robert Simmons Construction Co., Inc., Louisville, Ky.; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 11936. A bill for the relief of Maria Gilda Jiminez-Alcala; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

373. The SPEAKER presented a petition of Clinton Pettiford, Jr., Randallstown, Md., relative to redress of grievances; to the Committee on Post Office and Civil Service.

EXTENSIONS OF REMARKS

EDITORIAL BY IRVIN HUTCHISON

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. SHOUP. Mr. Speaker, the following editorial appeared in the Liberty County Times, a weekly newspaper published in the town of Chester, Mont. Although the parallel described may not correspond perfectly, the editorial, written by Publisher Irvin Hutchison, does contain some very valid points which too often are overlooked in the heat of emotional argument:

EDITORIAL BY IRVIN HUTCHISON

Now let's make one thing perfectly clear—I wasn't there, so I am writing a second hand account of what happened.

According to the story as told to me, the language used in the play "All the King's Men" presented by the Repertory Theatre and sponsored by the Liberty County Arts Council was profane, to say the least. It must have been pretty vulgar because over