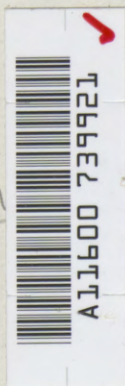


Y 4
P 84/10
HOUSE - Post Office & Civil Service
F 76 c
COLLECTION AND PUBLICATION OF FOREIGN
COMMERCE AND TRADE STATISTICS
10.2-2
8749
844/10
F 76 c

GOVERNMENT

Storage



HEARING
BEFORE THE
COMMITTEE ON
OFFICE AND CIVIL SERVICE
USE OF REPRESENTATIVES
EIGHTY-SEVENTH CONGRESS
FIRST SESSION

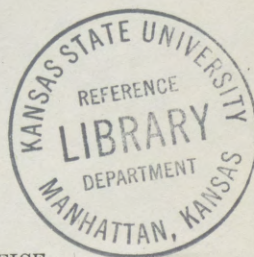
ON

H.R. 7791, H.R. 7813, and H.R. 2032

BILLS TO AMEND TITLE 13 OF THE UNITED STATES CODE
TO PROVIDE FOR THE COLLECTION AND PUBLICATION OF
FOREIGN COMMERCE AND TRADE STATISTICS, AND FOR
OTHER PURPOSES

AUGUST 15, 1961

Printed for the use of the
Committee on Post Office and Civil Service



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1961

74108

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

TOM MURRAY, Tennessee, *Chairman*

JAMES H. MORRISON, Louisiana
JAMES C. DAVIS, Georgia
JOHN LESINSKI, Michigan
KATHRYN E. GRANAHAAN, Pennsylvania
THADDEUS J. DULSKI, New York
DAVID N. HENDERSON, North Carolina
ARNOLD OLSEN, Montana
JOSEPH P. ADDABBO, New York
RICHARD H. ICHORD, Missouri
G. ELLIOTT HAGAN, Georgia
CATHERINE D. NORRELL, Arkansas
MORRIS K. UDALL, Arizona
DOMINICK V. DANIELS, New Jersey

ROBERT J. CORBETT, Pennsylvania
H. R. GROSS, Iowa
JOEL T. BROYHILL, Virginia
AUGUST E. JOHANSEN, Michigan
GLENN CUNNINGHAM, Nebraska
GEORGE M. WALLHAUSER, New Jersey
ROBERT R. BARRY, New York
KATHARINE ST. GEORGE, New York
JOHN H. ROUSSELOT, California
EDWARD J. DERWINSKI, Illinois

SUBCOMMITTEE APPOINTED TO CONSIDER H.R. 2032, 7791, AND 7813

MORRIS K. UDALL, Arizona, *Chairman*

JOHN LESINSKI, Michigan
THADDEUS J. DULSKI, New York
DAVID N. HENDERSON, North Carolina

H. R. GROSS, Iowa
GEORGE M. WALLHAUSER, New Jersey
KATHARINE ST. GEORGE, New York

CONTENTS

Statement of—

McCoy, H. B., president, Trade Relations Council of the United States.....	Page 7
Scammon, Hon. Richard M., Director of the Bureau of the Census; accompanied by Howard C. Grieves, Assistant Director of the Bureau of the Census; J. Edward Ely, Chief, Foreign Trade Division; and Kenneth F. McClure, Assistant General Counsel, Department of Commerce.....	4

CONTENTS

COLLECTION AND PUBLICATION OF FOREIGN COMMERCE AND TRADE STATISTICS

TUESDAY, AUGUST 15, 1961

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE
POST OFFICE AND CIVIL SERVICE COMMITTEE,
Washington, D.C.

The committee met, pursuant to call, at 10 a.m., in room 215, House Office Building, Hon. Morris K. Udall presiding.

Mr. UDALL. The subcommittee will come to order.

This subcommittee was appointed by the chairman of the Post Office and Civil Service Committee for the purpose of considering the bills, H.R. 7791, introduced by Chairman Murray, the identical bill, H.R. 7813, introduced by the ranking minority member, Mr. Corbett, and H.R. 2032, a similar bill, introduced by our colleague, Congressman Hiestand. We are considering these three bills today.

The subcommittee is composed of Mr. Lesinski, Mr. Dulski, Mr. Henderson, Mr. Gross, Mr. Wallhauser, Mrs. St. George, and I was designated chairman.

This hearing was proposed by the official recommendation of the Department of Commerce and the purpose of the bills is to eliminate obsolete laws relating to the collection of foreign commerce and trade statistics. Their purpose is also to bring these laws up to date and make appropriate changes in order to improve the administration of these laws.

We have been furnished by the Department of Commerce, and the members of the subcommittee have here this morning, explanations of the purpose and need for the proposed legislation as submitted by the Department as well as a memorandum outlining in detail the important changes in existing law which will be made by the legislation under consideration.

As our first witness today we are pleased to have the Director of the Bureau of the Census, Mr. Richard Scammon, who represents the Department of Commerce in the hearing we are undertaking.

Mr. Scammon, we have here your prepared statement. I want to commend you on its brevity. Proceed as you see fit, after which we will cross-examine you or perhaps ask for further clarification.

First, we will insert H.R. 7791 in the record at this point.

(The bill, H.R. 7791, follows:)

[H.R. 7791, 87th Cong., 1st sess.]

A BILL To amend title 13 of the United States Code to provide for the collection and publication of foreign commerce and trade statistics, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the analysis of title 13, United States Code, immediately preceding chapter 1 of such title, is amended by adding immediately after and underneath item 7 in such analysis the following new item:

"9. Collection and Publication of Foreign Trade Statistics..... 301."

SEC. 2. Title 13, United States Code, is further amended by inserting at the end thereof the following new chapter:

"CHAPTER 9—COLLECTION AND PUBLICATION OF FOREIGN COMMERCE AND TRADE STATISTICS

"Sec.

"301. Collection and publication.

"302. Rules, regulations, and orders.

"303. Secretary of Treasury, functions.

"304. Filing export information, delayed filings, penalties for failure to file.

"305. Violations, penalties.

"306. Delegation of functions.

"307. Relationship to general census law.

"§ 301. Collection and publication

"The Secretary is authorized to collect information from all persons exporting from, or importing into, the United States and the noncontiguous areas over which the United States exercises sovereignty, jurisdiction, or control, and from all persons engaged in trade between the United States and such noncontiguous areas and between those areas, or from the owners, or operators of carriers engaged in such foreign commerce or trade, and shall compile and publish such information pertaining to exports, imports, trade, and transportation relating thereto, as he deems necessary or appropriate to enable him to foster, promote, develop, and further the commerce, domestic and foreign, of the United States and for other lawful purposes.

"§ 302. Rules, regulations, and orders

"The Secretary may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of this chapter. Any rules, regulations, or orders issued pursuant to this authority may be established in such form or manner, may contain such classifications or differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the Secretary are necessary or proper to effectuate the purpose of this chapter, or to prevent circumvention or evasion of any rule, regulation, or order issued hereunder. The Secretary may also provide by rule or regulation, for such confidentiality, publication, or disclosure, of information collected hereunder as he may deem necessary or appropriate in the public interest. Rules, regulations, and orders, or amendments thereto shall have the concurrence of the Secretary of the Treasury prior to promulgation.

"§ 303. Secretary of Treasury functions

"To assist the Secretary to carry out the provisions of this chapter, the Secretary of the Treasury shall collect information in the form and manner prescribed

by the regulations issued pursuant to this chapter from persons engaged in foreign commerce or trade, other than by mail, and from the owners or operators of carriers.

“§ 304. Filing export information, delayed filings, penalties for failure to file

“(a) The information or reports in connection with the exportation or transportation of cargo required to be filed by carriers with the Secretary of the Treasury under any rule, regulation, or order issued pursuant to this chapter may be filed after the departure of such carrier from the port or place of exportation or transportation, whether such departing carrier is destined directly to a foreign port or place or to a noncontiguous area, or proceeds by way of other ports or places of the United States, provided that a bond in an approved form in the penal sum of \$1,000 is filed with the Secretary of the Treasury. The Secretary of Commerce may, by a rule, regulation, or order issued in conformity herewith, prescribe a maximum period after such departure during which the required information or reports may be filed. In the event any such information or report is not filed within such prescribed period, a penalty not to exceed \$100 for each day's delinquency beyond the prescribed period, but not more than \$1,000, shall be exacted. Civil suit may be instituted in the name of the United States against the principal and surety for the recovery of any penalties that may accrue and be exacted in accordance with the terms of the bond.

“(b) The Secretary may remit or mitigate any penalty incurred for violations of this section and regulations issued pursuant thereto if, in his opinion, they were incurred without willful negligence or fraud, or other circumstances justify a remission or mitigation.

“§ 305. Violations, penalties

“Any person, including the owners or operators of carriers, violating the provisions of this chapter, or any rule, regulation, or order issued thereunder, except as provided in section 304 above, shall be liable to a penalty not to exceed \$1,000 in addition to any other penalty imposed by law. The amount of any such penalty shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States.

“§ 306. Delegation of functions

“Subject to the concurrence of the head of the department or agency concerned, the Secretary may make such provisions as he shall deem appropriate, authorizing the performance by any officer, agency, or employee of the United States Government departments or offices, or the governments of any areas over which the United States exercises sovereignty, jurisdiction, or control, of any function of the Secretary, contained in this chapter.

“§ 307. Relationship to general census law

“The following sections only, 1, 2, 3, 4, 5, 6, 7, 11, 21, 22, 23, 24, 211, 212, 213, and 214, of chapters 1 through 7 of this title are applicable to this chapter.”

SEC. 3. The sections of the Acts, and the Acts or parts of Acts, enumerated in the following schedule, are hereby repealed. Any rights or liabilities now existing under such statutes or parts thereof, and any proceedings instituted under or growing out of, any of such statutes or parts thereof, shall not be affected by this repeal.

Date	Statutes at Large				Revised Statutes	United States Code	
	Chapter	Section	Volume	Page		Title	Section
July 16, 1892-----	196	1	27	197	336 337 ----- 339 341 263 251 338 3812 265	15 15 15 15 15 15 15 15 15	¹ 173 ² 174 ³ 177 ⁴ 179 ⁵ 181 ⁶ 184 ⁷ 185 186 ⁸ 187
Apr. 29, 1902-----	637	10	32	172	----- ----- ----- ----- 4200	46 48 15 46	⁹ 95 ¹⁰ 1486 193 ¹⁰ 92
Do-----	637	10	32	172	-----	48	
Jan. 5, 1923-----	23	2	42	1110	-----	15	

¹ As amended by Acts of Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Aug. 23, 1912, ch. 350, § 1, 37 Stat. 407; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; Jan. 25, 1919, ch. 10, 40 Stat. 1055; Mar. 1, 1919, ch. 86, 40 Stat. 1256.

² As amended by Acts of Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Aug. 23, 1912, ch. 350, § 1, 37 Stat. 407; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; Mar. 1, 1919, ch. 86, 40 Stat. 1256.

³ As amended by Acts of Mar. 3, 1893, ch. 211, § 1, 27 Stat. 689; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Aug. 23, 1912, ch. 350, § 1, 37 Stat. 407; Mar. 4, 1903, ch. 141, § 1, 37 Stat. 736.

⁴ As amended by Acts of Mar. 3, 1875, ch. 129, § 1, 18 Stat. 352; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Aug. 23, 1912, ch. 350, § 1, 37 Stat. 407; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; Mar. 1, 1919, ch. 86, 40 Stat. 1256.

⁵ As amended by Acts of Aug. 23, 1912, ch. 350, § 1, 37 Stat. 407; Mar. 1, 1919, ch. 86, 40 Stat. 1256.

⁶ As amended by Acts of Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Aug. 23, 1912, ch. 350, § 1, 37 Stat. 407; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; Mar. 1, 1919, ch. 86, 40 Stat. 1256.

⁷ Only part referring to form of annual statements on commerce and navigation as amended by Acts of Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736.

⁸ As amended by Acts of Jan. 12, 1895, ch. 23, § 17, 28 Stat. 603; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736.

⁹ As amended by Acts of Feb. 14, 1903, ch. 552, 32 Stat. 829; Mar. 4, 1913, ch. 141, 37 Stat. 736; April 7, 1948, ch. 177, 62 Stat. 161.

¹⁰ As amended by Acts of June 16, 1938, ch. 476, § 2, 52 Stat. 759; June 29, 1938, ch. 821, 52 Stat. 1248.

Sec. 4. The provisions of this Act shall take effect one hundred and eighty days after approval, except that the last sentence of section 337, "Fifth" of the Revised Statutes, and the requirements for oaths as found in section 4200 of the Revised Statutes shall be repealed effective on the day this Act is approved.

STATEMENT OF HON. RICHARD M. SCAMMON, DIRECTOR OF THE BUREAU OF THE CENSUS; ACCOMPANIED BY HOWARD C. GRIEVES, ASSISTANT DIRECTOR OF THE BUREAU OF THE CENSUS; J. EDWARD ELY, CHIEF, FOREIGN TRADE DIVISION, BUREAU OF THE CENSUS; AND KENNETH F. McCLURE, ASSISTANT GENERAL COUNSEL, DEPARTMENT OF COMMERCE

Mr. SCAMMON. Before I begin with the statement I would like to introduce my colleagues, Mr. Kenneth McClure from the General Counsel's Office of the Department of Commerce, Mr. Howard C. Grievies who is the Assistant Director of the Bureau of the Census for economic areas, and Mr. J. Edward Ely who is the head of our foreign trade work.

Mr. UDALL. We are happy to have Mr. McClure, Mr. Grievies, and Mr. Ely, and we welcome you gentlemen.

You may proceed.

Mr. SCAMMON. Mr. Chairman, this is a complex and intricate field, this matter of the statistics of foreign trade. The effect of the proposed legislation would be to bring up to date the authority for compiling these foreign trade statistics.

Monthly, quarterly, and annual data are prepared on both imports and exports, showing information on commodity, country, and U.S. customs district from which these imports come and to which the

exports go. Separate transportation statistics are compiled, also, for that portion of the trade which moves by vessel and, beginning in 1962, by air. The present program, basically, continues a series of data begun on an annual basis in 1790, with monthly detail, in addition, ever since 1866. The proposed legislation does not contemplate the collection of new or different types of information or any basic change in the way the data are collected and compiled.

The earliest Federal laws providing for the reporting by masters of vessels of information on the Nation's foreign trade date from only a few years after the Constitution was adopted. Over the years, these laws have been revised and extended in patchwork fashion as new developments and new methods of transportation came into the picture. Requirements for declarations by exporters became effective in 1820. Provisions were added in 1892 to cover the requirements for reporting statistical information on shipments by rail. In 1926 a law was passed authorizing the application to air commerce of the customs laws and regulations, and the laws and regulations relating to entrance and clearance of vessels. Amendments never were added to take care of shipments over border highways when truck transportation came into use. Pipeline shipments are not covered either. Statistics on foreign trade by these methods of transportation are collected solely on the basis of administrative regulations.

The bill under consideration introduces the necessary language into title 13, the Census title, in place of the provisions scattered through titles 15, 46, and 48, which it eliminates. The bill differs from the statutes it replaces in a few respects.

1. It will vest authority in the Secretary of Commerce to provide, by regulation, the detail of the statistical reporting requirements and the form and content of the statistics to be produced. The existing statutes attempt to spell out much of the detail in the law. Authority for administrative issuance and revision of the detailed requirements will permit them to be made complete and consistent, and kept responsive to current needs and conditions. For example, if changes in trade practice or statistical needs, or advances in statistical compiling techniques warrant, at some future time, the inauguration of simpler or less burdensome reporting requirements, the new law would permit the Secretary of Commerce to make the adjustments. Existing laws, in contrast, are so detailed that changes in the reporting method can in most instances be made only by congressional amendment of the legal requirements.

2. The requirement for the oath on shipper's export declarations for shipments by vessel will be repealed. The requirement for the oath is burdensome and does not contribute to the accuracy of the information. Exporters will not be relieved of liability for false statements, because other provisions of law provide penalties for misrepresentation of material facts in statements made to the Government. Exporters and carriers in our waterborne trade have been most emphatic in expressing their requests for repeal of the oath requirement, to simplify the preparation of the declarations.

3. Other out-of-date or obsolete provisions will also be eliminated, such as the requirement that each customs collector summarize the reports of exports and imports of his district.

4. Less severe but more equitable penalties for violation of the statistical requirements will be authorized. At the same time, appropriate provision for exceptions to the requirements of the regulations and for mitigation of penalties is included in the law.

For these reasons, Mr. Chairman, I urge the enactment of H.R. 7791. I am prepared either personally or through the assistance of my colleagues to answer such questions as the committee may have about this legislation.

Mr. UDALL. I have a few questions and then I will ask for questions from members of the subcommittee.

The \$64 question usually with legislation of this kind is how much will it cost? Do you anticipate any additional expense or any additional appropriation for your Department if this legislation passes?

Mr. SCAMMON. I understand not, Mr. Chairman.

Mr. UDALL. This is simply a recompilation of existing authority and simplification and change in legislative authority rather than adding any new programs.

Mr. SCAMMON. Essentially a tidying up and an easement of some of the burdens which have been placed upon reporting people over the years by the nature of the legislation.

Mr. UDALL. I think you covered it in your statement but some of us may not be familiar with what your existing program now is. Do I understand that the Census Bureau intends to compile and publish regularly a summary of imports by category and place and perhaps value and a summary of exports each year?

Mr. SCAMMON. Let me ask Mr. Ely, who has the actual jurisdiction over our foreign trade work, to summarize our present program in the field.

Mr. UDALL. Good. I would like the record to show generally what the program is and the types of information that are furnished and made available.

Mr. ELY. In the Census Bureau we compile what we call the official U.S. import and export statistics which are in terms of very great commodity detail. In the case of imports there are some 5,000 individual import commodity classifications, each of them, of course, classified by roughly 150 countries of origin in the world and further classified by the 50 or so customs districts in the United States. We compile similar information on exports. You can see there is a tremendous amount of detail. In exports there are about 2,600 commodity classifications, again by 150 countries of destination and by 50 customs districts through which the goods left the United States.

This information is all compiled from forms prepared by the exporter and importer, the export declaration in the case of exports and the import entry form in the case of imports. After having compiled these over all statistics we then segregate those shipments that were carried by vessel and prepare separate statistics on the waterborne exports and imports which include in addition to dollar value the shipping weight, which is not shown in the statistics which I have just finished describing, and also the flag of the vessel, the port of lading and the port of unloading, and the type of vessel service, whether it is a liner or an irregular type of carrier.

Starting in January 1962 we will prepare similar information on those imports and exports that enter and leave the United States by

air. This will provide information on the destination of the air exports when they leave the United States and the reverse when imports enter.

Mr. UDALL. Did these result in a regular publication of some size that has all of this information?

Mr. ELY. The F-T110 is our import report and this is one that is used quite heavily in the congressional offices. There are many Congressmen who know what the F-T110 is. It presents data in terms of 5,000 commodity classifications cross-classified by 150 countries of origin. Then there is an export monthly report which is the F-T410 and this shows information on the 2,600 commodity classifications by the 150 countries of destination.

Mr. UDALL. Are these given away to business firms or sold?

Mr. ELY. No. We sell about 2,000 to 3,000 of them and we have a free list almost as large that includes State Department offices abroad as well as Government agencies and the Congress.

Mr. UDALL. One of the current complaints that we get here in Congress from the business firms is that there is a heavy load of reporting to the various Government agencies and departments.

I direct this to Mr. Scammon or one of the other gentlemen. I would assume from what has been said that the procedures under the proposed law would certainly be no more burdensome than the present situation. Would that be correct?

Mr. SCAMMON. Our hope, Mr. Chairman, is that it would be less burdensome in two respects. No. 1, because of the removal of the oath requirement. No. 2, because if we can make the regulations more immediately responsive to the problems of the business community, by administrative order, I would hope that this would be a considerable benefit to the business community.

Mr. UDALL. I have here a statement from Mr. H. B. McCoy, who is president of the Trade Relations Council of the United States, which apparently is a trade group dealing with foreign commerce. He indicates that his organization supports this legislation. With unanimous consent this statement will be made a part of the record.

(The statement referred to follows:)

STATEMENT OF H. B. MCCOY, PRESIDENT, TRADE RELATIONS COUNCIL OF THE UNITED STATES

My name is H. B. McCoy and I am president of the Trade Relations Council. This organization, whose membership is composed of corporations and trade associations, is concerned with U.S. trade policy and export and import trade. I am glad to present the views of our organization to this committee on H.R. 7791 and related bills, which relate to the collection and publication of statistics on our foreign commerce.

Prior to my association with the Trade Relations Council, I was a member of the staff of the U.S. Department of Commerce for many years. I have had a great deal of personal experience with foreign trade statistics, having used them in connection with my responsibilities in the Department of Commerce. From this experience, I also know the value of accurate, comprehensive, and up-to-date foreign trade statistics to the many thousands of business firms, research institutions, and the public at large.

Statistics on our export and import trade are among the most important and fundamental economic data with respect to the economic life of this country. Such information on the commercial life of this Nation has been collected by the Government since our Government was organized. We are almost exclusively dependent on Government activity in this field since private capabilities in the collection of external trade data are very limited.

I understand from officials of the Department of Commerce that the proposed legislation before this committee is designed to clarify the responsibilities of the Secretary of Commerce by modernizing—if this is the correct term—the statutory authority with respect thereto, and to repeal various previous acts of Congress which are outdated, are overlapping, that require statistical activities no longer considered necessary or useful, or that for other reasons, should be repealed. I have no comment with respect to the repeal of specific existing laws since this is a highly technical subject on which I am not competent to form an opinion. I would like, however, to make some general observations with respect to the purpose and objectives of the draft bill beginning on page 2, line 4.

The Secretary of Commerce should have adequate authority to require exporters and importers, and transportation carriers involved, to supply adequate information on their foreign trade transactions and operations. The Secretary should have adequate authority to enforce the proper divulgence of such information in such detail and in such manner, and at such time, as he may prescribe. Prompt and adequate disclosure in the furnishing of such information to the Secretary of Commerce and the Secretary of the Treasury is not an unreasonable burden upon business enterprises. Generally the information sought for Government assembly and tabulation is almost identical to the information that exporters and importers maintain on their business operations. An importer selling or distributing goods in this market must maintain records of his purchases and must invoice and describe, in detail, the goods he sells to domestic consumers. The exporter likewise must provide detailed information in his documents, for foreign governments and countries, with respect to the sale of goods abroad. There is little, if any, additional fact gathering imposed upon exporters and importers in supplying such information to the Department of Commerce and the Bureau of Customs of the Treasury Department.

It is my understanding that the proposed revision of the statutes will enable the Secretaries of Commerce and Treasury to enforce compliance with statistical reporting requirements. I think this is highly desirable because without such authority, inaccurate and incomplete statistics on foreign trade would result.

Many public and private decisions depend upon the accuracy and completeness of our foreign trade statistics. Day-to-day business decisions and future planning are made upon current foreign trade data. The Government itself needs current and accurate information in connection with foreign trade decisions and for foreign policy reasons. It is therefore important that the executive branch had adequate authority to not only prescribe and enforce regulations required for submittal of statistical information, but also that unnecessary delay does not occur in the filing of such information with the appropriate Government offices. Regulations and procedures have always provided that confidential business information of any individual exporter or importer is protected. I am quite sure that this practice will be continued.

Our organization supports the proposed legislation and it is our hope that it will receive favorable action by this committee subject to any changes the committee might deem desirable.

Thank you.

Mr. UDALL. Mr. Scammon, have any trade groups or business groups that are affected by your statistical program indicated opposition to this legislation? Are there any known opponents?

Mr. SCAMMON. I know of none, Mr. Chairman, but I would like both Mr. Grieves and Mr. Ely, if they would, to speak to this point. I know it is a matter of concern to the committee.

Mr. GRIEVES. No. We have made rather extensive effort to discuss this legislation with the affected groups as we know them and there is no opposition that we are aware of.

Mr. ELY. That is right.

Mr. UDALL. Has the pending legislation been outlined in trade publications? Is it generally known that this move is contemplated so that persons who might be adversely affected would have been heard from?

Mr. GRIEVES. It is the kind of legislation that is not likely to make headlines. We did go out of our way to call it to the attention of a dozen of the groups whose interests extend into the various methods of transportation or who are themselves importers or exporters. I think, as far as I can see or know, there is general acceptance of the notion that the existing laws are antiquated and that the present law as proposed is sensible and reasonable. It has also been cleared with all the Federal agencies that will be affected. It has the concurrence of all of them.

Mr. UDALL. I can see how the present requirement of a notarized statement or statement under oath on many of these declarations would be burdensome if you didn't have to have a notary handy in a small importer or exporter office. Is my original understanding correct that these particular reports would still be under the penalties for making a false statement or perjury even though not actually notarized?

Mr. SCAMMON. Yes.

Mr. UDALL. Under existing general law.

Mr. SCAMMON. Yes, the general statement with respect to false testimony, false statement would be applicable.

Mr. UDALL. I can see how this can be burdensome to the business firms who have no notary handy and have to go to the additional travel.

One of the red flags in legislation of this kind I think is the fear that perhaps we are delegating congressional authority to a department. I noticed in the summary of the legislation that was submitted here that in many instances what is termed "administrative determination" is substituted for the detailed specification of statistics and information to be compiled. Have you had any complaints or objections about this particular phase of it?

Mr. GRIEVES. If I might comment on that, Mr. Chairman, the history of the development of census legislation is one of abandonment of the attempt to write the details into the law. Toward the turn of the last century the laws became so complicated that the device of administrative determination had to be adopted. I think in this instance, we are simply applying to foreign trade the rules and principles that are incorporated in the census statute, title 13, for all other statistics. So it is simply making foreign trade conform with existing practices with all other subjects.

Mr. UDALL. In your statement, Mr. Scammon, you say that this would permit the inauguration of simpler or less burdensome reporting requirements and the new law would permit the Secretary of Commerce to make the adjustments.

Could you give me a concrete example of the kind of adjustment or the kind of administrative determination that might be made if this law were passed?

Mr. GRIEVES. I think that if this law is in existence, for example, the some tens of millions of notarized documents might not have been created.

Mr. UDALL. By an administrative determination, you would eliminate the requirement for oath?

Mr. GRIEVES. It could have been eliminated years ago.

Mr. SCAMMON. I think, Mr. Chairman, I know the problem of which you speak and it is certainly a very real one. I can appreciate the caution of the Members in delegating authority. I think, however, that the general outline of the purposes and authorities contained in the early segments of this legislation would be an adequate guide and an adequate control for this operation. I think our problem here is that the pure statistical requirements are so intricate that the load of reporting is heavy. I think one thing that has impressed me most in the few months that I have been director of the Bureau of the Census is that we do lay a heavy load on our colleagues in the business world. It is a necessary load but it is a load nonetheless. If we can lighten this by making sure we are closely in touch with their needs and by administrative regulation adjust and change and modify to modernize and to lessen the burden imposed upon them, I think this would be a great advantage.

Mr. UDALL. I welcome your statement. My own personal view of the type of legislation we ought to have, and I hope that this is what this somewhat technical bill provides for, is on one hand a determination by Congress that the Census Bureau should obtain statistics in these fields. We want to know the type, and so forth, of exports and imports, but leaving to the Department the method by which that information is obtained so that you would have some flexibility, some administrative discretion to determine the type of reports and forms which would enable you to furnish the information that Congress has authorized and directed you to furnish. In your judgment is this a step in that direction?

Mr. SCAMMON. It is a step in that direction. I might add, Mr. Chairman, that this is not only applicable to the business community. We have found in the last few years particularly, the interest of Members has been much heightened in the problem of exports and imports on both sides. I would presume as we go into the sixties this might be more heightened as the foreign trade of the United States increases both on the import and export side. Our capacity to meet the interest of Members and respond to their particular local needs, of course, are heightened by our capacity to adjust the reporting requirements to get better statistics.

Mr. UDALL. Mr. Gross, any questions, sir?

Mr. GROSS. Unfortunately I didn't get here when the hearing started, Mr. Chairman. I share with you your concern on the delegation of the administrative power. We have a bill before the House now that is out of this world in its delegation of power to the executive branch of the Government.

Does this bill provide any difference in penalties than those that presently exist in the matter of reporting?

Mr. SCAMMON. There are small adjustments in the penalty provisions. I think Mr. Ely could tell you about this.

Mr. ELY. Essentially with the antiquated present law we have detailed and complex provisions only for exports by vessel and for these shipments the penalties are spelled out in considerable detail. These penalties go way back into the past 100 years.

These penalties carry over into air shipments, too, by a law that was passed in 1926, although there may be some legal question as to how well you can apply these vessel laws to aircraft. In 1893 there

was also additional penalties for nonfiling of declaration for exports by rail. These were penalties of \$50 per shipment. There are no penalties at the present time as far as I know for shipments by truck, for example, or by parcel post, except insofar as maybe the Postmaster General could do something about it if they were not filed, or by pipeline. The penalties that are in this proposed legislation are essentially patterned after those which apply at the present time to shipments by vessel but they apply to all methods of transportation and to all shippers, not just to those by vessel. The penalties are of two kinds, one for the late filing of the documents which are assessed on the carrier, and there are also provisions in the proposed legislation for late filing under bond.

Then there is the provision for a penalty on the shipper who may be careless in preparing the declaration.

Mr. GROSS. These penalties, are they increased or decreased?

Mr. ELY. I was afraid you would ask me that. In the case of vessels, for example, we did consult with the American merchant marine and Pacific west coast steamship company associations and they were concerned about whether the penalties were increased. They are increased in one way and decreased in another. The penalty for late filing at the present time is \$50 a day, and it is proposed to be \$100, but there is a ceiling of \$1,000 which does not exist at the present time. So it is higher penalty per day, but there is a ceiling on the total penalty, so that it just does not go on indefinitely the way the present law provides.

Mr. GROSS. You mean this bill puts a ceiling on it. Today there is no ceiling.

Mr. ELY. Yes. According to the way the law reads it could go on indefinitely. I suppose you could bankrupt the steamship company if they were derelict, too.

Mr. GROSS. I suppose you could, too.

Mr. ELY. That is the way existing law is. This gives reassurance to the steamship lines that with the \$1,000 limit on the penalty they would not be subject to this possibility. It is unlikely, but still there is a possibility they might have the penalty go on and on indefinitely.

Mr. DULSKI. You talk of penalties. There are two penalties. One is for the filing of a false document. That would be under the Department of Justice. Then you have two departments involved. You have the Department of Justice and you have the Department of the Treasury. Now who does the prosecution? I mean there is one fine pertaining to filing of false document. No. 2 would be the moneys involved which would be fraud. Now who handles which case?

Mr. SCAMMON. I think in this case our lawyer had better handle it, Mr. Dulski.

Mr. MCCLURE. Title 18 sets forth what is a crime against our Government. Included therein, in section 1001, is a provision that says if anyone makes a false statement of a material fact before any Government agency he is subject to a fine or a penalty which places such a wrongdoer in the felon class. It is this violent.

This is administered by the Department of Justice. For example, if we found instances where we thought this crime had been committed, it would be up to us to get the information over to the Department of Justice so that they might do what, in their wisdom, they think should be done.

Mr. DULSKI. That is my question. Where does one department stop and another department start?

Mr. McCLURE. If section 1001 is applicable it is within the jurisdiction of the Department of Justice. It is our responsibility to refer to them those instances in which we believe such a crime has been committed.

You are quite right, Mr. Dulski, there are what we would characterize as civil penalties provided for in this bill. Actually, there may be instances in which there is wrong, willful misfiling or erroneous statements made, that may very well not amount to a felony. You may not want to characterize such a businessman as a felony. It may very well be that the Department of Justice would find under such circumstances that prosecution would not be warranted. Certainly the experience in the executive branch with respect to these civil penalties has been that they are not exercised in a heavyhanded way.

Under those conditions civil penalties could be assessed by the Department of Commerce. This is the distinction that you were wanting to make, I think, Mr. Dulski.

Mr. DULSKI. Suppose I would be willing to pay the \$1,000. Then I only pay the \$1,000. There is a limit as far as the penalty is concerned for filing a return on declaration.

Mr. McCLURE. There is a limit, as Mr. Ely pointed out. They cannot be fined over \$1,000.

Mr. DULSKI. After there is a fraudulent declaration could they step in then? When they find out the value exceeds \$1,000 can the Government step in then and start suit for the balance of the amount, whatever it might be, X number of dollars?

Mr. McCLURE. First I want you to understand that the statements that are made by these exporters if they are filed erroneously by virtue of this erroneous filing, this does not amount to a loss in dollars to the Government.

Mr. UDALL. Loss of information rather than dollars.

Mr. McCLURE. That is right. The statistics that are collected, of course, are of great value to our community but we are really not talking about defrauding of the Government.

Mr. DULSKI. Thank you.

Mr. GROSS. As I understand it this is a bringing together in one place the regulation of licensing for exports and imports?

Mr. SCAMMON. No, sir. This is a bringing together of provisions for statistics which are now put into title 13, the general title, applicable to the Census, in place of the various places in the statutes in which this material is now found.

Mr. GROSS. Bringing together the information with respect to exports and imports?

Mr. SCAMMON. To the statistics of exports and imports, yes. I think the point made by Mr. McClure is, of course, that the Census Bureau has nothing to do with questions like the tariff, questions like bans on certain exports and imports. This is only the statistical question.

Mr. GROSS. In the situation with regard to exports do you always break out Public Law 480 as compared to other exports?

Mr. ELY. Actually we include Public Law 480 exports at the value paid by the foreigner. There are separate tabulations of how much

of total exports go out under Public Law 480 that are prepared by the Department of Agriculture but we do not compile those. This is largely for technical reasons. We cannot determine sometimes, when they leave the country, whether they went out under Public Law 480 or not. We could change the requirements so that we could take our figures on total exports of cotton, for example, and show how much of it went out under Public Law 480 but the needs seem to be well met with the Department of Agriculture showing what portion went out under Public Law 480.

Mr. GROSS. I am not so much concerned in asking this question as to the needs of users. I am concerned with information from the standpoint of the public. I have had difficulty trying to find out as a Member of Congress how much of this export is for barter, for sale, and how much of it goes out as alleged export on a grant-in-aid basis. I know there is nothing to be done about that here this morning, but it is difficult to find out just what this export picture really is when you have this involvement of Public Law 480. I am interested in it, coming from an agricultural district as I do. I wish there was some way that we could break out these figures so that we could differentiate between the agriculture exports that go out on a truly trade basis, that is barter-and-sale basis, and those that are in effect giveaway exports.

Mr. ELY. This is a very technical subject. There is an interagency committee, and they periodically review the matter of whether there should be any changes in this procedure for presenting data on special exports such as under Public Law 480. This is under constant study as to whether there should be changes. Part of the difficulty is the difficulty of being able to identify these shipments when they leave the United States. There are occasions when even the exporter himself does not know that a shipment later may become a gift. Some of these shipments are made gifts retroactively. In other words, the shipment has been made already and when we compile our statistics we are compiling on the basis of being available at the time of its leaving the country. The retroactive change in status gets too complicated for us to go back and recompile the statistics on the basis of retroactive change from a cash sale to an aid shipment.

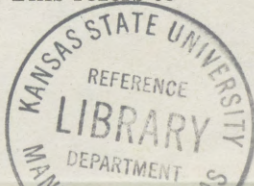
Mr. GROSS. If you are lost in the wilderness, where do you think a Member of the Congress finds himself?

Mr. ELY. We try our best.

Mr. GROSS. That is all.

Mr. UDALL. Getting back to the important point raised by Mr. Gross, do I understand that under the present law or under the proposed law, if I am a small importer, bringing goods from Tijuana, Mexico, and shipping to some place in Iowa, and I fail to file the reports through negligence or oversight or carelessness, I could be fined \$100 a crack until it has reached \$1,000. This is a civil penalty, right, with a limitation of \$1,000. Under the new law it would be \$100, up to \$1,000 for 10 days, is that right?

Mr. MCCLURE. Actually, Mr. Udall, I think section 305 of the proposed bill covers that. It would say that you could be fined not to exceed \$1,000 for this infringement that has been engaged in. There isn't in this provision any limitation as to \$100 a day. This refers to



a previous section, 304, relating to what in effect is an attempt to set up a flexible arrangement to make absolutely certain that vessels, that are anxious to get going in the time that they are supposed to, are not going to be held up with respect to these foreign trade statistics. That is the major thrust of that provision.

Mr. UDALL. I am trying to distinguish in my hypothetical case if my failure to file and furnish information is due to carelessness and negligence or just being too busy, this is a civil matter; the Department collects the penalty and would not have me charged with a felony.

Mr. McCURE. Yes; this is a valid distinction.

Mr. UDALL. In other words, if I deliberately refuse to give you the information, there is grounds to believe that my purpose was criminal, you would refer it to the Justice Department. They might prosecute me and actually convict me of a crime.

Mr. McCURE. Yes.

Mr. UDALL. This is the distinction between mere carelessness or oversight and the criminal penalties which are provided for and are imposed where there is a deliberate intentional and willful violation of the law.

Mr. McCURE. Yes, sir. I would like to add one point to what you said, Mr. Chairman, and that is that the experience that is demonstrated, that other agencies assessing civil penalties do not find themselves penalizing people who do things accidentally.

Mr. UDALL. I understand that.

Mr. McCURE. I wanted to make that clear.

Mr. UDALL. Would you have any idea just offhand at the number or the total amount in dollars and penalties involved within a year or a month? Is this a large program, a big item of revenue for the Department?

Mr. McCURE. We have never had this authority in the past.

Mr. UDALL. You are asking for it.

Mr. McCURE. We are asking it for the first time. I must say that this might be interesting to you and it won't take but a moment. There is a Mr. Kenneth Davis who has written a rather elaborate administrative law treatise. He comments about mitigation or compromise of civil penalties that are authorized by some of the agencies. I would like to read to you just about two paragraphs out of what he says. I think it would be interesting.

Some agencies, including the CAB, the FCC, the Coast Guard, the Postmaster General, the Commissioner of Customs, and the Attorney General have authority to impose fines, penalties, and forfeitures and then enter into arrangements to remit, mitigate, or compromise.

This would be true under our proposal.

In 1 year the Bureau of Marine Inspection and Navigation, whose power is now exercised by the Coast Guard, imposed 1,140 steamship navigation fines in the aggregate amount of \$493,235 which were mitigated to \$75,621. In a typical month, motorboat penalties of \$68,260 were imposed and were mitigated to an aggregate of \$1,201.

I bring this to your attention to show you that while it appears that they assess what may be the very maximum when they start out one of these operations, it is clear that they take into account the situation and make the punishment fit the crime, so to speak, in the final determination.

Mr. UDALL. Mr. Lesinski.

Mr. LESINSKI. Litigation means a court procedure. Actually the \$76,000 you might get could cost a lot more to litigate.

Mr. McCCLURE. There will be expenses attended in the operation of the program.

Mr. LESINSKI. \$76,000 might cost \$100,000.

Mr. SCAMMON. Not from my point of view. I am not interested in collecting money from anybody. We want statistics, not the fines.

Mr. UDALL. I understand.

Mr. McCCLURE. The mitigation will not be an extensive procedure. This again will be an administrative procedure carried on by the Department of Commerce.

Mr. LESINSKI. Thank you. Mr. Scammon, first of all I want to commend the chairman for introducing this legislation. Would you have any idea what the savings may be to the exporters?

Mr. ELY. In the testimony before the Senate, this was one of the subjects that came up in the hearing. I think I might refer you to the testimony on this in the recent hearing before the Senate Commerce Committee on the bill to eliminate the oath only. I just don't remember whether it was a way up or a way down. I will not make any guesses.

(The following is an excerpt from S. Rept. 202, 87th Cong., 1st sess.)

Illustrative of the extra paperwork and personnel time required under present statutes were the figures cited by witnesses as to the numbers of export manifests filed: One hundred thousand yearly in the Philadelphia district, 24,000 monthly in the San Francisco customs district, Los Angeles 13,000 per month. A letter in support of the bill from the Quaker Oats Co., Chicago, sums up the situation succinctly in one paragraph:

"In a year of normal business the Quaker Oats Co. exports in excess of 10,000 shipments. As it takes an average of 3 minutes per shipment to notarize this oath we spend about 500 hours per year in this activity which serves no purpose and benefits no one. This absolute waste must cost the U.S. Government, shippers, and steamship companies many millions of dollars annually."

Speaking for an important segment of the maritime industry, the American Merchant Marine Institute, Inc., submitted a letter favoring enactment of S. 1289. Stating that—

"A considerable amount of time is spent by the employees of exporters who must wait their turn for notarizations at customhouses throughout the country," Alvin Shapiro, institute vice president, estimated that the saving of 2 minutes for each declaration (of more than 3 million filed each year), would amount to about 100,000 man-hours per year.

Mr. UDALL. This might put 10,000 notaries out of work and we would have to have welfare legislation.

Mr. LESINSKI. It would be a considerable sum, though.

Mr. SCAMMON. We can check that and have it put into the record.

Mr. GRIEVES. I think if I might add this, there are several million documents involved in a year. I am sure that people who export regularly have notaries on their own forces so that what it cost is hard to say. Then there is the occasional incidental exporter to whom it is a nuisance, and I have had that experience sending an empty suitcase to a man who left it at my house. I had to have a notary in the middle of the day, get the shipment moving. There is a nuisance element in this as well as a cost. I think it would be impossible really to say how much it would cost.

Mr. SCAMMON. In any event we will check that and put it in.

Mr. GROSS. I wonder if it was going abroad why it was not being shipped parcel post.

Mr. GRIEVES. Had to have it crated and exported. I think Railway Express took it.

Mr. LESINSKI. Getting back to the remarks of Mr. Gross and also Mr. Udall, those of us who are elected by the people who believe in the integrity of Congress do concern ourselves by allowing agencies to start regulation without the consent or approval of Congress. Oftentimes, we have had experiences recently that the agencies, so-called, go out and—depending upon who is in charge and so forth—they do go out on a tangent.

Now my reasoning is, and the thought occurred to me, that you are allowed the right to review what you want to put in it, set up the regulations and within, let's say, 90 days or a year's time, whatever is practical, that if Congress takes no action to approve or disapprove your action, therefore, it automatically becomes the agency's regulation.

Mr. SCAMMON. Mr. Lesinski, this raises, as you know, a much wider question about the regulation-making power of any administrative agency. From my position as Director of the Bureau of the Census I would not feel qualified to give testimony on such a large question of Government policy. Mr. McClure might know what the policy of the Commerce Department is.

Mr. McCLURE. First, I would like to bring to your attention some of the safeguards that are involved in this regulatory power that are written in by the Congress, not directly in this bill but in another law, the Administrative Procedure Act. Before we formulate these regulations in a definitive enforceable way we will have to, and we will, publish in the Federal Register proposed regulations and they will be subject to comment by the people who will be affected. You are placing this authority in the Secretary of Commerce who is very sensitive to the reactions of the business community with respect to unwarranted, unreasonably burdensome requirements.

Secondly, I do want you to know that in the first section of this proposed bill found in 301 you narrow the area of activity that we are talking about. You say to the Secretary, under this proposal you may regulate in this area and no place else. So there are standards that are provided the Government in this proposal in addition to the safeguards that you have provided in the Administrative Procedure Act.

Now, finally, with respect to the precise question, Mr. Lesinski, about presenting in a sort of a proposed way to your committee a regulation with the notion that this would become effective only after a designated time for consideration by Congress. This, as I understand it in general, is practiced quite broadly in England as a way of running regulatory procedures. It has not been practiced extensively in this country, although there have been some instances.

Mr. LESINSKI. Your Secretary of Commerce today might be very sensible as to the point being made, but I can never assume that fact that because he is, well, so would someone else. That is why I have this thought in mind. We, as Members of Congress, have to consider this point, and thoroughly out of respect to Mr. Scammon, I would give him all the authority in the world, of course, within reason.

Mr. McCLURE. Mr. Lesinski, you want the Government by laws and not by man. This is your aim.

Mr. LESINSKI. Yes.

Mr. McCLURE. I think this is something we are all striving for. I do want to say that this sort of a condition precedent of performance of approval by a congressional committee seems to me to overlook the investigatory powers that you have where you feel free, and should be, to call on those whom you have asked to administer a law, to account for their stewardship.

Mr. LESINSKI. That might be true but on the other hand how do we hear all these things? Maybe it is too late to close the barn door after the horse is stolen. The point I am after is that you state we have the powers to ask. If an agency sets up a regulation, and the regulations are already in force, how can we be informed properly before it is too late?

Mr. McCLURE. Actually, Mr. Congressman, one way you are informed is that the people who feel they are treated arbitrarily or unreasonably generally have no hesitancy in advising you of their views in this matter. This is one alert for you. It seems to me the fact that you are not advised of such instances is a pretty good measure of the adequate administration of the law in this regard.

Mr. LESINSKI. Regardless of what administration is in power, I exercise the right as a Member of the Congress to voice my opinion either pro or against. I am finding rather oppressive the fact that people have a fear of speaking out. I am not opposed to the legislation, but I am very concerned that in our democracy we may be losing the right of expression and the right to be able to appeal.

In cases where a person or persons are aggrieved, we should be very careful, not because we want confidentiality but because of a democracy per se, in order that this form of government should exist and not a possible dictatorship. I am getting off on a tangent, I realize. That is why I am bringing this subject up because I am concerned about it.

Mr. GRIEVES. Just to call attention to a further restriction that exists on this subject, you will notice in section 302 of the bill that all rules and regulations and orders and whatnot have to have the concurrence of the Secretary of the Treasury which is another check-point. Then beyond that there is another law, the Federal Reports Act, which requires that the Bureau of the Budget approve in advance any requested information that would impose a burden on the public. So we are also circumscribed further in that direction.

Mr. LESINSKI. Are not all these people you mentioned under the leadership or the jurisdiction of President of the United States?

Mr. GRIEVES. Yes.

Mr. LESINSKI. Therefore, we have various agencies involved.

Mr. GRIEVES. I say pragmatically that the President does not have time to concern himself with "question 2" on a form or even the large regulation that comes out of legislation such as this. There is a lot of staff work involved and people at the Treasury have to do a lot of work that results from any legislation. Consequently they are interested to see that nothing is done to impose an unreasonable burden. The Budget Bureau is concerned with its own relations with the public. It is motivated somewhat differently.

Mr. LESINSKI. Not trying to review all these matters, he may still, by direction, achieve certain undesirable results if he still chooses.

Mr. GRIEVES. I can testify there are lots of checks and balances.

Mr. SCAMMON. I think, Mr. Chairman, and Mr. Lesinski, the point that is raised is a most valid one and I think the point you had in mind is that, after all, the Census Bureau, the Secretary, and so on, are all fingers on the same hand. No matter how much they may check each other, they move the way the arm moves. I think the only point we could make this morning is that the question you raise is a basic and philosophical one. It would apply to the States and it would apply to other countries as well as here this morning to this legislation. I would not feel qualified to speak in any great detail on this as Census Bureau Director.

Just as a private citizen I might add I share some of your concern. Maybe that is because I have not been in the Bureau very long. I can certainly appreciate the experience of a citizen who gets caught up in the bureaucracy and all he gets as a check and a balance is an elbow and the heel of a hand instead of getting an answer to a problem which concerns him. This is why he comes to the Congressman, that is probably one reason why your mail has so many letters every day.

All I can say as an individual is, I certainly can appreciate this problem and share your concern about it. If I were a Member of the Congress myself perhaps I could share it even more.

Mr. LESINSKI. I appreciate your statement very much, Mr. Scammon. I am very happy that I know you as a Director and as an individual. There is a tendency in this country to do just the opposite, and I am very fearful.

Mr. UDALL. Mrs. St. George.

Mrs. ST. GEORGE. Mr. Chairman, I would like to say I concur with the remarks of my colleague from Michigan and also with your statement, Mr. Scammon. Isn't it a fact that what we are doing in this legislation is simply trying to tighten this thing up and to increase the efficiency which we find we have not got? Isn't it also a fact that every time we increase efficiency we lower the power of the legislative branch of the Government and give more to the Executive?

Now it is a thing that we are seeing every day. This is just a small matter but it is a matter of concern for the same reason because apparently we cannot seem to get the two things going together.

Mr. SCAMMON. I would hate, Mrs. St. George, to think that any move toward efficiency lessens the authority of the legislative arm.

Mrs. ST. GEORGE. For 15 years it has been lowered quite considerably I can assure you.

Mr. SCAMMON. If this is the case, then it is certainly a primary task of the Members of the Congress and of the members of the bureaucracy to work together to make sure it diminishes as little as possible and that the policymaking role of the legislature is not only not interwoven in with the bureaucracy but is not even in the smallest administrative way obstructed or hindered by the bureaucracy. I am always conscious quite frankly that nobody elected me to anything. Each one of you here this morning had to go out and fight a fight. Some of you probably had to fight harder than others because of easier districts than others but at least X thousands or hundreds of thousands of people supported you and you represent these people. You make the policy, you make the law. Nobody voted for me, I was simply an appointee. If the diminishment of

the legislative authority is a real and continuous thing by the intricacy of the legislative process, then I think it is up to all of us in the bureaucracy to make it less intricate.

Mrs. ST. GEORGE. I wish that could be done but I cannot see very much hope of it in the future. A bureaucracy is bound to become bigger. People talk glibly about congressional investigations and they are extremely interesting. They have found a great many things. What can they do? They can write a report that can be read or not. There is very little comment on congressional investigations. I am sure you all know that. It is just a power to go and look, that is all.

Mr. SCAMMON. I could not speak for the other members of the administration or the bureaucracy but I would be very conscious of the attitude of the members because as I say the members represent the people, the members are much closer to the people than I am.

Mrs. ST. GEORGE. I hope there will be less bureaucracy and I also hope you won't change your point of view.

Mr. SCAMMON. I don't think so.

Mr. GROSS. I want to join Mrs. St. George in that hope. I appreciate your frankness and the attitude you take before the committee.

Mrs. ST. GEORGE. Very unusual.

Mr. GROSS. Very briefly, I sat up last night reading the report on this Peru scandal in the ICA and State Department. Last year Congress set up in the State Department and ICA an inspector general's office. Yet when the subcommittee of Congress tried to investigate the scandals in Peru, the previous administration placed an iron curtain over the information. The administration coming in this year put another iron curtain over the information and it took at least 8 months to tear down the iron curtain and get to the facts. That is what we are talking about here and it is a matter of delegation of power.

I should like to ask one question. I didn't mean to deliver a lecture on this subject. If the Congress enacts this law I assume it will be published in the Federal Register.

Mr. SCAMMON. You mean the regulations under the law? Yes, they would be published in the Federal Register.

Mr. GROSS. Can't you go further than that? Can't you use simple printing and send to the exporters and importers a notice? Will you do that, or do you do that; send to importers and exporters the regulations that are being issued.

Mr. SCAMMON. If this has not been done it will be done in terms of the cooperation of these people. After all the basic purpose for the collection of the data in addition to general governmental policy is to help the people engaged in the work themselves. If it had no value to them it probably would not be done. To get their cooperation and maximize their cooperation, yes, we will certainly send this information, material, indications of what we are doing, how we can enlist their support to everyone of them except Mr. Udall's Mexican importer that we cannot find.

Mr. GROSS. And as a result of passage of legislation of this kind.

Mr. UDALL. I think Mr. Gross' point is well taken. These trade associations are sometimes a millstone but they have a real place in our life and one of the most significant contributions they make I think, is to provide an outlet for disseminating information about

pending legislation and for getting an industry point of view. The Federal Register is not a best seller. I don't take it home for light reading at night. If someone in the trade association is involved, you will shortly hear loud outcries if something in the bill is objectionable. If you don't hear outcries, you get an idea that the members of the industry accept it. This is a way you can improve with the industries, not only go through the dry, legal formality routine and publish it in the Register but make sure that the trade association journals publish a summary or simplified idea of what it is that the new regulations require.

Mr. SCAMMON. Actually, Mr. Chairman, my hope would be that sound administrative practice would lead us to discuss these regulations with the people concerned before they are put into effect because if we put them into effect in a vacuum without having talked to the people about it, we are probably wasting money. We might be doing something that has to be changed later, we are causing a lot of irritation to ourselves which is unnecessary, and finally we are not doing a good job. It would seem to me this is needed before we make any regulations, changes, adjustment, even if they think they are perfect, they may not be. We don't know, maybe we have not thought about something. We want to check this out with the people who are actually going to have to do the work. They may say your question 28 here, we cannot answer that. We will drop question 28, drop it before it gets printed in the Federal Register, not after.

Mr. UDALL. Mr. Dulski?

Mr. DULSKI. I want to commend the gentleman for a wonderful statement, very informative. There is one question, however, as regards section 193, U.S.C. 15, which relates to the collection of reports for customs collectors at the several ports. You say here that "administrative determination is provided for." That is your analysis.

Mr. SCAMMON. Yes, I have it here, Mr. Dulski.

Mr. DULSKI. Will it not be more cumbersome with more reports which already have been submitted to your Department?

Mr. SCAMMON. I don't think so but let me check with Mr. Grieves and get his feeling on it.

Mr. GRIEVES. You are referring to 15-193?

Mr. DULSKI. Yes. It says administrative determination provided for, and one part of the section is about four sections of that in the United States Code. I am interested in the Treasury Department. You are going to send out reports to the Customs and to the Treasury where they will be more cumbersome. What information must you still have that they will need to utilize to their best advantage?

Mr. GRIEVES. It has to have the concurrence of the Secretary of the Treasury.

Mr. DULSKI. What is his determination of this?

Mr. GRIEVES. This has not been decided. The kind of information that the Customs collectors or the Treasury needed would be decided with the concurrence of the Treasury.

Mr. DULSKI. Reading your text over here, the analysis in each section of the code, you have "administrative determination provided for." Now for what? I know that this will be different because it has to get the concurrence of the Treasury Department. Customs is

not in the Commerce Department. Now what determination will you have for each part of these revised statutes under the proposed legislation?

Mr. GRIEVES. In this specific case I don't think there would be any change at all at the moment.

Mr. DULSKI. Will the reports be the same?

Mr. GRIEVES. At this moment, yes. At some point in the future they might be different.

Mr. DULSKI. Let's go to the last page where it says existing statutes authorizing the Department of Commerce to compile and publish foreign trade statistics made no reference to the confidentiality or the scope.

Mr. GRIEVES. Confidentiality, yes. In other words, in the new law, confidentiality shall be dealt with by the Secretary of Commerce.

Mr. DULSKI. And there is no change.

Mr. GRIEVES. The change is simply recognition of the concept.

Mr. DULSKI. What would be the concept of the Treasury Department when you are changing a Treasury docket or code that they might have on their books and we are still not sure what their decision will be? Will they concur with the decision of the Commerce Department?

Mr. GRIEVES. On the subject of confidentiality the existing policy would be continued and that is the maximum amount of confidentiality of individual transactions consistent with the national interest. The only thing this law does is recognize there is such an issue and establish some legal authority to have confidentiality. The present law just does not say anything at all.

Mr. DULSKI. That still does not answer the question.

By various sections of this legislation it says administrative determination provided for. You have the Treasury Department involved. Now let's take a specific case like this 15 U.S.C. 187. Now it is a statement of exports. This will be the same, there won't be any change. Now why must you alter any parts of this United States Code, various sections of it, if there won't be any changes in it?

Mr. GRIEVES. In some cases there will be.

Mr. UDALL. Could I comment on that? It seems to me what they are trying to do here is this: Presently the law is very rigid and inflexible. It says the Department or the Census Bureau shall do this at such and such a time on such and such a manner. While this manner provided for may now be very good and very sufficient, they need a little more flexibility. So instead of providing the reports monthly as required by the law, they want them quarterly or biweekly or once a year. They would be given administrative discretion to decide the manner and the timing and the detail.

Is that essentially what you mean when you say administrative determination is substituted for a very rigid provision under the statute that requires congressional action?

Mr. GRIEVES. This 187 referred to has not been complied with in the present generation. At some point there is another provision that says this shall be an annual report of the foreign trade compiled by January 9. This is a physical impossibility. You have a statute that exists but no one could possibly administer it.

Mr. UDALL. This says you get it out the first of March or the middle of February or do it semiannually rather than a rigid and inflexible date.

Mr. DULSKI. Then we come down to the case under litigation. Now you have cases there that amount to, let's say, \$1,000. When it comes to court there is only, maybe, \$75 being collected. Now here is a feature of the Treasury Department. There is too much "offer in compromise." Now there might be an offer in compromise for a thousand dollars where the firm is in a position to have a legal staff where they will take it to court. Instead of going to court the Government says we can settle for \$250. It is an offer of compromise.

You take a shipper that does not have a legal staff and you charge him \$150. If you charge him \$150, the lawyer will charge him \$150 so he is better off paying. Are there any loopholes that you have in this new law that will protect the small importer and exporter?

Mr. McCLURE. By the loopholes I will say this, Mr. Dulski, that there is ample provision here to make the punishment fit the crime, to take into consideration all of the circumstances involved in infraction of the rules. Now be it a large or small businessman all of these factors should be taken into consideration and the penalty affixed on the basis of the particular circumstances. It would be cynical to base an evaluation of a series of fines on the representation that the person has before the particular administrative tribunal.

Mr. DULSKI. I am interested in the small shippers. I hope they don't get hurt by this legislation.

Mr. McCLURE. I am sure that the Department of Commerce is going to give consideration to the circumstances of the person appearing who has committed an infraction of the rules. If he is a small man without the resources, the investigation would enable it to know this. This would be an important factor to be taken into consideration. This is in evidence and is the way we are going to administer this law, Mr. Dulski. I certainly want the record to show it.

Mr. DULSKI. Thank you very much.

Mr. UDALL. I believe we have concluded the testimony.

I would like unanimous consent to insert in the record several letters concerning this legislation. One is from the Pacific American Ship Association supporting H.R. 7791. Another is from the National Foreign Trade Council, signed by William S. Swingle, president, which is favorable to the legislation. Also a letter from the American Merchant Marine Institute, and another from the Air Transport Association of America to Mr. Ely of the Census Bureau and Mr. Ely's reply.

Is there objection to these being introduced in the record?

Mr. GROSS. No, Mr. Chairman.

(The letters referred to follow:)

PACIFIC AMERICAN STEAMSHIP ASSOCIATION,
Washington, D.C., August 14, 1961.

Subject: H.R. 7791—Foreign Trade Statistics.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Our association has long been interested in the reduction of paperwork with respect to shipments overseas. H.R. 7791 appears to be the type legislation which will not only bring this objective about but could also result in the obtaining of more useful statistical data.

We support the principles and objectives of this legislation and respectfully request that this letter be made an official part of the hearing record.

Yours very truly,

J. MONROE SULLIVAN.

NATIONAL FOREIGN TRADE COUNCIL, INC.,
New York, N.Y., June 27, 1961.

HON. THOMAS MURRAY,
*Chairman, Committee on Post Office and Civil Service, House of Representatives,
Washington, D.C.*

MY DEAR CONGRESSMAN MURRAY: I am writing to you in connection with H.R. 7791 which you introduced in the House on June 21 and which is currently before your committee.

It is our understanding that the purpose of this bill is to enable the appropriate agencies of the Government to systemize and improve procedures for the collection and publication of foreign commerce and trade statistics. The National Foreign Trade Council is most sympathetic with these objectives and with any efforts that may be made toward such ends. In fact, successive national foreign trade conventions have expressed their support for programs to extend and improve such statistical coverage.

In this last connection, I might note that the 47th national foreign trade convention, which met here in New York last November, adopted the following pertinent resolution:

"INTERNATIONAL TRADE AND FINANCIAL STATISTICS

"This convention joins with those of previous years in again stressing the value to business and to Government of a wide range of detailed statistical information on our international commercial and financial transactions. Comprehensive, timely, and readily accessible data of this type are required for the measurement of past performance, the appraisal of new trends and conditions, and the formulation of appropriate policies and programs for the future. Confronted, as we are, with an increasingly complex and competitive world market, it is imperative that these statistical facilities and services be strengthened. Despite the encouraging evidence of added support and interest by the Congress and by various executive agencies in the provision of these statistics, the convention believes that the coverage of international trade, investment, and balance-of-payments data can and should be still further expanded and improved, and recommends that funds sufficiently ample for this purpose be allocated to the appropriate agencies.

"The convention also specifically suggests that the Bureau of Foreign Commerce give early priority to the publication in convenient form of historic and comparative trade data for the United States, thereby resuming and bringing up to date the highly useful earlier series of reports of this nature. Further, noting the lack of reliable statistical information on the foreign trade of individual States and regions within the United States, the convention calls on the Census Bureau to conduct a pilot study into the technical feasibility and attendant costs of recording and compiling such data."

We trust that these views will be of assistance to your committee in its deliberations on H.R. 7791 and would respectfully request that this communication be made a part of the record of the hearings of your committee.

Very truly yours,

WILLIAM S. SWINGLE, *President.*

AMERICAN MERCHANT MARINE INSTITUTE, INC.,
Washington, D.C., July 20, 1961.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
U.S. House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN MURRAY: The American Merchant Marine Institute, a trade association representing the preponderance of American-flag shipping, wishes to advise that it would not be opposed to the enactment of H.R. 7791 and H.R. 7813, identical bills, which are being considered by your committee.

These bills would amend title 13 of the United States Code by adding thereto a new chapter providing for the collection and publication of foreign commerce and trade statistics.

We are informed that foreign trade statistical information presently available is not adequate, particularly with respect to the export trade, and that these bills would provide a sounder and more efficient method of collecting and compiling such statistics.

The Bureau of the Census, which favors this proposed legislation, has indicated that one of the intentions of the proposal is to extend the obligation to file foreign trade data which is presently imposed upon steamship companies in connection with foreign trade to all carriers—sea, air, and land—involved in international trade. Thus, among the various media of transportation there would be established greater equity and uniformity and a substantial improvement in foreign trade statistics with the elimination of the serious gap that now exists as a result of only sea carriers being required to file such data.

The measure would also authorize the collection of information from all persons exporting from or importing into the United States, and not only from carriers engaged in such foreign commerce or trade. In addition, the provisions of law relating to the imposition of penalties for violations of information filing requirements adopted under the proposed new chapter would be made uniform with respect to all carriers.

For the foregoing reasons, and in the light of the statement made earlier this year by the Department of Commerce that this proposed legislation would provide "a modernized and a more efficient and economical method of collecting and compiling foreign trade statistics," the American Merchant Marine Institute would not oppose the enactment of H.R. 7791 or H.R. 7813.

We ask that this letter be made a part of the written record of these bills.

Very truly yours,

ALVIN SHAPIRO.

AIR TRANSPORT ASSOCIATION OF AMERICA,
Washington, D.C., July 31, 1961.

Mr. J. E. ELY,
Chief, Foreign Trade Division,
Bureau of the Census,
Washington, D.C.

DEAR MR. ELY: In an informal meeting this morning you discussed with Messrs. Philion, Ehlich, and me several aspects of S. 2092 and other identical bills. To assist us in our further consideration it would be helpful if you would provide a statement of the purpose of the proposed legislation, the need for it, and the intentions of the Government with respect to any revised reporting requirements should the bill be enacted.

As you know we are interested in the measure from two points of view: (1) Its possible effect upon air export and import statistics, and (2) its potential effect upon air carrier reporting requirements.

We will appreciate any clarification which you can give us.

Sincerely,

RICHARD B. BLACKWELL,
Transportation Economist.

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF THE CENSUS,
Washington, D.C., August 7, 1961.

Mr. RICHARD B. BLACKWELL,
Transportation Economist,
Air Transport Association of America,
Washington, D.C.

DEAR MR. BLACKWELL: We are pleased to have your inquiry regarding S. 2092, a bill which was introduced at the request of the Secretary of Commerce. A companion bill, H.R. 7791, is pending in the House. We believe these bills represent much-needed improvement in the basic legal authority for the collection of foreign trade statistics, and the Census Bureau, therefore, is most interested in their passage.

A "statement of purpose and need" and a "section-by-section analysis" were prepared for the information of the Congress, and we believe that these statements will explain why updating and more orderly arrangement of the law are needed. These discussions will also clarify for you most of the points about which you may have questions. Copies are enclosed.

In particular, we assure you that the request for this legislation was not occasioned by any plan for a change in the present procedures for the collection and compilation of information on foreign trade. For the most part, the requirements made upon carriers in connection with foreign trade statistics have to do with procedures to insure the filing of the required reporting forms by exporters and importers, and this would continue to be true after passage of the new law. While one of the purposes of the bill is to permit flexibility by vesting general authority for the program in the Secretary of Commerce instead of spelling out detailed requirements in the law, the benefits of this flexibility are considered to be of a longtime nature. The new regulations to be issued under the authority of the new law are expected to contain essentially the same reporting requirements as those in effect at the present time. The complete and orderly provision of needed authority for the requirements will reduce the difficulties of obtaining reliable information from exporters and importers, and facilitate the Census Bureau's efforts to improve the accuracy of the statistics.

With respect to penalties, the new law provides authority which will permit provision for modest penalties on an evenhanded basis, rather than against selected elements of the foreign trade community as provided by present statutes, with other violations of the statistical reporting requirements punishable only under the harsh provisions of section 1001 of the Criminal Code. Of course, the purpose of the provision for penalties is to give teeth to the requirements in the few cases where willing compliance is not forthcoming. There is no thought that general and regular use of penalties will be a part of the statistical collection program. As far as carriers are concerned, there is every expectation that they will continue to live up to the reporting requirements, and we see no reason to anticipate that the legal provision for penalties will result in the actual assessing of fines against air carriers.

You will notice that the "statement of purpose and need" explains that the law would be administered under the applicable provisions of the Administrative Procedure Act.

Your interest is appreciated, and if you have further questions please do not hesitate to call upon us for any information we may be able to furnish. We are sending a copy of this letter to Mr. George Moore, counsel for the Post Office and Civil Service Committee of the House of Representatives, to which H.R. 7791 has been referred for consideration.

Sincerely yours,

J. EDWARD ELY,
Chief, Foreign Trade Division.

P.S.—This letter was prepared prior to the meeting which you attended here at the Census Bureau on August 3 with respect to the details of the new program for air cargo statistics. You are aware from that meeting that an interest has been expressed in having information on flag carrier added to the program. If this should develop, it will be necessary to explore how this information can best be obtained, and it is conceivable that a change in reporting requirements could result, whether the new legislation is passed or not. I assume you will agree that the possibility of such a development is irrelevant to our statement that the new legislation does not presage a change in present procedures.

Mr. UDALL. The committee will adjourn at this time and go into executive session.

Mr. SCAMMON. Thank you, Mr. Chairman.

(Whereupon, at 11:20 a.m., Tuesday, August 15, 1961, the subcommittee adjourned.)

○

