

THE SUNNY SIDE OF THE CRISIS

caribou can jump over the Alaska pipeline, or by those who conspire to shackle the market and its productive miracles in the name of some higher, ethereal good. One group's emergency is another's apparition. Liberals generally feel that there is no real energy crisis, but that there should be. Conservatives sense that there is a crisis, and that we cannot survive without a rugged upward struggle. The editorial pages are obsessed with these viewpoints, milking their significance in passionately antithetical pieces whose wild contradictions, balanced across the page, illustrate the endearing human elements of the energy crisis—the panoply of mortal beliefs, the hearts struggling against themselves, the touchingly thin disguise of self-interest (HERE'S WHAT WE'RE DOING ABOUT THE ENERGY CRISIS, say the ads). Only after recognizing the human frailty at work in the energy crisis can one appreciate the hidden, positive developments that inevitably will follow. And nowhere is this frailty more apparent than in the deliberations of the Congress.

The howl of representation

FRIDAY, DECEMBER 21, was energy day on Capitol Hill. The Energy Emergency Act of 1973 was up for final consideration in both chambers, and the legislators were anxious to pass the mammoth measure quickly and flee home for the holidays. The heart of the bill empowered the President to establish rationing throughout the entire economy. Many legal scholars maintained that he already possessed that authority from numerous, broad-based grants of power in existing laws, but the President wanted the Congress to say so again, out loud. (The House, squirming under the pressure, took some of the political sting out of the request by striking the word "rationing" out of the bill wherever it appeared and inserting "end use allocation," an equivalent phrase that would not attract as much attention. "It gives him the same powers," said one wily committee chairman, "but Congress will not get as much blame.") In addition to providing for rationing, the bill repealed or modified a wide variety of environmental legislation, created several new energy agencies, exempted key industries

from provisions of the antitrust laws that allegedly impede cooperative conservation programs, and gave the President almost unlimited authority to turn off the nation's lights and slow down its cars. Finally, the bill contained three highly controversial amendments that originated in the House: (1) a prohibition against "windfall profits" in the petroleum industry; (2) an order that the energy companies disclose their reserves under penalty of law (the companies regard their reserves as a trade secret and guard the knowledge with all the possessed zeal that Borgart employed to hide his gold sacks in the Sierra Madre); and (3) a requirement that the President's actions be nondiscriminatory, that he no longer single out groups like the private-airplane owners as "nonpriority" energy users.

The bill arrived in the report of a conference committee of senior men from both Houses, whose job it was to reconcile the gargantuan differences between the original bills passed by the House and the Senate. The report had been finished only that morning, after days and nights of wrangling, and it was immediately brought before the Senate. Forty of the hundred Senators had already gone home for Christmas. Many of the remaining ones did not have a copy of the report, and many more had not read it. It was ninety-three pages long, a dense concoction of legislative oatmeal.

The final compromises had presumably been made, and Congress was expected to send the legislation obediently to the President's desk. So a murmur of surprise went through the gallery when Sen. Clifford Hansen of Wyoming, one of the most loquacious oil Senators, took the floor to denounce the bill as a "diabolical, three-tiered pagoda of confusion and delay." The Administration and he would not tolerate the windfall profits section or the reporting requirement, Hansen declared, because these were "attempts to paint the oil industry as the black hat of the energy crisis." It was a matter of principle. Hansen also opposed the nondiscrimination section, "because it will subject the Administration to lawsuits from 200 million citizens claiming that someone else got more oil than they did." He then announced that he would hold the floor until sanity prevailed, which he fully

anticipated from his reasonable and distinguished colleagues.

The filibuster was on. Russell Long said he did not like the windfall profits section either, because it seemed to involve an implicit tax on the oil people. Tax matters, he said, should come out of the Finance Committee. Long is chairman of the Finance Committee and proud of his petroleum investments. The filibuster would not be broken as long as he supported it.

Sen. Henry Jackson, the floor manager of the energy bill, became extremely agitated when the filibuster emerged. His smile and self-assurance faded. He started grabbing other Senators and running off into antechambers—apparently to no avail. Jackson's condition grew worse with the passing afternoon hours. His reputation as one of the most powerful men in the Senate, "the Toscanini of energy legislation," was under serious attack; he faced the humiliation of having his prize bill killed by a coalition of oil spokesmen and Administration flannelmouths, who were at that moment engaged in another "Senatorial colloquy" that involved endless recitations of statistics proving how hard it is to find oil.

Mike Mansfield, the genial Senate Majority Leader, also became agitated late in the afternoon. He asked for a gentleman's timeout on the filibuster, and, with the veins standing out on his thin neck, began perhaps the most inflammatory speech of his mild-mannered career. "This is a pretty sour performance," he began, with Senators crowding in to hear him, "when we have to wait for people from the White House to come up with a bill for us to pass, while we're kept from voting on our own bill." He went on, becoming angrier, and the three or four reporters in the press gallery cast worried glances at one another. They had never seen this before. "I don't know why we have a Senate," cried Mansfield at the crescendo. "If we can't make up our minds by ourselves, I think we ought to consider the abolition of the Senate!" There was an electric silence. Jackson fidgeted. Hansen, who still had the floor, fidgeted. Mansfield paced in front of the rostrum.

Hansen began speaking softly, at length, of his admiration for the Majority Leader and for the Senate as an institution. He was very tense—passing quiet praise around to soften

his refusal to yield the floor—until an aide slipped him a sheaf of papers. A look of immense relief passed over Hansen's face as he announced that "new criteria have just been developed that will help us move on from here." He handed the White House bill to Jackson, who retired with Long. The deal was soon struck. The filibuster would end in return for Jackson's agreement—much to the relief of the oilmen—to drop the windfall profits section and the requirement for reserve reporting.

THE SENATE MELTED in agreement. Hansen congratulated Jackson. Jackson congratulated Long. Mansfield commended Hansen. Lesser Senators praised the leadership. The strange new bill passed within three minutes, without a whisper of mourning for the departed sections. The Senate recessed, and several Senators wished each other a merry Christmas before hurrying to the airport. The Senate was playing rough; for if the House did not pass precisely the same bill as the Senate, there would be no energy legislation at all. Nixon would be on television sooner or later, blaming Congress for cowardice amid the greatest crisis to beset the Republic.

The pressure shifted to Harley O. Staggers of West Virginia, the energy floor manager in the House, who was situated outside Speaker Albert's chambers, being worked over by two White House lobbyists. They were thinking up polite ways to tell him that some bill is better than no bill.

At 9:00 P.M. the Speaker called the House of Representatives back into session. Under the rules, the House could not take up the energy bill until the Senate had finished. The Representatives were tired, and several of them were in black tie for farewell parties they would probably miss. As they scurried around trying to find out what had happened in the Senate, Carl Albert gaveled the House to order and quickly recognized Staggers. In three sentences, he called up H. Res. 760, a measure to suspend the rules and pass, with a two-thirds majority required, H. 12128—an amendment in the nature of a substitute for the conference report on the original bill, S. 2589.

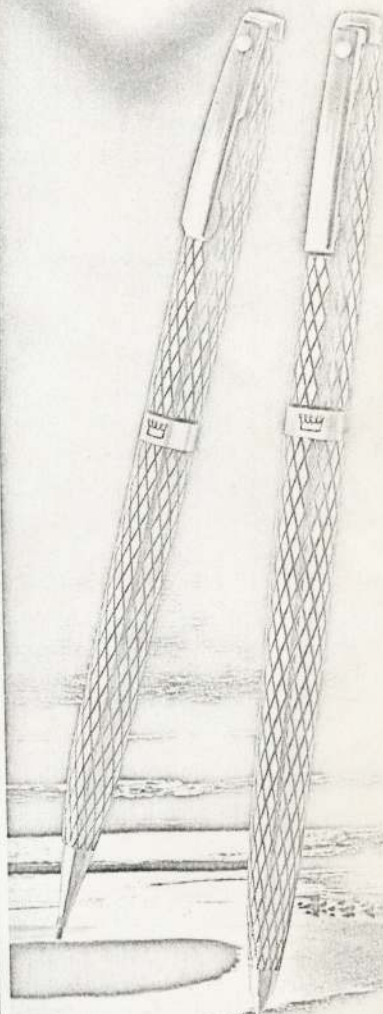
Pandemonium broke out on the House floor. No one knew what H. Res. 760 or H. 12128 were, which

was understandable since Staggers had given them to the House clerk about five minutes earlier. He tried to explain the legislative complications to his colleagues, but Staggers is a man of more character than eloquence. His bill, he said, was different in some detail from both the conference report and the last-minute Senate substitute. Congressmen interrupted him at random to exclaim that they did not know what was in either of these bills. Their last contact with the emergency energy bill had been a week earlier, when the House had taken three days and nights to pass the original bill—adding about fifty amendments, often with one minute's debate, and quitting with seventy more on the table for consideration. The Congressmen had come out bleary-eyed, and the bill had come out loaded with encumbrances of every sort. Few members knew of the intricate manipulations of the conference, much less of the Senate, and no one understood things any better when Staggers finished speaking.

The Republicans, suspecting a trick, made a point of order that a quorum was not present; and when Speaker Albert began counting heads, many Republicans ran for the exits, overpowering the doormen. They returned when Albert maneuvered through several parliamentary thickets to bring the Staggers motion to a vote. As the vote dragged on, several Representatives managed to be heard over the general din. "Mr. Speaker, we don't have the slightest idea what is going on," shouted Rep. Fernand St. Germain of Rhode Island, "so how can we vote?" Loud applause. Rep. Robin Beard of Tennessee grabbed a microphone: "Mr. Speaker, when we first considered this bill last week, I voted 'present' on all the amendments because I didn't know what was in them. I voted 'yea' on final passage of the bill because I thought the conference committee would clean it up. Now I don't know what has come out or what we are voting on." More applause, some cheering, one cry of "Right on!"

H. Res. 760 was somehow favored, 169 to 95, but failed for lack of a two-thirds majority. Staggers then took the floor and shouted with some emotion: "Mr. Speaker, I'm very sorry that the House has taken this action tonight, because I think many men did not know what they were do-

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ing." Loud jeering, catcalls, and booing. Someone seized the opportunity to cry out in response: "Mr. Speaker, the reason the gentleman's bill was voted down was precisely because he could not tell us what was in it." Uproarious applause. Staggers, flustered and tongue-tied, tried to explain the treachery in the Senate. His denunciations of the "other body" won some favor on general principle, but the monologue became cloudy as it proceeded to the final appeal: "Mr. Speaker, I don't know what's in the Senate bill, either, and I am asking the members to support their House conferees."

In the confusion, the word spread among some members of the House and the press that Staggers was adamantly refusing to yield to the Senate. His complex resolution, just defeated, contained all the amendments obnoxious to the oil industry and the Administration. While trying vainly to make this clear, Staggers was bombarded with irrelevant questions about amendments from the previous week. Wool-hats from every region wanted to know what had happened to the provision that banned fuel allotments for court-ordered busing. ("It is not a racial amendment, it is an energy amendment," one Congressman stated. "Those who want to find the race issue in the amendment have not read it.") Others wanted to know if fuel shipments to Vietnam would be banned. Still others arose to discuss the Constitution.

Staggers, with some resignation, then brought up a compromise that omitted the windfall profits section but kept the reserve reporting requirement. Led by an impassioned John Dingell of Michigan, liberals deserted the bill and made speeches about bloated oil companies and the shivering poor. Dingell, ironically, was also the author of the antibusing amendment. He began circulating among his conservative allies, urging them to vote against the bill altogether. "We'll get busing back in there next year," he promised.

The second bill also failed. Then Staggers, as a courtesy to the Republicans, brought up the Senate version. He urged its defeat. "The Senate bill does not even allow us to find out how much energy we have," he said. "How can we vote for a bill that will leave us in the dark? How can we legislate without information?" When the Senate version was voted

down, it became clear that no energy legislation could attract the required two-thirds majority. The leadership called for adjournment. A junior member jumped to his feet to demand a roll call vote, declaring that he was fully prepared to stay in the chamber as long as necessary to take his constituents a new law on the vital question of energy. Others were moved to assert their equal devotion to the legislative process. During the highly unusual vote on adjournment, the House's new computer voting system broke down. The clerk had to call the roll—435 names—twice. The motion failed. The House could not pass a bill, and it could not adjourn. Speaker Albert rapped the gavel and pronounced a recess until the next day. As the Representatives filed out, one yelled, "Merry Christmas! We've made asses of ourselves."

It was 1:15 in the morning. A few hours later the leadership of the House and Senate got together and agreed to give up until the new session in January.

The bureaucrat's delight

REGARDLESS OF WHAT happens when Congress resumes its debate, it can be reliably reported that three subtle natural laws, operating beneath the energy carousel, will work inexorably for the nation's betterment. In accordance with these laws, certain institutional processes are already spreading quietly, like soft green moss under a strong river current, from the capital to the smallest offices in the outback. The first law states that *the spirit of public service will rise, and the bureaucracy will multiply itself much faster, in time of grave national concern.*

Dr. James H. Boren, founder of the National Association of Professional Bureaucrats (NATAPROBU) and the Bureaucratic party's candidate for President in 1972, has been pleasantly overwhelmed with planning since the first rumors of shortages. He burst on the scene as an aggressive spokesman for the bureaucratic arts in 1970, when he paid tribute to the Postal Service's excellence in "the skills of dynamic inaction." Boren rode horseback from Philadelphia to Washington with a satchel full of letters, all of which he delivered before an identical batch, mailed from Philadelphia, arrived.

His horse beat some of the letters by eight days.

Boren anticipates that 1974 will be a big growth year for all levels of the civil service—perhaps as much as 10 percent. "We have received tentative reports from nearly forty ad hoc study committees," he said thoughtfully, "showing that the energy crisis has more orbital interfaces with government program parameters than any crisis since the Depression. That includes the national-security crises, the population crisis, the race crisis, the urban crisis, the blue-collar angst crisis, the role-of-women crisis—anything that has been certified as a matter of national alarm by a major grant thrust from the Ford Foundation." Boren believes that the petroleum question will top them all in attracting people away from their own selfish pursuits into public service. "We will smother people with opportunities," he bubbles, "which we will create through institutional proliferation and the techniques of delegation, coordination, and the committee process of consultation."

On the sawtooth edge of bureaucratic growth lies the new Federal Energy Office, which is suffering through the start-up phase with only 2,500 employees. Seasoned officials expect the number to grow rapidly through the cold months. Washington has set aside \$500 million to help state governments come up with enough people to referee the scramble for energy at the local level. The Administration's second innovation during the crisis, the Energy Research and Development Administration (ERDA), is part of a crash program to invest \$20 billion in research and testing on everything from windmills and geyser power to giant solar collectors in space. The idea is to fund a whole armada of creative laboratories by spraying money around through "contractual arrangements with nonfederal participants including corporations, consortia, universities, governmental entities, and nonprofit institutions."

Experienced observers like Boren look beyond the overt energy agencies for the real employment opportunities in the crisis. Every department will be involved. The Department of Transportation has already won Administration and Congressional support for a new Office of Carpool Promotion. The initial investment is only \$5 million, but the