

vertently or otherwise, one provision thereof would have the practical and immediate effect of eliminating altogether the source of almost all the jet fuel used in this country by the airlines to operate their international flights. The effect of this particular provision on the overall legislation purpose of encouraging and stimulating domestic oil production in the interests of national security, on the other hand, would be minimal since the jet fuel in question would represent only a small fraction of one percent of total domestic oil production.

To properly understand this problem, we must first review some of the pertinent background.

Under the provisions of Section 309(a) of the Tariff Act of 1930, 19 U.S.C. § 1309(a), fuel and other supplies for aircraft and vessels engaged in foreign trade may be withdrawn from customs bonded warehouses free of all duties and internal revenue taxes. The airlines, both U.S. and foreign flag, rely on fuel withdrawn from bonded warehouses for use in the operation of their international flights. The rationale underlying the long standing statutory provision for such duty free withdrawals is that these commodities never enter into the domestic commerce of the United States, but rather are consumed directly in the course of conducting this nation's foreign trade. This privilege is also granted to foreign ships and aircraft on the basis of reciprocity; being contingent upon the grant of reciprocal privileges by the foreign country involved (see 19 U.S.C. § 1309(d)).

Of more recent origin, the mandatory oil import program was established by Presidential Proclamation No. 3279 on March 10, 1959. It was determined at that time that bonded fuel was outside the jurisdiction of the oil import program. By its express terms, the proclamation specifically excluded from the quotas and other import limitations established thereunder "... free withdrawals by persons pursuant to Section 309 of the Tariff Act of 1930." This executive determination has never been changed. Thus, the bonded fuel used by the airlines has never been covered by the mandatory oil import program and no basis has been established for the changing of its status in the present legislation.

The various sponsors of the legislation referred to have enumerated in some detail the exact nature of the special exemptions and exceptions which they felt were now threatening the mandatory oil import program. Absolutely no mention was made by anyone of bonded jet fuel withdrawals from customs' warehouses which, as we have seen, have never been encompassed within this import program and thus could not constitute a newly arisen threat to the program.

Furthermore, while the proponents of the legislation state that present levels would be preserved this is not the case. Airline bonded fuel would be affected by the peculiar language proposed.

These bills as presently drafted would have the effect of bringing bonded fuel under the existing oil import quotas for the first time. This results from the use of a definition of the term "imports" which is based on a statistical reporting practice of the Bureau of the Census. That agency includes within its "imports for consumption" statistics, the free withdrawals from bonded warehouses under the provisions of Section 309. (This Census Bureau practice is itself open to serious question since both Section 309(b) and 317(b) of the Tariff Act of 1930 clearly classify as *exportations* the loading of such supplies aboard ships and aircraft engaged in foreign trade.)

The bills in their present form would not simply bring bonded aircraft fuel within the oil import quotas for the first time; they actually would have the effect of eliminating altogether the availability of such fuel. This would be the practical result of the fact that import quotas for finished oil products (into which category jet fuel would fall) have always been a very small proportion of the overall total and have long since been allocated to other uses. Airline bonded fuel requirements in Districts I-IV during 1967 would represent 65% of the total finished products quota for these districts; their 1970 requirement would represent 100% of that quota. Thus, the legislation would override the long standing bonded fuel rights of the airlines under the Tariff Act of 1930—without any regard for the adverse effect on the economy and efficiency of this nation's foreign air commerce.

The bills would also jeopardize reciprocal privileges granted by foreign countries throughout the world. Enactment of such legislation would place the United States in the untenable position of circumventing the provisions of the bilateral air transport agreements which it has signed with over 60 foreign nations. These agreements provide that fuel and other supplies for use on the aircraft of each