

then took the fifth amendment. He ran one of the biggest energy companies in this country. We found out that at least part of it was a criminal enterprise. It benefitted greatly by the actions of the Congress, and only a few in the Congress knew what they were trying to do. That created this loophole by which Enron and others down the road could create an energy market that was unregulated, outside of the view of regulators and of the grasp of regulators.

So now, going forward from December 15, 2000, to today, what is happening is that we have seen, outside of the purview of regulators, a dramatic amount, an obscene amount of speculation in energy markets.

I have met with experts who have said that there is no speculation here. Yesterday, I met with a person yesterday, someone who is an expert in this area and runs a major corporation, who said there is no speculation here. That is just wrong. That is false on its face. All one has to do is look at what is happening in these markets. Can anybody, anyplace, anytime, anywhere tell us that something has happened in the last 14 months in terms of the market fundamentals that justifies doubling the price of oil or gasoline? There is nothing that justifies that.

This Congress cannot sit around any longer. I know the President and the Vice President opposed responding to the electricity crisis out West when they first came to office. I recall when some of us in Congress were trying to take some action against what was happening to hijack wholesale electric prices on the West Coast by the Enron Corporation that they stood by idly. I and others pushed and pushed. The Federal Energy Regulatory Commission said there is nothing going on there. DICK CHENEY made fun of us, saying these markets are working, we just don't like markets. The President didn't want to do anything. We finally found out what was something illegal happening. Every day was criminal. They were manipulating supply in a criminal way, and there are people sitting in prison for it. Ken Lay died beforehand, but he was on his way to prison because it was a criminal enterprise he was conducting. And the Vice President was belittling those of us in Congress who were trying to do something about it. The Federal Energy Regulatory Commission was dead asleep, very content to do nothing.

That cannot continue to be replicated now. We have to do something to soak the speculation out of these futures markets. There needs to be a futures market for energy, I support that. There are legitimate hedging requirements, I understand that. There needs to be liquidity, I understand that. But when you have excessive speculation that damages this country and runs up the price of oil to double the price when, in fact, the market fundamentals do not justify it. Hedge funds, investment banks, and many

others rush into these markets in order to make profits through speculation and the public be damned. It doesn't matter what it does to the country, then something is wrong, and it is the responsibility of the Congress to act. It is our responsibility and requirement. We cannot sit around and ignore this any longer.

I had a call from the owner of a trucking company in North Dakota the other day. They have been running a trucking firm for years. His dad ran it, and his family has been running it for four or five decades. He said: I don't think we can continue. We can't afford the price of diesel fuel.

I understand we have had 12 airlines that have gone into bankruptcy. I know of five in the last 6 or 8 weeks. The fact is, this country cannot exist without a vibrant aviation industry. We have to have airline companies that are able to move Americans back and forth across the country. The price of jet fuel is even worse than the description I just offered with respect to gasoline and oil.

We need to work on this issue in a very aggressive and urgent way, and we need to do something that shuts down this speculation. I indicated yesterday that I am working on legislation to try to do that and to try to make certain we have a completely regulated system with respect to the trading of these contracts.

First of all, they ought to be regulated. Some say that, if we try to regulate them here, they will move offshore. We ought to be able to regulate it. If you are in this country, you want to play games in the commodities markets as a speculator, if you are picking up a telephone and trade commodities in this country, as far as I am concerned, you ought to be regulated with respect to your order of commodities contract.

A lot of work is being done. As I said, I spent part of this morning with experts who understand the complexities and the vagaries of these commodity markets and especially the oil markets and the speculation that is occurring. I side with those who believe there is excessive speculation and that there is a requirement that we do something about it.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. NELSON of Florida. Mr. President, what is the parliamentary procedure we are in?

The PRESIDING OFFICER. The Senate is in a period of morning business.

Mr. NELSON of Florida. Mr. President, if I may be recognized.

The PRESIDING OFFICER. The Senator from Florida is recognized.

HIGH GAS PRICES

Mr. NELSON of Florida. Mr. President, we are getting ready to consider the gasoline bill next week and all its ramifications for the American public who are suffering under \$4 and \$4-plus gas.

A few days ago, this Senator showed a photograph of a town in north Florida, Madison, FL, in Madison County, downtown, the local Shell Oil station. Regular in the State of Florida, reflected in that photograph of a few days ago, was at \$4.10 a gallon.

It goes without saying that our people are hurting. And I can tell you, having had 18 townhall meetings last week all over my State, that hurting has turned into frustration, and that frustration is turning into anger.

Now, there is a new poll out this week that reflects the increasing number of Americans who believe it is the supply and demand of oil that is driving these prices to record highs—just the supply and demand. We know we have a very tight world oil market, and we know places such as India and China in fact are consuming more oil, and their demand is higher. We understand that makes the world's oil markets all the more tight. And believe it or not, because of that, and because of this constant amount of information coming out from the oil sector about supply and demand creating the tight oil market, the American people are believing that is the cause of these record oil prices, believing that translates into these very high gasoline prices.

It is interesting because it is just at a time that the Senate has voted to close the so-called Enron loophole, which is perhaps the real culprit to blame in the shocking runup of the oil prices.

Now, what is the Enron loophole? Back in the year 2000, legislation was passed that exempted oil and metals from being regulated on the commodity futures exchange. That meant that as contracts for future purchase of oil and metals are being traded, there is no government oversight, no government regulation of how much those can go up. So as long as the participants bidding for those futures contracts continue to bid the price of those oil contracts higher and higher, in fact the price of that oil on the world market continues to go higher and higher, much over and above what normal supply and demand would cause the price to be.

This closing of that Enron loophole has just occurred. It is still in the works because even though it was added to the farm bill, the farm bill was vetoed by the President. The veto was then overridden and, therefore, it came into law immediately upon the override. Nevertheless, we found that we omitted a section of the farm bill, so we are going back and redoing that all over again. We just passed the farm bill again in its entirety in the Senate yesterday, last night. It does have the

Enron loophole closure in the bill. Presumably, that will be passed by the House, go down to the President for signature, he will veto it again, and then it will come back to both Houses for overriding, like we did before about 2 or 3 weeks ago, and the Enron loophole will be closed. There are a bunch of us, including this Senator, who were cosponsors of this provision. Hopefully, it is going to address this loophole.

But what happened in the past? It was enacted back in 2000—in December of 2000. I believe that loophole, when enacted, was exploited by energy traders. This is based on the mounting evidence that we see over and over. It is at least a partial cause of the huge runup in the gas prices.

Well, I think we need to do more on this Enron loophole. There have been some commentaries by some experts that say we should be closing it further. And if we need to do that, this Senator is certainly ready to do it. But right now what needs further examination is how we got to this point in the first place. How did this provision in law, leaving this huge hole big enough to drive a Mack truck through get to this point where it essentially exempted the trading of oil futures from Federal commodities regulation? How did that become the law of the land? What was the role of lobbyists and oil companies and investment banks and commodity speculators? We need answers to those questions.

We have seen through testimony to the Congress and from other reports that unchecked commodities trading plays a very significant role in rising gasoline prices. We know high gas prices are not merely a function of supply and demand in the marketplace. In fact, we ought to know this from several years ago.

A subcommittee, led by Senator CARL LEVIN of Michigan, found that supplies were mostly adequate, but it found something else was missing. What was the role that caused these prices to be jacked up? Just a few days ago, financier George Soros told our Senate Commerce Committee—in fact, just this past Tuesday—that a dramatic increase in commodities trading in recent years has contributed to the oil bubble and its “harmful economic consequences.”

Indeed, loosely regulated speculators appear to have bid up oil prices to these unrealistic highs. There are also links between oil companies and investment banks in the oil futures trading. And this is what these reports are showing. The Senate investigations subcommittee, in a bipartisan way, under the leadership of Senator LEVIN, released a report finding that there was lax Federal oversight of oil and gas traders due to the loophole slipped into the law in 2000, and it was slipped in at the behest, according to the Levin report, of the now infamous Enron Corporation, along with oil companies and investment banks. That is according to the Levin report.

Other links between soaring oil prices and vast sums of money now flowing through these commodity markets were uncovered by a Homeland Security panel and our colleague, Independent-Democrat Senator JOE LIEBERMAN. In fact, a top oil executive for a major oil company recently testified before a House panel that crude oil, under normal supply and demand, ought to be around \$55 a barrel, based on the rule of supply and demand. Yet last week it went up to \$135, and it is somewhere in the \$130-a-barrel range today.

Mr. President, I think those investigations into the cause of the runup of the price of oil ought to continue. An estimated one-third of the amount of the runup of the price of oil can be blamed on speculators having poured tens of billions of dollars into the unregulated energy commodities markets in the wake of that so-called Enron loophole that deregulated those commodities markets. In essence, the loophole exempted electronic trading of energy and metal by large traders—exempted them from Federal commodities regulation. Since then the price of oil and natural gas has skyrocketed, and that is all despite reports that the supplies are mostly adequate.

Next week we are going to try to take up legislation aimed at getting at this situation of high gas prices. This Senator intends to address this issue.

If, in fact, as that oil company executive said, supply and demand ought to cause oil to be trading at \$55, why is it trading in excess of \$130? What role do the unregulated commodities markets play, and how did that get into law? How much of that capital out there is flowing into that because those markets are unregulated, thereby driving up that price to what we have today?

We see one Federal agency that otherwise regulates futures trading has said it will investigate allegations of short-term manipulation of crude oil prices. The Commodity Futures Trading Commission also said it would work with British regulators to monitor large trades of crude oil by a London futures exchange known as ICE, Intercontinental Exchange. Some of the founding members of that intercontinental exchange, it has been reported, were instrumental in getting the Enron loophole through Congress back in the year 2000. It was ill-conceived public policy at best, and it should be reversed. Next week we are going to have a chance to do something about it because we have legislation on the price of gasoline coming to the Senate floor.

By having greater oversight and regulation on oil trading, we obviously have to go beyond that and look to our commitment to a comprehensive national energy policy. Fifty percent of the oil we use goes into transportation, and most of that is for our personal vehicles. So it should not take a rocket scientist to realize we must focus on conservation measures like 40 miles

per gallon as a fleet average for our vehicles. We finally broke through and got through the Senate 35 miles per gallon phased in over the next 12 years. Maybe we ought to accelerate that.

We ought to look at providing bigger tax breaks for hybrid and plug-in hybrid vehicles. Ultimately, we must look to the research and development of electric and hydrogen-powered cars.

All of this is going to fall in the lap of the next President. The next President is going to have to urge us—and I hope we will support the next President—to enact a national energy program to transition us from gasoline to alternative, synthetic, and renewable fuels to power much of this economic engine of America.

President Kennedy led us on such a monumental task, and that was the task to escape the bonds of Earth within a decade, to go to the Moon, and return safely. We did that. We must act with the same urgency now. While we are at it, we are going to have to make ethanol from things that we do not eat. While we are at that, we are going to have to pay attention to how we power, not just our cars and trucks, but our homes and our industries.

We need to develop solar and wind and thermal energy and safe nuclear power. The world is begging for change. One of the most enormous changes that needs to be brought about is how we utilize and how we create energy and how we are going to utilize and create energy for the future. We have a chance to do that next week when we take up this legislation about the high price of gasoline.

I yield the floor.

IN REMEMBRANCE OF JAMES BYRD, JR.

Mr. SMITH. Mr. President, I rise today to remember a life that was untimely taken and to recall a horrific hate crime that shocked a nation. Ten years ago this week James Byrd, Jr., was dragged 3 miles—chained to the back of pickup truck—on a rural road in Jasper County, TX, to his death. It was said that a blood trail of body parts and personal effects stretched over 2 miles, with Byrd's severed head, right arm, and neck found almost a mile from where his tattered torso was discarded. Byrd's face had been spray painted black.

James Byrd was a victim of the cruelest form of racial intolerance. He was murdered for no other reason than for the color of his skin. To think that such a senseless crime could occur in the wake of so many of our Nation's civil rights milestones is disheartening. It is also a stark reminder that much work remains to be done in protecting minorities and ending intolerance.

No American should have to live in fear because of their sexual orientation, race, gender, national origin, or disability. As a nation, we cannot afford to become complacent. We must forever strive to reach the golden rings