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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

SENATE—*Saturday, July 21, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal Father, we know not what a day may bring; but we know who rules supreme, unchangeable, ever present. We pray for all people in the service of our country—the President, the Congress, our diplomats, judges, and persons in the military forces. By Thy strength and in Thy spirit help each one to do his best. Keep us temperate and truthful in speech, faithful and diligent in work, honorable and generous in dealing with others, loyal to every hallowed memory, and mindful of our eternal destiny. We pray in the name of Him who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 21, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader (Mr. CRANSTON) is recognized.

THE JOURNAL

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I reserve the remainder of the leader's time at this point.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader (Mr. STEVENS) is recognized.

THE SENATE PARLIAMENTARIAN

Mr. STEVENS. Mr. President, I think the Senate should thank the Parliamentarian for lighting up the Senate Chamber so well this morning.

It is difficult to come to work this early on Saturday morning. Some of us had a little difficulty opening our eyes. I certainly did not have any difficulty after I looked twice in his direction.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. STEVENS. I am happy to.

Mr. PROXMIRE. I would like to point out the Parliamentarian seems to be a beneficiary of Gale McGee's generosity.

Gale was here the other day. It is good to see that at least his clothing is still lighting up the Senate.

Mr. STEVENS. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair in its capacity as Senator from Vermont remarks that it is easier proceeding at this hour with the bright beacon represented by the Parliamentarian's multicolored attire. It makes it easier to look beyond the table to my distinguished colleagues who blend into somewhat of uniformity by comparison.

The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I am glad to give such time as the Senator from Wisconsin may need of the majority leader's time.

Mr. PROXMIRE. I thank my friend.

INTENT, NOT NUMBERS, IS THE CRUCIAL FACTOR

Mr. PROXMIRE. Mr. President, the Convention on the Prevention and Punishment of the Crime of Genocide is a noble effort on an international scale that warns unambiguously that crimes of genocide will not be overlooked. The Genocide Treaty seeks to clarify the very difficult problem of what actually constitutes an act of genocide. It also addresses the issue of how to handle those accused of committing genocide.

As would be expected, there has been a great deal of discussion concerning the provisions of the treaty and in particular article II. The particular point in question I will address today is the question of whether or not the phrase "in whole or in part" of article II is ambiguous to the point of being meaningless as has been charged by critics of the treaty.

In discussing this issue, the problem seems to stem from taking the phrase out of context.

The question is not really a question of what percentage of the group must be killed before a crime of genocide is committed. Rather, the "in whole or in part" clause is an explanatory phrase.

Its purpose is to make it clear that the entire group does not have to be killed for a crime of genocide to have been committed. Not "how many" but "intent" is the critical element.

If there was intent on the part of the accused to destroy the whole group but in fact he killed only a few members, he would be guilty of genocide.

There is no ambiguity here.

Of course if intent to destroy the whole group could not be proven, it is also clear under article II that no crime of genocide would have been committed.

The focus is clearly not on how many are killed, but whether or not "intent" can be proven.

Mr. President, I think it is important the Senate ratify this treaty and ratify it now. The treaty has been discussed, explained, and clarified time and again. Ratification by the Senate remains the only action consistent with the merits and provisions of the Genocide Treaty.

I thank the distinguished Senator from California for so graciously yielding me time.

Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. CRANSTON. Mr. President, I reserve the remainder of the majority leader's time.

Mr. STEVENS. Mr. President, I believe there is a request for the minority

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

leader's time, and I would like to reserve the remainder of my time until the completion of the standing order of the Senator from Connecticut.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR WEICKER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 15 minutes.

PRESIDENT CARTER'S ADDRESS

Mr. WEICKER. Mr. President, I listened to Mr. Carter's address last Sunday night, as I am sure most of you did, and I think I have discovered the secret of his public philosophy. He has gone around Lincoln's observation that you can fool all of the people some of the time and some of the people all of the time, but not all of the people all of the time, to the conclusion that it is only necessary to fool a plurality every 4 years. He did it in 1976, and we are being set up for a replay next year.

Jimmy Carter, we have to believe, took his best shot last Sunday night. And typically, he did not aim at the problem, he did not shoot for an energy program that makes sense, he did not target the overall problems of a gravely mismanaged economy—no, he drew a bead on another scapegoat. In the campaign in 1976, it was the Congress, and it was the bureaucracy, and it was the professional politicians. After he got in office, it was the special interest groups, and the oil companies, and then it was the press, then the doctors, then the lawyers, and then the American people and finally, his own Cabinet. Scapegoating helped him into office, but it could not help him govern, and the more he sought to destroy confidence in legitimate public institutions, the more he destroyed confidence in himself until, finally, he had sqandered the power of his office and had, for all practical purposes, ceased to be President.

This left him with the choice of resigning, as some have suggested he do—including John Roche, the former head of Americans for Democratic Action—or launch one more Rafshoon balloon to see if the public's tolerance could be taken just a little more advantage of.

His aides suggested that OPEC should be the scapegoat this time out, but Jimmy had bigger ideas. This time he chose nothing less than the American people themselves. And the choice has a kind of predictable perverse logic to it: Three years ago Mr. Carter traveled the country promising a government as good as the American people. Having failed miserably, he came last week to tell us that the American people are not good enough. They lacked confidence in themselves. After telling us that we are losing our grip as a people, he then paused, gave us his pious little smile, and asked us all to say something nice about America.

Just to be evenhanded, he followed up by throwing in his Cabinet. Disloyal, he said. Well, he picked them. And I think what bothers him is that some of them are being loyal to the taxpayers who pay their salary and not worrying about covering Carter's mistakes.

So there it all was last Sunday, with a handy list of endorsements to quote—Ms. R. J. from Bayonne writes "* * * The way they used to advertise Carter's Little Liver Pills, except now it was Carter's Little Presidency." There it all was, sly little formulations which appeared to be self-criticism and turned out to be upside down compliments: "You're not leading the country, Mr. President, you're only managing the Government."

Wrong! Wrong! Managing the Government is leading the country. And Mr. Carter is by no stretch of anybody's imagination managing the Government. He cannot even manage the White House, much less the whole Government.

If any single thing needed to be done last Sunday once and for all, it was to announce an energy program, not to announce the latest excuse for failure. And we did not get an energy program.

With a look of grim determination, pounding his little fist on the desk, he declared that we would never import more oil than we did in 1977. Well, hell, we know that 1977 was the peak year, and our imports have been declining since then; they were down in 1978, and the projection is that they will be further down this year. That is just playing on what he thinks is the Nation's ignorance.

We are not where we are because people do not have confidence in themselves; the problem is that they do not have confidence in Mr. Carter. And it is compounded by the fact that Mr. Carter does not have confidence in the American people or the basic institutions of either the private or the public sector.

Jimmy Carter represents the one soft spot in our Presidential system, and that is that we have no way of removing a President who lacks the capacity for the job unless he is at the point where he has to be chased down with a net. If this were a parliamentary system, with the Nation's lack of confidence in him and his party's lack of confidence in him, he would have been removed long ago. If he were the chief executive of a corporation, he would have been retired long ago. Neither option is available to us, and we are suffering for it as we suffered in 1974.

There is an alternative, however, and it relies not on institutional means, but on the man himself. I do not suggest that Mr. Carter resign. His ego would not permit it. But there is a middle ground between resignation and running for office again, and that is to take himself out of consideration for the Democratic nomination so that he can put the Nation's energy and economic problems ahead of his own political problems.

I think if he took that step, and gave that evidence of good faith and selflessness, then he could gather the guidance and support necessary to restore the Nation, to solve the difficulties he has created, and to get started on dealing with the intrinsic difficulties which he inherited.

Lyndon Johnson took this step in 1968 in a vain but noble effort to end the controversy surrounding himself and to devote himself full time to ending the Vietnam war. He set a precedent for selflessness in troubled times, and proved that even a strong President may be overwhelmed by difficulties. How much more essential is it that a weak President have the courage to confront reality and make an accommodation with it. I see no alternative to it.

The results of the President's last and best effort to restore his authority are in, and they confirm that the only course left to him is to reduce the extent to which he is a national liability. His speech and his actions produced an insignificant increase in his popularity in the polls. The dollar dropped and gold went over $300 an ounce. Foreign governments are holding their breath, waiting for the last act. The stock market dropped. And we got a little bread-and-butter note from the Saudi's as a way of telling Jimmy they are the only real friends he has left, for which he is foolishly grateful.

In short, the world and the Nation are underwhelmed. And Mr. Carter's response to it all has been to make his campaign chief his Chief of Staff. It will not do. It just will not do at all.

QUORUM CALL

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the time for the quorum call be charged equally to both leaders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I yield back the remaining time of the majority.

Mr. HEINZ. Mr. President, I yield back the remaining time of the minority.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business for not to extend beyond the hour of 9:40 a.m. with statements therein limited to 2 minutes each.

Mr. CRANSTON. Mr. President, if there be no further morning business I suggest we end that period and go to the bill.

IF WE CAN GO TO THE MOON * * *

Mr. BAKER. Mr. President, yesterday the American people celebrated the 10th anniversary of our Nation's greatest technological triumph—the landing of American astronauts on the Moon.

That surpassing achievement—that combination of organizational and technical genius with the courage of the human spirit—has led us in our time to believe that "if we can go to the Moon," we can do anything.

I believe that to be true Mr. President. I believe the capacity of the American people to set goals for themselves and then to reach them—no matter what the odds against them—is what sets this Nation apart from all others.

It is this capacity which has won us our independence, which helped us conquer a wilderness continent, which helped us to go to the Moon. This capacity in our people is undiminished by time or circumstance, and waits only for the inspiration and the new goal.

Space exploration itself has reserved for our generation a special place in the history of mankind. It may well define our most important and enduring contribution to that history. Having set the Nation on course to a new and endless frontier, we have laid a foundation on which a hundred generations can build.

The distinguished gentleman from New Mexico, Mr. SCHMITT, is one of the handful of men who have walked the barren plains of the Moon and into the history of our country and our human race.

On the 10th anniversary of man's first landing on the Moon, Senator SCHMITT has proposed exciting new objectives for space exploration, through the end of this century.

I believe each of my colleagues will find Mr. SCHMITT's vision compelling and his timetable invigorating. I ask unanimous consent that his article entitled "Space Is Our Destiny," which appeared in Friday's Washington Star, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPACE IS OUR DESTINY

(By HARRISON SCHMITT)

I would like to tell you about a place I have seen: a valley on the moon known as the Valley of Taurus-Littrow. Taurus-Littrow is a name not chosen with poetry in mind; but, as with many names, the mind's poetry is created by events. Events surrounding not only three days in the lives of three men, but also the close of an unparalleled era in human history.

The Valley of Taurus-Littrow is confined by one of the most majestic panoramas within the view and experience of mankind. The roll of dark hills across the valley floor blends with bright slopes that sweep evenly upwards, tracked like snow, to the rocky tops of the massifs. The valley does not have the jagged youthful majesty of the Himalayas or the glacially symmetrical fjords of the north countries or even the now intriguing rifts of Mars. Rather, it has the subdued and ancient majesty of a valley whose origins appear as one with the sun.

The valley has watched the unfolding of thousands of millions of years of time. Now it has dimly and impermanently noted man's homage and footprints. Man's return is not the concern of the valley . . . only the concern of man.

Those words, spoken before the House of Representatives in 1973, expressed my thoughts after returning from the moon. They set part of the stage for my views on future space policy.

The main thrust of what must be this nation's space policy can be summarized in one phrase: Our destiny is space.

The expansion of human activities in space is of fundamental significance to the history of our civilization. We are lucky that it is our destiny to be the vanguard for the movement of both routine and unimaginable activities into outer space; to be the first truly spacefaring nation.

Can anyone imagine what awaits us in space? Did the Europeans really know how the "New World" would benefit them? Did Jefferson do a cost/benefit analysis of the Louisiana territory? In these instances the leaders realized that there were opportunities for social and economic benefits in the new territories, even though they could not quantify those benefits or even perceive most of them. We need an aggressive space policy to expand our opportunities for such benefits in space.

My proposed policy entails a number of goals. The first involves the development of a world information system. The second is the establishment of orbital enterprise facilities and the third is a second period of solar system exploration by man.

A world information system can be seen within the context of our private enterprise system. We must find ways to provide incentives to expand private enterprise in outer space, to smooth the way so that government space and aeronautics research can be integrated into the private sector.

My second goal is by the year 2000 to create the basic facilities necessary for orbital enterprise activities, such as education, health care, manufacturing and solar power utilization. Permanent facilities in orbit will help alleviate many problems facing this nation and provide many new opportunities. For example, the creation of new export commodities and the supply of inexhaustible energy are needs that cannot be ignored by this generation nor denied to future generations.

Many in this country, particularly young Americans, have an increasing awareness of outer-space activities and how they can be exciting and how they can benefit society. They accept the vision.

This leads me to my third goal which is, by the year 2010, for the United States to undertake further solar system exploration, which includes a base for research and test activities on the moon. A lunar base would permit us to develop and test the systems necessary to sustain a permanent mining, agricultural and research settlement. And other exploratory missions may be more economically staged from the moon.

These directions are part of an aggressive space policy which reflects our destiny in space. What is needed is a space policy of support for such activities.

The greatest of all accomplishments that we can achieve in our lifetime is to assure our children of their destiny in space.

BROCK ADAMS—SECRETARY OF TRANSPORTATION

Mr. BAYH. Mr. President, I have always felt that it was the responsibility of a President of the United States to run the executive branch of our Government. As impossible as that job is, it is critically important for the legislative branch to give great leeway to the President in the choice of those Cabinet and other executive officials that he gathers around him and on whom he must rely to run the Government.

I frankly believe at this particular time, when changes are being made, I have no desire to comment on the wisdom of these particular changes, trusting that if the President feels a greater degree of confidence in those he chooses he should be given this leeway and we should support him and hope the decisions are right.

I would like to say, however, Mr. President, that, having had the opportunity over the past few years to have the privilege of chairing the Senate Subcommittee on Transportation, I have considered it a real privilege to have the opportunity to serve with and work with a former colleague from the House of Representatives, who was chosen by President Carter to serve as Secretary of Transportation. I am speaking, of course, of Secretary Brock Adams.

In my judgment, he has done a remarkable job over the past 2½ years in addressing the many complex transportation issues facing this Nation in an aggressive and forthright way. He has demonstrated outstanding leadership in championing the accessibility needs of our elderly and handicapped citizens, the merits of a modern and fully functional public transportation system, the need to stick by and improve upon our previous commitments to make automobiles as fuel efficient and nonpolluting as possible, enhanced safety in all modes of transportation, and regulatory reforms which make sense for a major portion of our country's transportation system.

Mr. President, I have not always agreed with the Secretary of Transportation, my friend, Brock Adams, on every issue. But I must say, as chairman of the Appropriations Subcommittee on Transportation, I always found Secretary Adams to be a strong and eloquent spokesman for the President's policy.

When he found his personal views on funding levels and policy matters overridden by the President's need to balance our transportation spending with the overall Federal budget, Brock was insistent that we should keep the

DOT budget at or near the President's request. We have done that each year that I have chaired the subcommittee and I hope to be able to do so this year.

Brock Adams will be sorely missed in the coming months, and I hope he will keep in close touch with those of us who have responsibilities on transportation issues as legislation is moving through the Senate. The President will not easily find a successor to Brock Adams who is dedicated, enthusiastic and able to do the job. It is important that the momentum that Secretary Adams and the administration have obtained on many important transportation issues not be lost at this very critical time in our Nation's struggle to become more energy independent and as we attempt to help control inflation through wiser transportation priorities and less burdensome regulatory policies.

In the Congress and the Cabinet, Brock Adams has been a man of conscience, a dedicated American who has served his country with distinction. I am proud to call him my friend.

CONCLUSION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EXPORT ADMINISTRATION ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of S. 737 which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is amendment No. 340.

Who yields time?

Mr. STEVENSON. Mr. President, I ask that this statement be taken from the time on the bill and not on the amendment that is now pending.

The ACTING PRESIDENT pro tempore. The Senate has that right. It will be.

Mr. STEVENSON. Mr. President, S. 737 is necessary to extend and revise authority to control U.S. exports and to authorize appropriations to meet the expenses of administering export controls. The existing authority which is provided in the Export Administration Act of 1969 expires September 30.

S. 737 would establish a new export control statute, the Export Administration Act of 1979, superseding the 1969 act. S. 737 incorporates many provisions of the 1969 act, but also makes extensive improvements to insure that export control authority is exercised with maximum efficiency and controls confined to those necessary to achieve important national purposes.

Mr. President, this legislation is one product of a year long study of U.S. export policy by the Subcommittee on International Finance. The subcommittee report based on that study concluded that:

Delays in export licensing decisions • • • are a significant cause of U.S. export loss. • • • Because U.S. licensing policy is often unclear, foreign purchasers come to regard the U.S. as an unreliable supplier. In areas of rapidly expanding technology, the control levels should be revised more frequently. Too often the Commerce Department responds to a rapidly evolving state of the art around the world only when deluged by license applications which should not have been required in the first place. If the Executive departments will not devise a more efficient way to provide essential monitoring and control without excessive disruption of U.S. exports, Congress must.

Mr. President, the U.S. trade deficit continues to set records. The United States has now run a trade deficit each month for the past 36 months. There is no end in sight, and imported oil is only part of the problem.

The United States is becoming less competitive at home and abroad. In 1975 the Nation had a $20 billion trade surplus in manufactured goods; last year it ran a $5.8 billion defict. Other nations more dependent on imported oil run trade surpluses. They go all out to beat us, and they win.

A factor in declining U.S. competitiveness is Government restriction of U.S. exports. U.S. exporters face export license controls, antitrust, antibribery, antiboycott, antinuclear proliferation, human rights, environmental reviews and other restrictions not faced by foreign competitors. We are the only nation in the world which treats exports as a favor to bestow upon worthy foreigners rather than an essential contribution to our economic well-being.

S. 737 is an important step in the development of a national export policy. It can become a symbol of our willingness to revamp our laws to meet the competitive challenge without sacrificing other major objectives.

Mr. President, S. 737 would establish an export control policy which protects vital security and foreign policy interests without unnecessarily restricting U. S. exports. It would reduce the number of controlled items and focus national security controls on technologies and related products critical to military systems. It would set criteria which the President must consider before imposing export controls for foreign policy purposes. It would reduce paperwork by establishing licenses under which multiple shipments could be made to a specified purchaser for a stated end use. It would expedite interagency review by requiring agreement in writing on types and categories of applications requiring interagency referral and setting a 30-day deadline for returning comments to the Commerce Department. It would insure final decisions on all applications within a maximum of 180 days.

The bill is lengthy. I will not take up the time of the Senate to go through each provision. Senate Report 96–169 contains a thorough description of the provisions of S. 737. I will mention only a few key provisions.

S. 737 requires that export controls maintained for national security purposes be reviewed by the President every 3 years in the case of controls maintained cooperatively with other nations and every year in the case of unilaterally maintained controls. Priority in administering such controls is to be given to preventing exports of militarily critical goods and technology, and the Secretaries of Commerce and Defense are required to review and revise such controls to insure they are focused upon and limited, to the maximum extent possible consistent with the purposes of the bill, to militarily critical goods and technology and the mechanisms through which they may be effectively transferred.

As the committee noted in its report on S. 737:

The number of license applications received by the Department of Commerce is expanding rapidly, nearing an annual level of 80,000 applications per year. The increased applications reflect a failure to prune the control lists and to concentrate licensing requirements where they can be most effective. The Defense Science Board Task Force on Export of U.S. Technoloigy recommended, in a report released February 27, 1976, that export controls for national security purposes be focused upon retarding transfers of technology which could significantly enhance the military capacity of potential adversaries. The Task Force report suggested that other controls, particularly on end products, could be reduced once effective controls on the transfer of militarily critical technology were in place. Three years after the Task Force report, a critical technology approach has still to be devised and implemented. Failure to implement the Task Force report could result in controls which limit some exports unnecessarily while controlling insufficiently other exports which could be seriously detrimental to national security.

Mr. President, S. 737 provides the statutory basis for implementing the critical technologies approach recommended in the report of the Defense Science Board Task Force.

S. 737 also sets forth criteria to be considered by the President when imposing export controls for foreign policy purposes, including:

First. Alternative means to further the foreign policy purposes in question;

Second. The likelihood that foreign competitors will join the United States in effectively controlling the exports in question;

Third. The probability that such controls will achieve the intended foreign policy purpose;

Fourth. The effect of such controls on U.S. exports, employment and production and on the international reputation of the United States as a supplier of goods and technology;

Fifth. The reaction of other countries to the imposition or enlargement of such export controls by the United States; and

Sixth. The foreign policy consequences of not imposing controls. The bill provdies that the President shall report to Congress his reasons for imposing such controls, and that such controls must be reconsidered annually.

No aspect of U.S. export controls policy received sharper criticism during committee and subcommittee hearings than controls maintained for foreign policy purposes. Former Under Secretary of State George Ball testified that "such controls should be used very sparingly."

Former Under Secretary of Defense David Packard testified:

I do not believe these unilateral constraints are effective in changing the policies or the behavior of the targeted countries. In fact, I think the only thing such policies do is to guarantee the loss of business for the United States.

Former Secretary of State Dean Rusk testified that the United States should reconsider its attitude toward the use of export controls for foreign policy purposes:

We should begin by reminding ourselves that trade occurs when it is of benefit to both parties. When we refuse to trade for security or political reasons, we should recall that we are depriving ourselves of the benefits of that trade, whether in the form of convertible currencies or goods and services which we ourselves need for our own national life. I would strongly advise against a drift into self-imposed economic isolationism by weighing trade in terms of approval or disapproval of the institutions of other trading nations.

Uncertainty over U.S. policy toward the use of export controls for foreign policy purposes has discouraged potential exports and tarnished the reputation of U.S. exporters as reliable suppliers to foreign countries. Controls applied for foreign policy reasons often restrict the export of goods and technology freely available from foreign suppliers, often from our allies. Yet there is no evidence that the effects of such controls are receiving due consideration, nor that efforts are being made to obtain agreement by our allies to adopt similar restrictions on their exports.

S. 737 requires that foreign availability of goods and technology subject to export controls be determined both with respect to controls maintained for foreign policy purposes and those maintained for national security purposes. If the goods or technology are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, the President shall not impose export controls unless he determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. If the President decides to maintain export controls despite foreign availability, he is required to initiate negotiations with other governments to try to remove such foreign availability.

S. 737 would not interfere with the President's ability to respond immediately to foreign policy crises. The President could decide that one, several, or all of the factors listed in section 4(a)(2)(C) and referred to in section 4(a)(2)(D) were not relevant to imposing export controls in a given situation. He could also impose export controls before it is known whether foreign availability, as referred to in section 4(a)(2)(E), exists.

Moreover, controls could be continued if they were inconsistent with these factors or if it later became apparent that foreign availability does exist. These factors are to be taken into consideration, but they are not conditions which must be met. Controls may be continued notwithstanding foreign availability if the President determines that failure to do so would be detrimental to U.S. foreign policy.

S. 737 assigns clear responsibility for assessing the foreign availability of goods and technology subject to U.S. export controls. A report by the General Accounting Office notes that no one in the executive branch is given responsibility to determine whether products or technology are freely available to controlled countries from our foreign competitors. Each agency makes its own assessment, leading to needless duplication of effort and delays in license reviews.

The GAO recommended that foreign availability be assessed by a single office drawing as necessary on expertise and information from other Federal agencies. Our bill requires establishment of an Office of Foreign Product and Technology Assessment in the Department of Commerce. This office could call upon any Federal agency for assistance in assessing foreign availability, and would also receive information from the business sector. Centralizing responsibility for foreign availability assessments should yield substantial savings in administrative expense and license processing time.

S. 737 authorizes the President to delegate authority under the act to such departments, agencies, or officials as he chooses, but not to any official of any department or agency whose head is not appointed by and with the consent of the Senate. The committee intends the provision to apply in particular to the National Security Council which is reported to have been assigned a role in formulating export control policy and in reviewing particular export license applications. The expanded role of the NSC staff in export licensing and export control policy has frustrated effective congressional oversight and diffused responsibility for export controls in the executive branch.

Mr. President, former Secretary of State Dean Rusk made the following comments before the Banking Committee last year:

Mr. Chairman, as far as the National Security Council staff is concerned, I think it's of the utmost importance they remain in the staff capacity and they not be injected into the line responsibility of command . . .

The National Security staff does not carry major statutory responsibilities as do Cabinet officers. They do not appear regularly down here before committees and subcommittees of the Congress. They do not hold press conferences in which they can be interrogated regularly by the press. Theirs is a staff responsibility.

S. 737 is intended to discourage the assignment of export licensing responsibilities to the NSC.

S. 737 contains all the antiboycott provisions of the Export Administration Act of 1969, as amended, and makes no changes in those provisions. The committee received letters from major business organizations and Jewish groups recommending that no change be made in the boycott provisions this year. This bill does not amend the antiboycott provisions of the act as implemented by regulations issued by the Commerce Department.

S. 737 provides a 4-year extension of export control authority from September 30, 1979, to September 30, 1983. Congress will have an opportunity each year to exercise effective oversight of export control policy and to make statutory changes, because S. 737 requires that appropriations for administering the act be authorized annually.

Mr. President, S. 737 would streamline U.S. exports control, eliminating unnecessary restrictions on U.S. exports while providing more effective control over exports which truly threaten our national security. The approach adopted in the bill is realistic; it recognizes that the United States is no longer the world's only producer of advanced technology; it recognizes the intensity of foreign competition and the impossibility of preventing the spread of technology; it recognizes that truly effective export controls must be multilateral controls. The United States must continue to work in cooperation with NATO allies and Japan to design and implement an export control policy which effectively serves our mutual security interests, without needlessly sacrificing our economic well-being. S. 737 provides the foundation for an export control policy to serve all our principal interests, neglecting none.

Mr. HEINZ. Mr. President, I yield myself such time as I may consume from the bill.

Mr. President, I join my distinguished colleague, the senior Senator from Illinois, in urging passage of the Export Administration Act of 1979, S. 737. This bill is a significant improvement over its predecessor, the 1969 act. It incorporates many of the recommendations for improvements made by the General Accounting Office's two extensive reports on the export licensing process, the National Governors' Association's special task force report on this subject, and numerous expert private witnesses, who detailed the defects of the current system

during the four hearings we held on this subject.

Mr. President, when the original Export Control Act legislation was enacted after World War II, America was the technological leader in the world and could maintain unilateral controls on much of its technology. This is no longer the case. We are now in a highly competitive international trading arena. During the past decade alone, for example, U.S. exports as a percentage of gross national product increased from approximately 4 percent to 7 percent, while our share of total world trade nonetheless declined.

We still have the greatest absolute volume of exports with $143 billion in 1978, but increasingly our trading takes on the pattern of a less developed country, with agricultural raw materials acounting for an ever greater percentage of the volume. Our defeated enemies, Germany and Japan, have surpassed our share of the world market in manufactured goods. Our once substantial lead in technology has been overtaken in many significant areas of medium and high technology—machine tools, power turbines, reactors, jet aircraft, naval vessels. Foreign competitors from Europe and Japan export goods that approach or surpass the best American designs. Thus, in a good many cases, countries denied American goods, or countries which experience inordinate delays in obtaining those goods, can easily find them elsewhere. They will not pay a double price—both economic and political—for U.S. exports.

Mr. President, in recent years there has been a dangerous decline in the ability of U.S. industry to compete in the world marketplace. We had a trade deficit which totaled $31 million in 1977, $34 billion last year, and which could reach the same abysmal level in 1979 despite the significant devaluation of the dollar which has taken place in the meantime. S. 737 is a crucial step in the development of a national export policy. Our national security depends not only on our military hardware and our men under arms but also on the strength and the vitality of our economy.

S. 737 strikes a delicate balance between controlling the transfer of technologies which might convey some military advantage to potential enemies while at the same time attempting to enhance the export of U.S. manufactured products to provide jobs for American workers and to assist the U.S. balance of payments. The bill, as reported, offers a rational basis for a positive export program, with adequate safeguards for national security.

Mr. President, I urge my colleagues to reject any attempts to attach crippling amendments to S. 737. One such amendment which has been proposed would create a cumbersome validated licensing procedure for trade with even our closest allies, such as Britain and West Germany, where none existed before. The case for such controls is obscure at best, and through this action we may very well undermine whatever hope we have for strengthening the collective efforts to control technology transfer. This type of arbitrary, unilateral control at this time is both unnecessary and unwise. Moreover, it is likely to cost U.S. exporters billions of dollars in lost business in their strongest product area, high technology, with no palpable increase in security resulting from this futile exercise in self-denial.

Adding more countries and goods to the validated licensing process is likely to be counterproductive to the goal of preventing technology transfer, an objective which I share with authors of such amendments. But the consequence would be an additional licensing burden of undefined dimension, with no assurance that our allies would apply equivalent controls. For example, while Japanese semiconductor manufacturers are seizing Asian and European markets, U.S. companies will be waiting months for validated licenses to be approved. Moreover, it is likely that more dual use technology and equipment will slip through the bureaucratic cracks if we increase the paperwork burden.

Mr. President, I urge my colleagues to consider the fact that our Nation's edge in high technology—and many other industrial goods—is a precious resource for jobs and capital growth which we must aggressively promote in foreign markets. Each time a license is denied for insufficient cause, or delayed to the point where customers are discouraged and begin to look elsewhere, that precious resource is squandered. Worse still, there is a multiplier effect, in which potential exporters lose patience with the export licensing process and potential importers of U.S. goods turn to other, more reliable sources for their needs, in some cases despite the U.S. edge in quality, technology, or price.

I believe U.S. citizens have a right to engage in international as well as domestic commerce unfettered by government restriction unless the Nation's vital interests are affected. Present controls on U.S. exports are more stringent than is consistent with the right of citizens, the national interest, or commonsense.

S. 737 mandates annual review of export controls and requires consideration of foreign availability—which applies at present only to national security controls. Before imposing new controls for foreign policy reasons the President would have to consider the economic costs, the reaction of other countries, and alternative ways to further U.S. foreign policy. The President would be required to report his conclusions to the Congress and the public.

Mr. President the message I have received from exporters is not that they are asking for a removal of restraints. Rather, what they want—and what this S. 737 provides—is a streamlined and predictable export control policy, which can be used as a reliable guide to marketing and long-term commitments.

I urge my colleagues to reject crippling support.

The ACTING PRESIDENT pro tempore. Time continues running equally against both sides.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Charged to the Senator's time on the bill?

Mr. HEINZ. I withdraw the request.

The ACTING PRESIDENT pro tempore. Time continues to run equally against both sides.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum and that the time be charged equally to both sides, if that is all right with the majority manager.

The ACTING PRESIDENT pro tempore. Does the Senator wish time to run against the bill or against the amendment?

Mr. HEINZ. Against the bill.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEWART. Mr. President, I ask unanimous consent that the Jackson amendment be temporarily laid aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 422

(Purpose: To revise the petitioning process in section 7)

Mr. STEWART. I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 422.

Mr. STEWART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 73, lines 24 and 25, strike out ", any sector thereof, or any industry or substantial segment" and insert in lieu thereof "or any sector".

Beginning with page 92, line 24, strike out all through page 95, line 5, and insert in lieu thereof the following:

SEC. 7. (a)(1) Any entity, including a trade association, firm, or certified or recognized union group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested. The petition shall include information reasonably available to

the petitioner indicating (A) that there has been a significant increase over a representative period in exports of such material or commodity in relation to domestic supply, and (B) that there has been a significant increase in the price of such material or commodity under circumstances indicating that the price increase may be related to exports.

(b) Within 15 days after receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (3) notice of whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) notice that interested persons shall have a period of 30 days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opportunity for oral presentation. At the request of the petitioner or any other entity described in subsection (a)(1) with respect to the material or commodity which is the subject of the petition or at the request of any entity representative of the producers or exporters of such material or commodity, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the 30-day period shall be extended to 45 days.

(c) Within 45 days after the end of the 30-day or 45-day period described in subsection (b) or within 75 days of publication of the petition in the Federal Register, whichever is the later, the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; and

(2) publish in the Federal Register a detailed statement of the reasons for such determination.

(d) Within 15 days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) For the purposes of publishing notices in the Federal Register and the scheduling of public hearings, the Secretary shall have the authority to consolidate petitions and responses thereto with respect to the same or related commodities.

(f) If a petition has been fully considered under this section and a notice has been published with respect to a particular commodity or group of commodities and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that a petition for monitoring or control of such commodity or commodities does not merit the full consideration mandated under this section.

(g) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(h) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a)(1) and the Secretary's determination under subsection (c) if the Secretary deems such action to be necessary to effectuate the policy set forth in section 3(2)(C) of this Act. If such authority is used the Secretary shall afford interested persons an opportunity to submit written comments thereon and such comments shall be considered by the Secretary in making the determination required under subsection (c) and in the development of any final regulations.

(i) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under section 4(e)(1) or any other provision of this Act.

(j) The provisions of this section shall not apply to any agricultural commodity.

Mr. STEWART. Mr. President, I will speak very briefly to the amendment.

This amendment, which would be known as section 7 of the bill, was originally offered by Senator HEINZ and myself during the Banking Committee markup of this legislation. It establishes a petitioning process in the procedure in the Department of Commerce for the filing of petitions seeking the monitoring or control of certain materials or commodities. It provides for interested parties from both sides to present their views in a public hearing and it lays out a specified time frame for a final decision from the Department of Commerce to be published in the Federal Register. In short, it is a sunshine amendment which attempts to bring a measure of fairness and openness to a process, which for too long has been made behind closed doors without the benefit of free and open public debate.

The amendment I am offering today represents a balanced revision of the original section 7. We have sought to tighten the requirements a petitioner must meet and have included a more specific outline of what information the petition itself must include.

An important addition to the section is a new subsection which specifically excludes agricultural commodities from participation in the petitioning process. The reason for this addition is that regardless of the petitioning process an agricultural commodity might have gone through under the provisions of this section, the final decision of whether to implement monitoring or controls on such commodities would still remain with the Secretary of Agriculture under existing law. Because the petitioning process in section 7 applies only to the Department of Commerce, it is only fair to eliminate Agricultural commodities from the petitioning process altogether.

The amendment I am offering today has incorporated certain recommendations of the Department of Commerce as well as suggestions of Senator STEVENSON, and I am pleased that they have removed their objections to the amendment.

It is my understanding that the distinguished floor managers of the bill have agreed to accept the provisions of this amendment, and with that I yield to the Senator from Illinois and the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I thank the distinguished Senator from Alabama for his cooperation and for the contribution he has made to this bill.

The amendment which he now offers will make it clear that new procedures which permit petitions for export controls do not include agricultural commodities, and those procedures are clarified by this amendment. I think it is a good amendment, and I am happy to accept it.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, if the Senator will yield, I have examined the amendment and find it consistent with the spirit of the bill. Indeed, I think it improves the bill, and I think the Senator from Alabama is making a very good contribution, and I would like to see the committee accept it.

Mr. STEWART. Mr. President, before I yield back my time I want to thank the Senator from Illinois for his contribution to the amendment and for his consideration for me and those I represent in proposing this amendment.

I thank the Senator from Pennsylvania for his consideration.

I yield back the remainder of my time on the amendment.

The ACTING PRESIDENT pro tempore. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. STEWART. I thank the distinguished floor managers.

AMENDMENT NO. 340

The ACTING PRESIDENT pro tempore. The question recurs on the amendment of the Senator from the State of Washington. Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that the name of my distinguished colleague from Indiana (Mr. BAYH) be added as a cosponsor to amendments 340 through 352 to S. 737.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, amendment No. 340 would amend the bill to give the Secretary of Defense primary responsibility for identifying the list of goods and technologies subject to national security controls. Under present law the Secretary of Commerce has this responsibility, and the Secretary of Defense has a role as consultant. The bill would confirm the status quo, despite the fact that the Department of Commerce is unqualified to carry out this important task. Under its administration, the export control process is in total shambles, as acknowledged by Larry Brady, the Deputy Director of the Office of Export Administration, in testimony before a House subcommittee. As a result of its mismanagement and failure to develop a coherent export control policy, the Department of Commerce is too overburdened with paperwork involved in processing well over 70,000 license applications per year. Commerce is too preoccupied with the movement of paper within the statutory deadlines to make the necessary reappraisal of our export controls.

Mr. Brady also acknowledged in his

House testimony what has long been known by persons familiar with the export control system—that the Department of Commerce's judgments on license applications are not reliable because of Commerce's very strong trade promotion focus. Despite its trade promotion bias, however, the Department of Commerce has failed to take any initiatives to effect a comprehensive relaxation of controls on noncritical end products.

Recent events further seriously call into question the judgment of the Department of Commerce. There are confirmed reports that the Kama River truck plant in the Soviet Union, built with hundreds of millions of dolars of American technology and equipment, is turning out diesel engines for military vehicles. Deputy Director of OEA, Larry Brady, told a House subcommittee that this evidence demonstrated the ineffectiveness of safeguards and end-use restrictions in preventing diversion of U.S. technologies and goods to military use by the Soviet Union.

In the past few days I received an unsolicited letter from the Secretary of Commerce making the preposterous suggestion that the military use of the Kama plant by the Soviets did not constitute a "diversion" of the plant to military use and, therefore, no violation of U.S. export controls had occurred and the Department of Commerce was not guilty of lack of vigilance. This letter reads like a legal brief in defense of the Russian's gross misconduct, especially when it asserts that there is no evidence that the Russians specifically agreed not to divert the plant to military use. The Secretary also makes inappropriate use of a memorandum by Mr. Brady to support her assertion that there was no such evidence. Mr. Brady has so noted in a letter to the Secretary of Commerce. His letter points out that it was the clear understanding of the U.S. Government, including the Department of Defense, that the plant would produce general purpose trucks for industrial and agricultural use. Mr. Brady correctly points out that the issue facing the Commerce Department is not whether diversion has occurred—that is indisputable—but whether Commerce will deny future licenses to further support the Kama plant and cancel outstanding licenses. The Secretary of Commerce is clearly creating legalistic and sophistical obstacles to rationalize its past nonfeasance and reluctance to take present action which would cut off further exports to the Kama plant—an action which it apparently perceives to be incompatible with its trade promotion function.

The extent to which the Department of Commerce is willing to go to prevent taking remedial action against the Soviet Union is best illustrated by the fact that the new Acting Director of OEA asked Mr. Brady to consider changing his testimony to the House subcommittee because it was causing the administration problems in dealing with the amendments that I and several of my colleagues have sponsored.

Mr. President, these actions by the Department of Commerce underscore its inability to grasp the realities of protecting national security and do little to commend it for the leading role in implementing an export control approach upon which the future security of our Nation so vitally depends.

Mr. President, I ask unanimous consent that the letter to me from Secretary of Commerce and Mr. Brady's letter to the Secretary be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., June 18, 1979.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: In the course of testimony before the Subcommittee on Research and Development of the House Committee on Armed Services, the Deputy Director of the Office of Export Administration, Lawrence J. Brady, testified that trucks produced at the Kama River truck factory in the Soviet Union were being "diverted" to military use in violation of U.S. export control restrictions.

That testimony has led to newspaper stories implying that Soviet military capability has been helped as a result of an apparent lack of vigilance by this Department. This is in error.

As you know, our nation no longer enjoys a favorable balance of trade, and thus the promotion of exports is more important than ever before. Even so, the national security is paramount, and we must be careful that we do not export materials and technology that would advance at our own expense the military capabilities of other nations. To walk this line is a difficult and delicate job. That is why it is essential that issues which may arise be discussed on the basis of accurate information.

First, there was no "diversion" in connection with the Kama River truck factory and, therefore, no violation of U.S. export controls.

A diversion occurs only when end-use restrictions pertaining to a license are violated. The Kama River truck plant licenses were issued during the Nixon Administration and contained no restrictions which we can identify limiting the use of the trucks and engines produced at the factory. Accordingly, military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines. Nor would any military use of Kama River trucks or engines entail diversion of the foundry's computer, because limitations on the use of the computer pertained to use of its computing capacity, not to use of products manufactured at the foundry. Several of the licenses contain technical conditions which have nothing to do with limitations on the use of the factory output.

This view is confirmed by the attached memorandum from Mr. Brady which concludes that a thorough review, which was requested by Senior Deputy Assistant Secretary Stanley J. Marcuss, has failed to disclose the existence of any document which could be construed as a limitation on the use of the factory output for civilian as contrasted with military purposes. Two exceptions mentioned in the memorandum are not relevant to the Kama River plant.

Second, at the time the licenses were issued, the Nixon Administration knew of the possibility that Kama trucks or engines could be used by the Soviet military. This factor apparently was fully considered before the decision was made. Thus it cannot be said that this matter was overlooked or that the export control system failed to ensure that all relevant factors were considered.

Finally, contrary to some press reports, Mr. Brady has not been "demoted" nor has any action been taken against him. He retains his position as Deputy Director of the Office of Export Administration, a position he has held for the last five years. Because of his position as Deputy Director, Mr. Brady served as Acting Director of the Office of Export Administration in the period between the retirement of the previous director and the appointment of the new one.

I hope this will lay to rest the misinformation which has recently surrounded this subject.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

Enclosure.

[From the U.S. Department of Commerce]

Memorandum for Robin B. Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River Case File.

On June 22, 1979, pursuant to your request, I thoroughly reviewed the relevant export license applications and supporting documents submitted by various U.S. firms seeking Department of Commerce authorization to export commodities to the USSR's Kama River Project. The results of this examination, with two exceptions, failed to disclose the existence of any document which could be construed to represent an agreement between parties or assurances as to the specific application of products, i.e., military vs. civilian, in the truck manufacturing process.

The exceptions are found in license applications case numbers 813124 and S49801. Case number 849801 contains a "letter of protocol" between Mack Trucks, Inc., and a Soviet trade delegation indicating that the trucks assembled at Kama River would be used for agricultural and industrial purposes.

A copy of the protocol is attached.

With regard to the protocol, I am concerned that because Mack Truck pulled out of the deal after signing the protocol, which you will note also included other parties, including SATRA, it may not be considered relevant to subsequent licensing actions. I intend to go through all of the license applications to see whether or not we referenced the protocol in subsequent license actions. I think we did. I am also sending you separately a copy of the entire "front office" file on KAMA.

Also attached is a June 14 memorandum Dick Isadore prepared on the basis of a quick review of all license applications for the Kama River plant.

Attachments.

Memorandum for Juanita M. Kreps, Secretary, Department of Commerce.

Subject: Your letter to Chairman Ichord of July 18, 1979.

In your letter to members of Congress on the subject of diversion from the Kama River Truck plant, you have indicated that my testimony to the effect that trucks produced at Kama were being diverted to military use was in error. You also indicate that stories implying that Soviet military capabilities have been helped as a result of an apparent lack of vigilence by the Commerce Department are in error.

You base this statement on your definition of diversion as an activity which only occurs when end-use restrictions pertaining to a patricular license are violated. You further state that the Kama River licenses contained no restrictions on the use of the trucks and engines produced at the factory. Therefore, you conclude, military use of the trucks is not diversion.

I believe this definition of diversion is excessively narrow. Diversion occurs when the product exported, or the product manufactured from the technology exported, is used in a manner contrary to the end-use representation made to the U.S. Government at the time of licensing. We know this has occurred at the Kama River Truck plant.

The issue before the Department is not one of prosecuting a "violator" as in a situation when an exporter illegally exports, but rather the issue is what position the Commerce Department will take on pending and future license applications for the Kama River plant.

Now, exactly what kind of end-use representations were made to the U.S. Government at the time the licenses were granted? Basically, there were three kinds. First, the files reveal that in high-level government to government discussions the Kama project was discussed. Second, the U.S. Government received many end-use statements attached to license applications to the effect that the end use was to manufacture "trucks." Third, a protocol had been signed in May of 1971 between the USSR and Mack Truck, Satra Consultant Corp., and the Greg Gary Intl. Corp. stating that the Kama River Truck plant was to produce eight-to-eleven-ton trucks for agricultural and industrial use in the USSR.

How reliable are these representations of end use? Taken as a whole, there is no doubt that the U.S. Government was led to believe that these trucks were general-purpose to be used for agricultural-industrial use.

You refer to my June 22 memorandum to support the position that no distinction was made between military and civilian use in the licenses. My memorandum is quoted out of context to support a much broader conclusion than I intended. I was asked specifically to search the files to determine whether the words "civilian" or "military" appeared in any document. I had this done and made a preliminary report.

The Government issued licenses on the basis that general purpose trucks would be produced at Kama. We would not have wanted to build a plant for military products. The Mack Truck protocol terms, which apparently became null and void in September, 1971 after Mack Truck pulled out of the project, specifically stated that the trucks to be built were for agricultural and industrial uses. That protocol helped form the context in which the U.S. Government made its decision to approve licenses for the Kama River plant in 1971 and became void only after the government had already made some licensing determinations.

Even if there is a question about what end-use conditions or restrictions were applied in this case, we would not want such a situation to be repeated again. Commerce, therefore, now has the responsibility to assure that no future licenses are issued which further support the plant.

With regard to the conclusion that no diversion of the Foundry computer has occurred, I believe this is open to serious question. As I have said before, the wealth of evidence presented to the Government was that the entire facility was to produce civilian trucks. The Foundry is the heart of the facility, and the computer essentially controls the Foundry. According to your definition, computer time is only being diverted if it were to be programmed to guide an ICBM.

Next, I would like to address the matter of my demotion. I was not replaced by a new permanent Director, but by a new Acting Director. Mr. Kent Knowles had to assume active military duty when appointed as Acting Director and was absent from the office for two weeks. There was a real question as to who was in command and by whom official documents should be signed. I was informed the next day to continue to sign everything and deal with all office matters, but as Deputy instead of Acting Director.

Furthermore, I had been repeatedly promised by the Personnel Office that the Director's job would go through normal personnel procedures and be open to competition, and that I would have an opportunity to compete for it. This procedure was not carried out.

In summary, I believe your letter confirms my testimony on the export control system. It is in essence, a "shambles". We have before us the fact that the Soviets are diverting trucks to military use, when end-use representations made to the U.S. Government signified that they were to build civilian, general-purpose trucks. We do not deny that the Kama Factory is engaging in military activity, but through a legalistic and bureaucratic definition of diversion, we take the position that this is not diversion. We do not even indicate what position we will take in the future.

This all points up what I said in my testimony, namely that:

(1) The Soviets are diverting U.S. equipment and technology whenever they have the ability or the need to do so;

(2) There are no adequate safeguards against diversion;

(3) The end-use certification basis upon which the export control system functions presently is meaningless.

If your letter indicates that the good faith reached between the U.S. and the U.S.S.R. on this project was meaningless, this will not bode well for the SALT II Treaty in which we are told that verification rests partly on good faith between the parties and the "spirit" of the agreement.

Lastly, I was not asked to participate in the meetings which resulted in preparation of the letter which you signed. I wished I had been asked.

Mr. Knowles did approach me yesterday afternoon however, and asked me whether I would consider reviewing my testimony and perhaps changing my statement on diversion, because he said my statement was causing the Administration problems. He was referring, he said, to the amendments Senator Jackson intends to propose to the Stevenson Bill. I told him that trucks were going to the military at Kama and that regardless of the semantics one used, I believed that was diversion because it was contrary to the intended end-use.

Because your letter and a copy of my June 22 memorandum (taken out of context) has been sent to the Hill, I am making this memorandum, along with the final report I was preparing in answer to the Deputy Bureau Director available as well.

Sincerely,

LAWRENCE J. BRADY,
Deputy Director,
Office of Export Administration.

JULY 19, 1979.

Memorandum for: Robin Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River.

This statement constitutes my final report on my review of the Kama River Truck Factory export licenses and is my response to your July 12th note to me. I feel bound to write this statement because I have been omitted from all meetings discussing this case. I strongly disagree with your draft memorandum which concludes that no conditions whatever were attached to the Kama export licenses, and that no diversion of U.S. equipment to Soviet military use has occurred. I strongly object to the use of a memorandum of mine to support these conclusions.

I feel this case clearly involves the Commerce Department's responsibility to protect U.S. national security as required by the Export Administration Act of 1969, as amended. Resolution of the diversion issue calls for a judgment based on the U.S. Government's commitment to enforce that Act.

In connection with the Act, as a part of its export control policy, the Government conceived the end-use/end user system including consignee statements and "safeguard conditions" as a warning signal to go off if U.S. exports were being used to contribute significantly to the military activity of its potential adversaries. Presumably, the U.S. Government was sincere in its commitment to take action if this "warning signal" were sounded, and to apply sanctions if improper use were made of its exports of equipment and technology to controlled designations.

The first test of such a safeguard system is verification or confirmation of the use of U.S. exports to significantly contribute to the military activity of a potential adversary. I have testified that such verification is almost impossible, and therefore the first test of the system always fails, not only due to secrecy, but because of the conflict of interest for businessmen expected to report on such use. Nevertheless, in the Kama case, the use of U.S. equipment and technology to perpetuate a Soviet military program was reported and confirmed by U.S. intelligence sources. So, in this rare instance, the first test was passed.

The second test of the system is whether it can be enforced. That judgment should carry out the Government's responsibility to enforce the Export Administration Act as the law of the land.

End-use statement, protocols, political understandings and written conditions attached to computer licenses are all part of the imput into the judgment of whether diversion has or is taking place. In the case of Kama, the Government must make a decision. Either it will take some sanction against the consignee, the Kama River plant, (the only real sanction available is to cease further support of the plant by denying pending and future licenses) or it will avoid action by rationalizing the control process.

In the case of Kama, it is clear from the evidence surrounding the granting of licenses that the Government should exercise its judgment to enforce the Foundry Safeguards attached to the IBM computer used to run the foundry. These conditions clearly state that:

The reason for taking such action would be to clearly demonstrate that the United States no longer wishes to contribute to the on-going military function of the world's largest truck and engine manufacturing plant.

SPECIFIC FACTS ABOUT THE CASE

Having thus expressed my general assessment of the Kama case, I'd like to address your draft memorandum of July 10, 1979 to Stanley Marcuss. (See Attachment A) In your first paragraph, you misquote and misinterpret the content of my report of June 22, 1979, on Kama. You state that:

The Office of Export Administration has reviewed the files of over 175 cases identified as part of the Kama River Truck Plant complex (KAMAZ). Its reports and additional personal review support the conclusion that dedication to military use of trucks or engines produced by KAMAZ would not violate the terms of U.S. export licenses issued to companies which supplied technology and equipment for the plant.

According to this logic, if the Kama River facility were to tomorrow shift into full-scale production of tanks or armored personnel carriers, this would not constitute a

violation of the licensing conditions attached to the IBM computer. The only condition which you would have us believe is attached to the computer is that in which it is programmed for direct use in a military activity, such as guiding an ICBM.

The Office of Export Administration's review did not support that conclusion. In my June 22 memorandum (See Attachment B), I reported that our review of the applications had produced two documents which could be construed as agreements between parties as to the specific application of the products of the truck manufacturing process. These were two copies of a protocol signed in 1971, which had been attached to two license applications.

I clearly stated in my fourth paragraph that, "I intend to go through all the license applications to see whether or not we referenced the protocol in subsequent license actions." This was obviously not my final report on safeguard conditions in the Kama case, and it did not support the conclusion you drew in the first paragraph of your memorandum to Mr. Marcuss, stated above. My report, in fact, implied that certain terms of our licensing policy (which included any protocol which may have applied), had been violated.

THE PROTOCOL

The May protocol formed the control context in which the U.S. Government made its decision to approve licenses for the Kama River Plant. Before Henry A. Kissinger, Nixon's National Security Advisor, ordered approval for further Kama licenses, with stipulation for White House review, a series of discussions took place between Soviet and U.S. policy makers. In addition, a protocol was signed which applied to MACK Trucks, Inc., Greg Gary Int'l. Corp., Satra Consulting Corp., and the Soviet Union. The protocol was signed on about May 11, 1971 and the first licenses for Kama were approved in August. It was not until September 16 that MACK Trucks withdrew from the transaction and by the terms of the protocol, apparently became void. The protocol understanding, was a viable instrument at the time license applications were being reviewed in the interagency system.

The protocol stated that:

Mack Trucks, Inc. later did not fulfill its contract with the Soviet trade delegation, but some of the other parties to the protocol went on to receive licenses for the sale of equipment to the Kama River Truck factory.

In your memorandum, you quote Dr. Maurice Mountain as saying in a report on the computer safeguards that the United States Government never required the Soviet Union to promise not to use trucks or engines produced at Kamaz for military purposes. However, you also quote Dr. Mountain as saying that he predicated his report on the fact that the civil nature of the end-user was assumed to have been established presumably by Commerce. Dr. Mountain presumably assumed that the suitability of the plant's end product was made in 1971 when the President ordered the issuance of the first KAMAZ license. I suggest that this assumption could be made largely on the basis of the protocol and its context in U.S.-Soviet discussions on Kama.

According to your logic, however, Dr. Mountain's report assumed that the Commerce Department had already established peaceful use of the end-products, whereas in fact you say it had not. If your argument is correct the licenses were ordered approved without peaceful end-use requirements. Furthermore, just to argue in the same logic, it was certainly never stated in any understanding between parties or any document that military use of the trucks or engines was to be acceptable.

No one ever realized, either, how high the value of U.S. equipment and technology going to Kama actually was. A current tabulation shows that the U.S. licensed about 1.5 billion dollars worth of equipment and technology for the Kama factory. The actual extent of U.S. involvement in this factory's present activity must be part of the context in which decision is made.

END-USE STATEMENTS

In addition to the protocol, some of the licenses also contained end-use statements, which makes the second paragraph of your memorandum of July 10 incorrect when it states:

On the contrary, the licenses for equipment for the KAMAZ production line for which President Nixon acting through his National Security Advisor, ordered approved over a period of years beginning in 1971 contained no end-use conditions whatever.

This is incorrect. In addition to the computer conditions the end-use statements which we found attached to some licenses in the files usually stipulated that the U.S. equipment was to produce "trucks." This ordinarily leaves room for interpretation but there is no doubt that at the time the general understanding was that these statements referred to "general-purpose" trucks.

I gather also that it was this understanding that "general-purpose" trucks were to be produced at KAMAZ that led to the formulation of the licensing conditions for the computer by Dr. Maury Mountain, who according to your memorandum assumed the civil use of the factory's end-products when he wrote the conditions.

When I stated in my June 22 memorandum that no document (except the May protocol) could be found which could be construed to assure an agreement as to the "specific application of products," (Exhibit B), I did not go into the complex matter of the general-purpose trucks. Further I told you orally that my statement did not apply to the end-use consignee statements. I fully intended to amplify that report at a future date, after searching for further references to the May protocol, as clearly implied in my memorandum.

I therefore consider your memorandum to be misrepresentation of the facts pertaining to end-use statements, while I was merely stating the literal findings of my investigation to that point.

This is not a "compliance" case. Let me make that clear. The Export Administration Regulations were not written to include the "enforcement" of a controlled consignee's end-use representation under the safeguard system.

The definition of diversion is therefore different from the one which refers to a U.S. firm's unlawful shipment of an export to a consignee not stated on the consignee statement.

Rather, this is a case calling for a decision based on the enforcement of the Export Administration Act of 1969, as amended.

In sum on the basis of all the above, I suggest that your analysis and conclusions do not apply in this case. Peaceful use of the end-products produced at KAMAZ were assumed by Dr. Maury Mountain when he wrote the computer conditions. Peaceful use was also part of the understanding that end-use statements referred to "general-purpose" trucks. Peaceful use was also stipulated in the May Protocol as "agricultural and industrial use." Whether or not some officials at the time who opposed the licenses questioned the extent to which the Soviets could be held to those conditions, this Department relied on all these factors, involving end-use statements and safeguards.

Mr. JACKSON. Mr. President, the implementation of the critical technologies approach endorsed by the bill will not be realized unless independent judgments are made of the national security risks of exporting America's most sophisticated technology. The Department of Defense has expertise to carry out these reforms. The Department of Commerce—which has proven itself institutionally and philosophically incapable of developing a coherent export policy which protects national security without impairing legitimate trade—cannot be entrusted a lead role in this important undertaking.

Mr. President, I wish to say further that the amendment that is pending is a product of bipartisan effort, as reflected by the cosponsorship of the amendment by our distinguished colleagues Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. CANNON, Mr. MOYNIHAN, Mr. THURMOND, and Mr. BAYH. I hope that the Senate will agree to this amendment.

Mr. President, an amendment such as the one we have proposed is necessary if we are to turn an approach that everyone agrees is sensible into an effective instrument for balancing the requirements of national security against the requirements of international trade.

Mr. President, I suggest the absence of a quorum.

Mr. BAYH. Mr. President, will the Senator withhold that, and yield to me?

Mr. JACKSON. Yes; I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I compliment the Senator from Washington for his initiative in introducing this amendment. I appreciate the opportunity to cosponsor it with him.

I think the trade relationships which exist between the Soviet Union and the United States offer a good deal of benefit for the citizens of the United States, if those trade relationships are handled properly. But for the life of me I do not see why some of our corporations and some of our businessmen and women in this country should insist that we give their companies the opportunity to trade technology to the Soviet Union that, in the event of a major difference of opinion between ourselves and the Soviets, could accrue to the detriment of the United States.

The Senator from Washington has pointed out that some of this very trade has occurred; and this amendment is designed to make impossible the repetition of that practice in the future.

As chairman of the Senate Intelligence Committee, it has been my good fortune, together with the Senator from Illinois (Mr. STEVENSON), who is managing this bill, the Senator from Washington (Mr. JACKSON), who is the sponsor of the amendment, and several of our colleagues, to have had the opportunity, indeed the privilege, to examine carefully what we have had the capacity to do in intelligence.

All of us have had the opportunity and the responsibility to carefully monitor the overall defensive capability of the United States of America; and, although there are things about our defensive posture that I suppose all of us would like to see strengthened a bit, and hopefully as

time goes by in this session we can take steps to do that very thing, I have been extremely proud of the kind of work that many of our intelligence people have been doing in collecting information all over the world.

One of the major elements is that available to our military and to our intelligence is sophisticated space age technology. Yet we have a handful of people in this country who would like to open the doors and sell for profit this very critical technology, which could be all that would save this country in the event of a major confrontation.

So it is a privilege to join with the Senator from Washington to help our colleagues understand, recognizing the benefits we can have from trade with the Soviet Union—certainly many of our farmers are getting tremendous benefits from that trade—and at the same time, the Senator from Washington would put on a "safety valve" and say, "Wait just a minute; let us make sure we are not giving the Soviet Union or some other country the critical technology which is the real basis of the military strength of this country."

It seems to me utterly reasonable that we finally place the responsibility for the determination of what items and products can be effectively utilized by the military of a potential adversary with the Secretary of Defense and that is what amendment No. 340 does. In addition, this amendment makes it clear that a list will be prepared by the Secretary of Commerce subject to the authority of the Secretary of Defense to provide a full record of those critical items and technologies which will be prohibited under the act. Finally the amendment places the Secretary of Defense in a position to make a determination of foreign availability of an item or technology which might be put to military use by a potential adversary.

By making these important changes in existing law, we are recognizing the dangers which might result in an unbridled and uncontrolled transfer of technologies to the Soviet Union. At a time when we depend more than ever before on the vast technological capability of our Nation's military to sustain our security in an age of essential equivalence, we simply must be sure that no door is left ajar in protecting our Nation's security. This is one prudent step which is probably long overdue. I certainly hope that the Senate will take that step today.

Mr. President, one of the events which prompted this amendment was the revelation that the U.S. technology provided at the Kama River truck plant is turning out diesel engines for military vehicles. This was disturbing. But what was even more disturbing was to learn that in fact, during the Nixon administration, no provision was made against end-use diversion to military purposes.

As the Department of Commerce indicated, "* * * military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines." This being the case, it is theoretically possible that if a means could be found to utilize the Kama foundry American computer to make engines for a BMP infantry fighting vehicle or other type of troop transport, there is nothing we could do because it is already too late to insist on restrictions once the technology is transferred.

This example of what can be done through the utilization of technology transfer for military purposes is, however, of much greater concern in the area of computer technology used in look-down/shoot-down radars, target discrimination and sonar capability in antisubmarine warfare, flight control technology for V/STOL aircraft, precision guidance systems in antitank guided weapons and the list goes on and on.

The late Hubert Humphrey said that he was in favor of selling to those Communist bloc countries who would be our adversary "anything they can't shoot back." It is pretty clear that the critical items and technologies which we are talking about today are things that can be shot back at us with deadly precision and destabilizing accuracies. I would hope, therefore, that the Senate overwhelmingly adopts the amendment now being considered and hope that it will put us on the road to a more coherent and rational process whereby the technologies critical to our national security are accordingly controlled by those in a position to correctly assess their military potential.

At an appropriate time during the debate on this amendment I would like to propose to the Senator from Washington an amendment that has been suggested by the intelligence community, which would protect the sources and methods that are utilized in the collection of intelligence.

I again compliment the Senator from Washington, and yield the floor.

Mr. HAYAKAWA. Mr. President, will the Senator from Washington yield me a couple of minutes? I would like to speak in support of his amendment.

Mr. JACKSON. I yield the Senator from California 3 minutes.

Mr. HAYAKAWA. Mr. President, I wish to speak in support of this amendment.

Mr. President, one of the most important things about the Soviet system is the complete suppression of freedom and personal liberty. Therefore, technological breakthroughs are most likely to occur in free countries where researchers and scientists can proceed with their own experiments, experiments of their choice.

I do not see why, when we have something of great value which is beyond the capacity of Soviet technicians and scientists to produce, we should let them have free access to it at our own cost and at our own peril, especially in the case of all of that equipment which the Senator from Indiana has mentioned which has to do with the procuring of intelligence and military information, and which also has to do with the development of further armaments.

I am very, very much in support of our not giving our technology away to others.

I am happy to support the amendment of the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from California for a very fine statement.

Mr. President, I have received letters from both the AFL-CIO and the Industrial Union Department of the AFL-CIO, expressing full support for this amendment and the other amendments that I will be proposing.

I ask unanimous consent that the letters of support from the two labor organizations be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AFL–CIO,
Washington, D.C., July 19, 1979.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: The AFL–CIO fully supports the amendments which you and seven of your colleagues have proposed to S. 737, the Export Administration Act of 1979.

As Larry Brady, the Acting Director of the Office of Export Administration, indicated in his testimony, controls on exports of security-sensitive technologies are seriously defective. The Commerce Department is so overburdened with export license applications that it cannot effectively enforce the existing weak provisions in the law. More fundamentally, the responsibility for protecting national security should not rest with an agency whose primary concern is to increase exports. We agree with you that the chief responsibility for formulating a list of goods and technologies to be controlled for national security purposes should be shifted to the Secretary of Defense.

Your amendment designed to produce a "reliable evidence test" with regard to determining the foreign availability of advance technology would provide the assurance a sound policy requires that foreign availability is not merely an excuse for otherwise improvident licensing.

The current SALT debate has focused on the presumed U.S. technological advantage in the strategic competition. Every step must be taken to prevent the Soviets from closing that gap. Your amendments are an important step in that direction.

Sincerely,

LANE KIRKLAND,
Secretary-Treasurer.

AFL–CIO,
INDUSTRIAL UNION DEPARTMENT,
Washington, D.C., July 17, 1979.

DEAR SENATOR:

The Senate is expected to vote this week on S. 737, the Export Administration Act of 1979.. There are two issues which will be raised during the debate that are of critical importance to the Industrial Union Department, AFL–CIO.

Senator Jackson will offer a series of amendments designed to restrict the flow of critical technologies to controlled nations. These amendments would not impose any additional burdens on trade. They would, however, provide a more effective framework for the identification and effective control of security related technologies and for the relaxation and elimination of unnecessary controls.

The Acting Director of the Office of Export Administration (OEA) at the Commerce Department recently testified to a House Subcommittee that the export controls process is "a shambles." It is clear that a loose and inefficient export control system threatens

to undermine the narrowing technology gap on which our security increasingly depends. What we need to create is an effective sieve through which our technology will flow, and the Jackson amendments seek to do that.

One series of proposed amendments would give the Secretary of Defense primary responsibility for formulating a list of technologies and goods that would be subject to national security controls. The Commerce Department is presently overburdened with some 70,000 license applications each year, and lacks the expertise to formulate the list of critical technologies.

Another series of amendments would address the important area of foreign availability. Too often a mere assertion of "foreign availability" on export license applications is used by the Commerce Department to justify license approval when close investigation might have revealed that U.S. suppliers exercised effective control over the goods ar technologies involved. The proposed amendments set down a more serious evidentiary test before concluding that advanced technologies or goods are available from sources other than the U.S. This "reliable evidence test" is clearly the only logical way to go.

At the present time, licenses may be granted on the basis that the recipient nation makes a representation that the "end-use" of the technology will be non-military; or on the basis that there are effective safeguards against diversions to military use. Past experience tells us that such safeguards cannot be devised. A proposed amendment would direct that, to the maximum practicable extent consistent with the provisions of the act, export of critical items shall be prohibited to nations threatening U.S. security. This would also have the benefit of obviating many unnecessary license proceedings. A related amendment would provide that exports to non-communist nations be subject to validating controls which are reasonably designed to prevent the re-export of such critical items to communist nations, as present export regulations generally do not control such exports of technologies.

These amendments dealing with the transfer of technology are the only amendments to the Export Administration Act which we support.

The bill also contains language which would extend and strengthen current restrictions on the export of Alaska oil. *We urge your support.* This is no time to ship millions of barrels of oil to foreign lands while Americans are sitting in gas lines. Only if all Alaska oil remains in the U.S. will the oil companies have any incentive to build the west to east pipelines our country so badly needs, and to rebuild the west coast refineries. An efficient energy transportation system is an essential element of national energy self reliance. There is already more than enough profit incentive in Alaska oil's decontrolled price to encourage increased production. Alaska oil belongs at home where it can be used by the American people.

The Industrial Union Department, AFL–CIO urges your support of the restriction on Alaska oil contained in S. 737 and of the amendments which would provide restrictions on the transfer of technology to controlled nations.

Sincerely,

JACOB CLAYMAN,
President-Secretary-Treasurer.

The ACTING PRESIDENT pro tempore. Who yields time?

Time will be charged equally on the amendment.

Mr. HEINZ. Mr. President, I yield not to exceed 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise as a cosponsor of the amendments proposed by the junior Senator from Washington (Mr. JACKSON) and others, to tighten controls on the export of technology with military application to the Soviet Union and other Communist states.

When the war machine of the Soviet Union becomes stronger, our own security and the security of the entire free world is adversely affected. Obviously, we have no way of imposing an absolute prohibition on the Soviet military buildup—a buildup which already far eclipses the Nazi military power growth which preceded World War II.

However, at a time when we are spending $130 billion a year for the defense of the United States, it simply makes no sense that we should be aiding the Soviets in improving the mobility and the deadliness of their enormous war machine by permitting, and even encouraging, the export to the Soviets of high technology equipment, including entire industrial plants.

As a member of the Senate Armed Services Committee, I believe the repeated reports that the administration intends to further relax the already sadly inadequate limitations on the control of exports to the Soviet Union is a challenge Congress must meet headon.

The amendments proposed by Senator JACKSON and his cosponsors will result in realistic and effective controls on this most serious situation. The need for these amendments is obvious and I would like to relate to the Senate why I believe these changes are necessary.

In one of his statements before a congressional committee, Dr. Malcolm R. Currie, then director of Defense Research and Engineering stated:

> American security . . . stands on a foundation of technological superiority. We need superiority in defense technology. First, because the openness of our society tells our adversaries what we are planning in military technology, while their secrecy forces us to provide for many possibilities. Second, in military operations, we traditionally depend on superior quality to compensate for inferior numbers. Third, in order to interpret vital but fragmentary intelligence information, we must have extensive prior experience in the area.

But, instead of attempting to retain and expand our technological lead in order to compensate for the numerical inferiority of our Armed Forces, we appear to be determined on helping the Soviets to catch up with us by providing them with access to our most sophisticated technologies and equipment.

Mr. President, the able Senator from Washington (Mr. JACKSON) wrote to President Carter on July 25, 1977:

> . . . I am persuaded that the effect of our past and current policies in this area has been to enable the Soviets and their allies to acquire technology that bears importantly on the military balance between East and West. . . . In my judgment, our current condition can best be described as acute hemorrhaging.

The situation has, if anything, become worse since this statement was made.

In the paragraphs that follow, I intend to examine several case histories, from a much longer list of such histories, dealing with the export of technology and equipment that have dramatically augmented the Soviet military threat to the United States.

THE CASE OF THE BRYANT GRINDERS

Back in 1960–61 the Soviet Union sought to purchase from the United States 45 Bryant Centalign-B grinders, which are machines used in the mass production of ultra-high precision miniature ball bearings. Our ability to produce these miniature ball bearings and the Soviet inability to do so, gave us at that time a substantial lead in the fields of miniaturization, missile accuracy, and the precision control of our firing systems. The sale of the Bryant grinders at that time was approved first by the Eisenhower administration and then by the Kennedy administration. Fortunately, the Senate Subcommittee on Internal Security held hearings on the proposed export of the Byrant machines to the Soviet Union. After taking testimony from 13 of the top ball bearing engineers in the country, it wrote a report so persuasive that President Kennedy, when he read it, overruled the CIA, the Advisory Committee on Export Control, and his own Cabinet, and ordered the cancellation of the shipment.

I should like to quote just two brief paragraphs from the report which changed President Kennedy's mind, because these paragraphs have an across-the-board application to the entire problem of technology transfer.

One of the ball bearing engineers who testified, Mr. Henry Konet, told the subcommittee that—

> It is necessary to distinguish between giving away secrets, and know-how and capability. Our manufacture of these small devices is no secret—even the manner is not difficult to determine—but the capability to do it well and economically has taken years to develop and should not be sold to a potential adversary. . . . The situation is not one of selling our adversary a club—but machines which help to produce better clubs faster and cheaper.

After summarizing the testimony, the subcommittee's report offered this basic conclusion:

> . . . our national security obviously demands that we stop helping Soviet industry, especially the Soviet defense industry, to overcome its weaknesses. It demands, on the contrary, that we inflict delays on them whenever this is within our power, that we make things more difficult for them rather than easier.
>
> . . . the Senate Subcommittee on Internal Security is strongly of the opinion that the machines in question should not be shipped to the Soviet Union.

Unfortunately, the Nixon administration in 1972 approved the export of 164 Bryant Centalign grinders to the Soviet Union. In the 12 years that had elapsed since they had first attempted to buy the Bryant machines, the Soviets had desperately been seeking to duplicate their technology. Left to their own resources, the Soviets were unable to do so. That is one of the chief reasons why we were able to retain our technological lead in inertial navigation controls and missile accuracy throughout the 1960's

and into the early 1970's. Conversely, our sale of the Bryant grinders to the Soviet Union, according to members of our intelligence community, has played a major role in the dramatic rate at which the Soviets have been able to improve the precision of their own missiles and to catch up with us in the field of MIRVing.

The improved accuracy of the Soviet missiles has made our own Minuteman system increasingly vulnerable to the threat of a Soviet first strike—as a result of which we may now have to spend as much as $40 to $45 billion to replace the Minuteman system with a mobile missile system.

THE KAMA RIVER TRUCK PLANT

In the early 1970's, the administration approved a project under which an American engineering combine, headed by the Swindell-Dressler Co., contracted to build a giant truck plant for the Soviet Union on the Kama River in Siberia. This plant is now nearing completion. When it is completed, it will, reportedly, have an annual production capacity of 250,000 multiple axle trucks, which, according to the noted expert, Dr. Miles Costick, is "more than the capacity of the entire U.S. heavy truck industry."

It is not just the size of the project that is disturbing. In testifying before a congressional committee on April 23, 1974, Donald E. Stingel, president of the Swindell-Dressler Co., stated that the technology that was being built into the Kama River plant was in advance of that in any plant in the United States.

The export of the Kama River plant to the Soviet Union was approved by the Commerce and State Departments on the ground that the equipment involved was "nonstrategic." In addition, the Soviets had to sign a statement in this case, as they do in importing other high technology equipment, pledging not to use the technology for military purposes. All this, in my opinion, is nonsense because we have absolutely no way of enforcing such a pledge. In fact, it should have been obvious from the beginning that the Kama River plant was going to be used to service the Soviet military establishment rather than to service the non-military sector of the Soviet economy.

Mr. President, it came as no surprise to me—and it should not have come as a surprise to anyone who knows anything about the Soviet Union—that Moscow has been using the Kama River plant not only to build conventional transport and scout vehicles for the Soviet Armed Forces, but also for the purpose of producing armored personnel carriers and assault vehicles, including the T–72 battle tank—the most advanced tank in the Soviet military inventory. This information was developed in the course of a hearing of the House Armed Services Committee in May 1979.

In this hearing, Representative RICHARD ICHORD, quoted from a classified intelligence report and from the testimony of Hans Heymann, the CIA's national intelligence officer for political and economic affairs. Mr. ICHORD noted that, according to Heymann, the Kama River plant, although not in full production, has been turning out some 50,000 diesel engines a year for installation in military vehicles.

When the Senator from the State of Washington (Mr. JACKSON) spoke of "acute hemorrhaging" the export of the Kama River truck plant was one of the things he had in mind.

In the case of the Bryant grinders, we were selling Moscow technology that has helped it to enormously upgrade the quality of its strategic missile arsenal. In the case of the Kama River plant, we have sold them technology which greatly enhances the Red Army's capability to launch a blitzkrieg attack against Western Europe.

THE SALE OF DEEP-WELL PETROLEUM TECHNOLOGY

Only last year, the Carter administration approved a total of 74 applications for the export of oil technology to the Soviet Union. One of these applications involved the sale by Dresser Industries of a $144 million plant designed to produce the highly specialized bits used in deep-well petroleum drilling. Writing about this transaction in the April 1979 issue of Commentary, Mr. Carl Gershman said:

> This particular deep-well technology is needed by the Soviet Union if it is to develop major new oil reserves, an urgent priority since it is now expected to become a net importer of oil by the mid-1980s. Lacking adequate energy sources, the Soviet economic growth rate could slow to about 3 percent, which would make it exceedingly difficult to increase military spending by 4 or 5 percent every year, or to finance a Cuban expedition to Africa. Hence the Soviet interest in American oil technology.

I want to call to the attention of the Senators the fact that the Dresser Industries application to export deep-well technology to the Soviet Union was strongly opposed by Energy Secretary James Schlesinger, by members of the National Security Council and by a special task force set up by the Defense Science Board. The report of the task force stated that the petroleum drill bit technology we have now sold to the Soviet Union was "wholly concentrated in the United States," that it "has strong strategic value in the 1980's," and that the construction of the plant by Dresser Industries would make it possible for the Soviets "to enter world markets with advanced drilling capabilities," thus giving them access to enhanced influence in the oil producing areas. The report also noted that, as a by-product of the new technology which we are helping them to acquire, the Russians would also be enabled to manufacture more sophisticated armor piercing projectiles.

These are only three examples of a much longer list of technology transfers that have had the effect of enhancing—dangerously enhancing in my opinion—the military capabilities of our only serious adversary. Dr. Miles Costik, director of the Institute on Strategic Trade, has compiled a much longer list of such technology transfers in a recent paper entitled "The Soviet Military Power as a Function of Technology Transfer from the West." Among the other items in Mr. Costick's compendium are "American wide-body jet aircraft technology (critical in deployment of air-launch cruise missiles; numerous space technologies also relevant for military effort in space (space capsules coupling technology, astronaut's space-suit technology, relevant computer technology, etc.);" and highly advanced computers that have obvious military applications and which the Soviets could not possibly have produced left to their own technological resources.

Summing up this entire situation, Mr. Costick stated:

> The success of the continuing Soviet raids on Western technology, but most importantly U.S. technology, that can be used in systems for ICBM guidance, anti-submarine warfare, automatic fire control and other military applications has clearly demonstrated a critical need for an intensified reexamination of what, how and why it is being sold to the Soviet Union, its satellites around the globe and Communist China.

Mr. President, so that the Senators will have available the documentation on which I have based my statement, I ask unanimous consent to have printed in the RECORD at this point the following items:

An article by Dr. Miles Costick, published March 22, 1979 by the Institute on Strategic Trade entitled "The Soviet Military Power as a Function of Technology Transfer from the West;" an article by Carl Gershman published in the April 1979 issue of the Commentary magazine entitled "Selling Them The Rope;" an article published in Human Events on May 26, 1979 entitled "Carter Begins Drive to Step Up Soviet Trade;" a report by the Senate Subcommittee on Internal Security printed in March 1961 entitled "Proposed Export of Ball Bearing Machines to the Soviet Union;" and another article in Human Events published June 2, 1979 entitled "Will House Beef Up USSR Military Capability?"

Mr. President, in conclusion, I wish to state that these amendments which I am cosponsoring are of great importance to the national security of our country. I urge the Senate to consider them carefully and I believe in so doing each member will find that by adopting these amendments, we will be enhancing our own security and helping to protect the free world.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SOVIET MILITARY POWER AS A FUNCTION OF TECHNOLOGY TRANSFER FROM THE WEST

(By Dr. Miles Costick)

Due to its implications for national and international security, the trade between the industrialized democracies of the West and communist governments cannot be treated as a strictly economic proposition. The perennial protracted conflict between two socio-economic systems, which prevail in the world today, clearly demonstrates that in international commerce, economic and strategic elements are inextricably intertwined. In recent years, more than ever, the strategic elements in commerce have come to outweigh the economic as far as the so called "superpowers" are concerned. One thing that must be understood is the need for consistency between a nation's

strategic objectives and its foreign economic policies.

DETENTE AND TRADE

On February 10, 1922, British Prime Minister Lloyd George made a statement:

"I believe we can save her (Russia) by trade. Commerce has a sobering influence . . . trade, in my opinion, will bring an end to ferocity, the rapine, and the crudity of Bolshevism surer than any other method."

Since the early days of Soviet Bolshevism, the Western world has been trying to coax the communists into not being communists with periodic injections of credits and technology. The hoped-for result echoed in British Prime Minister Lloyd George's statement—now more than 57 years past—has failed to materialize. Yet leaders of the capitalist world continue to charge ahead like so many modern-day Don Quixotes in search of their impossible dream: The merger of totalitarian dictatorship with capitalism.

NOTE.—Nothing written here is to be construed as an attempt to aid or hinder the passage of any bill before Congress.

It is not a common perception that the industrialized democracies and the Soviet Union—with its surrogates around the globe are currently engaged in World War III, and the battlefields are economic. The economic warfare conducted by the Soviet Union is an intrinsic part of its ideology and the world wide revolutionary process. On the free world side of the equation, this is not perceived for what it is, and the result is "economic detente" which facilitates transfer of wealth from the West to the East. By providing critical technology, governments and entrepreneurs of the industrialized democracies strengthen Soviet strategic capabilities and enhance Soviet self-assurance, which translates itself in the international arena into more and more daring actions. The United States and its allies do not have a clear commercial policy tailored to their strategic and economic interests vis-a-vis the communists. Instead they conduct commerce with the totalitarians based on a vulgar assumption that "one can tame them or buy them through commerce".

Current U.S. policy on trade with the communists was the brainchild of Henry Kissinger. However, the same policy has continued unabated under the Carter administration. Kissinger's concept of "economic detente" was based on an attempt to link the Soviet geostrategic behavior with availability or denial of economic benefits from the United States and its allies. Kissinger envisioned that "through a set of strategic and economic agreements, the U.S. could spin a web of vested interests thereby encouraging the Soviet Union to temper its international behavior."

This, of course, has not happened. The U.S.S.R. continues to pursue its strategic and ideological objectives and through that process seriously threatens U.S. national interests.

After the infusion of $64 billion worth of credits from the Western world and Japan, and about 1,000 joint manufacturing ventures with Western and Japanese firms, as well as about 1,200 contracts on industrial cooperation signed between COMECON governments and Western firms, the Soviet Union using proxy Cuban troops and its Eastern European satellites threatens the free world's access to the critical resources of Africa and the Middle East.

The massive transfer of technology and capital from the West to the East instead of enhancing Soviet interest in peace and tranquility has accomplished exactly the opposite. It made a tremendous contribution to the Soviet strategic capabilities and in consequences encouraged its belligerency.

The aforementioned development is absolutely in accordance with the plans laid down by Leonid Brezhnev to Warsaw Pact communist parties' leaders in Prague in June 1973. In a secret meeting Brezhnev spoke very frankly about using "economic detente" to consolidate the strength of Soviet bloc economies and to advance their standing strategic objectives.

Brezhnev told the Soviet bloc party leaders that by 1985 they will have achieved most of their objectives in Western Europe, that they will have consolidated the Warsaw Pact position, improved the economy, and achieved a decisive shift in the correlation of forces, and that they will be able to exert their will wherever they need to.

In his famous treatise on Soviet military strategy, Soviet Marshal V. D. Sokolovskiy commented,

"In the present epoch, the struggle for peace and the fight to gain time depends above all on an unremitting increase in Soviet military power and that of the entire socialist camp based on the development of productive forces and the continuous growth of its material and technological base."

TECHNOLOGICAL COMPETITION

With respect to national security, the term "technological competition" refers to the efforts of competing political-economic systems to maintain, or to achieve, superiority in high-technological areas that are important in effective military systems. In this era of unprecedented change, our technological strength is the key to our long-range survival as a nation.

In one of his statements before a Congressional committee, Dr. Malcolm R. Currie, then Director of Defense Research and Engineering, stated:

"American security . . . stands on a foundation of technological superiority. We need superiority in defense technology. First, because the openness of our society tells our adversaries what we are planning in military technology while their secrecy forces us to provide for many possibilities. Second, in military operations, we traditionally depend on superior quality to compensate for inferior numbers. Third, in order to interpret vital but fragmentary intelligence information, we must have extensive prior experience in the area."

In some very important areas our technological lead over the Soviet Union is gone; in others the Soviets are ahead—(i.e.— directed energy weapons based on laser beams or charged particle beams, surface-effect vehicles, anti-personnel pressure weapons, application of certain technologies including computers in entirely new military systems and operations, etc.).

The technology balance is dynamic. In evaluating the current technology balance and its dynamics, the experts agree that the Soviet Union has a very substantial and determined effort. According to a recent statement by Defense Secretary Harold Brown, the Soviet R. & D. expenditures are three times greater than that which the U.S. spends on its R. & D. Moreover, the Soviets are inexorably increasing their level of technology relative to ours and are, in fact, seizing the initiative in numerous important areas.

The technology development is molding future Soviet strategy. From all indications, the future Soviet strategy will be world dominance, with technology as a central factor.

TRANSFER OF TECHNOLOGY

Design and manufacturing know-how lie at the foundation of America's world position—both economic and military. Until relatively recently, the United States had out-distanced the rest of the world through its particular genius to turn laboratory dreams into realities.

"Yet today that mastery of design and manufacturing is being rapidly transferred to friendly nations, to non-aligned nations and to Warsaw Pact nations." So wrote, not too long ago, J. Fred Bucy of Texas Instruments. Bucy wrote, "Exporting design and manufacturing know-how to potential enemies strengthens them militarily. And exporting that same know-how to potential economic competitors—friends or foes—strengthens them to compete against us for world markets. Yet we continue to transfer know-how by many means."

Over the past 10 years, the outflow of technology to the Communist dominated countries has dramatically increased. The amount of significant technology that has been transferred and its impact on the military capability of the Communist countries, particularly the Soviet Union, is not exactly known.

Some will argue that its impact has been minimal. Our concern is that the transfer of militarily significant technology has been of major proportions, and that the Soviet Union has narrowed the gap in its relative weapons capability with the United States to our detriment. The change will become evident over the next five years. Unfortunately, by the time it becomes apparent, it will be too late to act.

The Soviet Union and Eastern Europe have consistently lagged behind the West in industrial technology and have used detente as a means to pursue access to the latest technology from the United States and other industrialized nations. Increasingly, they are insisting that continued updating of the technology be a part of all new contracts. They are not interested in pure science, which they can get free through scientific publications and exchanges or for the price of tuition at major graduate schools and technical institutes. They are highly skilled in scientific theory. They also don't want to purchase products over an extended period of time, but only to fill in the gaps that they cannot currently make themselves.

Technology acquisition is their objective because, once acquired, it provides them a capability to produce their own goods and services to satisfy both present and future needs. And technology provides a base to support subsequent advances in the performances of products.

The Soviet Union and Eastern European governments have used a variety of mechanisms to acquire Western technology. They include the purchase of turnkey factories from the United States and other free industrialized nations; protocol and technical exchange agreements with Western and Japanese firms; government-to-government science and technology exchange agreements; visitations and consultations with U.S. technical experts in industry and universities; enrollment at the best technical universities; unauthorized transfers from third countries; and outright espionage.

Concern, for this threat to the United States security, has led Senator Henry Jackson to write President Carter on July 25, 1977: ". . . I am persuaded that the effect of our past and current policies in this area has been to enable the Soviets and their allies to acquire technology that bears importantly on the military balance between East and West." ". . . In my judgment, our current conditions can best be described as acute hemorrhaging."

DUAL PURPOSE TECHNOLOGIES

Many of the technologies of greatest interest to the COMECON governments have important military as well as commercial applications. In recent years, the leading edge of these technologies have increasingly been developed by the private sector for commercial applications and only later for military applications.

As a consequence, increased commercial contacts with the U.S.S.R. and its COMECON

partners may result in the outflow of significant technologies, before the application of these technologies to advanced weapon systems in the United States.

Soviet intelligence agencies have a long tradition of focusing heavily on acquiring industrial know-how. The Soviets have made major covert efforts to acquire key components of high technology, particularly in the computer field. They often focus on very small firms which can supply particular critical components or facilities.

The Soviet agency which actually uses a product may be different from the agency that comes to purchase it. End use controls are, therefore, often ineffective; particularly with sales to a completely state owned economies of the Soviet bloc. This problem of multiple end uses is, if anything, more acute with the most modern technology. Reprocessing plants may produce plutonium for bombs as well as for fuel. Technology for the production of wide-body aircraft can contribute to military airlift capabilities as easily as to civilian transportation. The equipment for producing circuits used in pocket calculators may also be used for guidance computers of missiles. New technology used in medicine may have highly important military or intelligence applications. Computers for processing seismic signals in geological exploration might also be used to process sonar signals in antisubmarine warfare. Capabilities for launching communications satellites may be used for military missiles. The technology for high-bypass turbofan engines and high inlet temperature turbines can be used in military as well as civilian aircraft. And NASA's "joint ventures" in space exploration will inevitably help Soviet experts to run their military space program.

MILITARY DIMENSION OF TRADE

It is important to realize that what the Soviet Union needs to improve its strategic tactical and conventional forces is not purely military in character. What the Soviet Union needs is certain key applied technology to improve its guidance systems, avionics, missile technology, and key bomb components. Such technology is now available in commercial applications from the U.S., France, Germany, Japan, and the United Kingdom. The acquisition of such "non-military" technology should enable the Soviet Union to quickly upgrade its bomber force; and allow it to make almost instant improvements in its targeting and warning technologies.

As a consequence of the lack of coherent national policy—controlling the transfer of technology to communist dominated countries—numerous critical technologies have been transferred to the Soviet's either directly or through "the back door". Here are some of the major technological transfers that took place:

The Soviets succeeded in obtaining American wide-bodied jet aircraft technology (critical in deployment of air-launched cruise missiles).

The Soviets obtained RB-211 high-bypass ratio turbo fan jet engine technology, developed on $300 million in U.S. government R. & D. grants to the Lockheed Corp. (The engine powers wide-bodied jet aircraft, and is suitable for long-range bombers.)

The Soviets succeeded in obtaining U.S. semi-conductor technology of critical importance in guidance systems for ICBM's and other missiles as well as in miniaturized military computers.

The key technology for the Soviet KAMA River heavy duty truck plant came from the United States. This is the largest truck factory in the world with an annual production capacity of 250,000 10-ton multiple-axle trucks and 350,000 diesel engines, which can be used to power tanks. In addition, KAMAZ, will have the capacity to produce tanks, tank turrets, tank engine blocks, scout cars and rocket launchers.

The Soviet Union obtained from the U.S. numerous space technologies also relevant for military effort in space (space capsules coupling technology, astronaut's space-suit technology, relevant computer technology, etc.).

The U.S.S.R. used the U.S. heat-seeking shoulder-launched "Redeye" missile for development of its own SA-7 Grail missile.

The Soviets purchased 164 Centalign-B machines, and accompanying technology, to produce precision miniature ball-bearings without which ICBM's guidance mechanism could not be built. This technology is also an imperative for MIRVing and MARVing mechanisms. As a result of this deal the Soviets were able to close up the critical MIRV gap.

The most modern and only effective air traffic control center in the U.S.S.R. at Moscow's Vnukovo Airport (the contract is valued at $74 million) is being constructed with integrated circuits from the U.S. This computerized air traffic control system has a direct military spillover.

Soviet dissident Anatoly Sharansky was sentenced to a long jail term for informing Western reporters that the Soviets have violated agreements signed with the U.S. Department of Commerce regarding the use of U.S. purchased computers. According to Sharansky, in his capacity as computer expert within the Soviet military establishment, he worked on American computers sold to the U.S.S.R. for civilian purposes only.

The Soviet Union is making every attempt to obtain a critical military technology from the U.S.—the small high-efficiency aircraft gas turbine engine of the type currently used in the U.S. Air Force/Boeing ALCM-B—and the Navy/General Dynamics Tomahawk cruise missiles. The manufacturer in the U.S. is Detroit Diesel Allison, the engine, ironically, is classified as "commercial" and consequently easy to obtain by any communist government. The export application is pending for engines and manufacturing technology to Poland and Rumania. The amazing aspect of the potential sale is in fact that the Carter administration denied this technology to U.S. NATO allies and is considering the sale of the same to the Soviet Warsaw Pact allies.

The success of the continuing Soviet raids on Western technology, but most importantly U.S. technology, that can be used in systems for ICBM guidance, anti-submarine warfare, automatic fire-control and other military applications has clearly demonstrated a critical need for an intensified reexamination of what, how, and why it is being sold to the Soviet Union, its satellites around the globe and Communist China.

Just how fast and how far the Soviets have moved in overcoming what was believed to be a major disadvantage in miniaturized electronics and precision guidance systems was made clear last year. The Soviets then tested prototypes of two new intercontinental ballistic missile systems and demonstrated they could deliver nuclear warheads within 600 ft. of a designated target.

The tests sent a "shock wave" through high-level defense planning sanctums because it had been believed the Soviets would not achieve such accuracy with their ICBM's until the mid-1980's or later.

The test results have led Secretary of Defense Harold Brown to revise the Pentagon's latest military posture statement to show that the Soviets may deploy the more-accurate ICBM system in the "early to mid-1980's," giving them the ability to destroy a large percentage of the U.S. ICBM force by direct hits.

The mass production of the Soviet MIRV's and the accuracy of the new, so called "5th generation" Soviet ICBM's also is a major reason and argument for deployment of the new, $35-40 billion MX missile system that Secretary Brown insists the United States must have to counter the rapid Soviet advances in missile technology.

Just how much US-derived technology is represented in the new Soviet ICBM system is not totally known. This analyst as well as a number of policy makers of the past and present believe that the US export and policy moves during the last 10 years have given the Soviets the know-how and equipment needed for increased ICBM accuracy.

One case, which was already mentioned, involves a 1972 deal by the Bryant Chucking Grinder Co. of Vermont, to sell the Soviets 164 precision ball-bearing grinding machines capable of producing pin head-size ball bearings (size roughly 0.04 inch in diameter), having tolerances of less than one-twenty-five millionth of an inch. The $20 million sale approved by the Nixon administration, at the peak of detente euphoria, is to a great extent responsible for the $40 billion MX missile system program. In 1976, Edwin E. Speaker, a weapons expert for the Defense Intelligence Agency, testified before a Congressional subcommittee.

"It is a certainty that the products of these grinders could and will be found in a wide variety of current and future ground, air, sea, and space military hardware that require precision guidance equipment, optical recording devices as well as associated scientific test equipment.

Another sale that caused "a broad concensus of concern" among specialists at the CIA and Defense Department was a 1974 sale of a turn-key plant for manufacture of integrated circuits. The plant, which was based on technology licensed by US semi-conductor firm—Fairchild, was sold by a French consortium to Poland after the deal was approved by the Nixon administration.

Large-scale integrated circuits, are listed among nine key categories in which defense and intelligence officials, as well as U.S. industry are trying to clarify export controls. However, while the intelligence community and Department of Defense believe that it is an imperative to tighten technology export controls, the business community, Commerce Department, and State Department are working in the opposite direction.

The devices in question are complex electronic circuits that are reduced photographically and etched on tiny silicon chips. They can be used, for example in missile-guidance and aircraft-fighter fire-control systems, giving computer-like control while contributing miniscule weight, bulk, and electrical drain. They are typical dual-purpose technology end-products also used in the non-military items such as pocket calculators, digital wrist watches, microwave-oven controls, and television and high fidelity sets.

The Soviet Union has also acquired by clandestine means the integrated circuits technology and manufacturing capabilities from Japan in one of the most daring undertakings of their industrial espionage.

The Soviet acquisition of sophisticated U.S. ICBM technology goes beyond integrated circuits and precision ball bearing technologies without which they could not build the gyroscopes for ICBM's and for the individual MIRVs. Major General George J. Keegan Jr., former head of Air Force Intelligence has stated:

"The Soviet Union has acquired all of our inertial guidance technology for ballistic missiles."

Many other technologies which protect the current U.S. military lead in certain areas are also little-known, dual-purpose items. Small array transform processors, called ATP's, are used, for instance, in seismic oil exploration equipment. ATP's are electronic devices which enhance the computer speed so computers can interpret millions of tiny variations in the sounds of geologic formations below the earth.

Attached to shipboard computers, ATP's perform one of the central functions of anti-submarine warfare: They assist the computer in digital signal processing and signal analysis which enables the computer to identify tiny differences in the sounds under the ocean's surface, a process that yields the location of enemy submarines.

It is known that Geo Space Corp. of Houston, Texas, has sold 36 ATP systems, critical for submarine detection systems, to the Soviet Union and Communist China.

Litton Industries is another business enterprise which has also been involved in the sale of similar anti-sub warfare systems.

The sale of the submarine detection system and technology, especially to the Soviet Union, has created an entirely new problem. We have already observed that the transfer of precision miniature ball bearings technology and integrated circuits technology to the Soviet Union have resulted in a direct threat to the survivability of our Minuteman ICBM's. And to offset this we must have a new ICBM system which involves not only time to develop and deploy after prolonged and tedious debates, defense policy disputes, and political maneuvering but it also imposes an additional cost of $35–40 billion.

Our latest submarine class—Trident, enormously expensive, has been developed on the basis that the Soviets had no submarine detection technology. However, a Soviet breakthrough in submarine detection technology would make our latest generation of submarines vulnerable. At the time of the development of the Trident class submarines the US military experts saw no evidence that the Soviets were close to a breakthrough in submarine detection technology. In the absence of a breakthrough a given number of missiles in 10 Trident class size and weight submarines (the sub due to its big and heavy reactor had required a huge hull, and that huge hull, in turn, had to be fitted with an unprecedently large number of missiles to justify its size and cost) would clearly be cheaper than the same number of missiles in 20 subs, even though the smaller subs would be individually cheaper. As a result we have been building large subs. On the other hand, if we were to assume a highly effective Soviet detection capability, the 20 subs would permit many more of the missiles to survive to arrive at Soviet targets. However, we are stuck with expensive large submarines vulnerable due to the transferred sub detection technology and due to transferred guidance technology for the Soviet ICBM's.

The vulnerability of our Trident class subs clearly requires a remedy. That remedy spells time consuming, frustrating defense policy debates and disputes, tedious political and congressional processes, again time consuming development and deployment of new class subs, and billions upon billions of dollars for the development and deployment of the new subs.

THE CAUSE OF THE PROBLEM

U.S. policy on international trade consists of two elements that are not always reconcilable: 1) to promote trade and commerce with other nations, and 2) to control exports of goods and technology which could make a significant contribution to the military potential of any other government or governments when this would prove detrimental to the national security of the United States.

Our chief concern is with the second of these goals. Our concern, however, must be discharged without restricting free trade flow with the free nations around the globe.

The given empirical evidence proves that, since the onset of "economic detente"—that has resulted in the liberalization of trade legislation pertaining to commerce with the communist governments—the export control efforts have failed. Also, due to political detente with the U.S.S.R. and its satellites, there was a flood of communist agents to the U.S. Numerous government-to-government scientific, technological, and cultural exchanges have created tremendous opportunities for stealing U.S. scientific and technological secrets. All these, as we have demonstrated, has had and is having a detrimental impact on U.S. national security.

SOLUTION

The U.S. government's objective in the control of exports of U.S. technology should be to protect the United State's lead time relative to its principal adversaries in the application of technology to military capabilities. In addition, it is in the national interest not to make it easy for any country to advance its technology in ways that could be detrimental to U.S. interests. These controls, however, are to be applied so as to result in minimum interference in the conduct of commerce between free trading partners.

For the purpose of effective export controls we perceive a need for new definitions and for new administrative procedures. First, one has to define what is to be understood under the term "critical technology." The term "critical technology" should refer to the classified and unclassified nuclear and non-nuclear unpublished technical data, whose acquisition by Warsaw Pact members, or any other potential adversary, could make a significant contribution, which would prove detrimental to the national security of the U.S., to the military potential of such country—irrespective of whether such technology is acquired directly from the United States or indirectly through another recipient, or whether the declared intended end-use by the recipient is of military or non-military use.

"Technical data" means information of any kind that can be used, or adopted for use, in the design, production, manufacture, utilization, testing, maintenance or reconstruction of articles or materials. The data may take a tangible form such as a model, prototype, blueprint, or an operational manual, or they may take an intangible form such as technical service or scientific and technological exchanges.

Control of such critical technology also requires the control of certain associated critical end products defined as "keystone" that can contribute significantly in and of themselves to the transfer of critical technology because they 1) embody extractable critical technology and/or 2) are equipment that completes a process line and allows it to be fully utilized.

Second, it is our conclusion that the key role in definition of what constitutes critical technology should be assigned to the Defense Department. Also, the Defense Department should be responsible to designate those items which shall be considered as defense articles and defense services so that they can be properly placed on the United States Munitions List administered by the State Department. In its present form the Security Assistance Act and Arms Export Control Act of 1976 does not require this procedure. At this time, there is no specific provision under any of the individual classifications of the Act for the identification of any design, production or test data as "significant combat equipment." The criteria for the selection of categories to be designated "significant combat equipment" does not necessarily involve judgment as to strategic or advanced technology. For example, while category "significant combat equipment" includes M1 rifles and bayonetts, it excludes CDC's Cyber-76 computer, and certain technologies and equipment necessary for the production of nuclear warheads.

In order to protect and strengthen U.S. defense production capabilities, procedures need to be established to separate the military articles required by most foreign countries from the design and manufacturing know-how essential to the production of the articles. Under existing agreements with our NATO Allies, a number of projects involving coproduction and standardization require the transfer of such information in both directions, but this flow of technology with other friendly countries requires more control than is presently possible. Similarly, while the export of some commercial, technological products could be more readily available to even the Soviet Union, it is essential to restrict the export of the associated design and manufacturing of those products which are also on the U.S. Munitions List.

The present Commerce Department's Commodity Control List is derived from the Munitions List by way of the Battle Act and the Mutual Security Assistance Act, which are administered by the State Department. Because the role of the Defense Department has not yet been specified in any legislation as the basic source for the definition of "defense articles" or "strategic technology", there continues to be uncertainty and delay in the processing of Commerce Department and Munitions Department license applications. The present reports required by the Arms Export Control Act and the studies to be required when the Export Administration Act comes for deliberation before U.S. Congress, should provide the Administration with the unique opportunity, now, to restructure the entire Arms and Export Control process.

NOTE: This Current Analysis No. 2 is part one dealing with the titled subject matter. Forthcoming part two will be based on the results of the interviews conducted with former Soviet scientists, engineers, military officers, and intelligence officials.

SELLING THEM THE ROPE—BUSINESS AND THE SOVIETS

(By Carl Gershman)

I must say that Lenin foretold this whole process. Lenin, who spent most of his life in the West and not in Russia, who knew the West much better than Russia, always wrote and said that the Western Capitalists would do anything to strengthen the economy of the USSR. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from one rather than from the other. He said: they will bring it themselves without thinking about their future. And, in a difficult moment, at a party meeting in Moscow, he said: "Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie, and the bourgeoisie will hang itself."

Then, Karl Radek, . . . who was a very resourceful wit, said: "Vladimir Ilyich, but where are we going to get enough rope to hang the whole bourgeoisie?" Lenin effortlessly replied: "They'll supply us with it."—ALEKSANDR SOLZHENITSYN, June 30, 1975, in a speech to the AFL–CIO

The issue of trade has figured prominently in relations between the United States and the Soviet Union ever since the Nixon administration initiated the policy of détente almost a decade ago. Already in 1969, even before détente had become the central theme of the Nixon administration's foreign policy, the President signed into law the Export Administration Act, replacing the Export Control Act which had been adopted two decades earlier. The new act greatly liberalized restrictions on the export of goods and technology to the Soviet Union. While continuing to prohibit exports that would "make a significant contribution to the military potential" of the Soviet Union, it lifted the ban against those that would strengthen the

Soviet Union's "economic potential." The change grew out of pressure from American corporations anxious to do business with Moscow and fearful of losing contracts to competitors in Europe and Japan. But to President Nixon and his principal foreign-policy adviser, Henry Kissinger, the change had chiefly political, not economic, significance. They saw increased U.S.-Soviet trade as an essential component of détente.

The idea of using trade to promote détente with the Soviet Union did not originate with the Nixon administration. President Johnson too had expressed the desire to "build bridges" to the Communist world through trade. A special committee he appointed to look into the matter had concluded that trade could be "one of our most powerful tools of national policy," since it would enable us to "influence the internal development and the external policies of European Communist societies along paths favorable to our purpose and to world peace." Kissinger's version of this general view was the concept of linkage, according to which increased U.S.-Soviet trade would help to establish "a web of constructive relationships" that would give the Soviet Union a stake in peace by making it "more conscious of what it would lose by a return to confrontation." Finally, increased trade might also, in Kissinger's words, "leaven the autarchic tendencies of the Soviet system" and eventually lead to the integration of the Soviet Union into the world economic system and thus to the gradual liberalization of Soviet society.

The Nixon administration's eagerness to embark on this new course was evident in the terms of the trade agreement reached with Moscow on October 18, 1972. It provided both for the financing of Soviet purchases with long-term loans through the Export-Import Bank, and for a request to Congress to grant most-favored-nation tariffs for Soviet imports. Congress, however, reacting to the Yom Kippur War and the continuing harassment of Sakharov, Solzhenitsyn, and other Soviet dissidents, was in no mood to grant Moscow such generous terms. It added the Jackson amendment to the Trade Reform Act, making freer immigration from the Soviet Union the condition for lowering tariffs and qualifying for Export-Import Bank loans. Subsequently, Congress adopted the Stevenson amendment limiting Export-Import Bank credits to $300 million without further congressional approval. The Russians objected to these amendments—especially the credit ceiling, for they had been willing to compromise on the emigration issue—and in early 1975 canceled the whole agreement.

The issue of U.S.-Soviet trade became a point of controversy once again last summer when President Carter, in reponse to the trials of Soviet dissidents Anatoly Shcharansky and Aleksandr Ginsburg, blocked the sale of a Sperry-Univac computer system to the USSR and placed the export of oil and gas technology to the Soviet Union under government control. Moscow immediately charged that the President was taking a "path of confrontation," and a U.S. Commerce Department official warned that the trade curbs would have "a substantial chilling effect on exports." The Carter administration quickly backed off, and approved all 74 of the applications submitted for the export of oil technology to the Soviet Union. Last December, the President dispatched Commerce Secretary Juanita M. Kreps and Treasury Secretary Michael Blumenthal to Moscow with the message that the administation wanted more trade between the two countries and was in favor of removing some of the obstacles standing in its way—presumably the Stevenson and Jackson amendments.

It appears, then, that another round is looming in the ongoing battle over the trade issue. Once again it is being argued that the United States, with its balance-of-payments deficit running at record levels, has a vital economic stake in trade with the Soviet Union and a vital political stake as well, since closer economic ties will promote the liberalizing tendencies inside the Soviet Union and establish a foundation for improved U.S.-Soviet relations. William Verity, the chairman of Armco Steel Corporation and co-chairman of the U.S.-USSR Trade and Economic Council, said recently that "a policy of holding trade hostage for political reasons is self-defeating." And Averell Harriman, at a luncheon meeting of U.S. business leaders in Moscow, blamed U.S. congressional leaders for the "outrage that for all these years we cannot have normal trade relations with the second greatest nation in the world." In Harriman's view, which is shared by many businessmen, U.S.-Soviet trade would blossom were it not for anti-Soviet forces in this country.

And yet from a strictly economic point of view, trade with the Soviet Union hardly merits the attention that has been lavished upon it by U.S. businessmen and trade officials. In 1978, for example, the volume of trade with the USSR was $2.8 billion, an all-time high, but just over one-third the amount of trade that was carried on with Taiwan last year. One would hardly know this from comparing the sheer volume of congressional studies, books, conferences, and news articles devoted to the two subjects; and yet in a sense it is beside the point. It is not the present level of trade with the Soviet Union that excites U.S. businessmen, but the possibility of exploiting the vast, hitherto forbidden Soviet market. "Otherwise cautious executives," Marshall I. Goldman has written, "all but trample over one another in their effort to establish a foothold on this new frontier." [1]

But how new is this frontier? When the question of trade is debated, it is frequently forgotten that there are many historical precedents for the current efforts to expand trade with the Soviet Union, and while they explain why Russia is so interested in trade, they do little to justify business's continuing optimism.

There was substantial Western investment in Russia during the half-century preceding the Bolshevik revolution. The coal, iron, and steel-producing region of southern Russia was developed with capital and technical assistance from British, French, and Belgian companies, and German and Dutch firms helped develop these industries in the north. The "iron king" of Russia was an Englishman, John Hughes, who built the mining and metallurgical factories of Yuzovka—named in his honor—in the Donets Basin. The Swedish Nobel brothers developed the oil fields of Baku on the shores of the Caspian Sea, which helped make Russia the world's leading oil producer by 1901. The Trans-Siberian railway was built with Western (principally French) capital and technology, and the parallel telegraph line was built and operated by the Danes. Many American firms, too, participated in Russia's industrial development during this period. International Harvester was the largest manufacturer of agricultural equipment in pre-war Russia and Singer Sewing Machine had holdings worth over $100 million and employed a sales force in Russia of over 27,000 people in 1914.

When the Bolsheviks seized power in 1917, all this came to an end, as the new regime expropriated all Western capital investment and financial assets. But even this unprecedented act of industrial theft did not discourage Western business interests, eager to regain access to the alluring Russian market. the opportunity came soon enough. Just three years after the revolution, with the Russian economy in a state of total wreckage, Lenin invited Western firms back to Moscow and asked them to set up concessions. In the West this new policy was welcomed as a sign of moderation and a move toward "peaceful coexistence," but Lenin, as it turned out, had not ceased to be a Bolshevik. "Concessions—," he told a meeting of the Soviet Communist party in 1920, "these do not mean peace with capitalism, but war on a new plane." Lenin's sole objective was to revive Soviet industry, and, as subsequent events revealed, he had every intention of expropriating the concessions after production had been organized and sufficient capital, equipment, and skills had been brought into the country.

Nevertheless, Western firms, oblivious to the risks involved, flocked to the Soviet Union once more, bringing with them technicians, machinery, technology, and capital. From Germany came such major companies as Krupp, Thyssens, Otto Wolff, Siemens, the AEG, Junkers, Telefunken, and I. G. Farben; from the United States, General Electric, Westinghouse, International Harvester, RCA, Alcoa, Singer, Du Pont, Ford, and Standard Oil of New York. Concessions were also established by important English, French, Swedish, Danish, and Austrian companies. All told, the government granted about 350 concessions, and their impact on the Soviet economy was extraordinary. A recent study, which analyzes in painstaking detail the impact of the concessions on each sector of the Soviet economy, concluded that by 1930 there was not a single important industrial process—from mining, oil production, metallurgy, chemicals, transportation, communications, textiles, and forestry to the production of industrial and agricultural equipment and the generation of electrical power—which did not derive from transferred Western technology.[2]

If the advantages to the Soviets from all this are obvious, one is hard-pressed to identify any benefits accruing to the Western firms involved. By 1933, there were no foreign manufacturing concessions left in the Soviet Union, even though many firms had signed contracts covering periods of thirty and even fifty years. Some of the concessions were closed down by force, but the more common methods were punitive taxation, breach of contract, legal harassment, and disruptions by workers. The largest concession of all, the British mining company Lena Goldfields Ltd., had assembled its technicians, invested almost $80 million in equipment, and completed its surveys when it was attacked as a "weed in the socialist system." The OGPU raided its units, threw out many of its personnel, and jailed several of its leading technicians on charges of "industrial espionage."

In only a handful of special cases was compensation granted. Armand Hammer, who represented 38 large American firms in their dealings with Moscow and was a political sympathizer (his father had been a member of the steering committee that founded the U.S. Communist party in 1919), was compensated for the liquidation of his asbestos and pencil-manufacturing concessions. (Interestingly, these were also the only concessions to earn significant profits.) The Soviet authorities also agreed to compensate Averell Harriman for the liquidation of his manganese concession in Chiaturi in 1928, but only after Harriman had agreed to arrange a long-term loan for them in the United States (aimed both at demonstrating Soviet credit-worthiness and undermining official U.S. policy against such loans). Most firms were not so lucky, however, and those which had lost their holdings once before in 1917 had the dubious distinction of being expropriated twice.

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Far from signaling the end of Western business involvement in the Soviet Union, the liquidation of foreign concessions marked the beginning of the most massive transfer of Western technical resources yet undertaken in the form of American assistance to the first Five-Year Plan (1928–33). The plan, still thought by many to have been a remarkable Soviet achievement, turns out to have been largely the work of American management and engineering, as Stalin acknowledged in 1944, when he told Eric Johnston, the president of the U.S. Chamber of Commerce, that two-thirds of the large industrial projects in the Soviet Union had been built with American assistance.

America's leading industrial-architecture firm, the Albert Kahn Company, was contracted to design and supervise the major units of the plan, as well as to organize Gosproektstroi, the Soviet Design Bureau. Kahn's engineer, G.K. Scrymgeour, directed Gosproektstroi and also chaired the Building Commission of the Supreme Council of the National Economy, while various other American companies got individual contracts to build the mammoth separate projects outlined in the plan.[3] Du Pont built two nitric-acid plants at Kalinin and Shostka; the Arthur G. McKee Company of Cleveland managed the construction of the steelworks at Magnitogorsk, a replica of U.S. Steel's Gary Indiana plant and the largest steel complex in the world; Colonel Hugh Cooper, the builder of the great Wilson Dam at Muscle Shoals, supervised the construction of the even larger Dniepr Dam, for which he received the Order of the Toilers of the Red Banner. In addition, General Electric built and installed the massive generators at the Dniepr and also designed the Kharkov turbine works which had a manufacturing capacity two-and-a-half times greater than its own central plant in Schenectady. The Austin Company, builder of Ford's River Rouge factory, constructed the great auto plant at Gorki (known as "the Detroit of Russia"), while the U.S.S.R.'s other auto plants, at Moscow and Yaroslavl, were built respectively by the A.J. Brandt Company of Detroit and the Hercules Motor Corporation of Canton, Ohio. Austin's John Calden (whom Maurice Hindus called "Russia's miracle man" at the time) managed the construction of the Stalingrad Tractor Plant, Europe's largest, which was first built in the United States then dismantled and shipped to Russia, where it was put together again. For this achievement (and for salvaging the construction of another plant at Chelyabinsk after an abortive effort by a Russian team of engineers) Calder received the Order of Lenin, as did his colleague, Leon A. Swajian, who was chief engineer for the construction of an identical tract or plant at Kharkov.

In 1930, Business Week proclaimed that Russia, though unrecognized politically, had "come to the aid of depressed American industry." American businessmen, delighted with these Russian contracts, looked forward to a period of expanding U.S.-Soviet trade. Unfortunately, the benefits that American business actually derived from this unprecedented burst of commercial activity proved to be meager and short-lived—as well as absurdly disproportionate to what the Russians gained. In 1930, U.S. exports to Russia reached the all-time high of $230 million, but it was still only a small fraction of total U.S. exports. By 1932, exports had dropped to less than $28 million, and the following year they dropped still further to $14 million. The Soviet government (which had sold grain to finance imports while millions of Russians starved) had simply run out of money.

But even after the Export-Import Bank had been set up in 1934, primarily to finance Soviet purchases, exports still did not increase significantly. The main reason for this was that Russia had by then attained a considerable degree of industrial self-sufficiency, made possible by the willingness of American companies to construct finished plants and assist in their duplication, and to transfer essential technology to the USSR. To its $30-million sale of auto parts, for example, the Ford Motor Company threw in an extra bonus in the form of an agreement to send its technicians to Gorki to introduce Ford production methods[4] and to bring Soviet engineers to its River Rouge plant for training. (Of the 1,039 Soviet nationals arriving in the U.S. between January 1, 1929 and June 15, 1930, 81 per cent came for industrial-training programs.)

America's wartime alliance with the Soviet Union produced still another wave of euphoria at the prospects of trade with the USSR. In 1944, soon after his meeting with Stalin, Eric Johnston wrote in Nation's Business that "Russia will be, if not our biggest, at least our most eager customer when the war ends." The following year Fortune published a poll showing business leaders to be the "most friendly" toward the USSR of all American groups and also the most hopeful about postwar relations—annual exports to Russia, the magazine predicted, would be between $1 billion and $2 billion. Alas, in 1946 annual U.S. exports to Russia, though still financed by Lend-Lease credits, totalled only $236 million, and even that level would not be reached again for more than a quarter of a century.

While the export controls imposed by the U.S. in 1949 played a part in delaying a new round of Soviet purchases, they had nothing to do with the initial drop in exports after 1946. What happened to cause this drop was precisely what had happened fifteen years earlier when Russia reverted to autarchy immediately after having absorbed an enormous amount of Western technology and equipment. Under Lend-Lease, Russia had received $2.6 billion worth of nonmilitary goods from the U.S. (in addition to $8.5 billion in military hardware), including $1.25 billion of the latest American industrial equipment. Even more significant, however, was the more than $10 billion worth of industrial and military equipment dismantled in Germany and shipped to Russia in the greatest and most systematic looting of a defeated country in the history of war.[5] From the Soviet Zone the Russians acquired several thousands plants representing 41 per cent of Germany's 1943 industrial capacity, and still more was removed from the Western Allied zones under an agreement allocating 25 per cent of the plants there to the Russians. The booty included such plants as the famous Karl Zeiss factory at Jena which manufactured optical precision instruments, and the Opel autoworks at Brandenburg. (Small wonder that the 1947 Moskvich 401 was a replica of the 1939 Opel Kadett!) Berlin's entire electrical-equipment industry was removed, as was two-thirds of Germany's aircraft and rocket industry, including the enormous underground V–2 rocket plant at Nordhausen which provided the foundation for the Soviet Union's Sputnik program.

Since specialists were needed to bring this new industrial capacity into operation and to develop it further, technicians were also shipped off to Russia. On a single night—October 22, 1946—6,000 German scientists, engineers, and aviation experts, along with 20,000 dependents, were placed on trains and transported to various points throughout the Soviet Union where German industry had been reassembled. Once again Russia had become "self-sufficient."

Contemporary champions of U.S.-Soviet trade[6] view this historical background as relevant only to the extent that it helps to explain why psychological barriers to the unrestricted expansion of commercial relations with the USSR still exist in the United States. Fears based on past experience are groundless, they argue, since the Soviet Union is a vastly different country today—less oppressive, more stable, and more committed to consumerism—than it was after the devastations of World War II, not to mention during the periods of revolutionary consolidation and forced industrialization. Samuel Pisar, for example, a leading trade advocate, is confident that the American and Soviet economic systems, at one time diametric opposites, are now "actually creeping toward convergence," a process that will accelerate if there is increased trade.[7]

But how different is the Soviet Union today? Like every other country in the world, the USSR has of course changed over the past thirty years, but nothing has happened to alter the nature of its economic relations with the West in any fundamental way. The Soviet Union's chief priority is still the procurement from the West of advanced technology for its heavy industry (machine-building, metalworking, chemicals, and so forth). Though the new emphasis on consumer needs in the ninth Five-Year Plan (1971–75) raised hopes that the Soviet Union would enter the market for consumer goods, this emphasis was dropped when the plan was actually implemented, and the current Five-Year Plan restores producer goods to their traditional preeminence.

The continuing Soviet need for Western technology results directly from the weaknesses of its centralized, state-run, command economy. Much has been written about the inefficiencies of the Soviet economy which produces about half the American GNP using a larger workforce (and which now suffers from a labor shortage). What is not sufficiently appreciated is the degree to which the system, because of its stifling rigidity, is structurally resistant to technological innovation. This problem became acute in the 1960's with the slowdown in the Soviet growth rate and with the realization by Soviet leaders that the country could not keep pace with the West, let alone catch up with it, if it did not obtain access to revolutionary Western innovations in computers and electronics. There is no question that the need for such access was a critical factor in the Soviet conversion to détente.

Indeed, the one change that can be detected in the pattern of Soviet trade relations with the West involves the absorption of Western technology, which no longer occurs at fitful intervals, as it did in the 30's and 40's, but appears, at the moment at least, to have become an uninterrupted process.

Still, the importance of this development should not be exaggerated. It is not the result of changes that have taken place inside the Soviet Union, nor is it evidence that Russia has been drawn into "the disciplines of international economic life," as the original linkage policy had hoped. It merely means that Soviet leaders are satisfied with an economic relationship in which, according to the Soviet journal Foreign Trade (1977), the USSR "efficiently uses the benefits of the international division of labor and constantly imports technically advanced plant and the latest licenses and know-how."

And why indeed should they not be satisfied with an arrangement which virtually guarantees greater advantages to the USSR than to its Western partners? If for no other reason, the Soviet Union stands to benefit simply by virtue of its technical backwardness. During the early years of détente, for example, the Nixon administration encouraged top American firms to sign "technological-exchange" agreements with Moscow. The firms had nothing to gain technologically from such agreements, but went along with them in the hope that "exchanges" of this

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sort might eventually lead to large contracts. The contracts rarely materialized, but the Russians received valuable technology in the meantime. A spokesman for Control Data Corporation, which signed a ten-year agreement with the Soviet Ministry of Science and Technology that included a plan for the joint development of a new super computer, admitted not long ago that the Russians gained fifteen years in research and development by spending just $3 million over three years. And government-to-government exchange agreements, another by-product of the early euphoria over détente, have had the same result. The Apollo-Soyuz space program, one of the better known examples, has been called by Zbigniew Brzezinski "a vehicle for the one-sided transfer from the United States to the USSR of a technology that has obvious military applications."

The asymmetry of the technological "exchange" relationship is reinforced by the Soviet Union's obsession with secrecy and by its unabashedly predatory approach. While American firms are expected to be forthcoming with technical information, especially if they hope to win contracts, the Russians have been extremely reluctant to divulge information on plant operations, let alone to allow American technicians to visit the plants for which they have been asked to design systems.

At the same time, American firms have trained hundreds of Soviet technicians in the U.S., and teams of Soviet specialists—ostensibly looking into possible purchases—have been allowed to tour defense-related American plants. A member of one such group, which closely inspected the Boeing, Lockheed, and McDonnell Douglas factories in 1973 and 1974, admitted privately to a Boeing official that purchases had never been contemplated—meaning, of course, that the group's real purpose had been industrial espionage. Within the FBI, concern has been expressed that Moscow's espionage efforts have expanded in recent years owing to the sharp increase in the number of Soviet citizen's here on official business and to the treaty arrangement allowing Soviet ships to call at 40 American ports.

Still another factor that works to the USSR's advantage is that Soviet foreign trade is a state monopoly. As the sole buyer in a situation where there are many sellers—competing American firms as well as firms from Europe and Japan—it has unequal bargaining leverage which it uses not only to bring down prices but also to secure maximum technological benefits that include the provision of technical data and licenses, extensive training of Soviet personnel, and, increasingly, longterm arrangements for the continuous supply of new technology. American firms in high-technology fields like computers, aerospace, and automotives are willing to agree to such arrangements in order to compensate for the high cost of research and development. But the end results favor the Russians, as exemplified in the Soviet purchase not too long ago of space suits for $150,000 which had cost the Americans $20 million apiece to develop.

There have even been some instances where American firms have provided valuable technology in the hope of landing a major contract, only to lose the contract to a competitor. In 1973 the Raytheon Corporation, seeking direct contract with the USSR's Ministry of Civil Aviation to promote the sale of an advanced air-traffic control system (ATC), mounted an elaborate exhibition in Moscow in cooperation with the U.S. Federal Aviation Administration. After Raytheon had invested $220,000 in the exhibition and presented plans for an ATC system more advanced than the one in the United States, the Russians asked for competing bids from four other American and two European companies. They also indicated in the course of the negotiations that an American bid would receive more favorable attention if it were accompanied by an offset purchase of Soviet-made YAK-40 jet aircraft, and if the U.S. granted increased landing rights to Aeroflot. In all, the U.S. companies spent over $500,000 and provided the Russians with quite a lot of valuable technical work before the contract was awarded to a Swedish-Italian consortium.

Not all the American firms dealing with Moscow have been quite so unsuccessful as Raytheon, but according to a prominent U.S. businessman quoted in a recent report in the Wall Street Journal, "Nobody is doing the business he expected." (Even the modest U.S. export figures—$2.26 billion in 1978—overstate the amount of trade carried on by high-technology firms, since agricultural products account for more than 75 per cent of U.S. exports to the Soviet Union.) In addition, U.S. businessmen stationed in Moscow have had to work under extremely trying conditions: the enormous, impenetrable Soviet bureaucracy; the bugging of their offices, conference rooms, and private residences by what the Journal report called "the omnipresent official eavesdroppers"; the fear for their personal safety, as pointed up by the arrest last June of International Harvester's F. Jay Crawford.

Still, it is all worth it in the opinion of Harold B. Scott, the former president of the U.S.-USSR Trade and Economic Council, for the Soviet Union "will one day be the largest market in the world. The systems put in place there now will determine the patterns of trade. Now is the time when it is crucially important to put our technology there."

With all due respect to Mr. Scott, it is hard to believe that this perpetually alluring Russian market really exists, or if it does exist, that it will one day be ours, especially if we continue to "put our technology there," as he urges. Why should such a market come into being when by selling whole factories (called "turnkey" plants) and training Soviet personnel, we help Russia produce by itself what it might otherwise have to buy from us or from other Western countries? Ironically enough, the way trade has been conducted with the Soviet Union not only does not discourage those autarchic tendencies Kissinger was talking about, but actually reinforces them, even as Soviet purchases of Western technology continue.

Many businessmen claim that the chief obstacle to more U.S.-Soviet trade is the Jackson amendment tying lower tariffs to freer emigration. But even if the USSR were granted most-favored-nation tariffs, Soviet exports to the U.S. would still not increase significantly (which means that its ability to import American goods would also not increase by very much). Even now, the great bulk of Soviet exports consists of raw materials and semi-manufactured goods which are not subject to discriminatory tariffs. The only exports which would be affected if the Jackson amendment were withdrawn are manufactured goods, and there just is not very much of a market in the U.S. for Soviet products.

The congressional limitation on Export-Import Bank credits is far more important in this connection since the Soviet Union simply does not have the hard currency to finance its purchases. The amendment limiting credits, adopted in 1974 in the climate of growing disillusionment with détente, resulted in the U.S. government's withdrawal from a reckless economic venture, the financing of the huge Soviet-bloc debt. This debt was about $8 billion at the end of 1970. By the end of 1975, it had mushroomed to $38 billion, according to an estimate by the Chase Manhattan Bank, and by 1976, it had increased still further to $48 billion. Today it has reached $55 billion and is still growing. At a ministerial meeting of the OECD in June 1976, Henry Kissinger described the debt surge as "sudden" and "striking" and went on to raise questions about its economic and political implications. Kissinger also voiced concern that the debtor countries had acquired substantial leverage over the creditor countries through the latter's fear of default.

The Soviet Union's lack of hard currency has led to another practice which also skews the trade relationship in its favor. This is the so-called compensation agreement whereby a Western firm builds a plant in a Communist country and supplies equipment and know-how in return for part of the plant's eventual output. Once again, the advantages of this arrangement to the Soviet Union and its satellites are considerable. They not only increase their production with Western financing and advanced machinery and technology, but are also given access to Western markets in the course of "repayment"—and all this without spending any hard currency. The advantages to Western firms are cheap, strike-free labor (which, however, means a loss of jobs in the West) and access to untapped sources of raw materials. At the same time, however, they risk substantial losses if the market is glutted at the time of repayment, which is what happened to Armand Hammer's Occidental Petroleum, for instance, in its $20-billion fertilizer deal with the USSR.

Furthermore, they have no protection against repayment in substandard products, or against market disruption if the Communists, seeking hard currency or market penetration, choose to dump goods in the West. Fiat, for example, had no idea that it was creating a trade rival when it built the Volga Auto Plant at Togliatti (since it was assumed that Soviet domestic needs would easily absorb the plant's production). But the Fiat-like Lada is being sold right now in Europe and Canada at well below the cost of production. Similarly, unions throughout Europe's depressed chemical industry have expressed alarm that the products of the massive petrochemical plants to be built with Western support at Tomsk and Tobolsk will one day flood the European market.

In addition to the problems of market disruption and job displacement, Western firms run the added risk—always present when dealing with Communist countries—that political relations may deteriorate before compensation has been received. In some agreements the payback period is twenty years, a longer time than "détente" (by any prudent estimate) can be expected to hold up. If the Russians, for whatever reasons, should decide to cancel the compensation agreement at any time during that period, it will not do a Western firm much good to know that its collateral consists of oil pipelines buried beneath the Siberian steppes, or industrial machinery installed in Tobolsk. The knowledge that their investments have made them hostages to political circumstances could well turn Western businessmen into fervent defenders of appeasement.

Among votaries of U.S.-Soviet trade, however, the idea that political relations might deteriorate even in the face of expanded trade is virtually ruled out, since it is taken as axiomatic that trade will strengthen the liberalizing, peaceful tendencies in the Soviet Union. This is an old notion. In 1922, British Prime Minister Lloyd George said that trade "will bring an end to the ferocity, rapine, and the crudity of Bolshevism surer than any other method." In our own time it is widely believed that trade, in Daniel Yergin's words, "draws the Soviet Union into the community of advanced industrial nations." From this point of view, of course, trade with the Soviet Union is valuable even if it does entail certain economic disadvantages. But is there any evidence so far of this happy outcome?

The view that trade will lead to liberaliza-

tion in Russia is partly based on the not illogical belief that exposure to the West will encourage the development of Western norms and values in the USSR. Unfortunately, the present Soviet leaders, like the Czars before them, are as mindful of this possibility as anyone else, which is why they take great care to shut out Western cultural influences even while helping themselves to Western products and technology. To realize how far the Soviet authorities are willing to go to prevent any contacts from taking place outside of very tightly controlled official channels, one need only think of the confiscation of follow-up cards passed out at a seminar in Moscow conducted by Singer personnel, or the removal of subscription forms from all copies of *Aviation Week and Space Technology* distributed at the Raytheon exhibition, or the totally self-contained office, hotel, and apartment complex for foreigners that is being constructed in Moscow—the modern equivalent of the *Nyemetskaya Sloboda*, or "foreigners' quarter" (literally, "German Quarter") built by Vassily III almost 500 years ago.

But the Soviet regime not only isolates Westerners, it also tightens internal controls to prevent Western influences from seeping through. Particularly during periods of détente—the last decade is a good example—there seems to be an increased tendency for the regime to step up repression and ideological vigilance. All of this would seem to suggest that trade does not promote liberalization, and may actually have the opposite effect.

The fact, too, that trade is used as a way to obtain the technology needed for rapid modernization means, in the context of a command economy, that it is frequently associated with forced industrialization and the use of slave labor. The program of Westernization under Peter the Great was achieved at the cost of immense sacrifice and suffering imposed on the Russian people. Two centuries later, Stalin's first Five-Year Plan, which marked another period of intense absorption of Western technology, took an even greater toll in freedom and human life.[8]

The argument is also made—again to show the link between trade and freedom—that the Soviet Union must liberalize its system in order to solve its economic problems, and that increased exposure to our superior economic methods will encourage Soviet leaders to take this course. This argument might be valid if the Soviet leaders were interested in nothing more than promoting economic efficiency and technological innovation. But they also have a stake in maintaining their totalitarian system which is inherently inefficient and uncreative. If this fundamental contradiction were allowed to work itself out, it might conceivably lead to real reforms inside Russia, but Soviet leaders have been able to avoid the choice between reform and stagnation precisely by turning to the West for totalitarianism's "missing dynamic." (It is instructive to recall that Brezhnev's decision to import Western technology on a large scale followed a brief but politically costly experiment in the 60's with economic decentralization.)

Thus trade, by injecting into the Communist system the technological innovations without which it could not survive but which it cannot achieve on its own, actually helps to sustain totalitarianism.

The strategic as well as the moral implications of this fact have thus far been ignored. The idea that trade promotes East-West peace, central to the thinking of those who shaped the policy of détente, remains basically unchallenged among U.S. policymakers today, despite evidence that the increase in trade since 1970 has not been accompanied by reduced Soviet military spending or greater moderation in the Middle East, Africa, or elsewhere. In fact, increased trade (or, more specifically, the increased pace of technology transfers) has been accompanied by the continuing build-up of Soviet military forces and by a greater Soviet readiness to intervene in local conflicts.

Pre-revolutionary Russian history offers numerous examples of the rulers of Russia importing technology from the West to strengthen their country's military capacity. And far from ending the practice of importing Western technology for military use, the Bolshevik rulers have simply recast its revolutionary terms. Occasionally these acquisitions have been accomplished by theft—as in the case of the atomic espionage of the 40's—but more often the same result has been achieved through political and trade agreements, in accordance with Lenin's famous statement that the capitalists "will supply us with the materials and technology which . . . we need for our future victorious attacks upon our supplier."

In the 20's Germany was the main foreign source of military assistance. Thereafter, the United States took over, becoming the main supplier of military-related technology, along with Germany and Britain, until the cold war. Fertilizer plants supplied by the West were used to produce explosives, machine plants turned out gun barrels, and—most important—the automotive industry which had been set up by U.S. firms produced tanks and armored trucks.[9] For years after World War II, Lend-Lease transfers and the dismantling of German industry were providing the Soviet Union with the foundation for military production.

This process is still going on today. Indeed, there is now a growing concern in the United States that the technology we have already supplied to the Soviet Union, particularly in the computer field, has contributed to Soviet advances in strategic weaponry and strengthened the USSR's overall economic and military capability. The president of Texas Instruments, J. Fred Bucy, who chaired the Defense Science Board Task Force on the Export of U.S. Technology, told a Senate panel in 1977 that "the transfer of militarily significant technology has been of major proportions," and the full consequences of this development "will become evident over the next five years."

Presumably the U.S. government approves only technology transfers which have no military significance, but the problem is that most modern technologies have both civilian and military uses. The air-traffic control system, for example, can also be used for air defense and vectoring fighter aircraft; the semiconductor technology used in computers has numerous military applications, including missile-guidance systems; technology for the manufacture of wide-body aircraft and high-bypass turbofan jet engines can be used in the production of military aircraft. And while precision ball bearings certainly have many industrial uses, they are also essential for the production of the guidance mechanism in MIRV warheads.

The problem is further complicated by the fact that the technologies of greatest interest to the Soviet Union are first developed by the private sector in the U.S. for commercial use, and are only later adapted to military programs. As Bucy pointed out, this means that "increased pressures for commercial trade with the USSR and its Comecon partners may result in the flow of significant technologies before similar technologies are applied to advanced weapon systems in the U.S."

To add to the problem, many Soviet factories have both civilian and military lines of production. It would be most surprising, for example, if the Western-built Kama River truck factory, which is slated to be the largest industrial complex in the world, did not produce military vehicles upon its completion, in addition to diesel trucks and engines. This has been standard procedure in Soviet motor plants for some time, and, given the regime's obsessive secrecy—which is not, after all, a psychological aberration but has a rational purpose—it will be impossible to verify whether or not the Kama plant is producing for the military. Indeed, when one considers for a moment that military production is the first priority of the centralized Soviet economy, and that it is the sector in which the best available technological and human resources are concentrated, the notion that imported Western technology will not be used for military purposes seems rather farfetched.

Nor need this technology be directly used by the military in order for it to be "militarily significant." Even if applied to industry, it serves the purpose of freeing scarce research talent for military work. It seems perfectly obvious that if foreign technology relieves the labor shortage by modernizing Soviet industry, it makes it easier for Moscow to maintain a standing army of 4 million men. And if this modernization is financed with Western credits, it reduces the burden of a military budget that now consumes somewhere between 11 and 15 per cent of the Soviet GNP.

An example of how technological transfers to Russia of great strategic importance can take place with the approval of the U.S. government is provided by the recent controversial sale by Dresser Industries of a $144-million turnkey plant for the manufacture of deep-well drilling equipment. This particular deep-well technology is needed by the Soviet Union if it is to develop major new oil reserves, an urgent priority since it is now expected to become a net importer of oil by the mid-1980's. Lacking adequate energy sources, the Soviet economy's growth rate could slow to about 3 per cent, which would make it exceedingly difficult for Moscow to continue to increase military spending by 4 to 5 per cent every year, or to finance Cuban expeditions to Africa. Hence the Soviet interest in American oil technology.

Nevertheless, last summer, only weeks after President Carter announced that the government would assume control over all sales of oil technology and equipment to the Soviet Union, the administration approved the Dresser sale. Its reasoning, summed up by the Washington Post in an approving editorial, was that "the technology is widely available" outside the U.S., and that in view of the energy shortage "it serves American interests to get the maximum number of explorers "into operation as soon as possible."

The administration appears to have given no consideration at all to the strategic significance of this sale, which greatly enhances the USSR's oil-production capabilities by giving it the capacity to manufacture premium rock-drill bits equal to the entire U.S. output, and greater than the Soviet Union's anticipated deep-well drilling requirements for the 1980's!

In the controversy surrounding the sale, attention was focused on only two items of the manufacturing equipment which were thought to have possible military application. These two items were subsequently approved by the Defense Department, despite expert opinion which held that one of them could produce armor-piercing projectiles. Senator Jackson, chairman of the Senate subcommittee which investigated the sale, cited pressure by both the Commerce Department and Dresser Industries as a factor that "may have contributed to what ap-

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pears to have been a less than thorough assessment of national-security questions."

Following protests by Energy Secretary Schlesinger and members of the National Security Council, approval of the sale was suspended pending a review by a special task force of the Defense Science Board. The task-force report concluded that the deep-well technology in question "has strong strategic value in its application to Soviet energy needs of the 1980's" and that it is "wholly concentrated in the U.S.," thus giving this country effective control over its export to the Soviet Union. The report also pointed out that the transfer of this technology to the Soviets would allow them "to enter world markets with advanced drilling capabilities," thereby enabling them to increase their presence and influence in the Middle East and other oil-producing areas of the world. On the question of the two supporting technologies which the Defense Department had previously approved, the report concluded that both would contribute significantly to the Soviet Union's military potential.

Despite these warnings, the President approved the Dresser sale a second time. Subsequently, he told a news conference that the administration takes adequate precautions "to be sure that we are not deliberately or inadvertently giving to [Communist] countries a means by which their military capability would be greatly escalated. This would be contrary to the existing law."

But what exactly did the President mean when he used the words "greatly escalated" here? The ambiguity of the formulation cannot be attributed only to the informal conditions prevailing at a news conference. It also serves to point up the fact that the United States does not at present have an effective or even coherent policy governing the export through commercial trade of strategic technology to the Soviet Union. The agency authorized to control commercial exports affecting national security is the Commerce Department, and since this department is interested primarily in promoting trade and reducing the U.S. balance-of-payments deficit, these considerations play a great part in influencing judgments on what is "militarily significant."

But the fundamental reason for the absence of a sound policy in this area is political. As long as it is assumed that trade promotes peace, no matter what is being traded, the problem of the flow of strategic technology to our principal adversary is not likely to be given serious consideration.

The argument heard most often—that controls cannot work since other nations will export what we embargo—is a rationalization for having no policy at all. In the Dresser case, for instance, there was no foreign producer the Russians could have turned to if we had denied the sale, but we approved it nonetheless. It is hard to see how the U.S. can expect to gain the cooperation of its allies in denying strategic technology to the Soviet Union if we ourselves continue to supply it in abundance. In fact, the relaxation of U.S. controls over the last decade is a major reason for the diminishing effectiveness of CoCom, the international body established in 1950 to regulate the export of strategic items to Communist nations.[10]

Only a rigorous control policy can be expected to shore up the faltering CoCom arrangement and win broad support in the U.S. The objective of such a policy need not be to restrict trade with the Soviet Union, but only to shut off the flow of strategic technology in accordance with the Defense Science Board's crucial distinction between products and technology—that is, between the item produced and the know-how required to produce it.

This distinction did not matter so much thirty years ago, when the U.S. and its CoCom allies first attempted to work out a control policy for trading with the Soviet Union. At that time a favorite Soviet method of acquiring technology was to copy Western prototypes which had been procured through single-item purchases. But as technology became more complex and the pace of technological change increased, this kind of "reverse engineering" became less feasible—by the time a process had been mastered and brought to production the product would have become obsolete. So the Russians naturally dropped their interest in individual products, and turned instead to the direct acquisition of critical technologies and production capability.

Control policies, however, have been oblivious to these changes and are still focused on the regulation of product transfers, so that items of secondary importance to the Soviet Union are now regulated while the U.S. and other Western countries actually encourage the transfer of what the Russians want most. We now have a policy, in other words, which allows Western firms to build whole production facilities in the Soviet Union, transfer vital manufacturing information, and train Soviet personnel, while withholding one particular item in the sale because it is on the CoCom list of embargoed goods. Small wonder that our allies are cynical about it.

It seems clear that this must change. While controls on selected critical products should be maintained, policy must be revised to take account of the central importance of technology transfers which contribute in any way at all to the Soviet Union's military and industrial strength. To be sure, in a world where technology is widely diffused, a policy aimed at denying the Soviet Union access to such technologies cannot be airtight. But as Fred Charles Iklé, the former director of the Arms Control and Disarmament. Agency, has observed, "gradual seepage is one thing. It is quite another matter to expedite the spillage of some of the most advanced and complex technologies." And even if Soviet acquisition of such technologies cannot be prevented, it can at least be delayed, which may serve to maintain and perhaps extend what is called "the strategic lead time" of the United States over the Soviet Union. Our present lead in strategic technologies, estimated at three to ten years, is smaller than it was before "détente," but it is still a factor that restores some stability to the growing imbalance between U.S. and Soviet military forces.

Despite the current avidity for trade, it should be possible to win at least a measure of business support for a policy of stricter controls on technology transfers to the Soviet Union. In his new book, A Time for Truth, former Treasury Secretary William E. Simon traces the history of U.S. business aid to the Soviet Union by way of demonstrating the economic superiority of capitalism over Communism. But except in a footnoted afterthought in which he calls the whole enterprise "desperately unwise," Simon never comes to grips with the basic question of who stands to benefit most from current U.S.-Soviet trade ventures. Lenin put it rather succinctly in his famous question, "kto kogo?" ("Who [will defeat] whom?"), and perhaps it is time this question was asked by more than a small handful of business leaders. Capitalism is indeed more efficient than Communism, but if this very efficiency is used to sustain and fortify the enemies of free society, does this not, in the words of Seymour Martin Lipset, constitute "the ultimate failure of capitalism"?

But business need not even bother about such ultimate conclusions in order to support a policy of controls on the transfer of technology to the Soviet Union—it need only recognize its own economic self-interest. The transfer of production capability will dry up markets and create competitors far sooner than it will enhance trade or profits. All it takes is one firm—poorly managed, perhaps, and needing a Soviet deal to balance its books—to transfer the technology of an entire industry; surely this consideration should provide sufficient incentive for business to demand an effective policy of controls. Then, too, there is the question of the competitive disadvantage individual firms now face in negotiating with the Soviet state trading monopoly. Should not businessmen see the need for a central clearing house for U.S.-Soviet trade to offset this disadvantage?

A policy of control on technology transfers differs significantly from the so-called policy of "economic diplomacy" which has stirred up so much pointless controversy in recent months. The former would shut off technology transfers to the Soviet Union while the latter would offer technology as an incentive to moderation and deny it as punishment for hostile acts. But "economic diplomacy" is no substitute for a policy of military deterrence, and common sense should dictate that anything the Russians might want badly enough to forgo opportunities for expansion is probably something they should not have in the first place. A policy of controls, on the other hand, would not be tied to politics, but for reasons that should already be clear, it could in the long run limit the Soviet Union's ability to threaten the security of the West.

The denial of foreign technology might very well succeed—where the present policy has failed—in bringing about a greater degree of decentralization and liberalization within the Soviet Union, but such a policy should not be aimed at changing the Soviet system. Nor should controls be loosened in response to favorable Soviet gestures on human rights. Technology is too valuable to be turned into a pawn in a game which the Soviet Union could easily manipulate in its favor. (This criticism, incidentally, does not bear upon the Jackson amendment, which in any case does not offer technology in exchange for freer emigration but only a modest amount of hard currency in the form of credits and lower tariffs on Soviet imports. There is nothing wrong with buying people's freedom, which is what the Jackson amendment amounts to. On the contrary, it is an objective worthy of a democratic society.)

It is difficult to speculate on future trends inside the Soviet Union and more difficult to influence them from the outside. If we have learned anything at this late date in our relations with the USSR it is that interaction with the West does not necessarily yield helpful results, and that the rich creations of a free system become distorted when absorbed by a system that is not free. Those who wish to build bridges to the East through trade might recall that Brezhnev, on the eve of détente, observed that "scientific-technical progress has now become one of the main bridgeheads of the historical struggle of the two systems."

It would be ironic if the one system able to generate such progress lost the struggle because it lacked the wisdom to understand its advantage and the will to protect it.

FOOTNOTES

[1] *Détente and Dollars: Doing Business with the Soviets*, Basic Books, 1975, p. 5.

[2] See Anthony C. Sutton's *Western Technology and Soviet Economic Development 1917-1930*, Hoover Institution Publications, 1968. Two subsequent volumes by Sutton describe the transfer process and assess its contribution to Soviet economic development for the periods 1930–45 and 1945–65.

[3] Anthony C. Sutton, in this context, defines the phrase "built by Western companies" to mean not just the management of construction and equipment installation, but also the supply of technology, patents, engine-test results, and operator training, as well as supervision of the plant during its

initial period of operation. The Russians supplied labor, semi-fabricated materials, and middle-level engineers whose chief job was to learn from the Americans.

[4] One of these Americans, Victor Herman, has just published an extraordinary memoir of his experiences in Russia (*Coming Out of the Ice,* Harcourt Brace Jovanovich, 369 pp., $12.95). At the age of sixteen, Herman accompanied his family from their home in Detroit to Gorki, where they were planning to stay for three years working in the auto plants. He ended up spending forty-five years in Russia, eighteen of them in the Gulag, where he encountered many Americans. Herman describes his ordeal with an austerity that makes it all the more horrifying. He claims to be the only survivor of all the men, women, and children from the American village at Gorki who were sent to the Siberian camps—forgotten victims of an earlier period of Soviet-American "cooperation."

[5] Germany was not the only country looted by Russia. A U.S. mission headed by Ambassador Edwin Pauley in the spring of 1946 concluded that Russia had dismantled and removed $895 million worth of industrial equipment from Manchuria. In addition, $400 million worth of equipment was taken from the Soviet Zone in Austria, while peace treaties with Finland and Rumania resulted in the transfer of $600 million of equipment.

[6] See, for example, *The Psychology of East-West Trade,* by Zygmunt Nagorski, Jr., Mason & Lipscomb, 1974.

[7] *Coexistence and Commerce: Guidelines for Transactions Between East and West,* McGraw Hill, 1970, p. 8.

[8] The American-Russian Chamber of Commerce, whose board included representatives of the top American corporations doing business in Moscow, did what it could to whitewash the Soviet Union on charges of forced labor during this period. In a speech at the Bankers Club in New York in 1932, Colonel Hugh Cooper said that "The Chamber has made a real study of these charges. It has obtained signed statements from many leading American businessmen, who have actually been to Russia and have personally observed labor conditions there, and I am glad to say that not one of these men think labor in Russia is forced." Since American firms instructed their engineers not to discuss conditions in the USSR, only the apologists were heard from. Alcan Hirsch, who supervisted the construction of the Du Pont nitric acid plant at Chernorechenski, claimed in his book, *Industrialized Russia* (1934), that while the Soviet Union had "not as yet reached unprecedented eminence in the arts, science, or industry, . . . sociologically it is far ahead of the rest of the world." With all the attention paid to intellectual fellow-traveling with Stalinism in the 30's, it appears that the subject of business complicity has been sorely overlooked.

[9] Much of this was known to American officials. In 1933, for example, the American engineer, Zara Witkin, who supervised construction of some of the "secret industry" plants in Russia (Eugene Lyons called this task "the most important given to any single foreign specialist"), told a U.S. Consul in Poland that every tractor plant "is of course a tank factory and an automobile plant [is] a factory which may at any time produce mobile artillery."

[10] CoCom's full name is the Coordinating Committee of the Consultative Group of Nations, and its membership consists of NATO nations (except Iceland) and Japan. It maintains a common list of embargoed strategic items.

Carter Begins Drive To Step Up Soviet Trade

The Administration will move quickly in coming weeks to step up exports to the Soviet Union. Eager to increase trade with the Peoples Republic of China, the Departments of State, Treasury and Commerce have convinced the White House it must also take positive steps to reassure the Soviets that we are not tilting in favor of Peking.

Thus, as the Washington Post reported last week, the Administration has launched a "diplomatic initiative" to press for the resumption of U.S. trade and tariff benefits for the Soviet Union—all before President Carter meets with Soviet chief Leonid I. Brezhnev to sign the SALT II agreement June 15 in Vienna.

To this end, Secretary of State Cyrus Vance and Secretary of the Treasury Michael Blumenthal met with Soviet Ambasador Anatoly F. Dobrynin April 27 to stress the Administration's commitment to increased trade. And they discussed, frankly, ways to circumvent the Jackson-Vanik amendment of 1974 which has limited East-West trade.

That amendment, adopted at a time the Soviets were engaged in brutal persecution of their dissidents, makes freer emigration from the USSR the price for lowering U.S. tariffs and qualifying for Export-Import Bank loans. Asserting that the Congress had no right to interfere in their "internal affairs," the Soviets cancelled the 1972 trade agreement designed to increase commerce between the two nations.

Under the terms of the 1974 law, the President can grant trade benefits for one year if he receives "assurances" that Soviet policies will in the future "lead substantially" to freer emigration. Some State Department lawyers argue that the "assurances" must be in writing. Others—aware that the Soviets are unlikely to provide written guarantees about their "internal" affairs—have suggested that the assurances can take some other form.

Thus the April 27 meeting. According to the Post, Vance and Blumenthal stated it was the Administration's understanding that the recent liberalization of Soviet emigration policies has become the norm and is expected to continue. If Moscow will accept this, Washington will consider the transaction to be the necessary assurances under the Jackson-Vanik amendment.

How Jackson will react to the Administration interpretation of his statute was not known at press time. He is known, however, to be gravely concerned that in pushing detente the Administration has completely disregarded the strategic consequences of its technological exports.

Last summer, for instance, in the wake of the trials of Soviet dissidents Anatoly Shcharansky and Alexander Ginzburg, President Carter announced that he was placing the export of oil and gas technology to the Soviet Union under government control.

When Moscow issued a blustery attack on Carter's decision, the Administration backed away. All 74 of the applications for export of the oil technolcgy were quietly issued. As Carl Gershman notes in a brilliant article in the April Commentary, the $144-million Dresser industries deal approved by Carter conferred enormous strategic benefits:

"This particular deep-well technology is needed by the Soviet Union if it is to develop major new oil reserves, an urgent priority since it is now expected to become a net importer of oil by the mid-1980s. Lacking adequate energy sources, the Soviet economic growth rate could slow to about 3 per cent, which would make it exceedingly difficult to increase military spending by 4 or 5 percent every year, or to finance a Cuban expedition to Africa. Hence the Soviet interest in American oil technology."

Energy Secretary James Schlesinger and members of the National Security Council raised similar objections, and a special task force of the Defense Science Board was set up to study the deal. The task force concluded that the deep-well technology "has strong strategic value in the 1980s" and that it is "wholly concentrated in the United States," thus giving us the power to deny critical oil technology to the Soviets.

The report also noted that the transfer of the technology would enable the Kremlin "to enter world markets with advance drilling capabilities," thereby permitting them to increase their presence and influence in the Middle East and other oil producing areas. Finally, the report concluded that two of the items involved in the deal could enable the Russians to manufacture armor-piercing projectiles, clearly increasing their military potential.

Nevertheless, the President himself approved the sale. It was only the latest in a long line of strategic items which profit-hungry businessmen have funneled to the enemy. As a former Polish intelligence officer, Michael Checinski, has reported, "every machine, device, or instrument imported from the West is sent to a special analytic group. Their job is not only to copy technical solutions, but to adapt them to the specifications of the Soviet military."

Consider the 1972 approval of the sale of 164 Centalign-B machines, and accompanying technology, to produce miniature ball bearings. This windfall drastically reduced the time required by the Soviets to improve the accuracy of their missile warheads. As a result, says former CIA official Cord Meyer, "the U.S. must spend $30 billion on new mobile missiles because of the vulnerability of our fixed silos."

Meyer also cites a recent Soviet defector still under security wraps who has spelled out just how the export of technology for peaceful purposes can backfire. Equipment sold to the Soviets to modernize their weather forecasting has been secretly diverted to improve the efficiency of their spy satellites.

There is a sense of *deja vu* in all of this as the Administration moves to remove the few remaining curbs on Soviet bloc exports in an effort to build the profits of American business and somehow improve East-West relations. Solzhenitsyn referred to it in his June 1975 speech to the AFL–CIO:

"I must say that Lenin foretold this whole process. Lenin, who spent most of his life in the West and not in Russia, who knew the West much better than Russia, always wrote and said that the Western capitalists would do anything to strengthen the economy of the USSR. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from one rather than from the other. He said: 'They will bring it themselves without thinking about their future.' And, in a difficult moment, at a Party meeting in Moscow, he said: 'Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie and the bourgeoisie will hang itself.'

"Then, Karl Radek . . . who was a very resourceful wit said: 'Vladimir Ilyich, but where are we going to get enough rope to hang the whole bourgeoisie?' Lenin effortlessly replied: 'They'll supply us with it.'"

Will House Beef Up USSR Military Capability?

At the precise moment the Administration has begun a determined drive to expand U.S.-Soviet trade, the intelligence community has informed Rep. Richard Ichord (D.-Mo.) that the Russians have illegally diverted for military usage American technology poured into the Soviet Kama River truck plant.

Ichord is chairman of the Research and Development subcommittee of the House Armed Services panel. In hearings on May 23, Ichord, basing his information on a classified intelligence document and testimony on Hans Heymann, the CIA's national intelligence officer for political and economic affairs, told witness Stanley Marcuss, a sen-

ior Department of Commerce official, "We know for a fact that the Kama River project was diverted to military use." Heymann confirmed to Ichord that some 50,000 diesel engines annually produced by the plant were being installed in military vehicles.

Ichord later informed a Human Events reporter that the Soviets were using U.S. technology furnished for the Kama River plant to produce "armored personnel carriers and assault vehicles," the latter a euphemism for tanks and heavy assault guns. Kama River technology, in fact, has reportedly been incorporated into the most advanced Soviet battle tank, the T–72, now being introduced into Central Europe.

Started in the early 1970s, the Soviet plant, supposedly designed for the production of civilian vehicles, has been largely constructed with advanced American technology. Donald E. Stingel, president of Swindell-Dressler Co., which was the principal engineering contractor for this huge project, testified before Congress on April 23, 1974, that his firm was providing the Soviets with a technology that had not even been realized in the United States.

The plant is scheduled to have an annual production capacity of 250,000 10-ton multiple-axle trucks, "more than the capacity of the entire U.S. heavy-duty truck industry," noted Miles Costick in his study, "The Strategic Dimensions of East-West Trade." The Kama River project's foundry, the largest and most modern in the world, is completely automated and equipped with one of the biggest industrial computer systems extant, courtesy of IBM. The foundry will be capable of manufacturing no fewer than 350,000 diesel engines annually.

The irony, wrote Costick, is that the project will have the "capacity to produce tanks, military scout cars, rocket launchers and trucks for military transport, but it was approved by the Commerce and State Departments as 'non-strategic'!"

The Kama River diversion was not the only explosive news to come out of the hearings, though it may have the most significant impact on the Congress in terms of dealing with the East-West trade issue.

Rep. Larry McDonald (D.-Ga.), a member of the Ichord panel, also brought out another critical point: that the United States, not our European allies, has taken the lead in undermining the CoCom strategic trade list. All the member nations that comprise NATO (save Iceland) and Japan have drawn up a common list of items—the CoCom list—that they agree will not be sold to the Soviet bloc because of their potential military value. Over the years, the U.S. government has alleged that the Europeans have been taking the lead in trying to make the list less restrictive.

But McDonald's questioning prompted Administration officials to admit, at least indirectly, that the U.S. has taken the lead. McDonald, for instance, asked Marcuss if some of our allies didn't think we were being hypocritical about the list because of the number of times this country has sought waivers of various items. Marcuss initially replied: "From time to time we hear that argument, but it's not credible in our view."

But Larry Brady, acting director of the Export Administration, who accompanied Marcuss, later released figures showing that in 1978 the U.S. sold 1,050 restricted CoCom items to the bloc, receiving more than 62 per cent of the waivers granted.

Brady also acknowledged what Commerce has denied in the past—that it is extremely difficult to find out if the Soviets divert our technology for military use. Although the Soviets must sign a statement pledging not to use American technology for such purposes, Brady admitted that U.S. safeguards "have only marginal utility." Thus, despite the "safeguards"—which largely consist of U.S. company executives informing Commerce if their supplies are being misused—the Soviets could easily be engaged in a massive effort to divert U.S. technology for military purposes. And judging from those Kama River intelligence reports, they are.

While this information was tumbling out of the Ichord hearings, however, the House moved a step closer to passing a new bill (HR 4034) which will actually expand trade with the Soviets and even loosen restrictions on items of trade with military potential.

Reported out of the Foreign Affairs Committee on May 15 and expected to come to the House floor in the next week or two, the bill has as its primary sponsor Rep. Jonathan Bingham (D.-N.Y.). The chairman of the panel, Rep. Clement Zablocki (D.-Wis.), is also a sponsor, as, surprisingly, is Rep. Robert Lagomarsino (R.-Calif.), a conservative. Indeed it is clear that even conservative members of the Foreign Affairs Committee who are not sponsors, such as Representatives Ed Derwinski (R.-Ill.) and Dan Quayle (R.-Ind.), appear unconcerned about the measure insofar as it would vastly increase Soviet opportunities to receive the most advanced American technology.

Yet the Bingham bill is considered "disastrous" for the U.S., according to such Red trade experts as Costick. The Pentagon's role in determining what goods should be sold to the Soviet Union, for instance, has been considerably reduced. Under the Jackson amendment as it applies to present law, the President, if he overrules the Defense Department's objection to the sale of a certain item, must submit a report to Congress telling why. But this requirement for a report has been eliminated, thus clearly making it easier for this soft-on-Red trade President to veto the Pentagon.

Of even greater consequence is the so-called "indexing" provision, which comes close to mandating that the secretary of commerce make important U.S. technology available to the Soviets on a steady basis. Indeed, this provision calls for the secretary of commerce to annually remove U.S. technology from the restricted list.

"In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed," this section says, the secretary may "provide for annual increases in the performance levels of goods of technology subject to any such licensing requirements." In sum, the secretary of commerce can unilaterally remove huge quantities of computers and machine tools from our restricted list by simply claiming that the newest technology makes even advanced but less new technology out of date.

Still another gigantic loophole eliminates any right on our part to block Western Europe or Japan from reselling our technology to the Soviet bloc or other enemy or adversary nations. That section reads that "no condition shall be imposed by the United States" on such reselling ventures.

While this bill is marching through the House (with a similar version being readied by Senators Proxmire and Stevenson in the upper chamber), conservatives, moderates and liberals who oppose expansion of Soviet trade are rallying around H.R. 3216, a bill mainly sponsored by Representatives Clarence Miller (R.-Ohio), Richard Ichord (D.-Mo.), Lester Wolff (D.-N.Y.) and Robert Dornan (R.-Calif.).

That measure would drastically change the method by which export licenses for the Soviet Union are approved, shifting the major responsibility from Commerce and the State Department to the Pentagon. Many think it will be offered in whole or in part as an amendment to the Bingham measure when it reaches the floor. And if it fails to win, the Soviets are almost certain to be the beneficiaries of even more advanced U.S. technology.

As Rep. Miller testified before Ichord on May 15, there is already considerable evidence that U.S. technological sales to the Soviets in recent years have enabled them to perfect the guidance systems and MIRV capabilities for their monster SS–18 intercontinental missiles which so threaten our nation. And Congress, it seems, may end up fortifying our enemies even more.

Proposed Shipment of Ball Bearing Machines to the U.S.S.R.

The Senate Subcommittee on Internal Security has undertaken its investigation of this matter not in any desire to find scapegoats, but because we felt that the larger issue involved in the Bryant case was, potentially, of life-or-death importance to America and the free world. We are now convinced, for reasons that are set forth below, that the decision to grant the license was a grave error—an error in judgment which stems from a more basic error in procedure.

In justifying the decision to grant the license for the export of the Bryant machines to the Soviet Union, Secretary Mueller wrote to Senator Dodd on January 18:

"We had originally issued the licenses on evidence which satisfied us that: first, denial of the licenses would not be effective in preventing or significantly delaying procurement of substantially comparable machines (our emphasis) by the U.S.S.R. from other sources than the United States; and second, the potential output and utilization of the machines is not such as to represent a significant strategic hazard to the United States. And because our denial action would not be substantially effective from a national security standpoint, its only result would be to withhold a business opportunity from a member of a particular American industry * * *."

With minor modification, this, in essence, has been the position of the Commerce Department in its testimony to the subcommittee and in subsequent correspondence.

This position was restated by Secretary Hodges in his letter of February 9 to Senator Dodd. The letter reads in its concluding paragraph:

"May I emphasize, in closing, I made the decision to release the Bryant machines for shipment to the Soviet Union on the basis of the best technical information and evaluation that was available to me. This technical information was to the effect that the national interest would not be prejudiced by the export of these machines by an American company, but on the contrary our national interest would be served. In my own judgment of the matter I have paramounted considerations of security and have given only secondary consideration to the commercial or trade aspects."

Any Secretary of Commerce, by the nature of things, must rely on the reports of his experts for guidance in such matters. One of the serious questions raised by this investigation is whether the Secretary of Commerce has had at his disposal the highly specialized expert opinion which is essential in making determinations about highly specialized machinery.

The conflict of testimony between the Commerce Department and Defense Department revolved around the following points:

(1) The Defense Department and Miniature Precision Ball Bearing Co. (hereafter referred to as MPB) held the Bryant Model B Centalign machine to be unique. The Commerce Department said that equal, or approximately equal machines could be obtained from European firms or built by the Soviets themselves.

(2) MPB emphasized that the function performed by the Bryant Model B machine is of critical importance in facilitating the mass production of high precision miniature bearings. The Department of Commerce and

the Bryant Co. contended that it is simply one among many equally important functions in the production of precision bearings.

(3) The Defense Department and MPB contended that the possession of these machines would enable the Soviet Union to produce smaller and better missile guidance systems, gyros, and other military items. The Bryant Co. held it probable that the Kremlin plans to use these machines for the manufacture of bearings of lower quality, largely destined for conventional uses.

The subcommittee was greatly impressed by the testimony of the Miniature Precision Ball Bearing Co. and of others who opposed the shipment. But to help throw some independent light on the matter, Senator Thomas J. Dodd, on behalf of the subcommittee, asked for the opinions of 12 private experts in the ball bearing field.

So that they would be familiar with arguments on both sides, the experts we retained as consultants were provided with transcripts of the hearings on the proposed export of the Bryant machines plus the briefs submitted by the Bryant Co. and MPB. They were encouraged to contact the Bryant Co. and the Miniature Precision Ball Bearing Co., and other companies in the field.

All told, we have now received opinions from 12 men recognized as experts in the ball bearing field. Eleven of them are Americans, one is an Englishman. A list of our consultants, stating their present positions and their qualifications, is appended to this report. We have also taken testimony, in a staff interview, from a Russian expert employed by the Library of Congress, who has made an intensive study of the literature relating to the Soviet ball bearing industry.

The list of our consultants is attached to this report. Their statements are printed in the hearing record.

We believe that this testimony gives overwhelming support to the stand taken by the Department of Defense in this matter, and to the arguments presented by MPB in opposing the shipment. This testimony establishes conclusively (1) that the miniature bearings produced with the help of the Bryant machine are used primarily for defense purposes; (2) that the function performed by the Bryant machine is of critical importance; (3) that no comparable machines can at present be obtained from other sources; (4) that Soviet industry has not been able to master the problems involved in mass producing high precision miniature bearings; that the industry is in fact plagued by poor quality and obsolete equipment; that, with its own resources, it would probably take a number of years to develop the capability; (5) that the possession of these machines would greatly accelerate Soviet mastery of the art of miniaturization.

Before proceeding to the recommendations which we wish to submit, we think it would be helpful if we briefly summarized some of the high points of this testimony, and recapitulated some of the essential facts.

1. At least 85 percent of the bearings manufactured with the help of the Bryant machine are used by defense industries:

Subject machine is a key factor in the economical production of the highest quality ball bearing parts. It enables us to produce a bearing assembly of the highest precision for many important Department of Defense applications, such as the latest guidance systems, navigation, fire control, computer, synchro and servo mechanisms used for aircraft, ordnance, ships, missiles and other space vehicles (statement of Mr. J. R. Tomlinson, president, and Mr. B. L. Mims, vice president in charge of engineering, the Barden Corp., Danbury, Conn.).

2. The function performed by the Bryant machine is of critical importance:

The outer ball track grinding operation is one of the last and most vital of those performed on the bearing outer ring. It is the operation which, until the advent of this machine, could probably be called the bottleneck opposing the precision performance of miniature bearings. The necessary perfection of other operations has been achieved 5 to 20 years ago (statement by Mr. H. B. Van Doren, vice president in charge of engineering, Fafnir Bearing Co., New Britain, Conn.).

3. The Bryant machine is unique in its field: Secretary Mueller in his letter of January 18, 1961, to Senator Dodd, said that "substantially comparable" machines could be obtained from other sources. Mr. Bradley Fisk, Assistant Secretary of Commerce for International Affairs, in his testimony before the subcommittee on January 24 said that there are "five factories outside of Russia that could make similar machines" (p. 156, transcript). It was not clear from his statement whether the companies he named do, in fact, make such machines, or whether they are theoretically capable of making them. A careful check has revealed that none of the companies named by Mr. Fisk produce machines that can be considered equal or "substantially comparable" to the Bryant machine.

(i) The Manganti Co. of Italy was one of the five listed by Mr. Fisk. Miniature Precision Ball Bearing, in its memorandum to the subcommittee, pointed out that it—

"Was consulted as to the capabilities of the Italian machine when it was in the final stage of development and obtained samples of bearings in late July (1960), tests upon which were completed in August. It was found that on "concentricity of bore" 90 percent of the bearings were not within the allowed tolerance and 30 percent had to be rejected because the bore roundness was not within the specified tolerance."

Such a machine cannot be considered "substantially comparable."

(ii) UVA of Sweden was another company named by Mr. Fisk. Mr. Stanley Hensby, technical director of the EMO Instrumentation Co. of Bracknell, England (an affiliate of the Barden Corp.), cabled this information on the UVA "machine" in response to a query from the subcommittee.

UVA: No equipment machine available. Work is now progressing in field and machine will probably be shown at Brussels show on September 2–12. Feel that it would take several years before production of this machine would become surplus to SKF requirements and available to world market.

A machine that will not be commercially available for several years cannot, again, be considered "substantially comparable."

(iii) The Studer Co. of Germany was also included in the list submitted by Mr. Fisk. Studer machines are in operation, under the same roof as Bryant machines, in both the Barden Corp. of Danbury, Conn., and in the EMO Co. of England. Eyewitness testimony on the relative working capabilities of the Studer machine is therefore available.

Mr. Hensby of TMO said in his cable:

"Studer: No equivalent available. Studer approach is for universal application rather (than) mass production. We have several of these machines in use. Only suitable for small-scale production."

Mr. Tomlinson and Mr. Mims of the Barden Corp., reported:

"* * * the Studer grinder, manufactured in Germany, is a machine which the Barden Corp. has recently purchased and is using in its experimental laboratory in Danbury. This machine is basically a very accurate toolroom machine, but it is not capable of producing accurate bearing races in large quantities with great efficiency."

Such a machine can also not be considered "substantially comparable."

(iv) The Voumard Co. of Switzerland was the fourth company named by Mr. Fisk. The Voumard machine was examined at the Swiss Industries Fair in Basel in the spring of 1960 by Mr. Donald Williams, chief process engineer of the New Departure Ball Bearing Co. Mr. Williams reported that—"these machines were presumably capable of relatively accurate work. However, these machines do not incorporate features such as fully automatic cycles, including loading and unloading, centerless chucking, and automatic wheel dress and compensation, which are considered prerequisites for production equipment. The Bryant Model B Centalign machine incorporates all of these features."

So much for the fourth "substantially comparable" machine.

Why has American industry been able to produce a machine that the European machine tool industry, with all its capabilities, has thus far not approached? The answer to this was stated by Mr. Tomlinson and Mr. Mims.

"It seems quite logical that, since the large market for highly precise bearings in the United States is supported almost entirely by the Department of Defense, there would be no reason for anyone in Europe to have manufactured a machine tool specifically for highly precise miniature bearings, since the quantities of these bearings used in Europe have been infinitely small compared to the quantities used in the United States."

4. Soviet industry, left to its own resources, is years removed from the production of a machine comparable to the Bryant model B.

Mr. Fisk in his testimony gave some credence to reports that the Soviets were on the verge of producing a comparable or even superior machine.

Mr. Joseph Gwyer, senior research specialist of the Library of Congress had this to say on the subject of the capabilities of the Soviet ball bearing industry and of that portion of the machine tool industry that supplies it:

"During the last year, the Soviets published a terrific amount of data on the ball bearing industry, the difficulties the Soviet ball bearing industry is facing today, and the availability of modern technologically advanced equipment suitable for the manufacture of ball bearings."

Mr. Gwyer quoted an article in the Soviet "Economic Gazette" (Aug. 27, 1960) as stating that the ball bearing industry had received little of the equipment planned for it, that the production of centerless grinders was entrusted to the Vitebsk Plant, which is not in a position to cope with this task, that the Saratov Machine Tool Plant and the Voronezh Plant had not yet produced internal grinders that satisfy the needs of the industry.

The articles published during the fall period of 1960—said Mr. Gwyer—"have created great concern. As a result of the reports showing the great deficiencies in precision machine tools specifically used by the bearing industry, the Council for Automation and Mechanization, with the Council of Ministers, initiated a field survey during which the machine tool plants responsible for manufacturing equipment for the ball bearing industry were visited. The findings of this special group, or this special investigating body, showed that the complaints were justified, and consequently, the Committee for Automation and Mechanization set a number of points, clarification points and recommendations, in order to improve the condition or actually remedy this situation."

Gwyer quoted a report in the Economic Gazette of October 20, 1960, as stating that "production problems of automatic size control equipment have not been solved for

centerless grinders." In the same issue of the Economic Gazette, it was pointed out that it had taken 5 years to build the prototype of a semiautomatic internal grinder, after the machine had first been designed, that this prototype was only half as fast as the machine it was designed to replace, and that it did not produce a cylindrical surface.

Bryant Co., in defending the shipment, argued that, if the Soviet Union could not buy the machines, it would copy them, and little would be gained from a national security standpoint. In support of this, it is pointed out that the Soviet Government is already in possession of certain assembly plans for the Bryant machine.

Addressing himself to this point, Mr. Henry Konet, consulting engineer in the field of instrumentation, said:

"It is necessary to distinguish between giving away secrets, know-how and capability. Our manufacture of these small devices is no secret—even the manner is not difficult to determine—but the capability to do it well and economically has taken years to develop and should not be sold to a potential adversary. * * * The situation is not one of selling our adversary a 'club'—but machines which help to produce better 'clubs,' faster and cheaper."

When queried about this matter, several of the committee's consultants estimated that, if the Soviets had to build the machines on their own, it would take at least another year to manufacture 45 machines. Mr. Gwyer's estimate was even more pessimistic.

He said that the—"copying of equipment of the nature of precision machine tools enters into a new realm, where the Russians have demonstrated inability and consistent failures * * *."

He pointed out that the Bryant machine was much more complex than the internal grinder which had taken 5 years to move from design to prototype. On the basis of their past record, Mr. Gwyer estimated that it might take the Soviets as long as 5 years to build a prototype of the Bryant machine, iron out the bugs, and then build 45 machines of high quality.

Whether it would take 5 years or 2 years, or 1 year, our national security obviously demands that we stop helping Soviet industry, especially the Soviet defense industry, to overcome its weaknesses. It demands, on the contrary, that we inflict delays on them whenever this is in our power, that we make things more difficult for them rather than easier.

Based on the testimony given at our hearings and on the additional statements which we herewith transmit, the Senate Subcommittee on Internal Security is strongly of the opinion that the machines in question should not be shipped to the Soviet Union.

The Soviets have a considerable edge over us in the thrust of their rockets. We have compensated, or more than compensated for this disadvantage by our own very considerable lead in miniaturization and high-precision instrumentation. If the Soviets could ever achieve near equality with us in these areas, their lead in missile thrust would become a very serious matter.

Before they can close the miniaturization and precision gaps, the Soviets will have to develop an ability similar to our own to mass produce quality miniature bearings. Their press indicates that they are intent on doing this; and this is confirmed again by their eagerness to acquire the Bryant machines. They can obtain, or have already obtained from European sources, machine tools used at other points in the process of manufacturing precision miniature bearings. What they cannot obtain in Europe is a machine equivalent to the Bryant machine in the critical process of grinding the races.

There are 72 Bryant model B machines installed in the United States. We have been informed that on these 72 machines, all of the precision miniature bearings used by the Department of Defense are, at one point, processed. The 45 machines that will be shipped to the Soviet Union, unless the Bryant license is revoked, include 35 of this model, thus will give them a capability half as large as our own.

If we ship these machines, therefore, we will endow them with a readymade ability to produce precision miniature bearings in quantity. If we withhold these machines, it will almost certainly take them another several years to achieve this capability.

There can be no doubt about the course we should follow.

The subcommittee believes that the Bryant Chucking Grinder Co. acted in good faith and followed all the established procedures in arranging for the export of the Bryant grinders to the Soviet Union. Is it to be noted in this connection that it waited until the Department of Commerce had approved the sale before it concluded the contract.

The subcommittee also recognizes that in delivering plans, or partial plans, for the assembly of the Bryant grinder to the Soviet purchasing agency, the Bryant Co., was following an accepted and unavoidable procedure which is the natural concomitant of the sale of equipment. The subcommittee believes, however, that in future, companies which obtain Department of Commerce approval for shipments of machines tools or other complex equipment to the Communist bloc, should be instructed to wait until their equipment has been shipped before transmitting assembly plans or other technical diagrams.

LIST OF INDEPENDENT EXPERTS RETAINED AS CONSULTANTS BY THE SENATE SUBCOMMITTEE ON INTERNAL SECURITY IN THE MATTER OF THE BRYANT EXPORT LICENSE

Mr. Richard H. Valentine, director of research and development, New Departure Co., Bristol, Conn.

Mr. Seth H. Stoner, general manager, New Departure Co., Bristol, Conn.

Mr. D. L. Williams, chief process engineer, New Departure Co., Bristol, Conn.

Mr. Kenneth V. Knebel, general works manager, New Departure Co., Bristol, Conn.

Mr. J. R. Tomlinson, president, Barden Corp., Danbury, Conn.

Mr. Bruce L. Mims, vice president in charge of engineering, Barden Corp., Danbury, Conn.

Mr. E. J. Karkut, vice president in charge of manufacturing, Barden Corp., Danbury, Conn.

Mr. H. B. Van Dorn, vice president in charge of engineering, Fafnir Bearing Co., New Britain, Conn.

Dr. Charles Stark Draper, professor and head of the Department of Aeronautics and Astronautics and director of the Instrumentation Laboratory, Massachusetts Institute of Technology.

Mr. William G. Denhard, assistant director, instrumentation laboratory, Department of Aeronautics and Astronautics, Massachusetts Institute of Technology, Cambridge 39, Mass.

Mr. Henry Konet, consulting engineer in instrumentation, Konet Co., Hohokus, N.J.

Mr. John S. Towresey, consulting engineer (in ball-bearing field), the Franklin Institute, Philadelphia, Pa.

Mr. Stanley Hensby, technical director, EMO Instrumentation Co., Bracknell, England.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Robert Russell, Andrew Carothers, and Bruce Hubbard of my staff and the Banking Committee staff, and Ellen Lessard of Senator EAGLETON's staff be given the privilege of the floor during consideration of this bill and all amendments thereto.

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

Mr. BAYH. Mr. President, will the Senator be kind enough to add Chris Aldrich and Eve Lubalin to that list, please?

Mr. STEVENSON. Yes, Mr. President.

Mr. DOMENICI. Mr President, will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. Of course.

Mr. DOMENICI. I ask unanimous consent that Bruce Barr and George Ramonas of my staff be granted the privilege of the floor also.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, the objectives of the proponents and opponents of this amendment and others which may be offered by the distinguished Senator from Washington are the same. Our objective is to strike a fair balance between the necessity of national security on the one hand and a strong, competitive economy on the other. The risk is that the balance will not be struck and that the United States will, once again and in the name of national security, shoot itself in the foot, depriving itself of national security.

Technology tends to float in the winds, and the United States no longer is the dominant resource of technology in the world.

More technology is now created outside of the United States than within. Often a control on technology by the United States simply gives the business to some other nation, a foreign competitor of the United States, with the result that our economy is hurt, that the technology is transferred, and without the safeguards that are frequently associated with transfers of U.S. technology.

So the result is not only injury to our economy, but also to our national security.

This argument so far implies there are no controls on technology. Well, that is nonsense. There are controls and there are effective controls.

In fact, the Defense Department has never been turned down by the Department of Commerce. In every instance in which it has sought controls on exports of technology, it has been granted the controls by the Department of Commerce.

I suggest to the Senate that the administration of export controls will not be improved, as this amendment intends, by spreading and dividing the authority for the imposition of controls.

The lead agency for that purpose is now the Department of Commerce. But in exercising that authority, it is required by law to consult with the Department of Defense. During those consultations, the Department has adequate

opportunity to identify critical technologies, to urge controls where they are necessary for purposes of national security, and, in all such instances, they are granted and will continue to be granted.

I do not mean to suggest the administration of export controls cannot be improved. It can be. The recommendations of the Defense Science Board Task Force for improving controls are being implemented now and they are being implemented within the existing framework. We do not need to change it in order to improve it.

But some of the statements about the inadequacy of the present procedures for the imposition of export controls on technology are very misleading, and in certain respects they are not true.

The Kama River truck factory has been cited. Well, there were no diversions in that case because there were no controls in that case.

The decision was made by the Nixon administration to permit the exports to go forward without safeguards or end use controls. So there were no such controls to have been violated in that instance.

Why the administration at that time took that position, I cannot say. But the reason may have been the obvious one, that, had the United States not got the business, it would have gone to Italy, and how would the authority of the United States be enhanced in this world, or its economy strengthened, by simply giving the business to the Italians?

The Italians supply the factories for the manufacture of automobiles. They could do so for trucks. And if not the Italians, the West Germans or the Japanese could supply them.

Engines are engines, and trucks are trucks, and it is naive to think nations, especially a great superpower, is not going to get them by one means or another.

The main point is that there were no controls and, therefore, there could not have been any diversions.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter to me dated June 18, from the Secretary of Commerce setting forth the facts in this matter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *June 18, 1979.*

HON. ADLAI E. STEVENSON, III,
Chairman, Subcommittee on International Finance, Committee on Housing, Banking and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: In the course of testimony before the Subcommittee on Research and Development of the House Committee on Armed Services, the Deputy Director of the Office of Export Administration, Lawrence J. Brady, testified that trucks produced at the Kama River truck factory in the Soviet Union were being "diverted" to military use in violation of U.S. export control restrictions.

That testimony has led to newspaper stories implying that Soviet military capability has been helped as a result of an apparent lack of vigilance by this Department. This is in error.

As you know, our nation no longer enjoys a favorable balance of trade, and thus the promotion of exports is more important than ever before. Even so, the national security is paramount, and we must be careful that we do not export materials and technology that would advance at our own expense the military capabilities of other nations. To walk this line is a difficult and delicate job. That is why it is essential that issues which may arise be discussed on the basis of accurate information.

First, there was no "diversion" in connection with the Kama River truck factory and, therefore, no violation of U.S. export controls.

A diversion occurs only when end-use restrictions pertaining to a license are violated. The Kama River truck plant licenses were issued during the Nixon Administration and contained no restrictions which we can identify limiting the use of the trucks and engines produced at the factory. Accordingly, military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines. Nor would any military use of Kama River trucks or engines entail diversion of the foundry's computer, because limitations on the use of the computer pertained to use of its computing capacity, not to use of products manufactured at the foundry. Several of the licenses contain technical conditions which have nothing to do with limitations on the use of the factory output.

This view is confirmed by the attached memorandum from Mr. Brady which concludes that a thorough review, which was requested by Senior Deputy Assistant Secretary Stanley J. Marcuss, has failed to disclose the existence of any document which could be construed as a limitation on the use of the factory output for civilian as contrasted with military purposes. Two exceptions mentioned in the memorandum are not relevant to the Kama River plant.

Second, at the time the licenses were issued, the Nixon Administration knew of the possibility that Kama trucks or engines could be used by the Soviet military. This factor apparently was fully considered before the decision was made. Thus it cannot be said that this matter was overlooked or that the export control system failed to ensure that all revelant factors were considered.

Finally, contrary to some press reports, Mr. Brady has not been "demoted" nor has any action been taken against him. He retains his position as Deputy Director of the Office of Export Administration, a position he has held for the last five years. Because of his position as Deputy Director, Mr. Brady served as Acting Director of the Office of Export Administration in the period between the retirement of the previous director and the appointment of the new one.

I hope this will lay to rest the misinformation which has recently surrounded this subject.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

WASHINGTON, D.C., *June 22, 1979.*

Memorandum for: Robin B. Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River Case File.

On June 22, 1979, pursuant to your request, I thoroughly reviewed the relevant export license applications and supporting documents submitted by various U.S. firms seeking Department of Commerce authorization to export commodities to the USSR's Kama River Project. The results of this examination, with two exceptions, failed to disclose the existence of any document which could be construed to represent an agreement between parties or assurances as to the specific application of products, i.e., military versus civilian, in the truck manufacturing process.

The exceptions are found in license applications case numbers 813124 and 849801. Case number 849801 contains a "letter of protocol" between Mack Trucks, Inc., and a Soviet trade delegation indicating that the trucks assembled at Kama River would be used for agricultural and industrial purposes.

A copy of the protocol is attached.

With regard to the protocol, I am concerned that because Mack Truck pulled out of the deal after signing the protocol, which you will note also included other parties, including SATRA, it may not be considered relevant to subsequent licensing actions. I intend to go through all of the license applications to see whether or not we referenced the protocol in subsequent license actions. I think we did. I am also sending you separately a copy of the entire "front office" file on KAMA.

Also attached is a June 14 memorandum Dick Isadore prepared on the basis of a quick review of all license applications for the KAMA River plant.

WASHINGTON, D.C. *June 14, 1979.*

Memorandum for: Lawrence Brady.

Subject: Kama River Truck Plant Licenses.

At your request all case files which could be identified as part of the Kama River Truck complex have been retrieved from Archives.

Staff members reviewed each case file, examining all documents including actual applications, supporting documents, Single Transaction Statements, internal memoranda and chron sheets for any indication which would show:

1. Limitation on the truck usage for civilian versus military applications.
2. Conditions attached to individual licenses.
3. Letters of conditions attached to licenses.

Over 175 case files were reviewed and there was no indication of limitation of use for the trucks to be produced at Kama River. The computer equipment licenses issued to IBM have the visitation conditions which are a part of all major computer sales to Bloc countries.

At the time these licenses were issued, they were microfilmed and sent to Archives. The procedure did not include microfilming letters or supporting documents accompanying licenses as is done now in our microfiching processes. We are retrieving these microfilm files and will review the face of all licenses issued to insure that conditions were not typed on the license itself.

All cases and the Capital Goods & Production Materials Kama River file have been given to Paige Bryan.

RICHARD ISADORE.

Mr. STEVENSON. Mr. President, I also have a letter from Mr. Charles Duncan in his capacity as the Deputy Secretary of Defense, dated July 20, 1979, in which he expresses the views of the Department of Defense on this amendment.

Let me read from the letter:

The Department of Defense supports the Administration's position on the amendments which are expected to be offered to S. 737, the Export Administration Act of 1979.

Most of these proposals do not impact directly on the Department of Defense. Two, however, do and we are opposed to both of

them. One would tend to reverse the relative roles of the Secretary of Defense and Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. While the intent appears to be to insure that the Department of Defense has an adequate role in the export control system, it is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C. July 20, 1979.

Senator ADLAI E. STEVENSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: In response to your letter of July 19, 1979, the Department of Defense supports the Administration's position on the amendments which are expected to be offered to S. 737, the Export Administration Act of 1979.

Most of these proposals do not impact directly on the Department of Defense. Two, however, do and we are opposed to both of them. One would tend to reverse the relative roles of the Secretary of Defense and Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. While the intent appears to be to insure that the Department of Defense has an adequate role in the export control system, it is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

The other amendment would authorize inclusion in the Defense budget of funds especially appropriated for export control functions. Our opposition to this proposal is that such an authorization is not currently needed.

By means of a separate letter, I plan to answer the other questions you raised about the adequacy of U.S. export controls maintained for national security purposes. In the meantime, I thought it might be helpful to let you know at once where we stand on the amendments issue.

Sincerely,

C. W. DUNCAN, Jr.

Mr. STEVENSON. Mr. President, I have another letter from the Assistant Secretary of Defense for International Security Affairs addressed to me and dated July 20, 1979, which says, in reference to the Kama River truck plant, as follows:

The Kama River Truck Plant licenses for the foundry and production machinery were issued during the Nixon Administration and contained no restrictions so far as we know limiting the use of the trucks and engines produced in the factory. Accordingly, use by the Soviet military of the trucks produced at Kama or inclusion of the engines in military vehicles would not constitute a violation of U.S. export control restrictions. Whether and if so to what extent Kama River engines are being used in Soviet military vehicles has not been verified. Accordingly, there is no basis on which a judgment can be made about the contribution such use might make to the Soviet military potential.

In other words, not only could there have been no diversions, because there was no safeguard or end use restriction, it cannot even be verified that there has been any use of engines or trucks from this plant for military purposes.

Now, this letter, Mr. President, goes on to address other amendments which may be offered.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., July 20, 1979.

Hon. ADLAI E. STEVENSON III,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: We have reviewed your 19 July 1979 letter in which you requested Department of Defense views on several amendments which are expected to be offered to S. 37. Our views on the questions raised in your numbered paragraphs are as follows:

1. The Kama River Truck Plant licenses for the foundry and production machinery were issued during the Nixon Administration and contained no restrictions so far as we know limiting the use of the trucks and engines produced in the factory. Accordingly, use by the Soviet military of the trucks produced at Kama or inclusion of the engines in military vehicles would not constitute a violation of U.S. export control restrictions. Whether and if so to what extent Kama River engines are being used in Soviet military vehicles has not been verified. Accordingly, there is no basis on which a judgment can be made about the contribution such use might make to the Soviet military potential.

2. A number of technologies employed in the Cruise Missile System can be exported to most non-Communist countries without a validated export license. None of them, however, are either sensitive or "critical" because they are not unique to cruise missile design, development or production and are readily available in a number of countries in the West. Those few technologies which are both unique to cruise missiles and available only in the U.S. require validated licenses from either the Departments of State or Commerce. An example is the technology associated with the small jet engine which is currently under development for the cruise missile. This technology can only be exported under a Munitions license.

3. The existing allocation of responsibility under the Export Administration Act for export controls does not hinder the Department of Defense's efforts to formulate a list of critical military technologies or otherwise interfere with the implementation of an effective and fully adequate system of export controls for national security purposes. In particular, the Department of Defense would oppose any amendment which would tend to reverse the relative roles of the Secretary of Defense and the Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. It is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

4. Statutory authority is already available to embargo exports of "critical" goods and technologies to all controlled country destinations. We would oppose any amendment which would make this a mandatory requirement because, on the one hand, the items to be covered are not presently fully determined, and, on the other hand, there may be occasions, even though rare, on which such action would be, ill-advised.

With regard to end use statements and safeguard provisions, we do not regard them as applicable to transactions in which technology, either in the form of technical data or equipment from which technology may be extracted, is involved. It is our judgment that technology once transferred can be neither controlled nor recalled. We consider the usefulness of safeguards as limited to hardware items whose diversion to other than their stated purpose we wish to deter. We do not count end use statements as a safeguard.

As for computers, there are some applications for which we have unable to devise technically and economically feasible safeguards. These are automatically recommended for denial. For others, experienced USG technical and intelligence experts have determined that safeguard provisions, judiciously applied, provide a reasonable assurance of detecting and thus deterring significant diversion of the system from its stated end use.

5. The Department of Defense has no evidence that Moscow has used American seismic equipment to enhance its anti-submarine warfare potential or that American machine tools for producing precision ball-bearings have probably helped Soviet engineers to develop multiple warheads for new intercontinental missiles.

I trust this is the information you desire.

Sincerely,

DAVID E. MCGIFFERT.

Mr. STEVENSON. Mr. President, in sum, I commend the Senator from Washington for his concern about the transfer of technology which could have adverse national security implications for the United States. I share that concern, but existing procedures are adequate. Existing procedures are being improved. The danger of this amendment is that by transferring this authority and changing a procedure which is adequate and is functioning adequately, we will end up harming ourselves economically, and with no improvement in our national security.

So I hope the Senate will reject this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. I yield myself such time as I may require.

Mr. President, I ask unanimous consent that Peter Clark and Jacques Gorlin, of Senator JAVITS' staff, have the privilege of the floor during the consideration of this measure.

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

Mr. HEINZ. Mr. President, I associate myself with the comments of the Senator from Illinois (Mr. STEVENSON), regarding Senator JACKSON'S amendment.

I say to my good friend the Senator from Washington that I do share his many concerns, and I compliment him on being a very consistent and a very thoughtful advocate of maintaining a strong national defense and making sure that our defense is in no way dissipated through thoughtless moves by any administration.

Nonetheless, Mr. President, I oppose this amendment because I really do not think it accomplishes the goal the Senator from Washington wishes to achieve. Also, it would create a terribly complicated and counterproductive situation for those seeking to export, those who do not export, and those who do not seek to export critical technology.

I suspect—this is hypothesis, but it is hypothesis based on the Senator from Washington's discussion of the Kama River Truck Plant—that what he really seeks to do is to try to constrain the President. In the case of the Kama River

Truck Plant, it was President Nixon and Secretary Kissinger who simply, I suspect, told the Defense Department to lie low, and that they would impose, for foreign policy reasons, a decision to go ahead and build the Kama River Truck Plant.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. JACKSON. I think the Senator might be interested to know that then Secretary of Defense Melvin Laird took a very strong position against the position taken by the Commerce Department and the State Department. He believed that there was a significant risk that the Kama River Plant would turn out military vehicles. It is rather interesting, and I want to give Melvin Laird credit for his foresight. They went ahead, nevertheless, and overruled Melvin Laird in that situation.

Mr. HEINZ. Mr. President, I am glad that the Senator from Washington put that on the record, because I think it illustrates exactly the problem, the problem with which this amendment does not deal.

The real objective of the Senator from Washington is to find a way to constrain a President's foreign policy. I must say that I share the concern of the Senator from Washington about this President's foreign policy. I wish I knew what to do about it.

However, the fact is that I do not think that legislating a procedure, as this amendment would do, which attempts by a cumbersome legislative process, after the fact, to second guess a Presidential decision in foreign policy by indirect means, is the way to do this.

The Senator from Washington has a very interesting amendment that I think he intends to bring up later today, which would require the President, when he seeks to override the advice of the Defense Department, to put that on the record. The Senator from Pennsylvania has no objection to that.

I say to the Senator from Washington that it is problematical whether a very loyal Secretary of Defense, loyal to the President, will handle the business of the Defense Department in such a way that that record will be necessary, but in some instances it may. I have no objection to that approach. It deals with the problem. This amendment, I fear, does not.

What it does, Mr. President, is to change the whole thrust of our Export Administration Act. It really will give—for the first time—very significant authority to the Defense Department over the Secretary of Commerce on these critical technology issues.

So far as we have been able to tell on the record, the Secretary of Commerce never has overruled—in any administration that we have been able to research—the recommendations of the Defense Department on the commodity control list. Obviously, there have been instances in which Presidents, as is their due in foreign policy under our Constitution, have overridden the Defense Department. But I think the amendment of the Senator from Washington seeks to impose a brandnew bureaucratic maze that does not deal with the problem and will only slow down our ability to export those items we need to export.

Let me give the Senate one example. One of the items on the commodity control list right now—or at least it was until recently—is a microprocessing unit. That microprocessing unit is available currently at the low bargain price of $12.95 from Radio Shack anywhere in the United States.

We cannot export—or at least until recently, we have not been able to export—that microprocessing unit because the Secretary of Commerce, being true to the Department of Defense, which listed this microprocessing unit as critical technology, has been restrained from exporting it, despite the fact that the Soviets or the Chinese or the Albanians or Idi Amin, if he were still with us today, could walk into Radio Shack and buy a dozen or several thousand.

So I say to the Senator from Washington that I understand his goal. But what his amendment seeks to do would not in any way achieve that goal.

To the contrary, it would change the system and would make it even more complicated for us to consider questions of foreign availability, because the Secretary of Defense would be publishing this list and the Secretary of Commerce could only consult. If the Secretary of Commerce found that there was broad availability of microprocessing units at Radio Shack for $12.95, for example, he would have to seek an appointment with the Secretary of Defense to try to convince him. But we do not need that extra layer of bureaucracy.

I urge my colleagues to bear this in mind and to reject the amendment of the Senator from Washington.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that the name of the Senator from New Mexico (Mr. DOMENICI) be added as a cosponsor of amendments 340 through 352.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 423

(Purpose: To clarify the responsibility of the Secretary of Defense to prepare lists of critical goods and technology)

Mr. STEVENSON. Mr. President, I send to the desk an amendment to the amendment.

The PRESIDING OFFICER. The Chair informs the Senator that the amendment to the amendment is not in order until the time has been used or yielded back on the first amendment.

Mr. STEVENSON. I ask unanimous consent that the amendment be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 423 to amendment No. 340.

Mr. STEVENSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike lines 1 through 4 on page 1 and lines 1 and 2 on page 2 and insert in lieu thereof the following:

"On page 60 at line 25, strike the word "The" following the period and insert in lieu thereof the following:

"The Secretary of Defense shall bear primary responsibility for indentifying such militarily critical goods and technologies. Taking this fully into account, the Secretary of", ".

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from Illinois add me as a cosponsor.

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

The Senator from Illinois.

Mr. STEVENSON. Mr. President, as I indicated earlier and as has the distinguished Senator from Pennsylvania, we have the same objective as the distinguished Senator from Washington.

Mr. JACKSON. There is no question about that.

Mr. STEVENSON. And we have, as the Senator from Washington indicated, been working to try to resolve our differences on this subject.

This amendment, I hope, does so. It leaves the responsibility in the law for the imposition of export controls where it is, in the Secretary of Commerce. But it also recognizes, as does the amendment offered by the Senator from Washington and his distinguished cosponsor, that the primary responsibility for identifying such militarily critical goods and technologies should rest with the Secretary of Defense.

I think with this clarification we can accomplish our purposes, that is to say, protect the national security against improvident exports of technology without unnecessarily injuring our economy and hence our national security.

So I am hopeful that the distinguished Senator from Washington will accept this as an amendment to his amendment.

Mr. JACKSON. Mr. President, I commend the Senator from Illinois (Mr. STEVENSON) for his cooperation as well as the understanding and support of the Senator from Pennsylvania (Mr. HEINZ).

I am pleased to accept it.

I understood, and I understand that is the situation, that the goods and technologies identified by the Department of Defense will go on the critical list and that in that connection, in connection with this amendment, the Department of Defense will consult with other departments, agencies, advisory committees, and others within the executive branch so that there is some coordination in the administration of the program. But, as the amendment states, the Secretary of Defense shall have "primary responsibility."

I take it that the authors of the amendment have that same understanding as to how it shall be administered.

Mr. STEVENSON. Mr. President, we have no misunderstanding. It is our pur-

pose to require such consultation and indeed the bill does require such consultation as a matter of law. As I indicated earlier, requests that critical technologies be placed on the control lists have always been honored by the Secretary of Commerce, and it is certainly our hope and expectation that they continue to be.

Mr. JACKSON. Mr. President, I believe the yeas and nays have been ordered previously, and I ask unanimous consent that that request be withdrawn. There is no point in going through with it.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment in the first degree.

Mr. JACKSON. On the original amendment.

The PRESIDING OFFICER. But not on the amendment in the second degree.

Does the Senator yield back his time?

Mr. JACKSON. I yield back my time on the amendment.

Mr. STEVENSON. I did not realize the yeas and nays had been ordered.

I ask unanimous consent that the yeas and nays on the second amendment be withdrawn.

The PRESIDING OFFICER. No yeas and nays were ordered on the second degree amendment.

Mr. JACKSON. On the original amendment.

Mr. STEVENSON. On the original amendment.

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

Mr. JACKSON. Now we shall vote.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JACKSON. I yield back my time.

Mr. STEVENSON. I yield back my time.

Mr. HEINZ. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Therefore, the question now is on agreeing to the second degree amendment offered by the Senator from Illinois.

(Putting the question.)

The amendment was agreed to.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JACKSON. I yield back my time on amendment. No. 340.

Mr. STEVENSON. I yield back my time, Mr. President.

Mr. HEINZ. I yield back my time.

The PRESIDING OFFICER. The question then is on agreeing to the amendment of the Senator from Washington, as amended.

(Putting the question.)

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 341

(Purpose: To clarify the meaning of critical technology)

Mr. JACKSON. Mr. President, I call up amendment No. 341 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, Mr. MOYNIHAN, Mr. BAYH, and Mr. DOMENICI proposes amendment numbered 341.

Mr. JACKSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 60, line 22, strike out "military systems" and insert in lieu thereof "capabilities".

On page 61, lines 6 through 10, strike out "for the purpose of insuring that such controls are limited, to the maximum extent possible consistent with the purposes of this Act, to such militarily critical goods and technologies and the mechanisms through which they may be effectively transferred" and insert in lieu thereof "for the purpose of insuring that such controls cover and (to the maximum extent consistent with the purposes of this Act) are limited to such critical goods and technologies and the mechanisms through which they may be effectively transferred".

Mr. JACKSON. Mr. President, amendment No. 341 would amend the bill to clarify the meaning of "critical technologies." The bill declares that it is important that the administration of export controls imposed for national security purposes give special emphasis to controlling exports of technology and goods which contribute significantly to the transfer of such technology which could make a significant contribution to the military potential of any nation which threatens U.S. national security. (Section 2(a).) The bill further provides that priority should be given to preventing the effective transfer to such nations of goods and technology— and I quote— "critical to the design, development, production or use of military systems which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States"—end quote. (Section 4(a)(2)(B).) These provisions constituted an endorsement of a "critical technologies" approach. However, the reference to "military systems" may be read incorrectly to imply that the particular goods and technologies must be used in "military systems," a term which is not defined nor is it used in the present law.

The amendment would substitute the word "capabilities" for the words "military systems" in order to remove this ambiguity and avoid possible misapplications of the critical technology concept.

The concept of critical technologies and goods is not limited to items which are critical to the design, production, and use of military systems, but applies to any "capabilities" which would make a significant contribution to the military potential of an adversary nation. These technologies may not have any present use in U.S. military systems because they may be obsolete by United States, but not by Soviet standards. Also, these technologies may enhance the capability of the Soviet Union to develop counter measures against U.S. weapons systems, as distinguished from manufacturing a specific military product. The technologies may be crucial to civilian communications networks, but could be adapted to military use by the Soviets.

The reference to military systems also ignores an important change that has occurred in U.S. military and commercial technology. For many years the military provided the cutting edge of the development of new technologies. Funds for military research and development were used extensively to push outwards the frontiers of commercial scientific technological innovation. However, all of that has been significantly reversed. Now new technology is developed with commercial applications in mind. Indeed the integration of sophisticated technology into military systems now lags behind the use of high technology in consumer goods and industrial products. One result of this radical change is that military research and development is no longer a reliable guide as to whether advanced technology has military implications.

It is important that the statutory framework for our modern export control policy makes it crystal clear the dual civilian/military uses of critical technologies.

The other amendment would merely conform other language in section 4(a)(2)(B) of the bill to the foregoing amendment and would make it clear that the purpose of the review of export controls is to insure that controls cover critical goods and technologies, as well as to insure that they are limited to such critical items.

Mr. President, I reserve my time.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, once again our objectives are similar if not identical. The bill states:

In administering export controls for national security purposes, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of military systems which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States.

Now, I can see reason why some might feel that that use of the expression "military systems" was too narrow. It is possible that advanced technology, lasers, for example, might be transferred with no known present use in military systems, but with a potential for such use as rapidly changing technology evolves and new application for technology are developed.

On the other hand, the substitution of the expression "capabilities for military systems" strikes me as being entirely too broad. Most anything contributes to the capability of a foreign nation, and most any articles, even including wheat or corn, could make a significant contribution to the military potential of a nation. Food is essential, shoes are essential. I

cannot offhand think of anything that is not essential to the military potential of a foreign nation that could not be used in conjunction with, and to enhance, its capabilities.

So while I am sympathetic to the purpose of this amendment, I think it goes too far and, perhaps, farther than the Senator really intends to go.

So, Mr. President, once again I am hopeful we can agree on some language which will express what I believe to be a common concern, and without running the risk of writing into law something that goes far beyond anything we intend, and could have adverse consequences for our economy, an economy which, I add, is much in need of increased exports.

The trade deficit was about $34 billion last year. There is very little relief in sight. The dollar is weak, and the results include inflation, recession and rising unemployment. Here we are at some risk of shooting ourselves in the foot again, and with no or very little chance of enhancing our national security, because every time we impose controls that do not enhance our national security, why other countries come along and get the business.

The word "capabilities" could lead to a broadening of the critical technologies approach to cover nonmilitary critical goods and technologies, and transform that critical word "critical" into a euphemism for what contributes to the Soviet economy, in other words, any export. Then the door would be opened to a vast expansion of controls to cover nondual use items as well as those which do have military and dual uses.

So unless the Senator from Indiana or another Member wants some time, I propose to——

Mr. BAYH. Mr. President, I would like to make an observation or two, but I apologize for interrupting the Senator.

Mr. STEVENSON. I am happy to yield to the Senator.

Mr. BAYH. Mr. President, I guess what I want to do is to make an observation, and I appreciate the courtesy of my friend from Illinois, and to point out the concern I have, and to raise a couple of questions either to him or to the Senator from Washington.

I said earlier that I thought there were great advantages to be gained by opening the doors of trade, and I think really we are after the same goal, or trying to refine the language so that we can take advantage of trade opportunities and not damage the country. None of us wants to do that, even though we might disagree on the final craftsmanship of the language.

The truck factory has been used as an example. As the Senator from Illinois pointed out, that was an example where there were no restrictions placed on it, so what might happen really would not violate any restrictions. That is unfortunate, but that is the case.

However, I think that truck factory also points out one of the important elements of this whole effort to try to perfect what we are doing here. We naturally are concerned about taking a computer or a machine that is designed to make civilian trucks and not permitting it to be used in such a way so that it can be used in the manufacture of military vehicles. But I understand that there is another element of technology that was not immediately available in the case we are discussing, and that is one of the reasons why this particular plant is valuable in making trucks. It has a rather sophisticated computer system that is intricately involved in the casting of the motor blocks.

So, it seems to me, it is important for us to be absolutely certain that this kind of computer technology, which can be taken away and separated from the mission it now has in perfecting the casting of engine blocks, will not enhance Soviet capabilities in this area that I mentioned earlier of intelligence collection and in compilation and analysis, with which the Senator from Illinois is very familiar, both in his capacity as a member of the intelligence committee and in his significant role in another committee dealing with advanced space age technology. So that concern is the major concern the Senator from Indiana has.

As far as the redtape and the dragging out interminably which has been the case in the past is concerned, is the Senator from Indiana accurate—I realize I am transgressing on the Senator from Illinois' time, and if he would rather I will find some other way to handle it, but I was of the opinion that the same time there will be for resolving this problem could be imposed upon whoever might seek to make an objection or suggestion that there needs to be a broader decision or that the defense position has to be taken into consideration; all of this would have to be resolved in the same time frame, would it not?

Mr. STEVENSON. We may be talking about two subjects. There is a time frame for action on license applications, but there is none for preparation of the control list, the list which identifies the technologies that are critical and for which export license applications must be obtained.

There are no time restrains on technology lists except as to the processing of those lists, the preparation of which, as a matter of fact, is an ongoing process. The preparation of critical technology lists has been going on for about 3 years now.

Once a technology goes on the list and is proposed for export to a controlled country, then a license has to be applied for, and within that framework there is a time limitation for action on the application.

Mr. BAYH. I would think that would help alleviate the problem where it shows the existence of some military or advanced technology in question which might drag it on, to where we could speed it up to conform to the limits.

Correct me if I am not right on this, but do we not have a provision where foreign achievements in technology would be taken into account, so that the issue raised by our distinguished colleague from Pennsylvania would be clarified by the bill? In other words, if the Germans are going to do it and the Japanese are going to do it, then we are not going to permit our business people to suffer as a consequence?

Mr. STEVENSON. The role of the Department of Defenss includes the assessment of foreign availability and involves agencies over which the Senator from Indiana has some important oversight responsibilities. Intelligence comes into play at that point.

We are attempting by this legislation to expedite all these procedures; and the procedures involving the marketing of advanced technology and the problems associated therewith are troubling.

The Senator mentioned computer technology with respect to the Kama River Truck Factory. This year, the Japanese come onstream with fourth generation computer technology. There is very little American technology that is unique anymore. That is why it seems to this Senator extremely important to rely on cooperative efforts with other nations to jointly control exports of military significance, and why we have for that purpose COCOM.

Unilateral efforts to control technology simply undermine COCOM and risk giving advantage to foreign competitors. We end up diminishing our authority in the world.

The bottom line, it seems to this Senator, is that the United States must maintain its preeminence in the development of science and technology. Technology itself is increasingly difficult to control. It is also increasingly of importance to our economy, especially facing, as we do, the foreign oil bill, the shrinking dollar, and the trade deficits.

I believe the way to maintain the economic strength of our country, as well as our national security, is by staying ahead of everybody. They are getting ahead of us. There is a larger investment in technology outside the United States than in the United States. In fact, there is evidence of a larger investment in commercial technology in Japan alone, now, than in this country. If we continue to concentrate simply on perfecting the technology we already have, we will end up producing the best toilet paper in the world, and Japan will end up producing the best computers for truck factories and every other application.

I think this is a useful debate. It underscores the importance of export controls, but above all, the importance of maintaining our investment in basic research and enhancing our capacity for technological innovation, the lack of which is the real threat to our national security.

Mr. SCHMITT. Mr. President, will the Senator from Illinois yield? If the Senator will yield briefly, I underscore and italicize everything I have heard the Senator from Illinois say, that the real danger is that we do not keep up and that we allow, through a variety of means, regulatory taxes and just lack of commonsense, our research and innovation capability in this country to further decay and not increase, as it must, both in the public and private sectors. It is

that reservoir of new ideas and innovation coming from those new ideas and the practical applications that result, that is running dry relative to other countries.

I suggest that controls of any kind will not solve our particular problems. I hope that the Senate does hear this debate. It is going to continue. It will come up in many different avenues, that this country has for the past decade or so allowed itself to think that it was investing in new technologies, to think it was keeping ahead of the world in basic research, when in fact it was not.

Until we fully recognize that in the budget process, in the authorization process, and in the country as a whole, and in our tax policies in particular, we are going to see increasing pressure from other nations on our export economy, and increasing adverse impacts to our economy.

So the Senator from Illinois is exactly right on that score.

Mr. MOYNIHAN. Mr. President, will the Senator from Illinois yield to me?

Mr. HEINZ. Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. I thank my friend from Pennsylvania. Before the Senator from New Mexico leaves the floor, if that is his purpose——

Mr. SCHMITT. It is not my purpose.

Mr. MOYNIHAN. I am happy to hear that. I wonder if I might call attention to several distinctions which are compounded in the remarks he has just made.

Mr. President, we have heard some wise remarks and observations from the first natural scientist to serve in the U.S. Senate, if my understanding is correct, since Thomas Jefferson presided as Vice President. It is a happy commentary on the American political system. Among other things, it may suggest that ours is the greatest political system. In the main, it is true that scientists have had better things to do, and did them, and were left free for such purposes. But the arrival of the Senator from New Hampshire in this body means we are at least entering the 19th century, if not attaining as yet to a contemporaneous condition.

I take the occasion to make these remarks in that yesterday was, of necessity, a special day for him. He is not only the first scientist in this body in the modern period, but he is one of those blessed and historic men who have walked on the moon.

He made some observations about that in a superbly concise and intelligent—well. we would note the intelligence; it need not be concise—article in the Washington Evening Star yesterday, which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, July 20, 1979]

SPACE IS OUR DESTINY

(By HARRISON SCHMITT)

I would like to tell you about a place I have seen: a valley on the moon known as the Valley of Taurus-Littrow. Taurus-Littrow is a name not chosen with poetry in mind; but, as with many names, the mind's poetry is created by events. Events surrounding not only three days in the lives of three men, but also the close of an unparalleled era in human history.

The Valley of Taurus-Littrow is confined by one of the most majestic panoramas within the view and experience of mankind. The roll of dark hills across the valley floor blends with bright slopes that sweep evenly upwards, tracked like snow, to the rocky tops of the massifs. The valley does not have the jagged youthful majesty of the Himalayas or the glacially symmetrical fjords of the north countries or even the now intriguing rifts of Mars. Rather, it has the subdued and ancient majesty of a valley whose origins appear as one with the sun.

The valley has watched the unfolding of thousands of millions of years of time. Now it has dimly and impermanently noted man's homage and footprints. Man's return is not the concern of the valley . . . only the concern of man.

Those words, spoken before the House of Representatives in 1973, expressed my thoughts after returning from the moon. They set part of the stage for my views on future space policy.

The main thrust of what must be this nation's space policy can be summarized in one phrase: Our destiny is space.

The expansion of human activities in space is of fundamental significance to the history of our civilization. We are lucky that it is our destiny to be the vanguard for the movement of both routine and unimaginable activities into outer space; to be the first truly spacefaring nation.

Can anyone imagine what awaits us in space? Did the Europeans really know how the "New World" would benefit them? Did Jefferson do a cost/benefit analysis of the Louisiana territory? In these instances the leaders realized that there were opportunities for social and economic benefits in the new territories, even though they could not quantify those benefits or even perceive most of them. We need an aggressive space policy to expand our opportunities for such benefits in space.

My proposed policy entails a number of goals. The first involves the development of a world information system. The second is the establishment of orbital enterprise facilities and the third is a second period of solar system exploration by man.

A world information system can be seen within the context of our private enterprise system. We must find ways to provide incentives to expand private enterprise in outer space, to smooth the way so that government space and aeronautics research can be integrated into the private sector.

My second goal is by the year 2000 to create the basic facilities necessary for orbital enterprise activities, such as education, health care, manufacturing and solar power utilization. Permanent facilities in orbit will help alleviate many problems facing this nation and provide many new opportunities. For example, the creation of new export commodities and the supply of inexhaustible energy are needs that cannot be ignored by this generation nor denied to future generations.

Many in this country, particularly young Americans, have an increasing awareness of outer-space activities and how they can be exciting and how they can benefit society. They accept the vision.

This leads me to my third goal which is, by the year 2010, for the United States to undertake further solar system exploration, which includes a base for research and test activities on the moon. A lunar base would permit us to develop and test the systems necessary to sustain a permanent mining, agricultural and research settlement. And other exploratory missions may be more economically staged from the moon.

These directions are part of an aggressive space policy which reflects our destiny in space. What is needed is a space policy of support for such activities.

The greatest of all accomplishments that we can achieve in our lifetime is to assure our children of their destiny in space.

Mr. MOYNIHAN. I rise simply to join with what I am sure would be all of my colleagues in congratulating our astronaut colleague on that wild and incomparable adventure in which he participated.

Mr. SCHMITT. If the Senator from Pennsylvania will yield further, I thank my distinguished colleague from New York. It is said that the only thing New Mexico and New York have in common is the word "New." I would hope that they have a great deal more in common. I think over the last 2½ years we are finding, as a consequence of the interaction of the delegations from those two States, that there is a great deal we have in common and a great deal of interaction between our two States. I would make a slight correction to the remarks of the Senator, or maybe two. One is they were overgenerous, but appreciated. The other is that my roots are in New Hampshire, but my life is in New Mexico.

I would add, apropos of this subject, that I find it extremely unfortunate that scientists, technologists, engineers, too many business people, too many people from all professions, have felt that the business of making law, the business of politics, the people's business, was something to be left to someone else, that they had no interaction, no concern about what was done within the halls of Congress, within the halls of the State houses, of the State legislatures.

I hope that is changing because, if we are going to meet the challenges of our third century of national existence, we are going to need as broad a breadth of understanding of human existence as did our Founding Fathers, as did the writers of the Declaration of Independence, the framers of the Constitution, the Congress in which Jefferson served.

If we do not develop that breadth and understanding, that aggregation of all of the pertinent aspects of human knowledge, and knowledge of the human condition, then we run a great risk of failure in framing the pathway and framing the roadmaps for our future in our third century. It is probably the greatest political challenge over all that faces this country, to develop within this body and other legislative bodies, and within the administration as a whole, the capability to view these problems in all their complexities but view them with understanding and not just an awareness of their complexities.

We must view them with an understanding of what those complexities are and how we interweave the solutions to affect such complexities.

I am glad that my friend from New York pointed this out in the way he did. I appreciated his remarks and I am sure the country will appreciate his remarks.

Mr. HEINZ. Mr. President, first of all, I commend the Senator from New Mexico and the Senator from New York for adding to the quality of this already highly elevated debate. I also rise with Senator STEVENSON to oppose this amendment by my good friend from Washington, Senator JACKSON.

I believe we both understand his goals and his goals, indeed as always, are quite sensible. His goals, I think, recognize the fact that there are certain uses of militarily related equipment that may not necessarily be subsumed in the words military systems.

For example, certain kinds of electronic countermeasures equipment may in fact not fall within the term "military systems." But there is a real danger with the Senator's amendment as drawn because I fear that the word "capabilities" is a bit too broad. There is practically no technology I can think of that does not have some indirect bearing on military capability. It would not be too farfetched to characterize the word "capabilities" as the buttons, belts, and boots approach. Every military force is suitably attired in a way that requires buttons, belts, and boots, and without those clothes I do not know of any Army which would be able to fulfill its military capabilities.

I know the Senator from Washington did not intend to put restraints on buttons, belts, and boots, and I would hope, therefore, that we would be able to find a way to tighten up this language so that we address the real problem the Senator from Washington has identified for us.

I have one final word, Mr. President. Senator STEVENSON and Senator SCHMITT have stated that the real danger to the United States is that we are not keeping up the kind of pace we have relied upon in the past for the development of new technology. Indeed, last year some 63 percent of the patents filed in this country were filed by and granted to foreign nationals, not to Americans. The Department of Defense, therefore, has a tremendous stake in the health of U.S. industry.

Only a U.S. industry that has appropriate access to foreign markets as well as domestic markets will be healthy. Therefore, it seems to me that the Department of Defense, having the great stake that it does in technology, must have an equally great interest in having our technological base continue to be premised upon a strong, healthy, financially sound American enterprise system and the companies that comprise it so that they can make the investments in research and development leading to new technology, which is the base, as the Senator from New Mexico eloquently pointed out, of the real strength of this country.

Mr. TSONGAS. Will the Senator yield?

Mr. HEINZ. I am happy to yield.

Mr. TSONGAS. I would like to comment concerning the remarks of the Senator from New Mexico about the reason we do not have many scientists in Government. If you look at scientists, with many of them located in Massachusetts, and then talk to them about Government redtape and about the problems about expanding the export market, many of them face frustration. Here we are legislating in very broad terms. When we get down to the various technologies involved, they are much more complicated, with great distinctions. This time of developing language, although making sense to us, is met in the technical community with great dismay. I would hope as the day goes on that we consider that there is indeed a community out there involved with high technology, which wants to expand foreign trade and wants to try to compete with the renewed vigor displayed by the Japanese and others. It seems to me that given our balance-of-payments problem we would be encouraging that and not discouraging it. I think today will be a critical day in the long-term outlook for this country. I thank the Senator from Pennsylvania for yielding.

Mr. SCHMITT. Will the Senator yield me some time?

Mr. HEINZ. I am happy to yield time to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, the only additional remarks I have are that, in geology, which is my profession, we often say that the past is the key to the present. That is a fairly good remark so long as you do not go too far back in the past, where you find that things may have been much different on our planet than they are today. I think it is clear that, in the area of political technology, if you will, and technology in general, the past is no longer the key to the present or the future; because, as Toffler pointed out in his book, "Future Shock," and as many others have pointed out in other ways, the rate of change in our society, particularly the rate of our technological society, is accelerated. That is basically a new condition for human beings on this planet.

Another example, since the distinguished Senator from New York has mentioned Thomas Jefferson. I say what I think can clearly be demonstrated, that when he was in this body and was looking into the future, he would be able to predict the kind of life that his children and the children around him would live 50 years ahead with some considerable degree of accuracy. You cannot do that any longer. We cannot even predict what our situation is going to be personally 10 years ahead, much less what kind of life our children will lead.

That may be the simplest way to illustrate what I mean and what we mean when we say the rate of change of society and of technology in particular, is increasing. It is increasing at a rate that is going to get larger and larger. So, every time we try to protect ourselves, every time we forget that we are a maritime nation in the historic sense, every time we draw barriers between ourselves and the rest of the world or between ourselves and each other in technological ways and economical ways, all we are doing is acting to our own disservice. We are restricting the rate at which we can grow, whereas the rest of the world is growing at this ever-increasing rate.

I am afraid that aspects of the proposals of the Senator from Washington do exactly that. They fly in the face of something we cannot control. We cannot control this changing rate of change of our society, this ever-increasing availability of new technologies, of new ideas, not only to our own people, but to all of the people of the world.

UP AMENDMENT NO. 424

(Purpose: To clarify the scope of critical goods and technology)

Mr. STEVENSON. Mr. President, I send an amendment to the amendment to the desk and ask unanimous consent that it be considered and that Senator HEINZ be added as a cosponsor.

The PRESIDING OFFICER. (Mr. CHURCH). The Chair advises the Senator that until the time on this amendment has either expired or been yielded back on both sides, the amendment of the Senator is not in order.

Mr. JACKSON. Mr. President, I yield back my time.

Mr. STEVENSON. Mr. President, I ask unanimous consent that it be in order.

The PRESIDING OFFICER. Very well. Is there objection?

There being no objection, it is so ordered.

Mr. STEVENSON. I also asked unanimous consent that Mr. HEINZ be added as a cosponsor.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) for himself and Mr. HEINZ, proposes an unprinted amendment numbered 424 to amendment 341.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

Strike lines 1 and 2, and insert in lieu thereof the following:

"On page 60, line 22, strike the words 'military systems' and insert in lieu thereof the following: 'existing or potential military systems including weapons, command, control, communications, intelligence systems and other military capabilities, such as countermeasures.'."

Mr. STEVENSON. Mr. President, I have discussed this amendment with the distinguished Senator from Washington and I am hopeful that it clarifies the intent of this amendment in a way that makes it acceptable to myself and to the Senator from Pennsylvania. As he and I have already indicated, the use of the expression, "capabilities," may have consequences not fully intended.

This amendment would strike the phrase, "military systems," and instead of inserting "capabilities," would insert the following: "existing or potential military systems, including weapons, command, control, communications, intelligence systems, and other military capabilities such as countermeasures."

I believe and hope, Mr. President, that with this change, the amended amendment will carry out the Senator's pur-

poses, and they are purposes that I share, without going beyond them at some risk of unnecessarily interfering with exports from the United States. I am hopeful, therefore, that he will accept it.

Mr. JACKSON. Mr. President, I am in accord with the proposal of the two Senators. I think it does reach the result that both sides seek. In all of these situations, we are simply trying to find a solution that will address properly and effectively the national security area and, at the same time, not create an impasse in trade and commerce.

I commend the Senator from Illinois and the Senator from Pennsylvania for having offered this amendment to the amendment.

Mr. STEVENSON. Mr. President, I thank the Senator. I believe that neither of us intends, by the use of the word "communications," to include ordinary commercial communications.

Mr. JACKSON. Ordinary civilian or commercial communication; only if it has military, specific military application.

Mr. STEVENSON. I thank the Senator for that clarification.

Mr. HEINZ. Mr. President, I, too, thank the Senator from Washington for his cooperation in this. I am prepared to yield back our time.

Mr. JACKSON. I yield my time.

The PRESIDING OFFICER. All time is yielded back on the amendment.

The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. JACKSON. I yield back my time on the amendment itself.

Mr. HEINZ. Mr. President, I yield back the minority's time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 344

(Purpose: To modify foreign availability criteria)

AMENDMENT NO. 345

(Purpose: To provide for the elimination of foreign availability through negotiations and trade of commercial sanctions to secure cooperation)

Mr. MOYNIHAN. Mr. President, I call up amendment No. 344 and amendment No. 345 and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, the two amendments will be considered en bloc.

The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, and Mr. MOYNIHAN, proposes an amendment numbered 344.

On page 63, line 6, after the period insert "With respect to controls imposed for national security purposes, a finding of foreign availability which is the basis of a decision to grant a license for, or to remove a control on the export of a good or technology, shall be made in writing and be supported by reliable evidence, such as a scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability, no weight may be accorded representations as to foreign availability by an applicant for an export license, unless sworn to in writing by the chief executive officer of the applicant. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence.".

The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, and Mr. MOYNIHAN, proposes an amendment numbered 345.

On page 63, line 11, after the period insert the following: "A technology or good which is proposed for, or subject to, export control for national security purposes and which is not possessed in comparable quality or quantity by a nation or combination of nations threatening the national security of the United States shall not be deemed to be available to such nation or nations from foreign sources until the Secretary of State certifies in writing that negotiations with the appropriate foreign governments for the purpose of eliminating foreign availability have not been successful. In order to secure cooperation of foreign governments in eliminating availability of critical goods and technologies, the President is authorized, except as otherwise prohibited by law, to impose trade or other commercial sanctions, including but not limited to prohibiting exports of all or certain technology or goods to such a nation, or prohibiting imports of all or certain technology or goods from such a nation. Within one year after the date of enactment of this Act, the President shall submit a report to Congress on the specific limitations other provisions of law impose on the exercise of his authority under this subparagraph, together with his recommendations.".

Mr. MOYNIHAN. Mr. President, I shall take the time of the Chamber very briefly to make the general observation about the concerns we are dealing with this morning. It seems to me the public ought to know something of the larger understandings behind the specific actions attempting to control and limit the amount of technology transferred to the totalitarian states of this age, which, for practical purposes, are the Marxist totalitarian states.

Mr. President, because we use, sometimes, such different words and there is almost a proposition that there are different cultures involved in the culture of science and technology on the one hand and of the liberal, humane arts on the other, it is easy to miss the essential continuum of all these activities of the human mind and of society. Particularly, it is easy to miss that freedom of inquiry, freedom of association, freedom of dissent is as essential to science as ever it is to any of the liberal professions—more so.

Indeed, if we were to look for the basis of the ideas of freedom and independence and the autonomy of individual opinion in the West today, we would find their origins as much in scientific inquiry as we would ever do in theological or legal thought.

When science first confronted the traditional doctrines with contrary evidence, that it became necessary to seek the question of society, is there a place for dissent, is there a place for orthodox opinion, having accepted that, answered that question in the affirmative, we have entered into the most extraordinary creative period of technological advance, such as the Senator from New Mexico has described, somewhat Faustian, almost, in the degree to which it challenges us to deal with the consequences of our wishes.

But the fact that free inquiry is at the base of this phenomenon is nowhere more dramatically shown than in the totalitarian societies where the absence of freedom of inquiry and of dissent in the basic political realms has inevitably contaminated the same processes in the scientific realms. We see them coming directly, one from the other.

Perhaps it is no accident, as the Marxists would say, that there have been scientists who have been the leading dissenters of the Soviet Union at this point, that Nobel prize winner Sakharov is the symbol of dissent.

And what we say when we ask to limit export of technology to these nations is that we wish to limit the degree to which those regimes do not suffer because of their very obscenity. I put it in this way, these regimes know that repressing political freedoms involves them with a repression of scientific and technological innovation, as well, and they hope that if they can import the science, which is the result of our free inquiring, they need not free up their own societies that might otherwise produce this freedom.

Remember that we have a bad habit of thinking of the Soviets in terms of the primitive standards of their political life. But the Soviet Union of the 19th century was among the most creative scientific societies in the world. I see the Senator from New Mexico is agreeing. In mathematics, physics, chemistry, and certain basic forms of metallurgy, they were among the leading nations on Earth. It is totalitarianism that destroyed their science and it is the totalitarians who wish to use our science in order to preserve their totalitarianism.

Mr. SCHMITT. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the Senator.

Mr. SCHMITT. There are so many examples that prove the point the Senator from New York is making that I will not pose the whole litany at this point.

However, I just happen to recall, because we are 1 day after the 10th anniversary of Apollo landings, looking at the panorama of craters as we circled the Moon, and others have also circled the Moon, and looking at the maps and seeing the names of those craters. So many of them are commemorating the advances of human knowledge that occurred within the minds of Russian citizens, or citizens of that vast land, whatever name might have been applied to the politics.

Mr. MOYNIHAN. The astronomers.

Mr. SCHMITT. The names go on and on.

Of course, many other nationalities are

represented. Copernicus, Galileo, it goes on through.

I think about this, as the Senator obviously has, the totalitarian regime has generally been completely unsuccessful in tying up the imagination and the fruits that come from that imagination of the human mind.

But they have been extraordinarily successful in preventing the translation of the fruits of the human mind into practical applications for the benefit of people, or the benefit of mankind, or whatever one may want to define.

That is exactly the point I believe the Senator is trying to make.

Mr. MOYNIHAN. It is, indeed.

Mr. SCHMITT. The intellectual capacity of the Russian people, all the people under Soviet domination, is no different today than it ever was.

It is an intellectual capacity based, as everywhere else in this world, on freedom of inquiry, the basic scientific principles that relate to freedom of inquiry. That is what science is all about.

If it is done right, it is fruitful. If it is not done right, then it is so much garbage.

With Copernicus and others before and after him, we saw a great revolution in this freedom of inquiry, an inquiry that went against the established policies and dogma of their times.

Also, if we look back in history, those persons persecuted throughout recorded history, more often than not because they were practicing science in some form or another, have been practicing the freedom of inquiry in its broadest definition, relative to the human mind.

I would agree completely with the Senator that we have to be extraordinarily careful that we do not allow our freedom to be exported, and to substitute, and, therefore, shore up this deficiency——

Mr. MOYNIHAN. Precisely.

Mr. SCHMITT (continuing). That exists within totalitarian regimes.

On the other hand, we have to be realistic about what we do and make sure, in preventing that transfer and that shoring up, that we do not also prevent ourselves from benefiting from the fruits of our own freedom.

Mr. MOYNIHAN. It seems to me the Senator, our only scientific source in this body, has made the case explicitly and incomparably well.

I simply note that American science, as well as the science of some other countries, has incomparably benefited from the mass exodus of scientists from Nazi Germany. Indeed, I put the Senator's point, who resists totalitarian societies, who flees them? The first persons almost, after the very thin veneer of political opposition is overcome, the first culture that has to resist is science, and it does.

Mr. SCHMITT. The Senator is entirely correct. I guess he has in mind Albert Einstein in modern times. If we go back to our own times we can see the scientific imprint of inquiry on the creation of our basic foundations of political life, Jefferson and Franklin being two that come to mind immediately, having that basic discipline and freedom of inquiry in their minds, and they were some of the leaders—obviously, the leader—not only of the Revolution, but the beautiful documents and foundations that came from that Revolution.

Mr. MOYNIHAN. In a happy age, when the political and natural sciences were thought to be part of a single continuum.

Mr. SCHMITT. If the Senator will yield again, the reaction to that, that is, that they still are. We tend to forget that.

Mr. MOYNIHAN. I will not disagree.

Mr. President, the purpose of these two amendments is to advance the general understandings that the Senator from New Mexico and I have just spoken about.

Amendment No. 344 has the simple declaratory purpose of stating that when the Department of Commerce produces a finding of foreign availability—a matter now under discussion—that it document that finding, not a large proposition, and one would have thought one not necessary, but, alas, it turns out to be.

The operating sentences state:

> In assessing foreign availability, no weight may be accorded representations as to foreign availability by an applicant for an export license, unless sworn to in writing by the chief executive officer of the applicant. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence.

One must think that that would be a normal procedural standard. It has not been followed. This amendment would require that it be.

Amendment No. 345, in fact, would constitute an extension of our efforts and a deepening of our commitment in this field. It simply states, with respect to this whole question of availability elsewhere, that in order to secure cooperation of foreign governments in eliminating the availability of critical goods and technologies, the President is authorized, except as otherwise provided by law, to impose trade or other commercial sanctions, including but not limited to prohibiting exports of all or certain technology or goods to such a nation, or prohibiting imports of all or certain technology or goods from such a nation.

Within a year after the enactment of this legislation, if it is enacted, the President will report to Congress on the specific limitations other provisions of law impose on the exercise of his authority under this paragraph, together with his recommendations.

So it is a limited measure, but an important one. What it says is that we mean it when we ask other nations not to join in a competitive export of technology to the totalitarian states.

What it says, in effect, is that the Secretary of State, who will make these representations, has some sanctions, has some potential influence, can speak from a government whose Congress has made its intention clear that it takes this seriously, that these are not just gestures, that we are prepared to act in ways which are not agreeable to us but which we feel to be necessary.

Mr. President, the most difficult of all political undertakings is to maintain an alliance in concert. We perhaps underestimate the extraordinary duration of the NATO alliance. In the history of the world, no such political alinement has endured into now its second generation. Yet, there are constant efforts to weaken it that are dynamics internal to any such arrangement.

The Senator from New Mexico has mentioned one of the dynamics at the present time, which is the very great expansion of technological rates of change in countries with which the United States is allied and which are fellow members of COCOM.

At a time when technological initiatives were overwhelmingly to be located in the United States and in Britain, it was easier to maintain these standards. Today, it is harder. The societies that are producing the technology pay for it.

The Senator from New Mexico and the Senator from Pennsylvania observed the higher rates of investment in technology in these other nations. Those nations necessarily will hope to see a return on that investment.

These markets present such opportunities for return that if the United States is to dissuade them, it has to have some sanctions—economic sanctions, obviously—to provide the economic incentives that are involved.

Accordingly, Mr. President, we submit these modest but we feel not unimportant amendments and wonder what is to be the reaction to them by the Senator from Illinois and the Senator from Pennsylvania.

Mr. PERCY. Mr. President, will the distinguished Senator yield a couple of minutes?

Mr. STEVENSON. I am happy to yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I commend Senator STEVENSON and Senator HEINZ. As they know, the Senator from Illinois served on the Banking Committee at the time the 1969 so-called Export Control Act was up.

I have had many years of industrial experience and have seen, time after time, a policy that was shortsighted, that was not realistic, that was not adapted to the real world in which we live. We worked mightily at that time to change this from a control act to an administration act, whereby we had an even-handed approach to it.

In the experience I had in industry, we were faced with a very ludicrous situation. Bell & Howell Co. manufactured, in this country, film printers and perforators, a quarter of a million dollars apiece, ordered by the Soviet Union for their film industry. We were restricted from shipping it from the United States, using American labor. But there was no problem in the Soviet Union buying it from J. Arthur Rank Organization, the licensee of Bell & Howell, who made identical equipment. This was a piece of machinery that cost a quarter of a million dollars and was used in the printing and perforation of motion picture film. The only change in the thousands of parts was a nameplate. It was

just a nameplate. It was "Bell and Howell-Rank" instead of "Bell and Howell." But it was made in England instead of in the United States.

Back in the 1960's, the restrictive laws of the United States were such that, time after time, we were dealing ourselves out of business.

In visiting the Soviet Union with Hubert Humphrey, on our last trip there, we met with the business community and found many times that they were absolutely frustrated. Here was a huge growing market.

So, instead of trying to make it as tough as possible to earn extra dollars, we tried to find an even-handed way to do it and to protect our national security—this is paramount—but not to go in the direction of making it more and more onerous and difficult for American companies to compete against Germany, the United Kingdom, Italy, and many other countries that were doing business successfully.

Here I hope that some compromise can be worked out on the pending amendment. I cannot imagine any of our competitors abroad—Japan, Italy, Germany, Great Britain—adopting an amendment which would require the chief executive officer, who is not the most competent person, to sit there and sign the certificate, certifying something that would take research on his part. He is not necessarily the best person to do it. But it adds to him as a paperwork signer rather than a policy director dealing with the immediately urgent, rather than a chief executive who should be dealing with long-range plans and programs. It assigns to him a clerical function that he should not be designated to do.

I think, also, that some compromise should be worked out so that if the statement of a company is the only evidence you have, I would say it is not sufficient evidence. But it should be looked at as a part of the evidence.

I hope something can be worked out on this point between the manager of the bill and the distinguished Senator from New York, who represents a very large business community, who would be interested in working out something special.

Mr. MOYNIHAN. Mr. President, I believe that the senior Senator from Illinois has made some wise observations based upon real experience.

I understand that the distinguished manager of this legislation has some thoughts as to how, in fact, his specific concerns might be accommodated.

UP AMENDMENT NO. 425

(Purpose: To prevent undue reliance on self-serving representations as to foreign availability)

Mr. STEVENSON. Mr. President, I send an amendment to the amendment to the desk. I do so on behalf of myself and the Senator from Pennsylvania.

Mr. PERCY. Mr. President, I ask unanimous consent that I be added as a cosponsor to the amendment. Having looked at the wording of the amendment, I agree.

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

Mr. STEVENSON. Mr. President, I ask unanimous consent that it be in order to consider the amendment.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) for himself, Mr. HEINZ, and Mr. PERCY proposes an unprinted amendment numbered 425 as an amendment to amendment No. 344.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike the second sentence and substitute in lieu the following:

"In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability."

Mr. STEVENSON. Mr. President, as my good friend from Illinois has pointed out, amendment No. 344 offered by the Senator from New York requires the executive officers of exporters when applying for export licenses in effect to certify as to point of availability under oath.

This amendment, which I offer to that amendment, simply strikes that language, the last sentence of the amendment that starts on page 2 of the amendment, and substitutes the following language:

In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

In other words, the statements of applicants can only be taken into consideration on foreign availability if they are corroborated by other evidence.

I believe this is just what the other Senator, my distinguished colleague from Illinois, was suggesting, and I think it is a reasonable means of accomplishing the objective of the Senator from New York and hope, therefore, that it is acceptable on both sides.

Mr. MOYNIHAN. Mr. President, if I may respond, this is indeed a reasonable accommodation to the real concern addressed by the senior Senator from Illinois, and on behalf of the sponsors of the amendment, I am happy to accept the substitution of my friend from Illinois and the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I think we have a reasonable arrangement that will seek to accommodate the concerns and objectives here of the Senator from New York and the Senator from Washington. I am very strongly in support of Senator STEVENSON's amendment, and I am grateful to the Senator from New York for accepting it.

Mr. MOYNIHAN. Those are very generous remarks.

Mr. STEVENSON. I am prepared to yield back my time.

Mr. HEINZ. I am prepared to yield back my time.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TSONGAS. This referred to the first of the amendments to be considered en bloc.

Mr. MOYNIHAN. That is right. These amendments are being considered en bloc although if the Senator wishes just to dispose of this one and move to amendment No. 345, that would be agreeable to the Senator from New York.

Mr. STEVENSON. Mr. President, the pending amendment is an amendment to amendment No. 344. After the Senate acts on this amendment, it would be my intention to offer another amendment. That one would be to amendment No. 345, which I hope will become a basis for it in that event.

Mr. MOYNIHAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. May the Senator from New York ask to vitiate his request that amendments 344 and 345 be considered en bloc and substitute a request that we have before us simply amendment No. 344?

The PRESIDING OFFICER. The Senator may do so.

Mr. MOYNIHAN. In that case, I so request, Mr. President.

The PRESIDING OFFICER. Very well.

If there be no objection, the amendments will now be considered separately.

Mr. MOYNIHAN. Mr. President, I yield back the remainder of my time on amendment No. 344.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois, unprinted amendment No. 425.

The amendment was agreed to.

AMENDMENT NO. 344, AS AMENDED

The PRESIDING OFFICER. Is all time yielded back on amendment No. 344?

Mr. HEINZ. Yes, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 344, as amended.

The amendment, as amended, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 345

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I understand that the distinguished manager of the legislation and his not-less-distinguished colleague from Pennsylvania have a proposal that would modify amendment No. 345 without in any way losing sight of these objectives nor of the desire that the executive be given greater powers with which to pursue those objectives.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENSON. Does the Senator from Massachusetts request time?

Mr. TSONGAS. Yes.

Mr. STEVENSON. I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. Mr. President, I wish to speak to the practical implications of amendment No. 426 which is now before the body, and let me try to take out the relevant parts of the amendment. So the suggestion that we are indeed in the real world will take place.

The amendment speaks to, if you will, suppress the exported technology not by the United States but by another country, to nations that are not friendly to the United States.

Indeed, if that attempt is unsuccessful to the negotiations process, the President, "in order to secure the cooperation of foreign governments" is authorized to impose trade or other commercial sanctions of all goods and imports and exports from and to such a nation. What does that mean? The only countries we are really concerned with that export technology are countries like France.

So what we are saying here is that: If we do not like what France is doing vis-a-vis the Soviets, we will ask them to cease and desist. In order to improve the changes of negotiations we may impose economic sanctions against France, including prohibiting all exports of American goods to France and all French imports into the United States.

Does anyone believe that prohibiting France from importing American blue jeans and exporting French wine is going to make the French any more amenable to negotiations with the United States?

Anyone who has had experience in dealing with foreign governments—and certainly the distinguished Senator from New York is probably preeminent in this body in terms of that qualifications—knows that the one way to insure France would not cooperate would be to impose these kinds of sanctions.

We are not talking about less-developed countries. We are not talking about an Iran, for example. We are talking about very sophisticated countries which view the United States as an equal. There is no way you can possibly assume that in negotiations where hanging over them is the specter of a U.S. trade embargo that that is going to be anything but counterproductive.

I think this amendment has serious long-term implications that could only hurt the very ends that the proponents of the legislation are seeking, and I would ask that the amendment be defeated.

I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I would like to thank the distinguished Senator from Massachusetts for his observations, which are serious and deserve to be considered.

I would say two things: First, in the actual dynamics of government negotiations in areas such as this no government would ever, the United States would ever, in fact, be threatening some large proposition such as the embargoing of the French wine industry. You do not negotiate that way. But the U.S. Government would be saying to the French Government, "Look, we are under pressures from the Congress, which you understand. These are, in effect, our instructions."

The French Government, in dealing with its own private sector, would be in a position—why use France? But why not—to say that while the government itself did not necessarily agree with the United States, the United States was in a situation where the government was under pressure and legitimate legislative actions in this country such that, in fact, the weight of the American representation is greater than otherwise it would be. This is a judgment you always have to make.

But, Mr. President, the United States can just go on providing the military defense of the industrial democracies of the world so long whilst they undermine our efforts, when they do, by enhancing the defense, the military aggressive capacity, of the totalitarians we are defending them against.

We have to give our Secretary of State at least an opportunity to make the case which this Congress expects of him.

I will say to the Senator from Massachusetts that I understand we have alternative language which will meet some of his concerns. I think they do—I will not speak for the Senator from Illinois—but I wonder if the Senator from Illinois would address this matter.

UP AMENDMENT NO. 426

(Purpose: To require negotiations to prevent foreign availability from undermining U.S. export controls)

Mr. STEVENSON. Mr. President, I send an amendment to amendment 345 to the desk on behalf of myself and Mr. HEINZ and ask unanimous consent that it be in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be in order. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 426.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

In lieu of the language to be inserted, insert the following: "Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiations with the governments of such countries to prevent such foreign availability. In any instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such foreign availability."

Mr. STEVENSON. Mr. President, as the distinguished Senator from Massachusetts indicated, amendment 345 appeared to threaten sanctions against foreign competitors of the United States who did not impose controls on exports to controlled countries which the United States felt should be controlled.

The amendment, it seemed to me, threatened delays in action on license applications to the advantage of foreign competitors, and by threatening sanctions, it implied we might again hurt ourselves in order to advantage our foreign competitors.

I think this amendment accomplishes the purpose of the distinguished Senator from New York without any danger of adverse consequences. It simply says:

Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiation with the governments of such countries to prevent such foreign availability. In any instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such availability.

Mr. President, of course such measures could include sanctions. This is not intended to eliminate that possibility, but it does make it a little less explicit. It does, as does the distinguished Senator from New York, recognize that in such cases where technology is available from foreign sources to controlled countries which the United States feels should be controlled, the President will initiate negotiations, and I agree completely he certainly should.

So I think it retains the purpose and eliminates one troublesome feature, and I am hopeful, therefore, that it will meet with the approval of the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, will the Senator from Illinois yield for a question?

Mr. STEVENSON. Of course.

Mr. MOYNIHAN. On the examples of appropriate measures he mentioned sanctions, if the President thinks of it.

There is a whole armamentarium here that might be useful to note, to see if the Senator from Illinois agrees, that the President could speak of the procurement policies of the U.S. Government, of the position of the U.S. Government in trade and commercial negotiations, and similar measures in addition to more conventional approaches.

Mr. STEVENSON. Yes, of course he could. His arsenal is large, and my own feeling is that procurement policies of the United States might be more appropriate

than some of the other sanctions contemplated.

To suggest that another nation will be deprived of the right to buy goods from us——

Mr. MOYNIHAN. To sell.

Mr. STEVENSON (continuing). Implies to me that we may harm ourselves more in this highly competitive world than another country. But procurement is the other side of the situation.

But procurement is the other side.

Mr. MOYNIHAN. Yes. The Senator will agree with me that it entirely is up to the U.S. Government to give to other countries a percentage of the market; if they wish to concentrate on the Bulgarian market, as it were, well, that would leave the U.S. market to others, and that is a legitimate point we might make.

Mr. STEVENSON. I agree completely with the Senator. It is certainly the intention of the authors of the amendment to his amendment to encourage the President to use whatever assertions of authority are available to him, including those that have been mentioned by the Senator.

Mr. HEINZ. Mr. President, first let me concur with the remarks of the Senator from Illinois and in the understanding that he and the Senator from New York have developed in their colloquy.

Let me also commend the Senator from Massachusetts (Mr. TSONGAS) for having, I think, put his finger on the particular problem with the amendment as originally drafted. I share his concerns in that regard.

Thirdly, I wish to commend and thank the Senator from New York for his willingness to understand the concerns expressed and to appropriately modify the amendment; and I hope, Mr. President, that we do now have an agreement.

Mr. MOYNIHAN. Mr. President, the Senator from Pennsylvania is characteristically gracious on behalf of the sponsorship of this amendment. We do accept the substitute, which I believe is jointly proposed by the Senator from Illinois and the Senator from Pennsylvania; and I, too, would like to thank our colleague from Massachusetts for his timely and fructifying intervension.

I yield back my time.

Mr. TSONGAS. Mr. President, I would like to indicate my concurrence in the compromise language, which gives the President a weapon which, while in the nonmegaton range, may be more useful.

The PRESIDING OFFICER. Is the remaining time yielded back?

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. STEVENSON. I yield back the remainder of my time. The amendment is offered as a substitute.

The PRESIDING OFFICER. Yes. The question is on agreeing to the substitute amendment.

The amendment was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from New York, as amended. Do the Senators yield back their time?

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 353

(Purpose: To limit exports of animal hides and skins until the President determines that there are adequate domestic supplies)

Mr. MUSKIE. Mr. President, I call up amendment No. 353, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE), for himself, Mr. BAKER, Mr. DURKIN, Mr. ROTH, Mr. COHEN, Mr. TSONGAS, Mr. HUMPHREY, Mr. FORD, Mr. HEINZ, Mr. HELMS, Mr. LEAHY, Mr. NELSON, and Mr. KENNEDY, proposes an amendment numbered 353.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 78, line 11, after the period insert the following: "Notwithstanding any other provision of this paragraph, in order to carry out the policies set forth in section 3(2)(C) and 3(7) of this Act with respect to animal hides or skins, until the President, after receiving the advice of the Secretaries of Commerce and Agriculture, determines that (A) hide producing countries which have enacted skin and hide export restrictions over the past ten years have resumed reasonable levels of skin and hide exports, or (B) the supply of animal hides or skins, after deducting export demand, is sufficient to meet the requirements of the domestic economy; animal hide and skin exports shall be limited to a total volume, per year, equivalent to the most recent period which the President determines is representative of exports of such products. Before providing their advice to the President under the foregoing sentence, the Secretaries of Commerce and Agriculture shall, after reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to present evidence, and to be heard at such hearings.".

Mr. MUSKIE. Mr. President, I ask unanimous consent that Anita Jensen and Jim Case be granted privileges of the floor during Senate consideration of S. 737, Export Administration Act, including all votes.

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

Mr. MUSKIE. I ask unanimous consent, if their names are not already listed, that the names of Senators MOYNIHAN, ROBERT C. BYRD, RANDOLPH, and SASSER be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, unless they are already listed, the named Senators will be added as cosponsors of the amendment.

Mr. MUSKIE. Mr. President, the threat facing the American leather industry is the worst in its history.

The situation is critical.

The facts are simple: A reduction in cattle slaughter has reduced the supply of cattle hides on the world market. The American supply has come under increased pressure from the major importing countries. Prices have skyrocketed.

The tanning and leather industries depend almost exclusively on cattle hides for their existence. These industries need the raw material. Tanneries cannot turn to alternative raw materials—there are no alternatives. And shoe factories cannot retool to make some other product. No adequate substitute for leather exists. Canvas shoes cannot replace leather shoes. And plastic saddles cannot replace leather saddles.

The shortage is worldwide. It is part of the cyclical downturn in the cattle industry. But this cyclical shortage has been artificially aggravated by embargoes on hide exports by major producing countries. So America, which produces 15 percent of the total world skin and hide supply, now supplies 75 percent of the cattlehides being traded worldwide.

The U.S. supply dropped 6.8 percent last year. Twenty-four and one-half million hides were exported, from a total supply of 39.5 million. This year's domestic supply will be 34.2 million hides, but exports are not expected to decline.

If we sell 24 million hides from a supply of 34 million, we will be left with 10 million for domestic needs.

Yet the domestic industry needs a minimum of 18 million hides to operate at current levels. Industry withdrew 2.4 million hides from inventory last year. This year, there is no inventory left to fall back on.

I do not know of any industry that could survive such a drastic curtailment of its basic raw materials without virtual collapse.

Four hundred thousand workers depend directly on the tanning and leather industries. The implications for these 400,000 jobs—and for the $8 billion in retail sales of leather products—are clear.

The inflationary impact of foreign demand is evident in the doubling of hide prices since last year. Footwear prices have already risen 17 percent, and are being forced higher, since the price inflation in the basic commodity has not yet been fully reflected in the prices of finished goods. When the inflated price of those hides has worked its way through the production pipeline, $30 leather shoes may well be a fond memory—just as U.S.-made baseball gloves are today.

If this situation arose from a supply shortage aggravated by increased demand, operating in a free international market, the results would be serious for the domestic tanning and leather industries. The outlook for their workers would be bleak. And the inflationary ef-

fects would be just as severe. But the case for Government intervention in the market would be less strong.

The fact is that this situation does not result from a free international market. The shortfall in hide production has been aggravated and sustained by Government actions in major hide-producing countries to protect their domestic leather industries by embargoes on hide exports. The leather industries of countries like Brazil are being protected—

Against threats of shortages;

Against high world prices; and

Against the competition of a free world market.

Foreign buyers are bidding up the price of our hides and taking advantage of the dollar's weakness because other sources of supply have been closed off. And it has long been the case that those countries which import our hides are among the most protective against imports of U.S.-finished leather goods.

Brazil's Government embargoes hide exports to protect its domestic leather industry, while our tanneries and shoe factories close down. And Brazil is manufacturing for the U.S. market. Brazil's shoe sales to the United States are up 40 percent from last year's levels.

Uruguay embargoed exports in 1974. Argentina quickly followed suit. Since 1975, Brazil has exported no hides whatever, South African hides are available only under a Government licensing system and exports are limited to 1.5 million hides a year.

The fact is that the United States is the only nation which remains totally committed to a free market philosophy.

The American tanning industry, the American leather industry, and the hundreds of thousands of Americans they employ are being asked to bear the entire burden of a shortage that is worldwide. Importers of our hides are unwilling to reduce their imports and share the shortage—they want to protect their industries and workers. I think American workers and American industries warrant that kind of consideration from their own Government.

The Senate will soon be asked to review the implementing legislation for the multilateral trade agreements. One of the principal results of that agreement, we are told, is to increase freedom and reciprocity in world trade. Nontariff barriers to trade are to be reduced and eliminated. The market is to provide the means by which supply and demand of world goods is adjusted.

In theory, it sounds ideal.

But when I look at the situation facing us today in connection with hides, I am compelled to ask at what point can we expect some of that reciprocity?

We have made our supplies available to the world. Other hide-producing countries do not do so. The hide shortfall is worldwide, but the United States' domestic industry is being asked to absorb the entire world shortfall—not merely that portion attributable to our own production decline.

Our Government's efforts to make more supplies available to the international market have failed. Special Trade Representative Strauss stated in a letter to me:

> One approach to the problem is to encourage beef-producing countries with export controls on hides to ease their controls . . . We made a major effort in the multilateral trade negotiations to get these countries to take such action. Unfortunately, most countries responded unfavorably to our request.

The fact is, all countries did.

Clearly, when our Nation, which produces 15 percent of the world's skins and hides, simultaneously provides 75 percent of the total hides traded internationally, price inflation and domestic shortages are inevitable.

It is for that reason I seek an amendment to the Export Administration Act.

The policy outlined by this act—and I had something to do with writing the current version of the act when I was a member of the Banking Committee—in section 3(2)(C) specifies that Congress finds a need for export restrictions "to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand."

Mr. President, either that language in the act has meaning or it does not, and if it does not have meaning in this case I cannot imagine a case in which it would have meaning.

No clearer case for export restrictions exists today than the hide situation.

This amendment is moderate and carefully targeted. It recognizes the temporary nature of this shortfall. It will have effect only for the duration of the shortage. It conditions unlimited hide exports on one of two factors:

Reasonable export levels from other hide-producing countries; or

An adequate domestic supply, taking into account export demands.

If neither condition is met, the President could limit the export of U.S. hides to guarantee an adequate domestic supply. No quotas are specified in the law. No rigid limits are demanded. There is no attempt to stifle world trade.

The amendment is simply a recognition that as long as other countries are unwilling to share the worldwide shortage, the United States must look to its own resources to meet demand here at home.

If the amendment results in improved and more successful negotiations with the countries which now restrict their exports, no one will be more pleased than the leather industry.

Our domestic industry does not ask for special treatment to protect itself against fair competition in a free international market.

It requests legitimate and limited Government intervention where free market economics are inoperative. Our amendment would give the industry the limited and temporary help it must have to survive.

Mr. President, I will yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, I rise today to address an issue which is critically important to 40,000 Tennesseans and almost 400,000 other Americans. I join in urging the Senate to take action to secure the jobs of the workers in one of the most labor intensive industries in the United States.

Today, thousands of Tennesseans and hundreds of thousands of Americans are in danger because we have for too long failed to put adequate restraints on the export of cattlehides.

This amendment to the Export Administration Act of 1979 is an attempt to correct that failure. Currently, the leathergoods industry is faced with the possibility of not being able to purchase its most basic raw material—cowhides.

Three-fourths of all cowhides on the world market are produced by the United States. Seventy percent of the American supply is exported. During the last quarter of this year, the United States exported 83 percent of the cowhide supply. We are not just selling cowhides—we are sending American jobs overseas.

As a result of these massive and unrestrained exports, the cost of cowhides has become almost prohibitive for American producers—and the cost of leather products has become almost prohibitive for the American consumer.

The cost of cowhides has risen faster than the price of gasoline. A cowhide that cost 37 cents a pound in 1977 now costs a dollar.

In the shoeshops and department stores of America, our constitutents are paying $10 more for a pair of shoes and $12 more for the price of a handbag. In all, our failure to restrain the export of cowhides could cost Americans $2 billion.

The primary buyer of our cattlehides is Japan. Japan will take our cowhides, but it will not allow us to send her our finished leather products—we cannot sell her the products made by American workers. This allows Japan to buy as much leather as she can with no consideration for cost. The increased costs can be passed on to the buyer in Japan because there is no competition.

Of course, the American producer must also raise the price of finished products because the price of raw materials has gone up. This can be seen in the price of shoes. A pair of leather shoes that costs $20 2 years ago now costs $30.

In the meantime, those people who have traditionally earned their living in the leathergoods industry find it harder to buy shoes and food. They are losing their jobs.

In Tennessee alone, there are 43 shoe manufacturing plants which employ over 12,000 men and women. The shoe industry in my State supports 25,000 other people whose jobs are indirectly related. Thousands of others work in other leather related industries, the furniture, luggage, and handbag industries.

Those people know what exports of cowhides are doing to their industry and their jobs. In the last 2 years, they have seen thousands of their friends go unemployed because we have put no

restraint on the export of cowhides. And they are afraid that they will be next.

Mr. President, other major cattlehide exporting nations such as Argentina, Brazil, and Uruguay, have stopped exporting cattlehides altogether. We do not seek to do that today. We simply ask that exports be limited to a reasonable level.

We seek to limit the export of cowhides to a level at which the leather industries of the United States can survive. We seek to limit exports to a level at which the jobs of 400,000 hard working Americans can be secure. We seek to keep the cost of a pair of shoes at a reasonable and affordable level.

Mr. President, we cannot allow the continuation of massive, unrestrained, and dangerous exports of American cowhides. I strongly urge the passage of this amendment.

(Mr. SASSER assumed the chair.)

Mr. MOYNIHAN. Mr. President, the Senator from Maine has spoken with great clarity and forceful fact with respect to the situation we address in the amendment before us. I would like to supplement his remarks only to the point of stressing the compatibility of what we are doing here with the Multilateral Trade Negotiations (MTN) that have now been concluded by Ambassador Strauss.

I am a member of the Subcommittee on International Trade of the Committee on Finance, and one of those who introduced the implementing legislation to the MTN some 3 weeks ago.

The Senator from Maine is absolutely correct. In these negotiations which have extended over 7 years and which are now completed, Ambassador Strauss on behalf of the United States raised the question of the restrictions on exports from the other hide-producing countries, and pointed out that these restrictions are altogether incompatible with the General Agreements on Tariffs and Trade (GATT). He properly pointed out that other countries' restrictions on exports are incompatible with the principles and thrust of American trade policy since the time of the reciprocal trade agreements of Cordell Hull. Accordingly, the Ambassador asked for a general lowering of these kinds of restrictive activities and that the particular one on hides be given up. The reaction was "No." Not a single exporter would agree to do that.

Their reaction in this instance is part of a pattern of world trade which, in the end, eventually became the focus of the MTN itself. The MTN began as tariff negotiations, as they traditionally had been. But it was realized that it is the actions by government to prohibit exports or imports in one form or another, to impede and effectively to prohibit trade, and not tariffs, that have become the principle inhibiting element in international trade.

Accordingly, the whole focus of the MTN changed to a regime of non-tariff-barrier codes. The purpose of these codes is to prevent such trade restrictive activities or, when they do take place, to authorize governments to respond appropriately when their own economies have been injured.

Now, in the matter before us our economy has been injured in a way that seems altogether inappropriate. And the injury comes from the refusal of other countries to export. We continue to export our hides, following the rules of the game, and our hides are sucked up by nations which ironically are the ones notorious for the nontariff barriers they put on our goods. It is fascinating, for example, that the country most anxious to get our hides is least anxious to get the beef that is under those hides. But try to find the beef that goes with the hide in that country. We cannot. That country uses the hides to make products and export them back here and we lose even more jobs.

What we are doing in this proposal is to give the Government direct authority from the Congress to go out and negotiate further reductions of nontariff barriers—in this case the export restrictions that result in injury to our domestic shoe and leather apparel industries. If they will not do away with those restrictions, the world should know that we will exercise our right under the MTN to act in a similar manner—restrict our own exports to save the industries that would otherwise suffer.

We are asking for equity here. We are supporting the MTN; but we are supporting American workers. We are supporting principles of international trade which, unless our trading partners begin to abide by them, are going to break down a system which has been a half century in construction and has brought incomparable economic benefits to all involved. It is being lost because of the shortsightedness of our trading partners.

I am happy to be a cosponsor with the Senator from Maine. I hope I made clear that, in this Senator's view, this action is wholly consistent with the MTN and, indeed, addresses the central question of the MTN at this time.

Mr. MELCHER. Will the Senator yield?

Mr. MUSKIE. Mr. President, may I ask what time I have? I have only one-half hour and I know several Senators wish to speak.

The PRESIDING OFFICER. The Senator has just under 12 minutes.

Mr. MUSKIE. Then I do not think I should yield to any Senator for more than 2 minutes.

Mr. JAVITS. Mr. President, if I may have 30 seconds.

Mr. MUSKIE. I yield to the Senator from New York 30 seconds; then to the Senator from Massachusetts 2 minutes. Then I shall be happy to yield for a question to the senior Senator from Montana (Mr. MELCHER).

Mr. JAVITS. Mr. President, I have two points. One, I should like to join as a cosponsor of this amendment. I so ask unanimous consent.

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

Mr. JAVITS. Mr. President, second, may I say I do not think any Senator on the floor, for a longer time, has advocated an open trading policy for our country as essential not only to our country's interest but to the peace of the world. But I deeply believe that this is a situation in which we are being imposed upon and that, therefore, unless we take action against such imposition, I think we make ourselves impotent in terms of world trade.

May I just give the Senate this fact, which supplements what my beloved friend, PAT MOYNIHAN, has said. I have a letter from the Special Trade Representative dated July 17, in which he says:

> We made a major effort in the Multilateral Trade Negotiations to get those countries to take such action—to wit, export controls on hides—thereby increasing worldwide availability. Unfortunately, most countries responded unfavorably to our request.

Mr. President, I hope this amendment will get their attention. It is for that reason that I join it.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Senator GLENN be added as a cosponsor.

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

Mr. MUSKIE. I yield to my friend and cosponsor (Mr. BAKER).

Mr. BAKER. Mr. President, I thank the Senator from Maine, my good friend (Mr. MUSKIE) who is continuing a fight he has pursued before and which I have been privileged to join him in on other occasions. I shall not detain the Senate long except to say I believe in this amendment. I think it is appropriate, I think it is fair, and I think it is essential to preserve industry in this country. It is not only important to my State, where approximately 30,000 jobs are in jeopardy unless something is done to provide against the excesses that burden the industry at this time, but also because there are 400,000 American citizens who are directly involved in industries affected by this concept.

Mr. President, I have joined 10 of my colleagues in support of this amendment to S. 737, to allow restrictions on the U.S. exportation of cattle hides.

The leather manufacturing industry in this country is in trouble. It is a difficulty not of their own making and not due to any failure of abiilty to compete effectively. The problem is that the foreign competition in this extremely important industry, that employs over 400,000 Americans (approximately 30,000 in the State of Tennessee) is absorbing between 70 and 80 percent of the raw materials available in this country.

At the same time, American access to the raw material market in cattle hides is severely restricted by embargoes on exports in the major hide-producing countries. The leather industry is facing not only reduced availability, but also a doubled price of its basic raw material. Jobs are jeopardized, and the costs of leather goods are escalating.

The United States is the only "free-trader" in the world hide market. We are simply asking that the President, after receiving the advice of the Secretaries of Commerce and Agriculture be empowered to keep available for sale to American leather goods manufacturers a sup-

ply of hides ample to meet domestic demand. In an equitable, fully reciprocable market environment, the leather industry in the United States can compete with anyone. It is our task either to restore fairness to the competition or follow suit and begin protecting our own raw materials.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time at this point because I have used up the bulk of it and have not given the opposition an opportunity to speak. Later, I shall yield to Senator KENNEDY, Senator TSONGAS and other Senators.

Mr. MELCHER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I want to take a minute on Senator STEVENSON's time. He has been called away from the floor temporarily. I ask those who are in opposition to the amendment to let me know approximately how much time they want, because there are 30 minutes allocated to Senator STEVENSON, which is the time for the opponents. Senator MUSKIE and others have used up most of the time, I understand, except 6 or 7 minutes, of the proponents.

There are seven Senators. Then we shall try to make it about 4 minutes each, if that is fair.

Mr. MELCHER. Will the Senator yield?

Mr. HEINZ. I ask unanimous consent that I be allowed to yield 4 minutes from Senator STEVENSON's time to the Senator from Montana.

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

Mr. MELCHER. Mr. President, I thank the Senator.

I oppose the amendent of the Senator from Maine. Has there been any CBO study on the inflationary impact if the price of hides is reduced and what result would that have on the cost of hamburger, beef roasts or steaks, in the supermarket? It is a rhetorical question, because if you take it out of the hides, you increase the beef price in the supermarket.

Mr. MUSKIE. I shall be glad to answer that.

Mr. MELCHER. If I had more than 4 minutes, I would be delighted to have the response.

The fact is that there is only a price for a fat steer or for a cow and if you decrease the price of the hide, the price of the meat from the steer or cow is going to be higher.

When considering somebody else's business, perhaps it is good to turn for information to a reliable source of that information from that business. I think every Member of the Senate has in his office or in his possession a telegram from the American Association of Hides, Skins, & Leather Merchants. It says:

> The American Association of Hides, Skins and Leather Merchants suggests that the recent alarm about a purported shortage of hides is a result of a misunderstanding of the basic supply and demand factors that affect cattle hides.
>
> The supply and demand situation is such that hides that, earlier this year, were selling as high as 94 cents a pound for Midwest native unbranded premium hides, but has dropped to an average of 78 cents last week for those same premium hides.
>
> It is continuing to drop, and we can probably expect, when we total up what the average price is for this current week, we shall find it is about 70 cents per pound.
>
> That is the situation as it exists now. The telegram goes on to say:
>
> You have recently received information from a U.S. tanner and shoe manufacturing group operating under the name of "Hide Action Program" that there exists a need for export controls of U.S. "animal hides and skins" because the domestic users of these raw materials are unable to buy sufficient quantities to run their factories, and that the reason for their inability to buy the needed quantities is the export of these cattle hides.
>
> The arguments put forth to you are distortions of the fact and the truth. Many statements have been made by the hide action program which are insinuations of malpractice in the export of cattle hides supposedly causing higher hide prices.
>
> By admission of those making these accusations, there is no substantiation of these charges as they are not rue.
>
> The true facts are:
>
> 1) U.S. tanners have free and total access to every U.S. hide produced, if they are willing to pay the market price, and if they would make use of hides of all origins within the United States.
>
> Naturally, they are competing with foreign buyers and this is part of the free enterprise system.
>
> 2) Hide prices have risen in the United States and world-wide because the U.S. cattle herds are in the process of rebuilding and so are the herds in other countries.
>
> The production of cattle hides in the first five months of this year, due to a reduced kill of animals, was about 14½% lower than last year. Traditionally the kill in the second half of the year, especially after September, increases.
>
> The demand for leather world-wide is large, and consequently the prices for hides, the by-products of the meat packing industry, are influenced greatly under the "old rule of supply and demand".
>
> 3) The return meat packers receive for their hides is an important source of revenue. By retaining more hides in this country than the domestic tanning industry can possible use, again, because of supply and demand, hide prices would decline. This would lead to lower prices for cattle which would hurt farmers, cattle ranchers and cattle feeders and which would result in higher prices for meat at supermarkets and the biggest losers will be the consumers.
>
> 4) The price of hides represents only 5 to 15% of the total cost of producing a pair of shoes in the U.S. Over the past twenty years, hide prices have risen and fallen reacting to supply and demand, but shoe prices being administered have never declined. In fact, in recent weeks hide prices have declined 15 to 20% from their highs. If, when lower prices prevail, shoe prices remain at their high levels, then it cannot be claimed that only hide prices are to be blamed for higher shoe prices. It should be noted that even with hide prices as they are now, they have not kept up with the inflation rate of the last twenty years due to hides being a surplus commodity.
>
> 5) U.S. tanners are working on a reduced scale (approximately 14–15 million hides/yr) because of a lack of orders for their leathers, not because they cannot obtain the hides to tan.
>
> The United States is importing large amounts of shoes and other leather goods and also domestic tanners are buying large amounts of semi-finished leather produced in South America which augments their tanning supplies.
>
> 6) Export controls of hides could hurt the United States' balance of payments, especially at a time when we are attempting to increase our exports.
>
> 7) From past experience, we know that export controls are extremely difficult and costly to administrate on a fair basis.
>
> Many U.S. shoe manufacturers are also involved in the import of shoes, and the facts indicate that many shoe manufacturers have a good and profitable business.
>
> The U.S. leather industry does need assistance in the form of equitable access for their leather to other countries the same as the other countries can sell to the U.S.A., but not in the reduction in export of cattle hides, a surplus commodity. We support the recent action taken by the U.S. Government special trade group which is trying to rectify the inequities of other countries in permitting access of U.S. leather goods into their markets. We do not support any restriction of exports of cattle hides, a surplus commodity.
>
> We respectfully request you to look into all the facts, past and present, concerned with this industry before voting on any changes in the existing Export Administration Act of 1969 as amended, and to leave this act as it concerns "animal hides and skins" unchanged. We feel that after you have gathered all the true facts from all sides, and after you have disseminated and analyzed the deliberate distorted information which you have received from the "hide action program", that you will agree with us.
>
> Please do not allow jurisdiction for animal hides and skins to be shifted from the Department of Agriculture to the Department of Commerce and please do not pass any legislation which would lead to the unnecessary and dangerous imposition of export controls on animal hides and skins.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. MELCHER. Mr. President, they cannot have it both ways. When hide prices go down, the price of beef in the supermarket has to rise. The whole animal, hide, beef, and byproducts are sold. When fat steers on the hoof have been selling for 65 cents–70 cents per pound, the total cost of a 1,000-pound steer is $650–$700. If the hide weighs 60 pounds at 75 cents per pound, that means $45 of the total cost of the steer, the slaughtering cost, the transportation and handling costs of the beef going to the supermarket, the cutting, wrapping and retail costs are offset by that amount received for the value of the hide. If the hide value decreases $20, the consumer at the supermarket is going to pay that much more for the beef from that steer. And the cattle producer receives either less for the steer or the consumer pays more.

You cannot have less value for the hide without adding price to the meat. The effect of the amendment would lower hide prices, cause beef retail prices to be higher, or give a lower return to the cattle producer.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN addressed the Chair.

Mr. HEINZ. Mr. President, I ask unanimous consent that 4 minutes be yielded to the Senator from Texas on Senator STEVENSON's time.

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

Mr. BENTSEN. Mr. President, I thank

the distinguished Senator from Pennsylvania.

I can understand the concern of the Senator from Maine. I have shoe manufacturers in the State of Texas, and have them in substantial numbers.

I sympathize with their plight and want to be responsive. But when we talk about export controls, we are looking for a short-term fix that will not work.

We saw what happened several years ago on soybeans. What did the Japanese do when they found they were an uncertain source of products? They invested over $1 billion in Brazil to develop soybeans, and now the Brazilians are our principal competitors in the soybean business.

When we talk about placing export controls on hides, the point is made that the consumer will benefit. But if the price of hides dropped by 40 to 50 percent, that would result in a 2-percent saving on a pair of shoes. You could buy $20 shoes for $19.60; that is, if the retailer did not take the markup for himself.

That is not the sort of price break that will restore the competitive position of our domestic producers. It will not rout our foreign competition. And it will not save the consumer much money.

We have been working, and we did work, with the STR trying to develop quotas and some protection for our shoe-producing industry in this country. We have made some progress, but the basic problem still remains.

One of the reasons we have a problem with hide prices today is that we have artificial controls on the price of beef, which has resulted in liquidation of herds and increasing prices.

If we get into beef production and talk about butchering and packaging, that is a high volume, low profit business.

The Senator from Iowa has one of the major producing plants in the entire country in that business.

Our meatpackers operate on a high volume, thin margin basis. They sell the whole cow after they buy it and, if we reduce the selling of the hide, or depress the price that can be paid, it only means the price of beef goes up.

We have artificial controls working. We do not have supply and demand working in that situation. In effect, we have hurt the consumer.

We would increase the price of beef, a price the housewife already thinks is too high, by this kind of action. We are looking for a very short-term fix that will not work and will not solve the problems of shoe production in this country.

The problems are more basic than that. They require tax incentives that bring about the renovation of the manufacturing—of shoe production in this country so we can be competitive with foreign production.

That is the kind of approaches we should make, trying to do things to modify and strengthen the supply side of our economy instead of saying we will put artificial restrictions on the export of American products.

We are in tough enough shape today with the dollar, but if we take away the surplus we have in exports of agricultural products and begin to depress them, then we will find the dollar is in even worse shape than it is now.

I know the prices of hides are high, and that the price of hide is only a small component of the price paid for a steer or a beef. Buy if we take artificial measures to drive down hide prices, we must consider the psychological impact on the rancher, who is just now getting back off his knees and is finally able to meet the payments at the bank so he can stay in business. Just when this is happening, along comes the big arm of the American Government putting artificial controls on, to see that we do not get the free market price. Such action can only discourage the rancher and put more of them out of business.

I think that is the wrong way to approach the problem of shoe production in this country.

I urge my colleagues to defeat this amendment. I say that we need to do something more substantive that will have a long-term positive effect on the domestic leather industry. We've got to increase productivity in that industry and make it more competitive. We should work to see that our trading partners eliminate their controls on hide exports, and their barriers to our products. I want to help our leather industry, but we're not going to accomplish that objective by taking it out of the hide of the cattle industry.

Thank you, Mr. President.

Mr. CULVER addressed the Chair.

Mr. STEVENSON. I yield to the distinguished Senator from Iowa.

Mr. CULVER. I thank the distinguished Senator.

Mr. President, I rise in opposition to the amendment by the Senator from Maine to impose export controls on cattle hides.

The situation we face here on the floor today is, in my opinion, most unfortunate. I can certainly sympathize with the Senator from Maine's position. The high price of hides, though a temporary phenomenon, is placing in jeopardy several thousand jobs in his State and in other States. These are jobs of relatively low paid workers with few, if any, employment alternatives.

But I hope the Senator can also understand the position in which his amendment places me, and the over 70,000 cattle producers in my State of Iowa. I am sure he will recall that prior to this year, cattle producers in this country lost money for almost 4 consecutive years. As a result, many individuals in Iowa and other cattle producing States, either lost their farms—their jobs—or had to severely reduce their standard of living.

These are not easy circumstances for those of us who have a responsibility to our constituents. Nor am I asking the Senator from Maine to stand by and do nothing for the dedicated, hard working people of his State whose livelihoods are threatened by current economic conditions.

I must, however, voice my opposition to this attempt to assist the leather goods industry at the direct expense of Iowa's and the Nation's cattlemen. And that is precisely what the Senator's amendment proposes to do.

I think we are all aware of the fact that the cattle cycle is now at a point where fewer animals are being slaughtered. This means that fewer cattle hides are being produced. Those of us from cattle States have been watching this situation develop for several years. We all knew it was coming and we have a pretty good idea when supplies will increase: That is, if the Government keeps its hands out of the market and does not destroy the incentives that are necessary for cattlemen to rebuild their herds.

If we have learned anything about consumer protection and agricultural policy over the past 4 years it should have been that interference in the livestock market to the detriment of producers will have the effect opposite to that intended. Every barrier raised to reduce prices will only further reduce supplies available to the American consumer. Without sufficient supplies, neither the consumer nor the leather goods industry can enjoy the economic health we seek for all Americans.

The case against this amendment was well stated in the December 1976, report on the national commission on supplies and shortages which said:

> It is short-sighted to use export controls for the prevention of domestic price increases, no matter how unpopular these price increases may be. Not only are export controls harmful to the income of exporters and to the credibility of the United States as a reliable source of supply, but they are not in the long-run interest of consumers either.

Earlier this week the U.S. Department of Agriculture released a task force report entitled, "The Structure, Pricing Characteristics, and Trade Policy of the Hides, Skins, Leather, and Leather Products Industry."

The report concluded:

> There is serious question about the legality of export controls for hides. Moreover, analysis indicates that they probably would provide no long-term benefits to either the industry or consumers.

Mr. President, the American cattleman persevered through 4 years of negative income. They depleted their savings and mortgaged their land in the hope that the lives and the work they knew and loved would be rescued by better times. Finally those better times arrived, only a few short months ago, Cattle prices have been at record levels this year, at least, for those producers who survived.

Yet already consumer resistance to high prices has led to a 15 percent decline in cattle prices since mid-May. This situation appears to be stabilizing now with prices at a profitable, but certainly not an unrealistically high level. Any action by the Congress that would upset the delicate balance that for the first time in years has restored some confidence, some stability in the often volatile cattle market, would be totally unfair to producers and unwise public policy.

Export controls on cattle hides would

have ramifications that reach far beyond the impact intended by this amendment's sponsors. In 1978, the United States exported $686 million worth of cattle hides. Due to improved prices, the total will be substantially higher this year. These export dollars will make a significant contribution to balance of payments problems caused by energy and other imports.

In addition, other agricultural exports could be adversely affected by such action. We are still experiencing the repercussions of the 1973 embargo on soybean exports. In the recent Tokyo round of the multilateral trade negotiations, significant gains were made in gaining access for our high quality beef to the Japanese market. Japan is one of the biggest customers for U.S. hides as well as our largest customer for all agricultural commodities. Any limitation on hide exports to Japan could jeopardize trade in beef and other areas.

In conclusion, the policy advocated by the proponents of this amendment is a dangerous means of providing short term relief to a narrow segment of the U.S. economy. It is an attempt to take from the half-full pockets of American cattlemen to fill the half-empty pockets of the leather goods industry. I oppose this amendment and urge my colleagues to defeat it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I will need 3 minutes.

Mr. President, I am in sympathy with the statements of the distinguished Senator from Maine and others who are attempting to help tanners and footwear producers, and other industries, in this country.

They are undergoing some hardship because of the hide supply situation. But I just do not believe that what they pursue today by this amendment will accomplish what they might like to do.

Mr. President, no one can deny that the tanners, footwear producers, and other industries in this country are undergoing some hardships as a result of the hides supply situation. However, the method by which this amendment would seek to remedy the problem contradicts the spirit of the bill we are now considering, runs afoul of congressional precedent on this subject, would not really remedy the situation, and would, in the long run, have a broader and more devastating impact on the cost of living in this country than the current state of affairs.

As I have recognized, Mr. President, such industries as the tanners and footwear producers have a legitimate argument in stating that they are undergoing hard times. We have repeatedly been made aware of their plight. For over 10 years, the hide processing industry in this country has been on decline. This year, Congress will be asked to approve the reduction of duties on dye-stuffs so that the tanners can reduce their cost of production—that will be a plus for them. For the past few years, a massive trade adjustment assistance program has been focused on the footwear industry to help it with trade problems which it has been suffering for practically a decade.

So there is no question about the need for special attention to these industries.

I agree that these industries need special attention and innovative ideas to help them out of their quandary. But limiting exports of a product which is in great demand on the international market and which is supplied almost entirely by the United States is not sound economic policy. Right now, the United States supplies about 75 percent of the hides traded on the international market—which is a seller's market currently. Our livestock and meatpacking industries are receiving top dollar for these exports—which is a happy note for our livestock producers, who are just beginning to recover financially from a 6-year economic drought due to the cattle cycle. The hide exports are also a happy note for our entire country, because they are one of the few pluses in an otherwise disastrous trade balance picture.

The bill before us clearly intends to ease up on export restrictions. This amendment flies in the face of this general policy objective. Past attempts to limit hide exports have run afoul of congressional objectives. In 1966 and 1972 attempts to limit hide exports were opposed by Congress. Probably the most convincing argument in opposition to the mechanism proposed in the amendment is that it would have more of an adverse impact on consumers of beef and producers of livestock than it would help the consumers of hides and the consumers of the products they sell. The result of export limitations, and a consequent reduction in hide prices, would be that the meatpackers would raise the cost of retail beef and lower the price they pay for livestock in order to cover their extremely narrow profit margin. Thus, it seems to me that the impact of the proposed amendment will have a greater adverse effect on our livestock sector and consumers of beef—and therefore inflation—than it would have in helping the tanning and footwear industries.

In effect, if we approve this amendment, we will not be robbing Peter to pay Paul, we will be robbing Peter and Paul to pay Simon. It appears that what we will be giving Simon will not buy him much more than a cup of coffee. What I mean is that livestock producers and beef consumers will be adversely affected while the positive effect for tanners and footwear manufacturers will be minimal. For example, estimates are that hides represent only 5 to 15 percent of the total cost of producing shoes domestically. Export controls probably would reduce hide prices, but it is unlikely that shoe prices would be substantially lower because of lower hide prices.

Mr. President, I would like to suggest to my colleagues an alternative to this ill-advised amendment. My alternative pays Peter, pays Paul, and pays Simon—among others. We can take an affirmative step toward solving the hides problem by adopting a program which provides a relatively predictable and steady volume of domestic hides. This will help even out the drastic price swings which the tanners and others encounter and will also give them some predictability in their business planning. At the same time, this program can help the livestock producers by giving them a mechanism whereby they can make more accurate herd management plans and avoid the drastic price swings attendant to the cattle cycle. Of course, such a mechanism would benefit the consumer by stabilizing beef and leather prices and would promote greater job security in the trade-impacted industries. The program I am suggesting is embodied in the countercyclical formula of the proposed meat import law of 1979. That legislation, if enacted into law, would set up a mechanism which would take a positive approach to solving the problems of all the parties of interest in this matter. Of course, the results of the countercyclical formula may not provide an absolute fix for all the problems we are discussing here today, but it certainly would be a more positive and sound economic method of dealing with the matter than that dangerous precedent the proposed amendment would establish.

Mr. President, I urge my colleagues to defeat the proposed amendment. Instead, I suggest they take advantage of a rare opportunity in which we can help each one of the domestic interests involved by supporting the meat import law of 1979.

Mr. President, I ask unanimous consent to have printed in the RECORD some questions and answers raised by those who support and those who oppose this amendment, together with a letter from the Special Trade Representative, Ambassador Strauss, dated June 26, 1979, along with a statement by the administration opposing the proposed legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS ON HIDE EXPORT CONTROLS

1. Why are hide export controls being advocated?

The cattle cycle is now at the point where less animals are being slaughtered. This, coupled with a continued strong demand for leather and leather products, has increased the price for hides. Tanners, leather users and shoe manufacturers argue that these higher prices are very burdensome to their industry. They want controls on hide exports to drive down the price, thus allowing them to hold down the price of shoes.

2. Do they have a point?

It is doubtful. First, hides represent only 5–15% of the total cost of producing shoes domestically. Export controls probably would reduce hide prices to some degree, but it is unlikely that shoe prices would be substantially lower because of lower hide prices.

3. Have hides been embargoed before?

Yes. Attempts were made to control hide exports in 1966 and 1972, but both times Congress objected.

4. What if export controls were imposed on hides?

Meat packers operate on an extremely narrow profit margin, earning approximately 1¢ per sales dollar. Without being able to sell hides—the single most valuable animal byproduct—at a fair price, packers would be forced simultaneously to (1) lower what

they pay for live cattle and (2) seek higher wholesale beef prices.

5. You mean export controls would lead to still higher meat prices?

Yes. Higher wholesale beef prices would be passed through to the retail level, thus further pushing up the cost of meat to consumers.

6. Would export controls on hides cause other problems?

Yes. Controls would damage the nation's balance of payments. Farm exports now total nearly $30 billion annually (including over $600 million in cattle hides), which helps to offset the large trade deficits we have been incurring in recent years. Any attempt to restrict exports will once again cause our trading partners to question whether they can continue to depend on America for much of their food and fiber supply. If the U.S. restricts trade in one farm commodity, other nations may conclude that we will do so with others, thus making their reliance on our farm exports seem risky.

7. You are saying that imposing controls would set a dangerous precedent?

Yes. If the U.S. blocks exports every time domestic prices rise rapidly in a certain sector of the economy, other nations will be increasingly unwilling to trade with us—and that will hurt all Americans.

Take Japan, for example. As our number one customer for U.S. hides, Japan has already agreed to limit its purchase of them. For us to limit hide exports now, according to Special Trade Representative Robert Strauss, would simply reinforce the Japanese fear that the U.S. is an unreliable supplier, a fear they have harbored since we embargoed soybeans several years ago.

8. Should anything be done about the current high price of hides?

No. It is a cyclical occurrence, and the forces of the world market place will eventually provide the best solution.

9. Shouldn't the government do anything then to help the shoe and leather industries?

Maybe so. But we should not help one industry by penalizing others, especially with a shortsighted policy which will damage our balance of trade. If these industries are legitimately suffering, the government could establish some kind of economic assistance plan. Another approach is to adopt a countercyclical meat import law which would even out the supply-demand imbalance.

THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
Washington, D.C., June 26, 1979.

Hon. RUSSELL B. LONG,
Chairman, U.S. Senate, Committee on Finance, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your May 24 request for the views of this Office concerning Senate Resolution 168, which calls upon the President and this Office to take action to protect the American leather and tanning industry.

I agree fully with the concerns that have led to the introduction of Senate Resolution 168. The price increases we have experienced in raw cattlehides and in leather have resulted in serious economic pressures for our tanning industry, as well as the leather products industry and American consumers. As a result of these concerns, I recently organized a meeting between Members of Congress representing the tanning, shoe, and cattle industries and Administration officials, including Secretary Bergland and Assistant Secretary Weil from the Department of Commerce, to discuss this problem and to explore remedial measures that might be taken. Several of your colleagues from the Finance Committee attended this meeting.

During the meeting, general agreement was reached that the rapid increase in hide and leather prices is due primarily to a reduction in cattlehide supplies resulting from the decrease in U.S. domestic cattle slaughter. In fact, this has occurred previously in four to six year cycles, most recently in 1966 and 1972. It was also apparent that the alternatives for bringing the supply of cattlehides into closer balance with demand are limited.

One approach to the problem is to encourage beef-producing countries with export controls on hides to ease their controls, thereby increasing the worldwide availability of hides. We made a major effort in the Multilateral Trade Negotiations to get these countries to take such action. Unfortunately, most countries responded unfavorably to our request. Nevertheless, we will continue to press hard for results wtih those countries with whom we are still negotiating, especially Argentina.

Another approach which has been suggested by some is the imposition of controls on U.S. cattlehide exports. However, this approach does not appear feasible for several reasons. First, the Executive does not have clear authority to impose controls on hide exports. When controls were imposed in 1966 and in 1972 as a remedy to high and rising cattlehide prices, the Congress acted quickly in response to strong opposition from the domestic cattle industry to terminate the controls. Given this experience, there is a real question whether controls could again be imposed and remain in place for long without being contested in the Courts or removed by Congressional action.

Secondly, any benefit in terms of reduced hide prices from export controls could be offset by increased prices in the longer term. The cattle industry is now undergoing the process of rebuilding its inventory of cattle. This rebuilding process could be slowed or stopped by action which reduces hide prices significantly. This would aggravate the supply problem in the longer term as cattleherds fail to increase sufficiently to provide a greater supply of hides in the future.

Since there are no good solutions to the supply side of the problem, it was concluded that other alternatives should be explored, including the possibility of a program to provide financial assistance for the industry until such time as the domestic supply of cattlehides increases and prices begin to decline. We expect supplies to increase in 1981. The Departments of Commerce and Agriculture will be working with interested Congressmen to see whether such a program can be developed.

Thank you for giving this Office the opportunity to comment on Senate Resolution 168, and please be assured of my concern regarding this important matter. I believe that we are now on the right track toward finding a solution to this problem.

Sincerely,

ROBERT S. STRAUSS.

ADMINISTRATION POSITION ON PROPOSED EXPORT ADMINISTRATION ACT AMENDMENTS

CATTLEHIDE AMENDMENT

1. This amendment is contrary to the spirit of the recently concluded Multilateral Trade Agreements.

It would severely inhibit our efforts to induce other countries to remove their tariff and nontariff impediments to free trade, including those which restrict the export of cattlehides.

It could encourage other countries to impose restrictions on their exports of basic materials for which the United States is heavily dependent on imports.

2. The amendment is too inflexible.

It would make export controls and quotas on cattlehides mandatory unless the President determines that other hide producing countries which have enacted hide export controls during the past ten years have resumed reasonable levels of hide exports (this would appear to mean that all or nearly all of such countries must have already resumed reasonable levels of exports) or that the domestic supply of hides less exports is sufficient to meet the requirements of the domestic economy. (This would appear to mean that they are now sufficient, not that they are forecast to be sufficient to meet domestic needs during the forthcoming marketing year.)

3. The amendment would appear to require a new Presidential determination each marketing year, failing which export quotas would automatically be imposed. The President is already so overburdened with findings and determinations that he has scant time left for addressing major foreign and domestic issues. It is an unreasonable burden to expect him to act as an individual commodity licensing officer as well.

4. Under this amendment, the determinations which the President would be required to make would not in and of themselves assure the adequacy of domestic supply to meet domestic demand.

The mere fact that other major hide producers have or have not resumed current exports, or that the current domestic supply of hides less export demand is or is not sufficient to meet current domestic demand, would not assure the adequacy (or lack thereof) of the domestic supply during the forthcoming marketing year.

To determine this, other factors would also have to be taken into consideration.

Even if both the determinations in the amendment could be made they would not necessarily constitute adequate criteria on which to base a decision that export controls were not warranted.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. PERCY. Mr. President, I rise to discuss the amendment offered by my distinguished colleague, the senior Senator from Maine, and to state my position on it.

In Illinois, 101 firms are engaged in the manufacture of leather products and they have, without question, been adversely affected by the recent rapid rise in the price of cattlehides. The Commerce Department tells us that, through their monitoring, they have observed a steady increase in the export of hides. Exports have jumped from just over 50 percent of U.S. production in 1973 to well over 74 percent in the first 5 months of this year.

What is more, the price of cattlehides has climbed from about 33 cents per pound in 1973 to a record high of 96 cents a pound in May of this year.

This cannot but pinch domestic users of leather and it is a situation that deserves our serious attention. Imposition of export controls is one way to attack this problem. But it is not the only way nor is it necessarily the best. I believe the adoption of the amendment would actually be counterproductive to both consumers, cattlemen, and leather manufacturers in the long run. Export controls, just like price controls in meat a few years ago, are purely a short-run solution that will not help us with a long-run solution to the export drain. In fact, they often backfire soon after being imposed, harming the very interests they were meant to protect.

Let us just take a minute to look at the origin of this export drain. It stems from export controls imposed by other

major cattlehide exporters—Argentina, Brazil, and Uruguay. The shutoff of these supplies have meant that the U.S. market is the only large supply of hides available to other leather-using countries.

And yet, U.S. cattlehide production is in the downward side of a cycle. As the Commerce Department has reported:

Because cattle hides are a by-product of meat slaughtering operations, the demand for hides has no effect on the supply. Beginning in 1974, high feed costs and low returns on investment forced cattle growers to send more calves and cows to market. This liquidation of breeding stock resulted in a decline in herd population which subsequently led to annual declines in cattle slaughter beginning in 1977. Cattle slaughter is expected to decline further through 1980.

In other words, supplies of hides are tight in this country because of the condition of the overall cattle industry. If we had a buoyant and growing cattle industry, we could accommodate more of the demand from abroad.

Mr. President, I might digress a moment at this point to remind my colleagues that one reason for the low number of cattle hides produced in recent years is the volume of imported meat that has been entering the country, deterring the rebuilding of cattle stocks. If we had a more comprehensive policy, recognizing the link between hides and beef production, we might not be in this situation today. That is the type of long-run solution that will help both industries, and it is the type of solution we should pursue.

Our Special Trade Representative acknowledged the importance of a long-run solution in a July 17 letter to my colleague from New York, Senator JAVITS.

In that letter, he said:

One approach to the problem is to encourage beef-producing countries with export controls on hides to ease their controls, thereby increasing the worldwide availability of hides. We made a major effort in the Multinational Trade Negotiations to get these countries to take such action. Unfortunately, most countries responded unfavorably to our request. Nevertheless, we will continue to press hard for results in this area during future bilateral negotiations. We are now working closely with Argentina in search of a mutual satisfactory means for that country to liberalize its embargo on hides.

He continued by noting that:

It was, therefore, concluded at the recent meeting between several Congressmen and Administration officials that we should examine the possibility of a program to provide financial assistance for the industry until such time as the domestic supply of cattlehides increases and prices begin to decline. We expect supplies to increase in 1981. The Departments of Commerce and Agriculture will be working with interested Congressmen to develop such a program.

Mr. President, let me conclude by pointing out that the Council on Wage and Price Stability (COWPS) and the Department of Agriculture (USDA) joined together this year to study the hides situation and issued a report earlier this month. They came out against export controls on hides as not in the long-term interest of either the industry or consumers. The report also made these points:

Productivity in the U.S. leather manufacturing industry has not kept pace with other industries and "although many factors contribute to this stagnant productivity, it remains a major cause of the current problems";

The most feasible long-run approach to the hide shortage is for the United States to continue pressing for freer trade. "In terms of liberalizing trade, freeing up hide supplies for the world market from countries such as Argentina, Brazil and Uruguay probably offers the most relief"; and

Increased assistance should be offered to the domestic industry for R. & D. so they can improve their productivity.

The USDA report also quoted the National Commission on Supplies and Shortages of 1976 on the subject of export controls, which said:

It is shortsighted to use export controls for the prevention of domestic price increases, no matter how unpopular these price increases may be. Not only are export controls harmful to the income of exporters and to the credibility of the United States as a reliable source of supply, but they are not in the long-run interest of consumers either.

This is the kind, an issue when you are damned if you do and damned if you do not. On balance, I feel the weight of evidence would be to protect the overall national interest in both the short- and long-run by defeating the pending amendment.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. WALLOP. Mr. President, I rarely feel paranoid. It just is not one of the characteristics that God laid on my personality. But the issue of limiting hide exports, in fact, does get down to that point.

The Senator from Maine has suggested that his amendment is important and fair, and guess it all depends on whose ox—if you will forgive the phrase—is being flayed here.

In this instance the amendment has an immoral characteristic which I think needs to be pointed out. I do not say this is the actual intent of the cosponsors. But, I do say that you cannot take an industry in which, on the one hand, you consistently allow imports into this country, which creates a lush level of competition and then, on the other hand, tell cattle and hide producers that they cannot export the only product that remains of their domestic industry. It is an almost unbelievable set of circumstances.

Mr. President, I used to be in the packing plant business. I had my own packing plant, and I worked all phases of it. The last year I was in that business, I got an average of about $6.18 a hide. I understand that now they are getting closer to $23 a hide, and this is a small packer's market. You will find different figures if you look at the national packer's market. The small packers always have a discount as opposed to big ones.

I did not see a soul coming and saying, "You need a little support in your industry to raise the prices." Nobody from the shoe industry approached anybody in the small packing or large packing industry at that time. But at that time they were resisting any attempt to limit imports, and we today have the imports of beef products into this country at higher than the legal limit.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. WALLOP. Mr. President, the Senator has his own time and he can answer me at that moment. I have only 3 minutes.

What is happening is that you are exercising your right at the expense of somebody else's right, and it is not a fair approach.

I point out that in 1972, we had a limited supply, and we had a hide export prohibition. It has been concluded that why we do not limit hide exports today is because the 1972 law did not function.

I quote:

The present version of section 4(f)1 resulted directly from the Commerce Department's imposition of short supply in this case on cattle hide exports in 1972.

Can we not learn from the experience of the past?

I wish the Senate, in the interest of fair play, would use the multilateral trade negotiations, use the other means of countercyclical imports, to adjust some fairness of supply and demand on hide prices, and not, take it out on the cattle industry who already bears the brunt of massive imports.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. DANFORTH. Mr. President, I find that this amendment puts me in an almost intolerable position.

Back in the 1940's, at the time the St. Louis Browns were still in existence, it was said that St. Louis was first in shoes, first in booze, and last in the American League. Shoe production was a major industry there.

In fact, the State of Missouri is the third largest employer in leather and leather products—third only behind the States of New York and Massachusetts.

Clearly, this amendment would be of benefit to a number—thousands—of my constituents who are in a very hard-pressed industry right now.

However, at the same time that Missouri is third in employment of people who work in the leather industry, we are second to Texas in calf production. So, clearly, the amendment, which would be helpful to some of my constituents, would be most injurious to many others.

Therefore, I fall back on a basic philosophical question to try to resolve this conflict, and it is this: Is the future of America, is the direction we are going to take as a country, going to be one of restrictions on trade policy; or, instead, is our future and the opportunity for growth of our economy going to be in the direction not of restrictions but of expansion of trade.

It is my hope that the plight of leather workers can be helped by the Tokyo round of GATT which was just completed. I have written to Ambassador Strauss, asking him to do everything he

can to put pressure on other governments to lift the embargoes that exist in their countries so that more hides would be available for export into our market. It is my hope that as a result of the completion of the Tokyo round, the use of an embargo by other countries to depress their domestic prices of hides will be viewed as a subsidy which is subject to countervailing duty.

Therefore, it is my hope that as a result of GATT, and as a result of the freer trade policy arising from it, some assistance will be on the way for leather workers.

I do not believe that embargoes work. I believe that the history of embargoes has been disastrous, particularly for the agricultural sector of our economy. For that reason, Mr. President, I oppose this amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Senator MUSKIE has yielded me 2 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as Senator MUSKIE has stated, I believe this amendment offers a reasonable and moderate solution to what is truly an extraordinary problem for over 400,000 leathergoods workers and every American consumer.

This measure is a last resort. Numerous attempts have been made to negotiate a solution with other hide producing countries. The fact is that our special trade representative, in trying to deal with the two countries which refuse to export hides—Argentina and Brazil—was essentially rebuffed. When this issue was raised at the multilateral trade negotiations, he effectively reached a stone wall.

The amendment of the distinguished Senator from Maine, of which I am a cosponsor, is a measured response. It is an interim response which attempts to deal with a matter of enormous importance not just to an industry, not just to leather and footwear employees, but also to the consumers of this Nation.

The fact is that from 20 percent to 40 percent of the wholesale price of shoes is attributable to the price of hides. This translates into a price increase of between 9 and 10 dollars at retail for a pair of leather shoes. Consumers, already hard hit by skyrocketing prices in most other sectors of the economy, deserve some measure of relief.

I have listened with interest to those Senators from agricultural States who have spoken. I share their deep concern for the interests of the American cattle industry. I share their concern over past mistakes which have jeopardized the interests of this vital industry. I would not support this amendment if I thought those interests would be jeopardized. But the fact remains that when we have had stability in beef prices, we effectively had stability in the hide prices. And the price of hides, which account for only 7–10 percent of the value of a steer, is not a significant factor in the decision to rebuild stocks. Beef and grain prices have much more to do with these decisions.

This amendment offers a reasonable and interim solution to the serious problem of artificially high hide prices. It says: Let us try to work this out through negotiation. Let us be sensitive to the unique problems posed by the lack of free and fair trade. Let us take this approach until we are able to build up the beef herds in this Nation, which have diminished and which were the result of adverse policy decisions. But at least let us have the opportunity to assure that the consumers of this country are not going to once again find that as a direct result of foreign government restrictions, they are paying outrageous prices for one of the essential commodities of their lives.

Mr. President, I strongly support this amendment. It will correct a trade imbalance which both jeopardizes the future of our footwear and leather industries, and strikes at the pocketbooks of all Americans.

Since 1978, cattlehide prices have risen an astounding 126 percent. Hides that cost 37 cents a pound in 1977 now cost over one dollar a pound. One shoe manufacturer told me that a family of five can expect a total shoe bill of at least $500 in 1980—about $100 more than the bill for last year's shoes. Of course, all leather products are affected by this dramatic rise in the price of hides. And if we don't act now to moderate these price increases, all Americans will be forced to pay $2 billion more for leather products. Two recent articles, in Forbes and Retailweek magazines, provide excellent summaries of the consumer impact of these price increases. I ask unanimous consent that these articles be inserted in the RECORD at the conclusion of my remarks.

The severity of the problem stems primarily from the fact that foreign purchases of U.S. hides have reached unprecedented levels. Historically, export demand has taken about half of U.S. hide production. In the last few years, however, exports have skyrocketed. From March through May of this year, 83 percent of U.S. hides were exported.

This extremely high level of exports is not the result of substantially increased world demand for hides. If hide prices were only the result of worldwide demand that the free international market could not satisfy, I would not be recommending this government response.

The fact is that the world market in hides is not free. As I mentioned earlier, major hide-producing nations—Argentina and Brazil—are now protecting their own domestic industries by embargoing the export of their hides. As a result, the United States has become the primary source of supply for hides in the world market. Even though we produce only 15 percent of the world supply, U.S. hides account for 75 percent of those traded in the world market.

This huge demand for cattle hides overseas, particularly in Japan and Korea—coupled with hide export restrictions in other countries—now threatens the jobs of 400,000 employees in the footwear and leather industries. And it threatens every American consumer who has been forced to bear high prices for all leather goods.

To say that we should simply wait for substantial increases in cattle production ignores the imediate problem. I met with Secretary Bergland last month to discuss this issue, and he advised me that herds would not be substantially increased for at least 2 years. Production is not expected to return to 1978 levels until sometime between 1983 and 1985. We simply cannot afford to wait that long.

This amendment provides a reasonable form of relief, and is designed to be effective only for the duration of the hide shortfall. Most importantly, it is designed to promote the free trade of hides. Under this amendment, any U.S. export controls would be lifted as soon as other hide producing countries resume reasonable levels of exports.

This is a reasonable amendment which takes into account the legitimate interests of both the leather industry and the cattle industry. It provides the consumer with badly needed relief from rising prices. It provides a fair share of cattle hides to allow our industries to keep producing, and the more than 400,000 employees in the leathergoods industry to keep working.

I urge my colleagues to join me in supporting this measure.

Mr. President, I ask unanimous consent that the articles written by Richard Greene be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE LAST ROUNDUP FOR LEATHER?

(By Richard Greene)

The signs are there, like vultures flying over a diseased, but still breathing, man. It's been years since you could easily find a leather baseball glove made in the U.S. The pair of leather shoes that cost $20 two years ago goes for over $30 today, and it's difficult to find them at *that* price. All-leather attache cases are out of sight, many selling in the hundreds of dollars.

At the same time, the fashionable gent in Tokyo is wearing all-leather shoes, carrying a leather attache case, and probably playing baseball with a Japanese-made leather glove. Which wouldn't be so ironic if it weren't for the fact that the Japanese raise virtually no cattle—the raw material for leather. No, it's the U.S. that raises all those cattle.

Says Lawrence McGourty, president of Melville's Thom McAn shoe division, "The Japanese wear leather because they know Americans wear leather and they want to be like Americans. But if they keep it up, they'll be the *only* ones wearing leather."

So, naturally, with skyrocketing prices and high international demand, the tanners are cleaning up, right? Wrong. Dead wrong. The tanning industry, which has been dismal for years, may be on its last legs. Take Newark, for example. Pre-World War II, there were some 60 tanneries in that New Jersey city. Now there are three. Just ten years ago some 30 million hides were processed domestically for leather; now it's half that.

The problem, basically, is that there is a leather shortage. Last year 40 million head of cattle were slaughtered in the U.S. and this year it will probably be down to 34 million. So, the supply of hides is down. Meanwhile, the demand remains high. It is hardly surprising, then, the prices in Decem-

ber 1978 were 52 percent higher than a year earlier, and by last April they had risen 147 percent since December 1977, to 94.2 cents a pound.

The pressure driving these prices up is not only the decreasing number of hides—a phenomenon of the cattle cycle—but also the huge demand overseas, particularly in Japan and Korea, for those hides. Since 1976 the U.S. has been exporting a larger and larger percentage of its hides; 71 percent of U.S. output is now being exported, to supply about 75 percent of the hides traded on world markets.

According to Eugene Kilik, president of the Tanners' Council of America, domestic tanners just don't have much of a chance at getting to the hides. There are arrangements, he claims, in which the Japanese offer to pay 10 cents a pound more than the best bid made by American firms. That's the kind of offer you just can't beat. Especially as the Japanese restrict U.S. incursions into their profitable market.

To add to the problem, the U.S. is virtually the only nation supplying Japan's lust for hides. The other major cattle-producing countries, like Brazil, Argentina and Uruguay, ban export of hides, preferring to compete with finished leather goods. That's a good idea for developing nations because it means jobs; shoes, handbags and the like are labor intensive. Unfortunately, this leaves the U.S. as virtually the only free-market nation in an unfree market.

Since there is little that can be done to persuade the Brazilians and others to sell their raw hides, the U.S. leather industry is in a quandary. The shortage doesn't hurt only the tanners, it hurts manufacturers of shoes, handbags and garments as well as retailers who find it difficult to sell a pair of $25 shoes for toddlers.

Says McGourty, "This is the first time I can remember in the shoe business that everybody—the tanners, the high price shoe retailers, the popular price shoe retailers and the manufacturers—is working together to persuade the government to do something."

Last year they had some success. The government negotiated some concessions from the Japanese. Said the leather industry: Too little, too late.

Essentially, the leather industry wants a limited embargo on the hides being exported. This will ease the market here and provide blessed price relief. And Congress listens—at least a little—to an industry that employs about 300,000.

There is even precedent for this kind of limited embargo in the 1969 Export Administration Act, which President Nixon tried to use in July 1972 to put some restrictions on hide exports. By August the cattle lobby had pushed in an amendment and the restriction disappeared.

The fact is, not everybody thinks the leather industry needs—or deserves—help from the government. The producers of hides—cattlemen and meat packers—would be hurt in the pocketbook by any form of restriction on their exporting hides. They argue that they should be able to get the highest price possible for their goods. Listen to Bill Delph, vice president of Iowa Beef Processors, one of the largest U.S. hide producers: "The tanners are not being shut out. They can buy hides. They can get all the hides they want. But they're going to have to pay for them." The cattlemen mirror that sentiment—perhaps even more strongly.

Funny, isn't it? These are the same people who scream bloody murder if the U.S. lets in foreign meat to hold prices down. They are about as protectionist as they can be then. But when it comes to their precious hides—why, there's nobody here but us free-traders.

ON THE TRAIL FOR CATTLEHIDES

The recently launched Hide Action Program may turn out to be the domestic leather industry's last stand. Unless export controls are imposed, the U.S. leather industry won't be able to afford the price of U.S. cattlehides.

Time was, the leather industry—from tanning to turning out the finished product—was a major U.S. industry ranking right up there along with the likes of the steel industry. Today, those who are still left in the U.S. leather industry are finding it necessary to band together and attempt to impress upon Washington that this industry is in danger of becoming as extinct as the buggy whip.

Yes, everyone in Washington already knows that the shoe people in particular have been living with a knife in the back known as imports. But what the entire leather industry is trying to explain to Washington is that as difficult as it is to compete with imports of finished goods, the manufacturers of footwear as well as handbags, luggage, outerwear, sportswear, et al., might as well throw in the sponge if they cannot buy the U.S. hides needed to make U.S. products because the majority of them are being sold to those same countries which produce the finished products, which come back to the U.S. to haunt the industry for the second time around.

The irony of the situation is that the United States is the major supplier of cattle hides to the world, representing about 15 percent of the world supply. But the majority are sold abroad with these exports representing about 75 percent to 80 percent of the world supply. This world-wide demand for U.S. cattlehides is exacerbated by the fact that other countries with substantial herds—such as all the South American countries—totally prohibit the export of hides; preferring to keep them at home to develop and protect their own leather industries. These restrictions create an inordinately high demand for U.S. cattlehides that has been abetted by the cattlemen's restrictions in the size of the cattle slaughter.

This combination of foreign demand, South America's refusal to sell hides, and a reduced U.S. cattle slaughter have caused the price of U.S. hides to skyrocket. The domestic industry's dilemma began in 1972 when Argentina cut off its sale of hides, eliminating about 12-million hides from the world market. Hide prices then jumped from 14 cents to 32 cents a pound, then stabilized in the area of 38 cents a pound. At that time the U.S. exported about 48 percent of its hide supply.

But between 1975 and 1977 U.S. cattlemen began to reduce the size of their herds. Cattle slaughter peaked in 1976 when 43.2-million hides were available, but it is estimated that the number of hides available in 1979 will be down to 34.2 million. While supply has been dwindling, however, world demand for U.S. hides has been escalating; exports are expected to take 24.5-million of the 34.2-million in 1979. This means that the U.S. in 1979 will be exporting 71.6 percent of its hide supply and supplying 75 percent to 80 percent of the world hide trade. This export level also means only about 10-million hides will be left for U.S. producers when domestic requirements for hides are between 18- and 20-million a year.

the industry cannot afford to pay, even if enough hides were available. The jump from 14 cents to 38 cents in the early 1970s looks

This shortage has created price levels that like the good old days. By December 1978 prices reached 58 cents a pound; but between December 1978 and May 1979 prices zoomed to more than $1 a pound.

Neither declining supply nor higher prices have dampened the foreign appetite for U.S. hides. Where else are the Far Eastern and Eastern Bloc countries—anxious to build a business in finished leather goods but without a cattle supply of their own—to go for hides? The U.S. is virtually the only country left with both a large cattle supply and free-buying access to this supply.

The country taking the greatest advantage of U.S. policy is Japan. Though it closes its doors to U.S. finished leather products, Japan, neverthless, has an insatiable appetite for U.S. hides; buying 35.9 percent of U.S. hide exports in 1978. The purchases of Japan and Korea combined account for more than 50 percent of exports with 30 other countries accounting for the rest. Due to an exchange rate advantageous for Japan, the price of U.S. hides has not deterred Japanese purchases. On the contrary, the Japanese have been buying more.

The upshot is that neither Brazil, Argentina, Uruguay, Mexico, India nor Pakistan—countries with substantial herds—will sell hides in the open market. They want to protect their domestic industries. Japan, Korea and the Eastern Bloc will buy almost all the hides the U.S. has to sell, but they will not take finished leather goods. They want to protect their domestic industries. That leaves countries such as Canada, Australia, New Zeland and those in western Europe as world markets for the sale of hides; but it is the U.S. that has the greatest supply. Now the U.S. leather industry is saying—enough is enough. It is saying it doesn't object to operating within the traditional laws of supply and demand; but it cannot survive when, in reality, this means only the U.S. has the supply and every other country makes the demand.

That is why several trade associations in the industry have banded together to launch what is called the Hide Action Program (HAP). This program is an attempt to bring the plight of the industry to the forefront through demonstrations in cities hosting leather-using industries and by blitzing members of Congress and President Carter with letters and personal visits. The program's goal is to convince Washington that action is needed now in the form of export controls on U.S. hides that would both bring down the price of hides and make more of them available to U.S. producers.

HAP's message is that the alternative to action from Washington is the ultimate extinction of the domestic leather industry with the resulting loss of thousands of jobs or, at best, price increases in leather products that the industry estimates could cost customers over $1-billion a year. Given the high U.S. hide prices and the fact that foreign countries are dependent on these hides, customers switching to imported leather products is no longer a viable alternative in an effort to economize. Neither U.S. nor imported leather goods may be affordable by U.S. consumers.

Unfortunately, this recent mobilization by the industry has only a slim chance of producing results. Though it has been aware of the hide situation since 1972, Washington has never displayed any great sense of urgency in alleviating the problem. In 1972, following Argentina's action, the concept of export controls was entertained and then quickly dropped. Since then, despite preferential tariff treatment for the so-called developing countries, these same countries have ignored Washington's efforts to persuade them to sell their hides on the open market. And, negotiations with Japan have extracted only an unofficial promise that it will reduce purchases of U.S. hides by 10 percent. But, even if Japan were to honor this "promise"—which it hasn't—this 10 percent figure is meaningless since U.S. cattlehide supplies have decreased by much more than this 10 percent figure.

Leather industry members claim that it is only their current desperate plight and past failures in attempting to resolve the problem through negotiations with foreign countries that have left no choice but to push for export controls. If this means that the U.S. leather industry is going to have to explain this "protectionist" move—so be it. The industry prefers free trade in hides but has been unable to achieve it. Understandably, the industry is now tired of being "the unwitting patsy in the international free trade game". So it is shooting for export controls because all else has failed.

Unfortunately, there is another and more powerful lobby in Washington; they know how to use a sixshooter, too. This lobby consists of the cattlemen, or as the leather industry prefers to call them, the cowboys. They have already made it clear to Congress and the Administration that they don't hanker for hide controls. They like things just the way they are. Evidently their message has been heard, for the Administration has already also declared itself against export control of hides.

But, never fear, Washington will concoct a solution, even if it is the wrong one. Right now Washington has suggested that it might be willing to provide subsidized loans to enable U.S. industry members to afford U.S. hides. Unfortunately, Washington has overlooked the fact that loaning money to U.S. manufacturers for the purpose of buying hides at already inflated prices will merely drive the price of hides even higher, insuring that more and more of the domestic leather industry will surely go down the drain.

It is now high noon for the domestic leather industry. The HAP program is, at least, a sure sign that it intends to go down fighting.

Mr. MUSKIE. Mr. President, I yield 1 minute to Senator TSONGAS, 1 minute to Senator DURKIN, and 1 minute to Senator HUMPHREY out of, I think, 6 minutes remaining.

Mr. TSONGAS. Mr. President, I thank the Senator for yielding.

Mr. President, I ask unanimous consent that a resolution passed by the legislature of the Commonwealth of Massachusetts adopted June 26, 1979, 4 weeks ago, be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

"Whereas, American shoe manufacturers, who recently began to rebound from the flood of cheap imported footwear, now find themselves shod with a potentially more crippling problem, the steadily increasing prices for a shrinking supply of domestic cattlehides; and

"Whereas, the price of American cattlehides has more than tripled in the past 17 months, and hide prices have risen by more than 68 per cent since January, from 59.3 cents per pound to one dollar per pound as of last month; and

"Whereas, the impact of such increases on consumers will probably be felt next year, and at least two of New England's major shoe firms fear continued higher prices could lead to layoffs and possibly shutdowns in leather-related industries; and

"Whereas, primarily because of Taiwanese and Korean imports, the footwear industry currently employs about 14,000 workers in Massachusetts as opposed to an employment figure of more than 20,000 eight years ago, but the hide market situation may prove a more serious aggravation, hitting the industry from the inside; and

"Whereas, as the United States provides 75 per cent of the world's commerce in hides yet accounts for only 15 percent of the supply, the main reason for the bleak outlook is that most of the domestic hides are being exported to nations which capitalize on the devalued dollar, where they fetch a higher price than if they were sold to American tanneries and leather processors; and

"Whereas, the high amount of exports combined with a steadily declining slaughter rate have resulted in scarce supplies at inflated prices of raw materials needed by producers of shoes, handbags, belts and other leather goods, so that increased hide prices could cost consumers from 1 to 2 billion dollars; therefore be it

"Resolved, that the Massachusetts House of Representatives hereby urges the President and the Congress of the United States to pass legislation whereby a limit shall be placed on the number of hides which may be exported from the United States; and be it further

"Resolved, that the President's special trade advisor, Robert Strauss, be exhorted to convince Brazil and Argentina to cease and desist from restricting the export of their own hide supplies, which would relieve some of the demand in foreign quarters on the purchase of material from the United States; and be it further

"Resolved, that copies of these resolutions be forwarded by the clerk of the House of Representatives to the President of the United States, special trade advisor Robert Strauss, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

Mr. TSONGAS. Mr. President, I rise in support of the amendment introduced by my distinguished colleagues, Senators MUSKIE and BAKER.

It is not necessary for me to repeat the overwhelming supply/price statistics that have dominated the debate this afternoon. All of my colleagues in the Chamber today are aware of the conditions that have led to this amendment.

The situation that confronts us is not one of narrow parochial interests. Rather, the action that the amendment proposes is remedial. The United States is the world's only major producer of hides that does not restrict exports. I believe in free trade. But a free market does not exist. While the United States produces a scant 15 percent of the world's hides, it supplies over 75 percent of the world market. If we could convince other hide producers to follow our lead, there would be no problem. But that is not our current situation. Argentina and Brazil have effectively imposed export controls for over a decade, resulting in a tightening of world supplies. The United States has singlehandedly assumed this burden.

Next week the Senate will consider the implementing legislation for the multilateral trade agreements. These agreements constitute a major achievement of Special Trade Representative Robert Strauss and the Carter administration.

A number of tariff and nontariff barriers that have traditionally obstructed world trade have been effectively removed. Impressive inroads have been made for the export of a wide range of American goods, particularly agricultural and technological goods. Negotiations were undertaken and successfully completed protecting a number of particularly sensitive domestic industries. But little action was taken to alleviate the very real crisis facing our Nation's leather and tanning industry. As long as several of our key trading partners persist in controlling the free flow of trade in hides, to the direct detriment of U.S. consumers and leather producers, we do not have an atmosphere of free trade.

The Muskie-Baker amendment is a moderate, reasonable solution to a critical problem. The amendment as proposed gives the administration the preferable option of bargaining with the principal hide-producing countries. Only if the United States fails to put an end to the protectionist measures of trading partners, and at the same time domestic supplies are not adequate to meet domestic needs, would some sort of limit be placed on the quantity of U.S. exports. This amendment carries no quantitative restrictions. Exports would be limited to a level that the President determines is representative of hide export levels.

Mr. President, I ask the Senate to remedy this grossly inequitable and inflationary condition. Consider the American consumer, and the future health of our Nation's economy.

Mr. President, I think it is quite true that there is a certain regional conflict here, and that is unfortunate. But the conflict is really between one section of the country that has an industry that is on the ropes and another section of the country that has an industry that is experiencing a bonanza.

If you look at the prices of cattle hides over the last 6 years going from 33 cents to 85 cents, that certainly outstrips any definition of the rate of inflation.

What we are seeking is simply the capacity of our industry to survive, not necessarily to prosper, and it is in that direction that I commend the Senator from Maine.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

The Senator from New Hampshire is recognized.

Mr. DURKIN. I thank the Chair.

Mr. President, I am pleased to be a cosponsor of this amendment being offered by the distinguished Senator from Maine, Mr. MUSKIE, to amend S. 737, the Export Administration Act. I commend the Senator from Maine for his leadership on a very important issue not just to our area of the country but to many areas of the country.

The purpose of this amendment is to insure domestic users of leather of adequate supplies of their basic raw material. And let us face it. Today there is no free world market in hides. Although the United States produces only 15 percent of the total world supply of cattle hides, we provide over 75 percent of the world market. Many foreign hide-producing nations have placed embargoes on the extent of their own hide supplies and refuse to import U.S.-finished leather goods.

I think we have seen the failure of the trade negotiations. Countries are not willing to cooperate. Japan is not willing to cooperate. Japan takes almost 24

percent of U.S. hide exports, but refuses to permit sales of U.S. leather goods in Japan. Free trade must mean fair trade.

In my area of the country we have seen thousands and thousands of shoe workers who witness the factory door swinging shut for the last time. It is at least once a month that we see that some shoe company has closed its door for the last time.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. DURKIN. Mr. President, I ask unanimous consent to revise and extend my remarks.

Mr. President, only immediate and forceful action can reverse the dire plight that the American Tanning and Leather Industry presently faces.

The world-wide situation is this: At a time when cattle hide supply is in the course of a cyclical downturn, as a result of a slide introduction by the beef industry, the United States with only 15 percent of the total supply is in the unenviable position of providing over 75 percent of the world market. Last year 39.5 million cattle skins were produced. This year production levels will drop to 34.5 million. The leather industry anticipates there will be a shortfall in domestic supply requirements of almost 10 million cattle hides. As late as May of this year we were exporting 83 percent of our hide supply. The logic of this situation completely escapes me.

Massive foreign purchases of our cattle hides resulted in prices going through the roof. No industry can sustain a 900-percent increase in its basic raw material over a 4-year period, and expect to survive. With a question of inflation preying on everybody's mind we ought to recognize that the estimated cost to American consumers of increased leather goods prices is $2 billion in the next year. In an $8-billion industry, an increase of that magnitude is too significant to be ignored by a country waging a war on inflation.

It is unconscionable that we could continue to allow a drain of our own natural resources to the detriment of an American industry so as to provide for free trade of this commodity. We are not talking about free trade here. There is no free trade when the other major hide producing countries have placed embargoes on the exports of their own cattle hide supplies, creating an artificial world marketplace. The very viability of an entire industry is being called into question as we fiddle here with talk of "free trade."

In testimony before the U.S. Senate Agricultural Committee a member of the board of directors of the Montana Cattlemen's Association stated:

> The senseless policy of exporting hides and skins—raw leather—has all but phased out the American tanning industry and therefore the American leather goods industry.

She concluded in stating that:

> We are Americans. We live by American standards, pay American taxes and believe that as Americans we have the first right to provide goods and services for our fellow Americans.

I could not have better stated the situation myself.

I cannot continue to stand by and watch as 400,000 American jobs are threatened in the tanning and leather industry. At least once a month the doors of a New Hampshire footwear manufacturer are slammed shut; in direct response to the adverse impact of shoe imports upon domestic industry.

The amendment we are submitting today is tailored to the exigencies of the immediate situation, stipulating that until foreign governments move their own export controls or adequate supplies are available to domestic users, the United States will limit our cattle hide exports to reasonable historical levels. The amendment is both reasonable and flexible.

All other avenues of action have failed to produce a solution, however valiant our negotiated attempts. At the Office of the Special Trade Representative's own admission, they have failed to arrive at an acceptable conclusion in bilateral or multilateral negotiations. We are then left with the unavoidable choice of implementing export controls or witnessing the total demise of the American tanning and leather industry.

I believe the choice is clear. I urge you to join me in supporting the Muskie amendment to S. 737.

FREE TRADE

There is no free world market in hides. The United States produces 15 percent of world supply—provides 75 percent of trade in cattle hides.

Argentina and Brazil produce 10 percent, but export none. India and Pakistan export none.

Italy asked for export controls at Brussels meeting, EEC. Purchased 1.2 million hides last year. Already in this first quarter of the year—Italy has purchased over half a million—524,000.

Italy has sold us 11.6 million more shoes this year than last—a 70-percent increase.

Mexico embargos all hide exports. Mexico bought 1.9 million hides last year and had purchased 863,000 by end of May 1979. Mexican exports shoes to United States—up 61 percent from 1978.

Romania is the fifth largest purchaser of U.S. hides—bought 1.9 million last year. Value of Romanian exports to United States up 7.8 percent from last year.

We are importing inflation—not just shoes.

TRADE RECIPROCITY AND FAIRNESS

Eastern Europe purchasing decisions are not based on economic determinations as we understand them. They buy as a matter of government policy.

Eastern Europe buys 13 percent of U.S. hides, but does not buy U.S. finished leather goods. Romanian exports to the United States are up seven-eighths percent in value over 1978.

Brazil exports to United States are up 41 percent from 1978. Their value is up 13 percent.

Brazil is building up and protecting her leather industries and using United States as a market. Brazil argues that it is a developing nation and should be treated differently. I disagree.

This is not free trade. The U.S. leather worker is being asked to help subsidize and protect Brazilian leather workers, at our expense.

Japan buys from behind a protected market. It can pay these prices because Japanese leather products do not have to compete in price with others, such as ours.

Japan takes almost 24 percent of U.S. exports, but refuses to permit sales of U.S.-finished leather goods in Japan.

The recent modest agreement to sell leather to Japan is not being implemented.

Korea and Taiwan took 4.7 million hides between them and sold the shoes to the United States. We were forced to undertake orderly marketing agreements because of the flood of imports. Our overseas competitors have tried to circumvent these by selling quasi-finished products instead.

Let us look at the balance of payments in leather.

[In millions]

1978 figures:	
U.S. sold $687 million in hides abroad	+$687
U.S. sold $194 million in leather and shoes	+194
Total	881
U.S. imported $222 million in leather	−222
U.S. imported $2.22 billion in leather products	−2,220
Total deficit	2,424

Our adverse balance of payments in leather accounts for 8 percent of the total U.S. trade deficit. Selling hides when we import finished products at this rate does not help the balance of trade. Other agricultural products are exported, but do not come back as finished food for resale in the United States at the expense of our workers.

INFLATION

Lower hide prices domestically will not result in higher meat prices. Export prices would not drop—the contrary would occur in fact. Evidence that domestic hide prices would drop is nonexistent. They would stabilize. Why should that increase beef prices?

If we care about inflation, look at inflation in hides: Barry Bosworth; last October, when hides were bringing 58 cents a pound—up 100 percent from 1977—said:

> Prices of hides and skins have exploded during 1978.

What would he say now, when hides are bringing $1 per pound?

This inflationary pressure has a delayed-action impact that will hurt us all.

Hide prices are up 162 percent over the last 18 months, the largest increase has occurred in the last 5 months. Leather prices are also up—111.7 percent from the first quarter of 1978. Finished leather goods prices have shown relatively little of this explosion yet. In fact, the industry has a good inflation record.

But it cannot keep it up at this rate. Shoe prices rose 6.3 percent from 1978 in

the first quarter—compared to a 9.8-percent CPI for the same period.

At wholesale, shoe prices are now rising 17 percent over last year—and that price will be reflected in our retail stores. Leather goods constitute $8 billion annually in consumer purchases. Price increases already in the pipeline may add $2 billion to that. Hide price increases in 1979, which have been much worse, will aggravate inflation in 1980 and 1981.

Bosworth said last October: "Footwear prices could move up sharply later this year." He was right.

As prices go up, competitive restraint on imported items is lessened.

Brazil's exports to the United States are up 13 percent in value from 1978. Romania's are up 7 percent. Korean sales to the United States are up 30 percent. Taiwan's unit value for imports is up 40 percent. Imported shoes have gone up well over 16 percent in value on average.

When our domestic shoe prices go through the roof, what restraint will exist against massive price increases from overseas? None.

Expenditures on shoes in the United States rose 13.7 percent from 1978 and will continue to rise.

Footwear increased its total share of expenditures on the joint clothing/shoes index from 14.96 cents on the dollar to 15.07 cents. This is a foretaste of what will come. Shoe industry records show that when prices skyrocket, for example, people buy fewer shoes. They do not switch to nonleather shoes.

Let us look at the employment figures in the United States; 400,000 jobs in tanning and leather industries directly.

Retail sales—105,000 retail stores, depending in part or wholly on leather goods sales.

Layoffs are up over 7.7 percent from last year. Thousands of New Hampshire shoes workers have seen the factory doors swing shut for the last time. Productivity in the footwear industry is good. The industry is trying to recover its vitality. It has registered a productivity gain of 3 percent over last year—at a time when productivity was declining elsewhere in our economy. We should not let an efficient industry collapse at this time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, it is U.S. trade policy to promote exports of agricultural products when supplies are greater than what the American consumer needs or wants, not to deprive him of basic commodities he desires and should be able to buy.

We are not exporting a surplus of hides, but rather the bulk of the hides in this country, over 70 percent, as a matter of fact.

Our domestic industry needs 10 to 20 million hides and they have to get by on 10 million.

Mr. President, no other agricultural commodity is exported as the same high rate, 83 percent in March, April and May of this year. Last fiscal year, 54 percent of soybeans, 55 percent of wheat, 73 percent of rice, 40 percent of cotton, 40 percent of almonds, 35 percent of tobacco, 30 percent of corn; other cattle byproducts—40 percent of tallow, 16 percent of edible offal.

Mr. President, immediate action is needed to alleviate the crisis that now exists in our leather products industry. I rise to support the Muskie-Baker amendment in an effort to insure that adequate supplies of cattlehides will be available for domestic leather users.

Cattlehides are the principal raw material for the production of leather products. Foreign governments, such as Brazil and Argentina, have refused to export their own cattlehides which in turn has caused a disproportionately high demand for reduced U.S. supplies. In March through May of this year, 83 percent of our U.S. hides were exported, resulting in a price increase of over 150 percent in just over a year. Although the United States has only 15 percent of the world's hide supply, it presently accounts for 75 percent of the hides traded on the world market.

This is not a free market situation. Export restrictions are maintained by the other major cattlehide-producing countries. The U.S. Department of Commerce has stated, that approaches recently made by the Office of the Special Representative for Trade Negotiations to the government of these countries to encourage them to relax their restrictions on hide exports, have proven unsuccessful.

These anticompetitive practices of foreign trading partners are injuring our manufacturers, tanners, retailers, workers, and consumers. Some 400,000 U.S. jobs are threatened by such practices. Without the raw material of cattlehides, factories are going to close up.

In New Hampshire, over 11,000 people are employed in leather products industry. Tanneries are closing. Factories are extending vacations and consolidating plants. Jobs are being lost.

The Muskie-Baker amendment to S. 737 is a fair and equitable way of assuring our domestic industry their fair share of an American raw material. I support this amendment which helps assure U.S. jobs, helps keep down inflation in leather good prices and helps assure the continuation of a viable leather goods industry in the United States.

This is not just a shoe problem. The leather crisis affects over 400,000 workers and every industry using leather—gloves, sportswear, handbags, belts, and furniture.

As long as the rest of the world continues to embargo hide exports and prohibits import of our leather products, the United States must take steps to protect its own workers and consumers.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time, and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time. I do not have much remaining.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, is one of the Senators seeking recognition

Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized? Who yields time to the Senator from Iowa?

Mr. HEINZ. I yield to the Senator from Iowa 1 minute on the bill.

Mr. JEPSEN. Mr. President, I join my colleagues, Senators CULVER, PERCY, DOLE, WALLOP, BENTSEN, and others, in opposing this amendment.

I point out that if our Nation seriously wants to reduce our trade deficit, if our Nation truly wants to live up to the years and years of work and the thrust and the goals that will soon be presented in the form of a treaty called the Multilateral Trade Negotiations. In light of all of our efforts, with this new trade agreement and other efforts to develop world trade, I believe we should and must oppose this kind of action that is proposed in this amendment.

Thank you. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. I yield to the Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise to ask unanimous consent that a letter originated by the National Cattlemen's Association, with great concern about the result of lowering the price of cattle hides, initially by restricting exports, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *June 19, 1979.*

HON. LARRY PRESSLER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PRESSLER: We are concerned about an effort to lower the price of cattle hides artificially by restricting exports. We oppose such government interference in the free market which would directly raise beef prices for consumers and would be damaging to the nation's balance of payments.

The full Senate will soon be considering S. 737, the Export Administration Act of 1979. At that time, a floor amendment may be offered to treat the exporting of animal hides differently from the exporting of other agricultural commodities. In its present form, Section 4(1) of S. 737—consistent with current law—prohibits export controls on any agricultural commodity, including animal hides, unless the Secretary of Agriculture approves such controls. The Secretary could not approve controls during any period he determined the supply to exceed the requirements of the domestic economy.

The real purpose of such an amendment to treat hides differently—thus removing the Secretary's veto power—would be to make it easier for the government to impose export controls on them. We think such an amendment is unwise and urge you to oppose it. We also urge you to oppose other legislative or administrative efforts to limit hide exports. Enclosed is a brief Question and Answer paper which explains the issue in more detail and why we oppose export controls on hides.

C. W. McMillan, Vice President, Government Affairs, National Cattlemen's

Association; John G. Mobay, President, National Independent Meat Packers Association; John W. Scott, Master, the National Grange; Richard Lyng, President, American Meat Institute; Roy W. Lennartson, Washington Representative, Western States Meat Packers Association; Charles L. Frazier, Director, Washington Staff, National Farmers Organization.

Mr. PRESSLER. Mr. President, I think the letter speaks for itself. It is also signed by the American Meat Institute representative, the National Independent Meatpackers Association, the National Grange, the Western States Meatpacker Association, the National Farmers Organization, and others.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I yield myself 30 seconds on the bill.

Mr. President, I rise in strong support of the amendment to the Export Administration Act of 1979, S. 737, offered by the distinguished Senator from Maine (Mr. MUSKIE) and the distinguished Senator from Tennessee (Mr. BAKER) to limit U.S. exports of animal hides and skins to their traditional level until either foreign governments remove their own export controls or adequate supplies are available to domestic users.

My reasons for supporting this amendment are many and varied. The amendment addresses an urgent problem facing the domestic leather industry. It is needed in order to assure domestic users of leather adequate supplies of hides, and American consumers of fair prices for finished leather products.

Although the United States has only 15 percent of the world's supply of cattle hides, it accounts for 75 percent of the hides freely traded in the world. From March through May 1979, 83 percent of our hides were exported, leaving our domestic leather industries with just over half their necessary supply. During this same time period, foreign governments have imposed export restrictions on their own hides, causing export demand to shift to the U.S. market. The United States has now become the only supplier of hides to the world.

The cattle hide export problem affects every consumer in this country. Excessive foreign demand for domestic hides, particularly in Japan and Korea, has caused prices to increase as much as 150 percent in just over a year. If action is not taken immediately, consumers could be forced to pay an additional $2 billion for leather goods within the next year. Even worse, it is possible that leather products may not be available at any price unless American industry is allowed to buy more domestically produced hides.

The price of American hides has more than tripled in the past 17 months. Cattle hide for shoe leather that cost 37 cents a pound in 1977 costs as much as $1 a pound today. This is the largest inflationary increase of any primary raw material produced in our economy. American consumers cannot afford price increases of this magnitude.

More than 500,000 workers are affected by the current leather crisis. Indirectly, an additional 600,000 work in jobs serving industries which use leather. Many of these jobs will be lost if an adequate supply of hides is not readily available for domestic users, or if price increases make these U.S. industries uncompetitive.

I believe it is important to emphasize that export controls on hides will not damage our balance of payments. Hide exports account for only one two-hundredth of the total value of U.S. exports. The balance-of-payments problems result from the fact that the United States is not permitted to export its finished leather goods to foreign markets. Hide exports frequently return to the United States as higher value, finished products. In 1978, the deficit in the leather and leather products industry was almost $2.5 billion, 10 percent of the total U.S. trade deficit.

In addition, Mr. President, I think we ought to keep in mind the international implications of this situation.

Far from being a protectionist action, export controls are not designed to keep anything out; and if applied equitably, are not violative of the GATT. As I indicated we have 15 percent of the world's supply but are supplying 75 percent of the freely traded hides. This is not an equitable marketing situation, and it cannot truthfully be said we have a free market in hides.

Under these circumstances, it is imperative that we take the action necessary to insure adequate domestic supplies while at the same time are trying to rectify this situation internationally by persuading the hide producers to export.

It is a travesty that American consumers may soon be unable to afford or even obtain leather products, despite the fact that the United States is the world's major producer of cattle hides. As long as the rest of the world continues to embargo hide exports and prohibit importation of our leather goods, the United States must take action to protect its own workers and consumers. It is my hope that my fellow Senators will join me in supporting this much needed amendment to moderate the number of exported hides, and I urge its immediate adoption.

Mr. MUSKIE. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maine has 59 seconds remaining.

Mr. MUSKIE. Mr. President, I simply wish to make two brief points.

No. 1, hides constitute, according to the best information that I have, 7 to 8 percent of the profit or price of beef cattle. Leather constitutes from 20 to 45 percent of finished product value.

What we are asking for here is a reasonable and equitable sharing of the economic prospects of this country.

The beef industry is not in trouble at the present time. If it is, then I do not know what prices have to soar to. I do not buy beef as often as I used to because of the price.

And here these representatives from beef States tell me that this amendment is going to damage the beef industry. The fact is, Mr. President, that the shoe industry is in deep trouble and it is in deep trouble on two fronts. One, because the shortage of raw material is closing down tanneries and closing down shoe industries. Two, because our leather hides are being converted by competition abroad into manufactured leather goods that come into this country at lower prices than our own, and undercutting our own people.

For Heaven's sake, I am for a healthy beef industry. But does that require that we deal a death blow to another important American industry? How greedy can you get? Beef prices are up, profits are up. My good friend from Oklahoma, Senator BELLMON, tells me constantly in the Budget Committee that farmers are making money this year. And here we have New England losing jobs because of this. We have a modest amendment, and I urge my colleagues to vote for it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. Time is up.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, I oppose this amendment. It is apparent from this debate that what is good for the leather industry is not good for the livestock producers.

I opt for exports, against Government regulation and for efforts to enhance the productivity and the competitiveness of the leather industry.

Mr. MUSKIE. Mr. President, will the Senator yield on that point? How can you get more productivity if you cannot get the raw material? Has the Senator got an answer for that?

Mr. STEVENSON. The raw material in this case, Mr. President, is substantially in excess of domestic supply. There is no shortage of raw material. It is the price.

Mr. MUSKIE. Price is no problem. There is a shortage of hides in this country that is less than half of the domestic requirements. The facts speak for themselves.

The Senator can choose to ignore those facts. The price has gone up, and our people are paying for it, but they are shipping abroad and the Japanese are speculating the price upward, and that speculation is attracting the hides and taking them away from our market.

Mr. STEVENSON. Mr. President, if what the Senator says is a fact—and I deny that it is a fact—then controls are available under existing authority and without this amendment.

With that I am prepared to yield back our time.

Mr. ROBERT C. BYRD. Mr. President, I am pleased to cosponsor the pending amendment introduced by my distinguished colleague, Mr. MUSKIE.

The American leather goods industry is facing a monumental crisis. It is faced by a rapid rise in the price of domestic leather hides—over 160 percent since December 1977—which threatens its very ability to compete with exports.

The leather goods and tanning industries in West Virginia and the other

States are hard-pressed to pay the higher prices for hides which, I might add, will eventually be passed on to the American consumer in the form of higher prices for shoes and other leather products.

What is the cause of these higher prices? There is an artifically created shortage of hides on the international market because major hides producers, including Uruguay, Brazil, and Argentina, are embargoing the shipment of hides produced in their countries in order to protect their own leather goods industries.

The net result is that U.S. hides, which represent only 15 percent of world production, account for 75 percent of the world hides trade. And the prices of U.S. hides are going sky high.

This is clear and simply an unfair trade situation. The amendment before us is the appropriate remedy.

It conditions free exports of U.S. hides on one of two factors:

First. Reasonable export levels from hide producing countries, and

Second. An adequate domestic supply, taking into account export demands.

Mr. President, I support the expansion of international trade—international trade that is fair. This amendment confronts a trade situation that is blatantly unfair.

● Mr. NELSON. Mr. President, I rise in support of the Muskie-Baker amendment to S. 737, the Export Administration Act.

In the United States today there is a trade deficit in the hide, leather, and leather products sector of our economy of $2.5 billion. This dollar figure is even more startling when we consider that this $2.5 billion represents nearly 9 percent of the total U.S. trade deficit for 1978. With the exception of textiles, it is the largest trade deficit for any industry sector.

The trade deficit is only a small part of the story. Hidden behind this deficit are about 300,000 jobs nationwide as well as the possible demise of many tanning and leather manufacturing companies. In the last 10 years, the number of tanners nationwide has decreased from nearly 500 to approximately 250 today.

The problem that confronts the Senate today is whether our leather products industry needs to be protected from unfair foreign export restrictions. I believe it does.

In 1971, the Governments of Argentina and Brazil and, subsequently, most of the countries of South America, Africa, and Asia banned the export of hides. As a result, the United States has become the only country that has a large supply of cattlehides and calfskins and allows unlimited foreign access to this supply. At the same time, major foreign markets for leather and leather products are closed to U.S. producers because of high, restrictive quotas on imports of leather products or, as in the case of Korea, Mexico, and Spain, total restrictions on leather imports.

The United States has only 15 percent of the world's hide supply, yet it accounts for almost 75 percent of the hides freely traded on the world market. Clearly, the interests of U.S. consumers, workers, and industries should not be sacrificed to the anticompetitive practices of our foreign trading partners.

The restrictions on access to foreign raw materials and foreign markets has led to the existing crisis for the U.S. tanning and leather industries:

In 1975, hide exports were less than 50 percent of total commercial slaughter in the United States;

In 1977, hide exports were over 56 percent of commercial slaughter;

In 1978, hide exports were 62 percent; and

In 1979, indications are that with slaughter declining to 37 million head or less, exports will amount to 68 percent or more of commercial slaughter.

If our leather products industry is to remain strong, competitive, and a viable sector of our economy, domestic exports of cattlehides and calfskins must be limited to 50 percent of total U.S. hide supply.

The Muskie-Baker amendment to S. 737 could accomplish this goal by limiting U.S. exports to reasonable historical levels until adequate supplies are available to domestic users or foreign governments remove their own export controls.

I urge Senate passage of this amendment.●

COWHIDES

● Mr. BAUCUS. Mr. President, I rise to oppose an amendment that may result in an export embargo on cowhides.

Leather industry representatives have lobbied hard for this amendment. I don't deny that the leather industry has problems. Nevertheless, an export embargo is not the way to deal with these problems.

Wednesday, I submitted for the record a statement explaining my opposition to the cowhide embargo. I would like to make just a few additional comments at this time.

First, there is not a shortage of American cowhides. The United States will produce 34 million hides this year. The domestic demand is 18 million hides.

So there is not a shortage—the domestic industry is just unwilling or unable to pay world prices.

Second, cowhide prices have been going down. They reached a peak of $94 per hundred pounds on April 19. Thus, the price of $1 per pound that leather industry representatives quoted was only temporary.

Representatives from agricultural regions will remember disruptions caused by President Nixon's embargoes on wheat and soybean exports in 1974. These embargoes not only drove down farm prices and income, but they did lasting damage to our trade relationships.

It would be just as serious a mistake to impose an embargo on cowhide exports. I would strongly urge my colleagues to oppose this amendment.●

● Mr. ROTH. Mr. President, I am cosponsoring the proposed Baker-Muskie amendment to the Export Administration Act, because it is fair in terms of other countries' practices in world trade in hides and because it will help deal with some of the real problems of the 400,000 men and women employed in the leather goods industry.

The United States is the producer of just 15 percent of the world's hides, yet is the supplier of some 75 percent of all hides involved in world trade. This is largely because other major producing countries, such as Brazil and Argentina, restrict export of their hides, thus putting an undue burden on American supplies.

The United States attempted to get international agreement on the principles that ought to be followed in access to supplies during the recent Geneva trade negotiations. Other countries, however, were unwilling to agree to reasonable principles. Consequently, we should feel free to take reasonable steps, such as proposed here, to protect the interests of our Nation. Forceful U.S. action to protect our interests, in fact, can only help in continuing U.S. efforts to negotiate general international principles governing supply access.

In addition to the fact that other cattlehide producing countries restrict export of their hides, Japan, a major buyer of hides, will not allow the United States to sell them finished leather products. This double whammy in the trade areas causes our industry major economic problems.

Others will describe the economic effects of this unfortunate situation in terms of employment and increased prices for the consumer. Our only recourse, however, is to hold a sufficient supply of hides in the United States so we can produce some finished goods, also. This will not only help our industry economically, but will aid in dealing with the fair trade practices now faced by our industry.

For these reasons, I support this amendment.●

Mr. LEAHY. Mr. President, I rise today to speak in support of the amendment sponsored by the Senators from Maine and Tennessee, and to say that I am happy to be a cosponsor of this most critical amendment.

I had planned to be in Vermont today, but I canceled those plans so that I could be here to promote this amendment.

The current crisis facing the leather products industry in this country not only threatens the jobs of some 400,000 American workers, but also stands to add upward of $2 billion to the prices Americans will pay for leather goods next year.

Mr. President, I am a strong proponent of free world trade, but trade relationships must be based on reciprocity, and the current trade patterns in hides are far from reciprocal.

At a time when world hide production is at a low, other hide producing nations have not responded by limiting their hide imports or increasing their exports. In fact, they have done just the opposite.

The world's major hide-producing nations, Argentina and Brazil, have embargoed all hide exports to protect their domestic industries. As a result, U.S. hides, which constitute 15 percent of world hide production, comprise a full 75 percent of world trade in hides.

To meet the increased world demand for hides, the share of U.S. hide production devoted to exports has risen from a historical level of 50 percent to an alarming 83 percent. Domestic users are getting just 17 percent of U.S. production. They need more than twice that amount. They are literally being chocked out of business.

This Government cannot sit back and do nothing about this outrageous situation.

We cannot turn our backs on 400,000 domestic leather manufacturers and retailers.

We cannot acquiesce to 25-percent increases in the prices of leather goods to consumers.

We cannot allow a clearly unjust trade relationship to continue unchallenged.

I am, therefore, pleased to support this amendment which will appropriately restrict U.S. exports of hides unless domestic supplies are adequate, or the export levels from other hide producing nations are more reasonable.

I urge my colleagues to support this amendment, and thus afford our domestic leather products industry and the American consumers the protection which they deserve.

Mr. MUSKIE. I do not have any more time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

Mr. STEVENSON. The yeas and nays have been ordered, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NUNN (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) would vote "nay."

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. CHILES). The Senate will be in order. The clerk will suspend the call of the roll until order is restored.

The clerk may proceed.

The call of the roll was resumed.

Mr. DOLE. Regular order, Mr. President. Regular order.

The PRESIDING OFFICER. Have all Senators who wish to be recorded voted?

The result was announced—yeas 38, nays 46, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—38

Baker	Humphrey	Pryor
Bradley	Javits	Randolph
Bumpers	Kennedy	Riegle
Byrd, Robert C.	Leahy	Roth
Chafee	Levin	Sarbanes
Cranston	Magnuson	Sasser
Durkin	Mathias	Schweiker
Eagleton	Metzenbaum	Stafford
Glenn	Moynihan	Thurmond
Heinz	Muskie	Tsongas
Helms	Nelson	Warner
Hollings	Pell	Williams
Huddleston	Proxmire	

NAYS—46

Armstrong	Dole	McClure
Baucus	Domenici	McGovern
Bayh	Garn	Melcher
Bellmon	Goldwater	Packwood
Bentsen	Hatch	Percy
Boren	Hatfield	Pressler
Boschwitz	Hayakawa	Schmitt
Byrd, Harry F., Jr.	Inouye	Simpson
	Jackson	Stennis
Cannon	Jepsen	Stevens
Chiles	Johnston	Stevenson
Church	Kassebaum	Stewart
Cochran	Laxalt	Stone
Culver	Long	Wallop
Danforth	Lugar	Zorinsky
DeConcini	Matsunaga	

ANSWERED "PRESENT"—1

Nunn

NOT VOTING—15

Biden	Ford	Ribicoff
Burdick	Gravel	Talmadge
Cohen	Hart	Tower
Durenberger	Heflin	Weicker
Exon	Morgan	Young

So Mr. MUSKIE's amendment (No. 353) was rejected.

(Later the following occurred:)

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that my vote on the last amendment be changed from "yea" to "nay." I do not believe it will change the result of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 427

(Purpose: To permit the export of defense articles and services which have a nonlethal design and which are to be used in furtherance of the safety and well-being of the civilian population)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 427.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 82, between lines 20 and 21, insert the following:

"(q) Notwithstanding any other provision of law, the export to a country, other than a country referred to in section 620(f) of the Foreign Assistance Act of 1961, of defense articles or defense services which have no direct lethal mission design and which are to be used in furtherance of the safety and well-being of the civilian population of the country to which the items are being exported, shall not be prohibited unless the President determines and reports promptly to the Congress that such criteria of nonlethality and usage are not met.".

Mr. HELMS. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. Will Senators please take their conversations to the cloakroom? Maybe the Chair should observe that the Sergeant at Arms is sitting at the right hand of the Chair and ready to go into action if necessary. [Laughter.]

Will the Senate please be in order?

Mr. HELMS. Mr. President, I will be relatively brief.

This amendment will modify current legislative restrictions on the sale to non-Communist countries of so-called defense articles and services so as to allow the sale of those articles which are now on the U.S. munitions list but which have no direct lethal mission design, which have a nonlethal application and which are to be used in furtherance of the safety and well-being of the civilian population.

All industries and unions in the United States who are involved in the production and export of medium and high technology products—particularly the electronics, general aviation, commercial aviation, heavy electrical, and specialized computer industries, will be positively affected by this amendment. It will provide additional jobs and the U.S. balance of trade will benefit, thus reducing inflation and strengthening the dollar in the international marketplace.

Currently, section 38, Arms Export Control Act (AECA), authorizes the President to control the export of "defense articles and defense services," and to designate those items which are to be controlled. The items so designated constitute the U.S. munitions list.

However, the U.S. munitions list controls many items other than weapons and implements of war. These include such items as trucks, transport, and general purpose aircraft and helicopters, oxygen masks, propulsion units and engines, parachutes, navigational systems, training equipment, cameras, and protective clothing. Thus, the sale of these articles is strictly controlled and, in some cases, prohibited.

Congress has previously acted to remove many of these articles from such stringent control. Section 27 of the International Security Assistance Act of 1977 directed the President to "undertake a review of all regulations relating to arms control for the purpose of defining and categorizing lethal and nonlethal

products and establishing the appropriate level of control for each category."

However, the administration failed to comply. In the absence of any indication that such a review had been accomplished, section 25 of the International Security Assistance Act of 1978 further directed the President, within 120 days after enactment, to report in writing to the Congress the results of the review which was supposed to have been conducted the previous year.

The administration report was presented to the Congress on January 26, 1978. After this lengthy review, the administration concluded:

It would be extremely difficult to formulate a useful definition of "lethality" or "lethal impact" for control purposes. Such a definition would offer no basis for any substantial revision in the level or type of export control currently accorded defense articles and defense services on the U.S. Munitions List.

A recent Library of Congress study reached conclusions somewhat different from that of the Administration. The CRS study concluded:

The use of the concept of lethality as a key ingredient in export regulations is reasonable * * *.

This amendment, therefore, is needed in order to move a reluctant executive branch down a road that the Congress has previously laid out. Most U.S. sales of "defense articles and defense services" do not involve weapons, ammunition, implements of war, lethal, or wound-inflicting articles. Of stated sales agreements for U.S. defense articles and equipment, only some 40 percent in recent years has consisted of arms and ammunition; the remaining 60 percent was comprised of spare parts, supporting equipment, and supporting services.

Supporting equipment includes training and cargo aircraft, tankers, tugs, barges, trucks, trailers, radar, communications equipment, and other equipment and supplies. Supporting services include construction, supply operations, training, technical, and administrative services. It seems obvious that most U.S. foreign military sales have not actually involved "arms" in the strictest sense, although the ancillary supplies and services may contribute to the military capabilities of buyers.

These nonweapons articles whose sale is controlled or prohibited by the United States are easily obtainable elsewhere.

Thus, these U.S. restrictions on the sale of "defense articles and defense services" lead to ludicrous decisions.

For example, cargo helicopters and general purpose aircraft are on the U.S. munitions list and are thus controlled or even prohibited from export to certain countries. These articles, to include spare parts and maintenance service for previously sold systems, often cannot be exported.

But these products are easily obtained from other countries. When the United States controls or denies these exports, other nations in their own self-interest must seek other sources of supply or must develop their own indigenous industries to assure future supplies.

These controls accomplish little except that U.S. business loses important export markets, and American labor loses jobs. America can no longer influence the behavior of other nations by economic retaliation. Our preeminent position in the world economy has eroded. Our once substantial lead in technology has been overtaken in many significant areas. In many areas of medium and high technology, foreign competitors from Europe, Japan, and even some developing countries export goods that approach or surpass the best American designs.

In this climate, using export embargoes to achieve political goals is a policy that can boomerang. In most cases, countries denied U.S. goods can easily find them elsewhere. If we use economic boycotts as a political tool, we cannot complain when others use this action against us or our close friends.

Thus, our restriction of nonarms exports damages only American workers and the American balance of payments. Increasingly, the other side of the trade coin becomes important. America needs the benefits of trade, the exports needed to sustain U.S. employment and to pay for our imports of machinery, manufactured goods, and oil. The only way open to us to influence other nations through trade without harming American workers is to ban imports to the United States, the world's largest consumer market, of offending nations.

By voluntarily limiting or eliminating our own nonmilitary export markets, America's overseas economic and political power is weakened. In the short run, the U.S. trade balance suffers, and the value of the dollar drops; this undermines confidence abroad in America's economic vitality. In the long run, the U.S. competitive position permanently deteriorates from a willful sacrifice of markets. Paradoxically, the more the United States seeks to use the levers of trade to achieve political results, the more it may weaken its economic and political power.

This unnecessary restriction on American nonmilitary exports should be removed and that is the purpose of this amendment. I urge its adoption.

I reserve the remainder of my time.

Mr. JACKSON. Will the Senator yield?

Mr. HELMS. Gladly.

Mr. JACKSON. Mr. President, I have not had an opportunity to read the Senator's amendment, but he refers to nonlethal systems. I make a point of caution here that nonlethal systems would include, for example, sending sophisticated commercial guidance systems on a commercial basis. That would be a matter of great concern.

I do not disagree with what the Senator is trying to do, but I think it might be helpful if we could take a look at the amendment to make sure that we are not sending out highly sophisticated technology.

Mr. HELMS. I agree with the Senator absolutely. Why do we not consult for a few moments? I agree with him, I say again, about the export of sophisticated technology.

Mr. JACKSON. I know that, and I appreciate that fact. I am wondering if I can suggest the absence of a quorum while we take a look at the matter.

Mr. HELMS. Let's do that.

Mr. JACKSON. Mr President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HELMS. Mr. President, I ask unanimous consent that we have a brief quorum, with the time to be charged to nobody. I assure Senators we shall not take much time.

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

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, I ask unanimous consent that I be permitted to lay aside this amendment temporarily so the distinguished Senator from Colorado may call up his amendment, at the conclusion of which another quorum call will be instituted on the basis that the Senator from North Carolina suggested a while ago.

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

UP AMENDMENT NO. 428

(Purpose: To assure the submission on a confidential basis of information relevant to the authority under section 7)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 428.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 95, between lines 5 and 6, insert the following:

"(h) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicability of section 552(b) of title 5, United States Code.".

Mr. ARMSTRONG. Mr. President, under section 7 of the bill—

Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or com-

modity may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

And a procedure is established for doing so. The purpose of my amendment is to make it clear that, in addition to the hearings and other public submissions, it would be in order for such a person or firm or organization to provide such information on a confidential basis to the Secretary, for the Secretary to receive that information and take it into account, and, nonetheless, to keep it on a confidential basis.

Obviously, what we are addressing here are those things which are proprietary in nature and which ought to be, in fairness, protected for the individuals and firms concerned. I urge the approval of the amendment.

Mr. STEVENSON. Mr. President, I have discussed this with the cosponsors. This amendment clarifies the intent of the law. It is a useful amendment. We are happy to accept it.

I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? All time having been yielded back, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 427

Mr. HELMS. Mr. President, I yield to the distinguished Senator from Kansas such time as she may require.

Mrs. KASSEBAUM. Mr. President, I have been very supportive of what Senator HELMS was trying to address in exempting nonlethal systems. After discussing this with the distinguished Senator from Washington, I think we do feel that, in the version that has been passed by the House, this has been sufficiently taken care of. It is my concern—and I hate to speak from parochial interests, but Beech and Cessna and Boeing and Gates and General are all in Kansas and have recently suffered some setbacks in sales because they have not been able to do the proper negotiating. I think if there can be these exemptions made for small aircraft which is used for training purposes and so forth, I would feel this has been taken care of.

Mr. HELMS. I thank the distinguished Senator. This is the point I wanted to clear up with my friend from Washington.

Mr. JACKSON. Mr. President, I concur in the comments made by the distinguished Senator from Kansas. I should say that the language in the bill reported by the House committee dealing with this matter addresses the subject properly. It is my understanding that the House committee language permits export of what the Senator has in mind to friendly countries so that there is not any problem.

The problem here is the danger of highly sophisticated systems, inertial navigation systems, for example, going to the Soviet Union. The language in the House bill, I do believe, takes care of the point that the Senator from North Carolina has endeavored to make as sponsor of the amendment and the point made by the distinguished Senator from Kansas. So I hope that the Senator will see fit to withdraw the amendment in light of this colloquy.

Mr. HELMS. I intend to do so in just a moment, Mr. President. I want to underscore that I agree with my friend from Washington with reference to the export of sophisticated computer technology directly or indirectly to the Soviet Union. A couple of years ago, I voted against this piece of legislation—I was the only Senator who did so—because I saw in that bill some loopholes which alarmed me considerably concerning the potential export of sophisticated technology to the Soviet Union. I know that the Senator from Washington has longheld similar apprehensions.

Let me be sure that I understand not only the Senator from Washington but the professional staff members who have worked on this legislation. The provisions already in the House bill will permit the export of nonlethal items to such Latin American countries such as Chile, who wants to be our friends, is that right?

Mr. JACKSON. I am sorry. I did not hear the Senator's question.

Mr. HELMS. The House provision to which the Senator alluded a moment ago would permit nonlethal exports to, say, Latin American countries such as Chile, who want friendly relations with the United States?

Mr. JACKSON. That is correct, friendly countries.

Mr. HELMS. Chile is one of those. Chile is trying to move in a direction to pacify her critics in this country, some of whom are highly selective, to say the least, in their human rights assessments. This Senator has seen no point in our failing to encourage Chile in that regard. In fact, there is an element of folly in it.

So with the assurance that there is agreement in the Senate that we will have an open mind about all friendly countries in terms of nonlethal exports, and with the opinion of the able Senator from Washington, which I share, that the House bill provision does, indeed, make that clear, if properly interpreted by the executive branch, I am inclined to withdraw the amendment.

Mr. JACKSON. Just for the record, so we complete it, the House bill, on page 47, section 111, covers this. The title is "Civil Aircraft Equipment." And I think we can print that at this point in the RECORD.

Mr. HELMS. I ask unanimous consent that it be printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CIVIL AIRCRAFT EQUIPMENT

SEC. 111. Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under the Export Administration Act of 1969. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this section, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

Mr. JACKSON. I thank the Senator.

Mr. HELMS. I thank my friend from Washington.

With those assurances and with that understanding, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 348, AS MODIFIED

(Purpose: To specify the obligation of government departments and agencies to share foreign availability information)

Mr. JACKSON. Mr. President, I call up my amendment No. 348.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Messrs. NUNN, HOLLINGS, COHEN, HATCH, HARRY F. BYRD, JR., TOWER, MOYNIHAN, THURMOND, BAYH and DOMENICI, proposes an amendment No. 348.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 64, line 7, after the period, insert the following: "Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office shall furnish the information it gathers and receives to such departments and agencies.".

Mr. JACKSON. Mr. President, I have conferred with the majority and minority on this and wish to modify the amendment, which I send to the desk and ask the clerk to state the modification.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

The amendment, as modified, is as follows:

On page 64, line 7, after the period, insert the following: "Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, consistent with the protection of intelligence sources and methods, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office when requested or where appropriate shall furnish the information it gathers and receives to such departments and agencies.".

Mr. JACKSON. Mr. President, this is the Bayh amendment to the amendment that I proposed and, to avoid voting on each one, we made my amendment conform to his.

But it is the amendment that the Senator recommended and it is really his amendment.

Mr. BAYH. Mr. President, I just want to say to my colleagues, I compliment the Senator from Washington for introducing this amendment.

I had intended to have a similar amendment myself and I think the way he has handled it is consistent with trying to move the legislation along.

Mr. President, I ask: Was the word "protection" or "protector"? It should be "protection."

Mr. JACKSON. This is "protection."

Mr. BAYH. Good. I thought it came out "protector," and "protection" is the word.

I thank the Senator from Washington.

Mr. JACKSON. I want to thank the distinguished Senator from Indiana for his most helpful suggestion.

He is chairman of the Senate Intelligence Committee and, in that capacity, of course, is keenly aware of the importance of his responsibilities, and the Bayh amendment makes the amendment that much more effective.

Mr. President, this amendment is intended to make it clear that the various departments and agencies involved in the export control process have an obligation to furnish foreign availability information to the Office of Export Administration and that OEA, in turn, is obligated to make it available to those departments and agencies. OEA's role should be viewed primarily as one of coordination of the existing efforts by departments and agencies to avoid duplication and to assure that information is shared. The provisions of the bill and amendment relative to OEA's foreign availability functions should not be considered as an authorization by departments and agencies to reduce present efforts, unless they are determined to be duplicative.

Indeed, the GAO found there is too frequently inadequate foreign availability information and that foreign availability determinations go unattended. Thus, there is a need for more, not less, of an effort to obtain foreign availability information, especially by our intelligence agencies. Obviously, OEA is not capable of performing intelligence gathering functions. Also, other departments and agencies, including DOD, which have important export control functions must continue to make independent assessments of foreign availability and to marshall foreign availability data that they obtain in their research and development, intelligence, and other activities.

Thus, the intent of the Senate should be clear that the foreign availability functions of OEA shall be deemed to be primarily those of a coordinator and should not be deemed to authorize reduced functions by other agencies except to the extent to avoid unnecessary duplication.

● Mr. KENNEDY. Mr. President, I rise in opposition to the amendments offered by my dear friend and colleague from the State of Washington. These amendments could in fact undermine U.S. security by imposing unnecessary controls on critical goods and technologies to the detriment of U.S. exports.

Adoption of these amendments will be a step back from the progress this bill has made in removing unnecessary restrictions on U.S. exports. These amendments will not only reduce the competitiveness of U.S. high technology exports, but could also have a negative impact on U.S. employment and technological innovation.

One amendment seeks to transfer primary responsibility for identifying goods and technologies controlled for national security purposes from the Department of Commerce to the Department of Defense. Such action is unnecessary and could serve to weaken the export control system. The current system, in which the Commerce Department holds coordinating authority, is much more effective. The Commerce Department is in a superior position to possess knowledge on the products U.S. industry produces and, more importantly, what the technical capabilities of those products are.

Another proposed amendment could lead to the disintegration of COCOM. Threatening our allies with trade boycotts if they refuse to adopt U.S. export control standards is clearly not the course which responsible U.S. diplomacy should follow. The breakdown of COCOM would lead to decreased control over critical goods and technologies, create unnecessary friction in U.S. relations with our closest allies and friends, place U.S. technology exports at a disadvantage, and certainly damage United States security interests.

The fact is that in today's international economy the United States is no longer in a position to unilaterally impose effective controls on technology exports. I therefore believe we must rely on close coordination with our allies to maintain effective export controls in those areas where they continue to be needed. Only when effective multilateral coordination takes place can both the security and the legitimate export interests of the United States and our allies be productive.

Mr. President, this bill accomplishes the difficult task of assuring that effective controls of goods and technologies important to U.S. security are maintained while, at the same time, streamlining the bureaucratic process which U.S. firms must undergo before they can export abroad. The bottom line is an increase in U.S. exports, employment, and technological innovation while assuring that U.S. national security interests are not sacrificed. The Jackson amendments would greatly undermine these benefits. I urge my colleagues to join me in opposing these amendments and in supporting the bill as reported by the committee.●

Mr. HATCH. Mr. President, I was pleased to sponsor the package of amendments with the distinguished Senator from Washington. As we debated each one, we see the many-faceted issue of technology transfer. This problem is one that I myself have been following for quite some time and one that concerns me a great deal. I compliment the committee for their work on the bill, but I would like to point up during the course of this debate some of the major flaws in our system which would continue to exist even after its enactment.

DEFENSE DEPARTMENT IDENTIFICATION

Mr. President, the bill provides us with the start of a "critical technologies approach" to controlling exports to certain nations for national security purposes. It does not, however, fully outline the plan or the processes involved in this approach, nor does it make us aware of the advantages to adopting it.

The measure presently vests the responsibility to determine critical technologies with the Commerce Department and the Defense Department with an advisory role. It would seem to me that the effectiveness of a critical technologies approach would be greatly enhanced if the Defense Department was delegated the duty to identify those technologies which were critical to our national security in the first instance.

The Defense Department currently has the capacity for making these determinations both in terms of interpreting the sophistication of various technologies, and knowing the impact of exportation of critical technology on United States and foreign military systems. Valuable time could be saved were DOD given the authority to identify these technologies in the first place instead of having their input on a secondary referral basis. We would recognize the identifications process as a technical function rather than an administrative one. Further, exporters would have the advantage of knowing precisely which technologies were listed in the militarily critical category prior to making a license application to the Commerce Department. This seems to me to be a key ingredient in streamlining our export licensing procedure.

EMBARGO OF CRITICAL TECHNOLOGIES

Mr. President, for the small percentage of applications which propose a transfer of critical military technology to a controlled nation, S. 737 makes no clear policy statement. All of these applications are reviewed individually as to their national security implications, a process which leaves the door wide open for inconsistency and political favoritism. One amendment rightfully recommends a general embargo of critical technologies to controlled nations, and I support this policy as a means to guarantee both our security and our fairness in granting licenses. It makes good sense that we should grant licenses based on policy, not have policy made on a case-by-case basis.

FOREIGN AVAILABILTY

Mr. President, from what we have heard, the core of the argument in favor of a liberalized export policy is the assumption that our goods and technologies are available in the same quantities and qualities from foreign countries. We assume that if the United States does not permit the export of a technology or good that another nation will, causing

American business a loss of sales and credibility in the foreign marketplace. This is a situation with which we are all concerned, and I am most sympathetic to the objective here, that is, to enhance the ability of American suppliers to compete in foreign markets. However, many sources have testified that there is no accurate data on the foreign availability of critical technologies. We simply do not know for sure that a controlled nation could buy comparable technologies elsewhere.

I maintain that our undocumented assumptions are insufficient on which to base export policy affecting our national security. Another amendment which I feel is fair, calls for the establishment of an evidentiary test of foreign availability on a given critical technology to assist in the decisionmaking process. To export or not to export is a question which demands all the information possible to render a correct answer.

INDEXING

Mr. President, I join my colleagues in opposing the present provision of technology indexing. I believe that this provision would have two adverse effects. What the present language suggests is automatic export decontrol for any technology or good which cannot keep pace with accelerated performance standards established by the Department of Commerce.

First, we must guard against the false assumption that because American technology has advanced that our old technology is expendable. In many cases, our outdated knowhow is still superior to that of a controlled nation, and we should not permit the automatic export of such a technology or good without a reapplication for licensing. Such a proposed technology transfer should be reevaluated with the new information taken into account.

Second, I am concerned about the effect such a provision would have on U.S. industry incentives to develop new technologies. If this system of performance levels is implemented, I am afraid that it could retard our industrial research and innovation activity since under this new aspect of export policy, it may be to industry's advantage in some circumstances to allow technologies to become outmoded in terms in our potential technological capability in order to avoid the export administration process. We should be careful not to overlook the inherent effects export policy will have on our own domestic R. & D. policies.

CONCLUSION

Our export process can be improved to incorporate maximum trade opportunity for American business, efficient procedures for the monitoring of licenses and controls, and protection for our critical technologies. We recognize all of these needs, but I believe greater emphasis should be given to the defense and national security ramifications of technology transfer. Once technology has been sold it can never be returned. It is the knowhow which will assist foreign nations in producing their own goods and limit the markets for U.S. product exports in the future, the knowhow which will fill in the gaps in our enemies' defense systems.

I have enthusiastically supported these amendments and feel they are constructive to achieving these objectives.

Mr. STEVENSON. Mr. President, this is a sound amendment. I am prepared to accept it and yield back our time.

Mr. HEINZ. The minority is prepared to accept the amendment and yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 348, as modified) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 349

(Purpose: To provide specific authorization for appropriations to the Department of Defense to carry out functions under the Act)

Mr. JACKSON. Mr. President, I call up amendment No. 349.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Messrs. NUNN, HOLLINGS, COHEN, HATCH, HARRY F. BYRD, JR., TOWER, MOYNIHAN, THURMOND, BAYH, and DOMENICI, proposes an amendment numbered 349.

Mr. JACKSON. Mr. President, I ask unanimous consent that further readings of the amendment be dispensed with.

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

The amendment is as follows:

On page 111, between lines 11 and 12, insert the following:

(c) There are authorized to be appropriated to the Department of Defense for fiscal years commencing on or after October 1, 1979, such sums as may be necessary for the Secretary of Defense to carry out his functions under this Act.

Mr. JACKSON. Mr. President, this amendment would provide a specific authorization for appropriations to the Department of Defense to carry out its functions under the act. At present DOD's export control activities are not adequately funded. A major part of the problem is that DOD does not have a specific line item in its budget for this activity. Thus, personnel and funds must be borrowed from other activities. As a consequence, the manpower and financial resources devoted to DOD's export control efforts are grossly inadequate given the importance of this work. This is one important reason for the fact that DOD's undertaking to identify critical goods and technologies is far from completed even though it has been over 3 years since the Defense Science Board recommended this concept.

UP AMENDMENT NO. 429

(Purpose: To authorize an appropriation to the Defense Department for the purpose of identifying militarily critical goods and technology)

Mr. STEVENSON. Mr. President, I send an amendment in the nature of a substitute to the desk and ask for its consideration.

The PRESIDING OFFICER. Is the Senator asking unanimous consent that this be in order in spite of the fact that time has not been yielded back?

Mr. STEVENSON. I so request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 429.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment follows:

On page 111, line 11, insert after subsection (b), the following new subsection (c):

"There are authorized to be appropriated to the Department of Defense $2,500,000 for fiscal year 1980 to carry out its functions under subsection 4(a) of this Act."

Mr. STEVENSON. Mr. President, the amendment offered by the Senator and this substitute both recognize that the Department of Defense's duties under this bill will require an expenditure of funds.

This amendment would, therefore, authorize appropriations to the Department for purposes of carrying out its duties under the Export Administration Act for fiscal year 1980 in the amount of $2.5 million.

I think that is a reasonable amount. I am hopeful the Senator from Washington will accept the amendment.

Mr. JACKSON. Mr. President, I am pleased to accept the amendment and prepared to yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree.

The amendment (UP No. 429) was agreed to.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENSON. Yes.

Mr. JACKSON. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 349) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 350

(Purpose: To provide for the maintenance of records of license and control)

Mr. JACKSON. Mr. President, I call up amendment No. 350.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Messrs. NUNN, HOLLINGS, COHEN, HATCH, HARRY F. BYRD, JR., TOWER, and MOYNIHAN, proposes an amendment numbered 350:

On page 73, strike out lines 12 through 15 and insert in lieu thereof the following:

(9) The Secretary of Commerce, the Secretary of Defense, and any department or agency consulted in connection with a license application or a revision of a list of controlled goods and technologies and applicable controls shall make and keep accurate records of their respective advice, recommendations, or decisions, including the factual and analytical basis of such advice, recommendations, and decisions.

Mr. STEVENSON. Mr. President, I have discussed this with my comanager. We believe it is a sound amendment. We believe we are prepared to accept it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JACKSON. Wait a minute. There is the modification. I did not modify it.

UP AMENDMENT NO. 430

(Purpose: To provide for adequate recordkeeping with respect to license decisions and control list revisions)

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment which is now at the clerk's desk, be modified.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment is as follows:

On page 73, line 15, change the period to a comma, and insert the following: "including the factual and analytical basis for the decision, together with any dissenting recommendations received from any agency." and on page 63, line 23, after the period add the following:

"The Secretary and any agency rendering advice with respect to export controls shall keep adequate records of all decisions made with respect to revision of the list of controlled goods and technology, including the factual and analytical basis for the decision, together with the dissenting recommendations received from any agency."

Mr. JACKSON. Mr. President, the language of the recordkeeping provision of the bill applies only to license applications. However, of equal, if not greater importance are the more basic decisions as to what and how to control goods and technologies. The amendment thus makes it clear that the recordkeeping requirement extends to the control process. The amendment also specifies that the factual and analytical basis be recorded. These records should facilitate consistency in control and license decisions as well as permit responsible executive branch officials and congressional committees with export oversight duties to ascertain whether decisions are factually supported and consistent with the policies and provisions of the act.

The PRESIDING OFFICER. The amendment is so modified.

Is all time yielded back?

Mr. STEVENSON. Mr. President, it is the amendment, as modified, that we accept. I thought it had been modified.

I am prepared to yield back the remainder of my time.

Mr. HEINZ. I yield back our time.

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified.

The amendment (No. 430), the modified version of amendment No. 350, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 351

(Purpose: To provide for a report to Congress if the President overrules the Secretary of Defense)

Mr. JACKSON. Mr. President, I call up amendment No. 351.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Messrs. NUNN, HOLLINGS, COHEN, HATCH, HARRY F. BYRD, JR., TOWER, and MOYNIHAN, proposes amendment No. 351:

At the bottom of page 72, add the following:

(D) Whenever the President exercises his authority under this paragraph to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any determination made by the Secretary of Defense pursuant to section 4(a)(2)(B) or 4(b)(1) of this Act with respect to list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

Mr. JACKSON. Mr. President, this amendment requires the President to report to Congress if he overrules any recommendation or determination by the Secretary of Defense. As it pertains to the requirement for a report if the President overrules or modifies a licensing recommendation by the Secretary of Defense—the amendment merely provides what is now a part of section 4(h) of the act. This provision is not in the bill. In this connection, the Banking Committee report (page 10) states that the bill makes "no substantive changes from those contained in [existing] section 4(h)" of the act. By deleting this reporting provision, the bill would effect a substantive change with no apparent justification for doing so. In addition, the amendment would extend the reporting requirement to situations in which the President overrules any determination made by the Secretary of Defense pursuant to the Secretary's authority to formulate a list of goods and technologies to be controlled for national security purposes.

Mr. President, it is my understanding that this amendment is acceptable.

Mr. STEVENSON. Mr. President, this amendment continues the existing law. It is acceptable.

I am prepared to yield back the remainder of my time.

Mr. HEINZ. Mr. President, I am prepared to accept the amendment, and I yield back the remainder of my time.

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 352, AS MODIFIED

(Purpose: To clarify that the President cannot delegate his authority to overrule the Secretary of Defense)

Mr. JACKSON. Mr. President, I call up amendment No. 352, as modified.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWERS, and Mr. MOYNIHAN, proposes an amendment numbered 352, as modified:

On page 79, line 17, after the period, add the following new sentence: "The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary of Commerce, the Secretary of Defense and the Secretary of State, pursuant to the provisions of this Act.".

Mr. JACKSON. Mr. President, this amendment would clarify that the President cannot delegate this authority to overrule the Secretary of Defense. This merely makes explicit what is already implicit in the present act and the bill.

It is my understanding that we have an accord on this amendment with the majority and the minority sides.

Mr. STEVENSON. I have no objection to this amendment.

Mr. HEINZ. I have no objection.

Mr. JACKSON. I yield back my time.

Mr. STEVENSON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 431

(Purpose: To clarify provisions restricting export of Alaskan oil)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself and others, proposes an unprinted amendment numbered 431.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 74, line 22, insert new section (g) as follows:

(g)(1) Notwithstanding any other provision of this Act, no domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the requirements of either subsection (u) of section 28 of the Mineral Leasing Act of 1920 as amended (30

U.S.C. 185), or section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must meet the price standard of paragraph 2(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) The President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) except for minor impacts due to quality or gravity adjustments, will have no adverse impact on wholesale or retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are in the national interest;

(v) are in accordance with the provisions of this Act; and

(vi) in the case of crude oil which is transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), the oil to be exported consists of volumes in excess of that which was so transported on an average daily basis during the 30 days preceding July 1, 1979; and

(B) The President submits reports to the Congress containing findings made under this subsection and after date of receipt of such report, the Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's findings concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

(C) Paragraphs 1 and 2 shall remain in effect only until July 1, 1980.

3. Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251 (d) of the Energy Policy and Conservation Act (42 U.S.C. 6271); *Provided further*, That the President promptly notifies Congress of each such agreement.

Mr. STEVENS. Mr. President, we have a time agreement on a series of amendments that I had considered offering to deal with the question in the bill of the treatment of Alaskan oil. It is obvious that because of the hour, the day, and the situation in which we are involved, this is not the time to offer a package of amendments merely to make a record, and therefore, I am not going to offer some of those amendments.

A copy of my principal amendment, together with an accompanying "Dear Colleague" letter, is on the deck of each Senator. It is submitted on behalf of Senators STEVENSON, KASSEBAUM, DOLE, TOWER, DOMENICI, WALLOP, and myself, as well as my colleague, Senator GRAVEL.

This amendment deletes the entire section (g) of the bill and replaces it with a new section (g).

The new section begins by making it clear that the restrictions apply to oil shipped through pipelines which have rights-of-way granted under section 28(u) of the Mineral Leasing Act of 1920 and section 203 of the Trans-Alaska Pipeline Authorization Act. Most pipelines in this Nation, which cross Federal land, have section 28(u) rights-of-way. The only exception is the trans-Alaska pipeline, which was granted a right-of-way under special congressional action. This amendment is intended to apply to all pipelines in the Nation, which have rights-of-ways granted under either of these two laws.

The amendment in subsection 1, provides for a general prohibition on exports of oil unless they meet the conditions allowing a swap in subsection 2.

However, oil which is exported to an adjacent foreign state: that is, Canada or Mexico, falls into two possible special exemptions from the general prohibition on export of oil.

Any oil sent to either Canada or Mexico in exchange for the same amount of oil being exported from that nation to the United States, and which does not result in any increase in prices to U.S. consumers, may be exported.

At the present time, such swaps are common with Canada and refiners in the Northern Tier of States. Large amounts of petroleum (28.7 million barrels last year) were swapped, and we do not intend to interfere with those ongoing exchanges.

A second general exception occurs in subsection 1, which permits the export of oil which is temporarily transported across parts of an adjacent foreign nation, like Canada or Mexico, and which is returned to the United States. We do not intend to stop those exports and so have incorporated this exemption.

Section 2 of this amendment requires that the President make several findings before any crude oil can be exported. The effect is to eliminate straight exports. We are dealing with exchange, not sale of oil. Section 2 of this amendment, as I stated, specifically requires the President to make these findings.

First, he must find that the proposed swap would not diminish the total quantity of petroleum available to the United States. We must find that the quantity, or volume, of oil to be refined within, or stored within, or legally committed to the United States will not be diminished. It is not necessary that he find there is no decrease in oil available for each of these categories, but only that he find that the total amount available for all of these categories is not diminished.

This criterion is different from the Riegle amendment, which requires that there be no decrease in quality of oil as well. Because of the different chemical makeup of oil this requirement is impossible to meet. Alaska oil is low in sulphur but high in specific gravity. It is heavy and many refineries cannot handle it. But, since it is low in sulphur content, it is valuable to some refineries in areas of higher air pollution.

The second criterion in the amendment provides that, except for minor adjustments due to quality and gravity adjustments, any swap or exchange must have no adverse impact on wholesale or consumer prices of the products refined from such crude.

The Riegle amendment provides that at least 75 percent of the savings of any swap be passed on to the consumers. This finding is impossible to make without price controls on refined products, and without massive auditing.

It is our intention that any swap not increase consumer or wholesale prices. Conducted properly swaps should have no impact and, hopefully, would reduce prices somewhat. They would result in transportation savings and I hope that the savings will benefit consumers. But there is no way to require that and no way to force that. It is much better merely to prohibit any increase in prices from such swaps.

In any swap, because of the difference of the oils available, some minor adjustments in prices will be necessary. Early this year, when Mexican oil was selling at about $14 a barrel, it was estimated that the adjustment would be 38 cents. This is the magnitude of the "minor adjustments." They will be small and limited strictly to the normal kinds of adjustments used by the oil industry to compensate for differences in oil quality.

The third condition the President must find before any swap is perhaps the most important. It requires that any contract be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished. Any swap must be completely contingent upon delivery of the foreign oil to this Nation. Any interruption of the delivery of foreign oil must terminate the contract and all our obligations to provide oil. Without these protections and absolute certainty of delivery of the foreign oil no swap can be permitted.

The fifth criterion requires any export to meet the provisions of the other sections of the Export Administration Act. This condition was in the Riegle amendment and in the former restrictions in the Export Administration Act.

The sixth condition in our amendment is that if oil, which passed through the Trans-Alaska pipeline is exported, it must be oil in excess of the amount transported on an average daily basis during the month of June 1979. It is our intention that the only Alaska oil that is exported be that which is new production. This will insure that the current level

of maritime activity will be preserved. No jobs will be lost, no ships will have to be drydocked. This will also insure that any exported oil comes from increased production. Not from current production.

This condition is not in the Riegle amendment.

This amendment revises the congressional review process of the current bill. As reported, the bill requires that the Congress pass a concurrent resolution of approval within 60 days before any swap or exchange can proceed. It is a cumbersome and unwieldly process, which greatly diminishes the chances of a swap. No provision is made for recess periods, or days when Congress is not in session.

This amendment substitutes a provision allowing the Congress to reject any swap. The swap can proceed while the congressional review is underway. We require that of the 60 days in which Congress must act, we must have been in session 30 days, thereby insuring that Congress will have a chance to review the swap. This language is the procedure in the Mineral Leasing Act, which was originally agreed upon during the debate of the Trans-Alaska Pipeline Authorization Act. It is a good flexible procedure which guarantees congressional oversight.

Our amendment places a time limit on the restrictions. They will remain in effect only until July 1, 1980. The previous restrictions in the Export Administration Act contained a 2-year limit. It is our strong belief that with the speed with which the world oil situation changes, we should not tie the hands of the administration for too long a period. A reexamination of this subject on a regular basis is valuable and needed.

The final section of the amendment is taken verbatim from the Riegle amendment and provides that the restrictions on exports do not apply to exports needed to meet our international obligations. The agreement with Israel, we entered into as a result of the peace treaty with Egypt, must be honored, as well as our obligations under the international energy agreement, when it is implemented and oil sharing is required.

In sum, I feel this is a good balanced amendment. It is not what I would like. I would like to eliminate entirely the discrimination that some people are waging against Alaskan oil. But this amendment will revise the requirements of the Riegle amendment in a reasonable and careful fashion. Swaps or exchanges will be permitted, but only when they are in the national interest, only when our consumers are protected against any drastic price increase, and only with the guarantee of receiving an equal or greater amount of oil. The amendment gives the President the flexibility he needs.

I hope that we will support it.

Let me state, Mr. President, that there are other problems with the Riegle amendment. One of these is that it does not recognize that some swaps take place between gas and oil. We are in the process of trying to get the gas pipeline constructed. If it is constructed, I envision the swap of gas to northern Canada in exchange for the delivery of oil to the eastern part of the United States. Yet the Riegle amendment would preclude that from happening.

I cannot understand, in the first place, why Alaskan oil should be restricted by Congress. It is clear that with the bill before us, as passed the House of Representatives, most of its provisions will survive, therefore I think this is the best we can do at the present time.

I hope that the time will come when some Members of Congress will understand that 40 percent of the potential oil production for the United States in the future will be from my State.

The Riegle amendment will deter the industry from making the investments that are necessary to expand production because the Riegle amendment will commit us to a process of not utilizing an exchange process to increase production in Alaska in order to assure that the transportation will be to the benefit of the Nation as a whole.

I supported at the time of the Alaska Pipeline Act the amendment that was offered by Senator Pastore. We sought to bring about an equitable distribution of the crude oil supplies, particularly those from Alaska, to regions throughout the Nation.

With the completion of the gas pipeline and the adoption of this amendment, I can assure the Senate that we will, in fact, increase our production in Alaska by at least 800,000 barrels a day.

There is no incentive today to increase that production because of what some call the glut on the west coast. It really is a surplus of Alaskan oil over the ability of the western refineries to run Alaskan oil, and that oil currently has to go through the Panama Canal at an increased price to the consumers. It is taken into the gulf coast or to the Virgin Islands for refining.

If we are to increase our production up to at least the capacity of the trans-Alaska pipeline's 2 million barrels a day, we need to know that there is an ability to transport that oil; that our transportation system will work, and that that oil can be transported by virtue of exchanges that will inure to the benefit of the country as a whole and increase the quality of oil available to the United States.

As I said, I had a series of amendments, and this might be literally called the last trench in which to fall back if we failed on the other two. In the interest of time, and because it is Saturday, I have not even put those in the RECORD. I am hopeful that the Senate and my Alaskan constituents will understand that.

But I do believe the current provision in the bill is discriminatory, is contrary to the best interests of the United States, ties the hands of the President, and will not allow us to increase our production in Alaska.

If we are to increase our production, the Members of Congress must stop discriminating against my State's oil. I firmly believe that passage of the Riegle amendment will result in this scenario. There is no prohibition on the export of products, and I do not think Congress would ever legislate one because almost every oil-producing State and every refinery exports some kind of product. If the Riegle amendment stays in this bill, the net result will be that my State will have to adopt a policy of assuring that Alaskan oil which is owned by the State and refined in Alaska, and those products resulting from it will be exported.

The net long-term effect of the Riegle amendment is contrary to the best interest of the United States and it is contrary to the continuation of the refineries that exist throughout the country that are already constructed. It will lead to construction of new refineries in my State and, incidentally, that would not be too bad from an economic point of view for us over the long run, but in the short run it would not give us the incentive to increase production.

We are committed to increasing production. We have the capability of increasing production.

And I hope that the Members of the Senate will understand that if we are forced to delay increased production in order to get time to build refineries, it is just totally contrary to the best interest of the United States.

I feel strongly that this amendment should be adopted and I hope it will be.

I thank those who have supported me in offering it.

Mr. President, I reserve the remainder of my time.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER (Mr. McGOVERN). Who yields time?

Mr. RIEGLE. Mr. President, I have heard some interesting things from the Senator from Alaska, and I always thought that——

The PRESIDING OFFICER. The Senator from Michigan will withhold. I do not believe he has time. Will someone yield to the Senator from Michigan?

Mr. RIEGLE. Mr. President, I will say to the Chair under the time agreement there were 4 hours evenly divided, and I was in charge of 2 of those 4 hours.

The PRESIDING OFFICER. The Senator is correct.

The Chair stands corrected.

Mr. RIEGLE. I yield myself whatever time I may use at this point.

I have always thought that Alaska was part of the United States. I thought it was one of the 50 States and we were all tied together. Frankly, I detect what I gather is something of a threatening tone there that if Alaska is not satisfied with the arrangements in terms of oil, it is going to take this step and that step and another step and find ways to export that oil abroad. I hope that that will not happen. I think that that would be an exceedingly shortsighted thing to do and even that suggestion is based on a set of assertions that I have just heard that are just not correct.

Alaska is not having any trouble selling the oil today that it has. In fact, it is selling it very readily, and there are a lot of people who want to buy it, and they are prepared to buy more of it if it is available.

We have a crude oil shortage in the United States, and I am speaking now of all the 50 States, and not just 1 of them.

We have a shortage in the other 49 States, and the oil is badly needed. The notion that somehow or another we are in a situation where we should start exporting Alaskan crude abroad just does not make any sense at all. Yes, it may make sense to the Japanese because Japan would like to be in a position where it can get oil from the United States for less than it is presently paying Mexico or other suppliers. But it hardly seems that it makes sense from a point of view of our trade situation with Japan to facilitate them getting oil at less money than they presently have to pay and particularly because we gain nothing, if we make it easier for Japan to acquire Mexican oil under some kind of a swap arrangement.

One of the advantages we have with respect to the supply of oil in Mexico today is proximity, and the fact that the cost of transporting Mexican oil into Houston is a relatively minor cost, about 45 cents per barrel, whereas, on the other hand, the Japanese, if they are going to buy Mexican crude, have to end up spending $1.80 a barrel.

So it is clear to the extent we make it easier and actually subsidize through these kinds of swap arrangements the movement of scarce American oil to Japan at a lower price than they otherwise would have to pay, makes absolutely no sense at all.

Frankly, I think it in some respects is even an insulting notion in terms of what it means to the rest of the United States.

If there is one thing that is obvious, and was obvious before the President spoke, to most people, and certainly ought to have been obvious to all people after he spoke the other evening, it was that we have an energy problem in the United States, and that we need oil.

What is being proposed by this amendment, and what previously was defeated in the Banking Committee, is the proposition that says that scarce American crude oil can leave this country and go to foreign buyers.

Of course, my friend from Alaska skips over the point that Alaskan oil is some of the best in the world in terms of its quality. It is not just the issue of quantity, as serious as that issue is, but it is also the fact that oil from Alaska can yield more unleaded gas. It has other beneficial qualities to it that have to be considered. So the notion that somehow, through some sort of an arrangement, we should be unloading short-supply high-quality American crude oil on foreign buyers is basically absurd right on its face.

In terms of the notion that there is a need here to provide additional markets, foreign markets, in order to bring Alaskan crude on line, I find not a scrap of evidence to support that assertion. I know of no document, no statement by any of the major oil companies that are participating in Alaska today and who own the leases there, I know of no statement in writing by any chief executive of those firms saying that they need the export market for oil in order to increase production in Alaska.

If anybody here can produce that in the course of the debate, I would like to see it. But, frankly, it does not exist. It does not exist because they know they can sell this oil quite readily.

We desperately need not only to have that oil available in the lower States but we need the pipeline facilities to be able to use it. I will tell you this: If the Stevens amendment passes so that this oil starts leaving the United States and goes to Japan and to other buyers, we are never going to get the pipeline built that we need. In fact, the Northern Tier pipeline, which is now ready to go, cannot possibly succeed or be viable unless we can depend upon that additional production from Alaska to be available to come through that pipeline to serve all of these States in the lower 48 States of the United States.

The Senator from Alaska knows that but he is prepared to see that oil go to foreign countries and, as a matter of fact, it does absolutely nothing to provide any benefit to American consumers or do anything to improve our balance-of-payments situation. In fact, if one traces through all the transactions here it is obvious in virtually every instance that it would hurt our balance-of-payments situation. How that makes sense is absolutely beyond me.

The only people who stand to gain from the Stevens proposition are the State of Alaska, at the expense of the other 49 States, and the oil producers who will make a little more money. In fact, they will make a lot more money if you multiply it by the number of barrels.

So basically, to have that kind of special legislation—and that is clearly what it is—coming in in the midst of an energy crisis that everybody understands really, I think, stretches what we ought to be trying to accomplish around here.

Frankly, I am not happy to see us have to debate on a Saturday afternoon this matter because this issue is a strategic issue in terms of the security of the United States.

We are sitting in the United States with about a 5- or 6-day supply of oil, and if there should be another foreign interruption, and we should have some other problem arise, the notion we should take this dwindling resource and start sending it abroad ought to be something we should be debating and voting on it when there are 100 Senators present, and not in the waning and, presumably, fading hours of a Saturday afternoon. This is an absolutely vital national strategic issue.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIEGLE. Yes, I yield without losing my right to the floor.

WHY THE SENATE IS IN SESSION TODAY

Mr. ROBERT C. BYRD. Lest there be any misunderstanding as to why we are doing this on a Saturday afternoon, before the Independence holiday on two occasions I took the floor and explained the situation. I stated that from the day that Congress convened until the Independence Day holiday the Senate had been in for only two Fridays, and no Saturdays, and that following the Independence Day holiday, in order to get our work done, we would have to be in every Saturday through July.

Fortunately, we were able to avoid a session last Saturday because of time agreements and the waiver of the 3-day rule, et cetera. We made more progress by getting those concessions than we would have made had we come in.

All Senators were on notice that there would be Saturday sessions, that notice was given before the Independence Day break; only moments ago 85 Senators cast their votes on the last rollcall.

I do not think anyone should be under the impression that this was a sudden move to have a Saturday session.

We are here on Saturday and we are discussing an important matter. But Senators have a full-time job, and it is very difficult for the leadership to keep the legislative process moving if we are only going to come in an Saturday for a few hours and then go out.

Those Senators who do come in—and there are 85 of them,—deserve consideration, too. They are here, they are ready to do business, and they are willing to see this bill disposed of before they go home.

Some Members may be out, but they left knowing there was going to be a session and knowing there were going to be rollcall votes.

I would hesitate to see us put this bill over until Monday if it can be disposed of today. This bill could not be brought up before now. The distinguished manager was chairing the Ethics Committee hearings, and he was unable to give his attention to this bill. But he is here today, and I say let us dispose of the bill today.

I understand the strong feelings of the distinguished Senator from Michigan. He may win. I hope we will not put this vote over until Monday. I may vote with him, but let us have a vote. Who knows, on Monday there may be more than 85 here or there may be fewer.

I hope we will not put a vote over until Monday on the basis that two or three of our colleagues are away. I will be happy to pair. Maybe we can get pairs from the opposite side of the issue to make up for any votes that the Senator feels are lost to him due to absences today. But let us try to get a vote and dispose of the matter today.

I thank the Senator for being so patient and for yielding.

Mr. RIEGLE. I am delighted to yield to the majority leader. Let me just say I think everyone appreciates, and certainly I appreciate, the fact that you put everybody certainly on notice about Saturday sessions, and we need to work on Saturdays, and I do not think there is any question about that, and I do not want my remarks earlier to sound as if that is not clearly understood in terms of where we begin from.

But I think it is also important to note, and I think the majority leader knows, that we were ready to go with this bill

as of the 1st of June, and the sponsor o the amendment had a hold on this bill for many weeks, and we were not able to get that resolved. So an awful lot of time has gone by.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIEGLE. Sure.

Mr. ROBERT C. BYRD. The delay was solely because the sponsor of this amendment had a hold. There were holds on both sides, and some of my colleagues on this side of the aisle had holds on this bill. Let us not say that it was only because the author of the amendment had a hold on it.

I guess my point, Mr. Leader, is this: We have been ready to go on this matter, and, from a legislative point of view, the action of the committee has been taken, and for whatever the reasons, a month and a half has now passed without our being able to bring the matter up.

I think I and those on my side have been ready to deal with it for that entire month and a half. We are ready to deal with it today, and we will deal with it today. But my concern is this: This is a vital issue. What the President said the other night was correct, as you and I know, and it is a vital matter.

I want to vote with the Senator.

Mr. RIEGLE. I understand. But the problem is that this bill has to be debated. There may be other amendments. I have no way of knowing how many other amendments may come up. My concern is that we are starting very late in the afternoon. This is a Saturday, I am prepared to stay here, and will stay all night long, but I do not know whether everyone else is in the same situation. That is also a factor.

I do not understand why, when we have waited a month and a half, it must be debated and voted on today. Why not debate it today and let a vote take place on Monday, when everyone will have the opportunity to vote?

Mr. ROBERT C. BYRD. That may be the only way the matter can be disposed of, in the interest of fairness to all and in the interest of trying to accommodate Senators on both sides of the issue.

I would say one quick way to find out where the votes are is to call up the amendment and quickly move to table it. That would bring the votes in in a hurry. I would not try to influence the Senator to do that; he feels strongly about the matter, and wants it debated.

But is it not a reasonable suggestion that while the Senator is debating the issue and holding the floor, that some of those who are with him on the question might explore the possibility of reducing the time and voting on the amendment today?

I am told that the Senator's side will win if he will bring it to a vote today.

Mr. RIEGLE. I hope that is right.

Mr. MELCHER. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. RIEGLE. Yes, I yield without relinquishing my right to the floor.

Mr. MELCHER. I think without a doubt we ought to win overwhelmingly in defeating the amendment. What is the advantage to the Stevens amendment? Who gets help?

First, the oil companies get help, because they can get their crude sold in a better way. I do not question that. There has not been one moment since we started talking about clearing the way for the Alaskan pipeline bill that the owners of the crude on the North Slope have not made it abundantly clear that the best place for them to sell that oil was in Japan.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MELCHER. I am delighted to yield.

Mr. STEVENS. I hope the Senator does not talk about sale, because he knows that is what got us all the headlines before and that this solely involves the question of exchanges.

Mr. MELCHER. Let us talk about exchange, then.

Mr. STEVENS. Nobody is talking about selling oil to Japan. There is a specific prohibition against selling the oil to Japan.

Mr. MELCHER. I want to get to that point, because that is the biggest turkey of all. The exchange of oil, with whom? Canada or Mexico? Canada is not going to do it. Mexico will sell us all the oil we want to buy from them that they have available to sell, except for what they need, and some other pressing commitments they might have. We are getting 500,000 barrels a day out of Mexico now. If they get their production up to a million, I suppose we will purchase about 750,000 barrels a day from Mexico.

We do not need the amendment for crude exchange, sending Alaskan crude to Japan, to buy Mexican oil. The fact is that the effect of the Stevens amendment is to decrease the amount of oil that will be coming to the United States. We cannot gain from Mexico in that way; they have got it for sale, all we have to do is offer them the money. As their production increases, our opportunity to purchase more from Mexico will be there. So we do not gain from the exchange.

I do not begrudge the State of Alaska wanting to get the biggest price they can for Alaskan crude. An exchange arrangement would give them a better return. I do not begrudge the Alaskan Natives getting the best return they can from Alaskan crude from the North Slope. An exchange with Japan would give them a better price. But I do begrudge decreasing the stable supply that is near and available for the entire United States. I do not want to do that at all.

One of the tough agreements that we had with the trans-Alaska pipeline bill, on is passage, insisted upon by the New England coalition, was the equitable distribution clause, which is cited here as clause U.

Mr. STEVENS. Mr. President——

Mr. RIEGLE. Mr. President, I have not yielded the floor. I yield to the Senator from Montana (Mr. MELCHER).

Mr. MELCHER. I would like to make one further point, then, if the Senator from Michigan will yield to the Senator from Alaska, perhaps the Senator from Alaska will want to address this point, too.

We are about ready, I hope, in this country, to develop an energy policy, including the transportation of oil within the lower 48 States. The Northern Tier pipeline has been mentioned, a pipeline that would go from Port Angeles, Wash., across Idaho, through my State, through North Dakota, and then to Clearbrook Minn., to hook up with existing pipelines. It is a big proposal. It would have the capacity of 90,000 barrels a day.

The hope is we are going to be able to clear up the environmental impact statement by late August, and by October 15 the Secretary of the Interior is to make a recommendation to the President for selection of a route.

Hopefully, from my point of view and I hope from that of most people in the Northwest, that route will be the Northern Tier pipeline system. When that happens, Federal permits are issued, and if State permits are issued, the first thing Northern Tier will have to do is go to the bonding market and try to sell some bonds. Without an assured supply, a great deal of which must be Alaskan crude, those people will have a very tough time. The Northern Tier officials would have a very tough time in the bonding market selling their bonds without available Alaskan crude supplies. With Alaskan crude being available, it will be a fairly easy job selling the bonds.

The Senator from Alaska says this is an exchange which could be interrupted. I want to tell you, if there is anything that queers the money markets in this country today, it is the doubt or uncertainty about decisions of executive branches of government to change market supply conditions that exist. And once this exchange goes into place, what is the hope, or even the opportunity, for Northern Tier going into the bonding market and selling its bonds? It would put their AAA rating down to A—, or maybe B+; but it would be a tough job.

So we are tampering here with the opportunity of a very key part of satisfying our energy needs. We are tampering here with the problem of distribution of crude from Alaska by the proper construction of pipelines to the refineries that need the crude. I thank the Senator for yielding.

Mr. RIEGLE. Mr. President, let me make it clear—on my time, now; I still have the floor—what my intention is. That is to yield briefly to the Senator from Indiana. There are other Senators who have asked to speak, and who want to insert statements in the RECORD. I am going to ask unanimous consent that they have the opportunity to do that, and then I want to yield a couple of

minutes to the Senator from Alaska, so that he can say whatever in addition he wants to in response to these points, and then I intend to move to table the amendment.

In any event, that is what I will very shortly do. So let me yield to the Senator from Indiana.

Mr. STEVENS. Mr. President, will the Senator yield to me for a parliamentary inquiry?

Mr. RIEGLE. I yield.

Mr. STEVENS. The Senator has no right to do what he has just said he plans to do. We are under controlled time, and a motion to table is not in order until time is yielded back.

Mr. BAYH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. If the mover of the motion to table yields back his time, then a motion to table is in order, is it not?

The PRESIDING OFFICER. The time of the proponents of the amendment must be yielded back before a tabling motion can be in order.

Mr. STEVENS. I will be happy to work out a time agreement to shorten the time allotted for the consideration of this amendment, Mr. President. If the Senator from Michigan wants to discuss that time limitation now, I am sure he can be accommodated.

Mr. RIEGLE. Let me say I thought the Senator had yielded back his time earlier.

Mr. STEVENS. I had reserved the remainder of my time.

Mr. DURKIN. Will the Senator yield?

Mr. RIEGLE. I will yield to the Senator shortly, but I agreed to yield first to the Senator from Indiana. I will yield 3 minutes to the Senator without losing my right to the floor.

Mr. BAYH. Mr. President, I rise to join with my colleague from Michigan to state my strong opposition to unbridled exports of Alaskan oil, and urge my colleagues to support the restrictions on exporting Alaskan oil contained in the Export Administration Act amendments now before the Senate. The limits on Alaskan oil swaps or exports in the bill, which were sponsored by Senator RIEGLE, and adopted by a majority of the Banking Committee, will insure that no oil will leave our shores unless it can be demonstrated, beyond a doubt, to both Houses of Congress, as well as the President, that such action is clearly in the national interest. These provisions, it seems to me, set only minimum standards for permitting exports or swaps of Alaskan oil:

That exports will not diminish the quality or quantity of oil in the United States;

That exports will result in lower acquisition costs to our refiners;

That these lower costs will be passed on to consumers; and

That contracts for exports can be terminated by the United States if our oil supplies are interrupted.

Exports to meet our bilateral commitments to Israel, in the event of Israeli supply problems, are exempt from these restrictions, as are any exports that might be necessary to meet our commitments to the International Energy Agency in the event of sudden worldwide shortages.

Finally, any Presidential recommendation for swaps will have to be approved by both Houses of Congress, a reasonable review process given the importance of the issue before us.

Mr. President, I consider these provisions minimum requirements. If I had my druthers, I would permit no exports of Alaskan oil except for the most extraordinary circumstances. The question before the Senate today is whether Alaskan oil should be consumed in this country or sent abroad. I submit that it should stay here, that it must stay here, and that it is our responsibility to do everything in our power to end one of the most glaring ironies of our times—the presence of a surplus of oil on the west coast coincident with hour-long gas lines and shortages at service stations all over the Nation.

Mr. President, there is a great skepticism among the people of my State and the rest of this Nation about the causes for recent oil shortages and soaring prices. In the face of this skepticism, and the sacrifices that are going to be asked of the American people, I do not see how we can permit exports of Alaskan oil and still expect the public to contribute to our conservation efforts or have any confidence that we are making real efforts to equitably resolve our energy problems.

The Alaska pipeline has been operating for almost 2 years now, and approximately 1.2 million barrels of oil flow daily through the line from Alaska's North Slope to Valdez for tanker shipment to California and east coast refiners. By the end of this year, production will increase to 1.4 or 1.5 barrels per day. The pipeline could handle a throughput of 2 million barrels per day. But this additional oil is not being produced, and the pipeline has not been modified to handle it, because west coast refineries are incapable of absorbing all of this oil. Therefore, approximately 350,000 to 400,000 barrels per day must be shipped through the Panama Canal to the eastern part of the country, and Alaskan producers have chosen not to increase production by another 500,000 barrels because of the expense of shipping oil through the canal. Conservative estimates place the cost of this transshipment at $3 per barrel which comes out of the producer's pockets. According to a General Accounting Office study released last July, the west coast surplus could reach up to 2 million barrels per day by 1985, at the same time that large sections of the country—the Midwest and East especially—will become more dependent on imported oil and petroleum products.

Mr. President, the discovery of oil on the North Slope of Alaska has been a godsend to this Nation. Oil production during the first year of the pipeline's operation was responsible for keeping $1.3 billion in this country and reducing oil imports by 13 percent. North Slope oil and reserves off the east and west coasts, and the Alaskan coast, represent the only new major sources of domestic petroleum we are likely to have. Proven reserves on Alaska's North Slope have been estimated at 10 billion barrels, and in all likelihood these reserves are probably closer to 50 billion barrels. At a rate of 2 million barrels per day, this oil supply will continue to serve America's needs for liquid energy for decades—if we preserve it for our own use.

Mr. President, the oil companies want to export this oil, which they ironically dub "surplus" oil. And, if they are given the freedom to export domestic oil, you can be sure that as production increases in Alaska this oil will end up in Tokyo and not in Butte or Des Moines, or Milwaukee or Indianapolis.

Mr. President, at a time when we are lifting price controls on domestic oil, at a cost of untold billions of dollars to our constituents, in the hopes of maybe producing a couple of hundred thousand additional barrels of domestic oil, it is incredible to me that we would permit what is likely to be considerably more oil than this to leave our shores so that the Alaskan oil producers can enlarge their coffers even further.

We are going to need that Alaskan oil down the road for ourselves, make no mistake about it. Despite our best efforts at conservation, and at conversion to alternative fuels, we are going to start running out of liquid fuels in this country sooner than we would like to admit. It would be the height of folly and shortsightedness to construct a situation which rewards those who export our rapidly diminishing and increasingly precious supplies of petroleum, rather than fashioning a long-term, durable and equitable solution to our oil distribution problems.

I would like to see us produce every drop of Alaskan oil we can, Mr. President and I am sure my colleagues who support exports of Alaskan oil feel the same way. However, I part company from them in that I believe we should reserve Alaskan oil solely for our own needs and not set up a situation where it will be more attractive for American oil producers to sell our fossil fuels abroad than it is for them to sell them at home. This is exactly what will happen without strong and permanent legislative restrictions which reduce the likelihood of Alaskan oil exports.

EXPORTS ARE NOT NECESSARY FOR INCREASED ALASKAN PRODUCTION

The argument has been made, Mr. President, that we must permit exports in order to provide increased incentives—that is, profits—for the major Alaskan oil producers to step up their production on the North Slope. By providing the President with greater leeway to authorize exports, the argument goes and by allowing the producers to export even greater amounts of Alaskan oil to Japan, they will have the necessary in-

centive to go out and find and produce more Alaskan oil.

I, for one, simply cannot buy this argument, Mr. President. I do not think extra profits are the necessary key to increased production in Alaska. Instead, it seems clear to me that a transportation system that can efficiently move that oil to domestic markets is the key to increased production. And permitting exports of Alaskan oil is the surest way I know of guaranteeing that that system is never put in place.

Mr. President, I can certainly understand the desire of the major Alaskan oil producers—Exxon, Sohio, and Arco—to sell domestic oil abroad. Right now, Alaskan producers receive OPEC prices, minus transportation costs, for their product. Thus, they have been absorbing the $3-per-barrel cost of shipping their oil to gulf coast ports. The desire of the producers to export Alaskan oil stems from their hope of capturing the savings in transportation costs that would accrue to them by shipping Alaskan oil to Japan, which is cheaper than shipping it to American refiners through the Panama Canal.

Frankly, Mr. President, I am getting tired of being told that ever larger oil company profits is the only sure fire method of decreasing our dependence on foreign oil. The question before us is as clear a refutation of that argument as I have seen. It is clear to this Senator that the oil companies are already making a healthy profit on Alaskan oil, especially in light of producers' original expectations and recent OPEC price increases.

The return of Alaskan producers at the wellhead was about $7 per barrel before the most recent round of OPEC price increases. In the first 6 months of this year, producer wellhead profits have increased by more than 70 percent, according to the Petroleum Intelligence Weekly. If Alaskan producers were not making enough to increase exploration activities before 1979, it seems to me they have plenty of incentive for increased exploration and production in Alaska now. On the average, prices for Alaskan oil are up as much as 40 percent over 1978 end of the year prices on the west coast. Alaskan oil is also going for much higher prices on the gulf coast, because of Mexican price increases. Mr. President, I ask unanimous consent that this article, which appeared on June 18, be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BAYH. A clear indication that producers have sufficient incentive to further develop Alaskan resources is the announcement made by North Slope producers that production will increase by up to 300,000 barrels a day by the end of 1979. It does not seem, therefore, that the limitations contained in the expiring provisions of the Export Administration Act have been much of a disincentive to increased production. Nor do I think the restrictions placed in this bill will be either. The plain fact is that we can expect higher production in Alaska because the oil companies are sitting on a gold mine up there and it is already profitable for them now to develop Alaskan resources. Further evidence of this fact is Arco's intention to actively develop the Kuparuk field, which should yield 60,000 barrels of oil per day by 1982. Mr. President, those producers just want to squeeze every penny they can from that oil. That is their responsibility to their shareholders and I do not fault them for it. But our responsibility is to safeguard the public's interest by keeping that oil here in America.

CONSUMERS WILL NOT BENEFIT FROM EXPORTS

Who can expect to benefit from arrangements to swap Alaskan oil with Japan? Certainly the oil companies will benefit. And the State of Alaska will benefit. But the American people will not benefit. Even the proponents of Alaskan oil swaps do not argue that the transportation savings that would result from such swaps will go to American consumers. If such were the case, the proponents of swaps would have a stronger case. And the language in this bill permits swaps that will reduce costs to American citizens if they are substantial. I urge the Senate not to backtrack on these provisions. While I believe exports may be a bad idea under any but the most extraordinary conditions, they certainly must not even be considered unless they will benefit American consumers through lower prices.

EXPORTS WILL HEIGHTEN OUR VULNERABILITY TO FOREIGN SUPPLIES

Mr. President, the trans-Alaskan pipeline was sold to the Congress and the American people as a means of reducing our dependence on imported oil. Our reliance on unstable foreign oil is universally perceived to be one of our most pressing national problems. Therefore, it is essential that we consider the impact of permitting swaps on our efforts to minimize disruptions stemming from interruptions in the flow of foreign oil to the United States.

Our dependence on foreign oil has actually increased in the 2 years since production in Alaska began. I think it is central to our understanding of this issue to observe that the exchange of Alaskan oil for Mexican or Indonesian crude oil will not reduce in any way our reliance on imported oil. Simply put, oil swaps will at best leave us just as vulnerable to oil supply distruptions as we currently are, and at worst, increase our dependence on foreign oil.

Mr. President, although we cannot address the specifics of an oil swap arrangement, since none has yet been negotiated, the general outlines of such a plan are clear. In all likelihood, the United States would agree to send an amount of Alaskan oil to Japan in exchange for receiving oil purchased by Japan fom Mexico or Indonesia in the United States.

I think it is a very telling reminder of the degree to which such an arrangement would place U.S. energy supplies at the mercy of foreign producers to recall that only recently it was assumed that a swap proposal would involve Iranian oil. We need no more graphic illustration of the foolishness of continuing to rely on foreign suppliers for our crude oil needs than the Iranian oil cutoff earlier this year. We cannot afford to overlook the possibility that events in Mexico or Indonesia sometime down the road could result in disruption of oil shipments from these countries. Where would the United States be left then? We would still have a commitment to ship U.S. oil to Japan. Even if we were able to break such an obligation, we would find ourselves in precisely the same situation we face now with a glut of oil on the west coast and no transportation system in place to move supplies to the eastern part of the country. In addition to subjecting ourselves to these uncertainties, I believe that swaps would retard progress on our real problem; the inability to get Alaskan oil where it is needed and where it can be refined. It is clear to me, that encouraging even greater dependence on foreign suppliers is irresponsible and shortsighted. Instead, we must look toward a long-term solution to our Alaskan oil distribution problem.

NEED TO BUILD WEST-EAST PIPELINES

Mr. President, I want to see oil imports decline and not increase. Rather than sending our Alaskan oil to Japan in exchange for foreign oil, I want to see it going to Indiana, Ohio, Montana, and Wisconsin and Michigan and Minnesota and other States along the Northern Tier and in the Midwest. And I would like to see New England rely less on imported oil and refined petroleum products, and more on domestic oil.

Right now, our only alternative to shutting Alaskan oil in the ground, or exporting it, is to ship it through the Panama Canal all the way from Alaska to Puerto Rico and the gulf coast. We all agree that this process is cumbersome, expensive and wasteful. But rather than throw up our hands and give in to the longstanding desire of the Alaskan oil producers to export American oil, we must take decisive action to establish an oil distribution system that can efficiently move Alaskan energy resources to the lower 48.

Mr. President, permitting exportation of Alaskan oil is the worst possible step we can take right now if we are truly interested in stimulating construction of new pipelines to move this vast natural resource to factories and farms and homeowners all around this country.

What is so very frustrating about this debate, Mr. President, is that it is not a new issue. This is a fight many of us have been waging for over 6 years now. Back in 1973 I, along with our distinguished Vice President, opposed the Alaskan oil pipeline route, as opposed to a trans-Canadian route, because it was obvious to us, even at that time, that an Alaskan route rather than a trans-Canadian route would not provide oil to the sections of the country that needed it most, but

would likely result in a surplus of oil on the west coast instead. How ironic it is that the route touted as superior because it was "all-American" should now be the stimulus for exports of American oil, and increased dependence on foreign suppliers.

Mr. President, I certainly take no satisfaction in noting that our most dire predictions in 1973 have come true. When we lost the fight for a trans-Canadian route 6 years ago, by a hair-splitting vote, we tried to flat out prohibit the export of North Slope oil to make sure that it would be equitably distributed within our country. We lost that fight too and the problem is still with us. However, back in 1973, we did at least manage to get language restricting the conditions under which Alaskan oil could be exported. Under the terms of that 1973 legislation, any exports of Alaskan oil, with the exception of those to Mexico or Canada, would have required a Presidential finding, subject to a two-House congressional veto, that such exports would not diminish the quality or quantity of petroleum available in the United States and that such exports would be in the national interest.

In 1976, the Alaskan oil problem was addressed once again when the Congress passed the Alaskan Natural Gas Act. A provision in that bill, sponsored, I believe, by my colleague from Montana (Mr. MELCHER), required the old Federal Energy Administration to recommend a means of expediting the construction of new pipelines designed to distribute Alaskan oil in an equitable manner around the country. Early in 1977, I joined with Senator MELCHER and 14 other colleagues in urging the FEA to live up to its statutory responsibilities. Unfortunately, decisive recommendations were not forthcoming, although FEA did acknowledge that several suggested pipeline proposals were technically feasible and could be made operational within a few years.

Impatient with the clear desire of the oil companies to export Alaskan oil, and the foot dragging on this issue downtown, and, in the face of rumors that possible oil swaps with Japan were in the offing, in May of 1977 I joined with many of my colleagues, who are today supporting the tough provisions in this bill, to prohibit, outright, any export of domestic oil. While our amendment failed to pass the Senate, it carried in the House, with the result that restrictions on Alaskan oil imports placed in the 1973 trans-Alaskan pipeline authorization bill were strengthened.

These new provisions required a finding beyond that in the 1973 bill—that any swaps or exports of Alaskan oil would not result in increases in consumer prices as a consequence of their implementation. Further, it provided that one House of Congress could override any Presidential decision to export or swap Alaskan oil.

Finally, Mr. President, almost 2 years ago, I joined with Senator MELCHER of Montana in introducing legislation designed to stimulate constructon of pipelines to carry surplus Alaskan oil from the west coast to the interior of our country. This bill was meant to expedite Federal permitting processes, better coordinate Federal and State permitting, make these projects a top priority in Federal agencies with jurisdiction over interstate pipelines, and provide adequate, but not protracted, opportunities to challenge these projects in the courts. In other words, our legislation was an attempt to free ourselves from bureaucratic redtape and delay.

Last fall, a modified version of this bill was incorporated into the National Energy Act. The studies that bill required are now in preparation. In fact, the Department of Energy has just released its findings, and was expect the President to recommend one or more pipelines for expedited Federal procedures by the year's end. Loosening export restrictions now, when the administration is ready to act, would be exactly the wrong signal at the wrong time.

Mr. President, permitting Alaskan oil exports now is the best way I know to make sure that these proposed pipelines to carry oil east will never be built. The more we procrastinate in providing for the redistribution of Alaskan oil, the heavier the pressure from the oil companies will be to export it. Let us not forget that back in 1973, the oil companies denied that there would be an oil glut on the west coast, or even that they had any intention of exporting any oil. But, clearly, this has been their preferred option all along. This lingering hope has slowed investments in increased refining capacity on the west coast, and made investors leery of backing proposed west-east pipeline projects.

Mr. President, the most sensible way for us as a nation to take advantage of Alaska's mammoth hydrocarbon reserves is through increased refining capacity on the west coast and constructiton of west-east pipelines. Rather than viewing swaps, as the administration does, as an acceptabale option in the event that these goals are not accomplished, it is high time that we here in Congress make it clear, once and for all, that exports will not be permitted. A clear signal on this issue will do more to remove uncertainty in the private sector about the wisdom of investing in these projects, than hours of moral exhortation. To my mind, we have already wasted 6 years on this. I say it is time to send a message loud and clear to all those watching these deliberations: "There will be no exporting of Alaskan oil so get on with the job."

BALANCE OF TRADE

I think it is also important, Mr. President, that we look very closely at one additional argument made by those who would allow for oil exports—the supposed positive impact that they would have on our overall balance of trade. I have a great deal of trouble accepting the argument that exporting a scarce and precious commodity is the best way to deal with our admittedly troublesome trade deficit with Japan. As a Senator from a State that is desirous of exporting both agricultural and manufactured products, I have spent a good deal of my time recently pondering this situation. I would suggest that exporting Alaskan oil offers more a seductive remedy or "quick fix" for our present trade problems with Japan than a well thought out proposal for addressing this legitimate concern. This problem must be addressed in a more efficient and effective way than by shipping American oil to Tokyo that will be desperately needed in Northern Tier States when the Canadians cut off their oil exports to us in 1982 and which could be used in Indianapolis, where the major oil supplier for that metropolitan area almost had to shut down this winter because of the disruptions in the world oil market. Events in the past 4 months have demonstrated that we can reduce our trade deficit through enforcement of fair trade laws and an aggressive trade negotiating strategy to open more of the Japanese public and prvate market to U.S. exports.

With the perseverence of our trade negotiators, Mr. President, we have seen the dollar recover against the yen, sharp reductions in steel imports from Japan and at least some promise through multilateral trade negotiations that Indiana farmers will be able to export more soybeans and other agricultural products to Japan.

Mr. President, this is certainly not to suggest that our trade problems with Japan have been solved—far from it. It is, however, to recognize that progress can be made on these issues in a way that can have a beneficial long-term impact on strengthening the dollar abroad and defeating inflation here at home without mortgaging our energy security. We can do this without shedding a drop of U.S. oil, which should be used to fuel our own steel mills, and the tractors on our family farms, and not in Japan.

In closing, Mr. President, I again strongly urge my colleagues to support the language the Banking Committee has put in the bill. As I said earlier, it is hard for me to conjure up any circumstances under which I think we should be exporting Alaskan oil. To my mind, the conditions set in this bill regarding exports—that they will not diminish the quality or quantity of oil in the United States, that they will result in lower costs to American refiners within 3 months, at least 75 percent of which will be passed on to American consumers, and that they could be terminated in the event of an interruption of U.S. oil supplies—are absolute minimums necessary to even consider exports. Should the President find that exports would meet these conditions, the Congress would still have an opportunity to evaluate this judgment and both Houses would have to concur in this decision.

It seems to me this is an entirely appropriate exercise of congressional oversight—something we should be doing more of.

Mr. President, at a time when we are asking the American people to recognize our serious energy problems, and asking them to dig down deeper into their pockets and pay more for energy, and asking them to turn down their thermostats and drive their cars less, I do not believe we should give American oil producers the opportunity to export nearly half a million barrels of oil per day to Japan so they can make even greater profits. And I believe that is what this fight boils down to. Such an action would remove all incentive for the construction of pipelines that can efficiently and equitably distribute Alaskan oil throughout the Nation. It would remove all incentive for increased refinery capacity. It can only deepen our dependence on other nations for our energy supplies, increase our susceptibility to economic disruption and political blackmail and deplete a precious and shrinking national resource that we desperately need for ourselves. Further, it will only serve to increase the confusion and skepticism of the American people about the nature of our energy problems and our ability to deal with them equitably.

Mr. President, I hope the Senate will decisively defeat any attempts to delete or weaken the language in this bill restricting exports of Alaskan oil and put this issue behind us once and for all. By so doing, we will send a clear message to all concerned that this Congress wants to see Alaskan oil used at home. This is essential for stimulating investment in new refining capacity and pipelines. I suggest that it is the simplest, most direct and fairest way to make headway on the need to move the vast energy sources of Alaska to the lower 48 so that they will truly serve as a replacement for imported oil, and not as a stimulus to increased imports.

Mr. President, I have just a few additional remarks so we can move on to try to get a vote on this issue. I am hopeful that the Senator from Alaska and the Senator from Michigan can resolve this so we can get about voting on this and move to other items.

It seems to me that at this particular time we are being asked again to decide whether the energy policy of this country is going to be based on what is in the national interest or whether it will be based on what is good for a small vested interest. Some of us stood on this floor when the pipeline issue in Alaska was being debated. We did not say, "Do not build a pipeline," or that we were more concerned about the environment, but what we said was that when the corporations of this country moved to make a major investment to get Alaskan oil to the lower 48, it ought to be distributed in a way to meet the needs of all of our citizens. The pipeline should have ended in the center part of the country, so that States east and west could benefit from it. It does not do any good to say, "I told you so," about the glut. I do not like people who say that. But right now it is time to reinforce what we said then; that if we are short of energy it does not make any sense to take Alaskan oil and ship it to Japan in exchange for Iranian, Indonesian, Kuwaitian, Mexican, or Nigerian oil that we can get anyhow; or buy foreign oil to put into the strategic petroleum reserve in Louisiana. That makes about as little sense as anything we have been asked to do.

We need to have a permanent way to distribute this petroleum. We need to be utilizing that pipeline 100 percent. The price Alaskan oil producers are getting, thanks to OPEC, has increased significantly, providing more than enough incentive to go out and produce more oil on the North Slope.

We need to do what the Senator from Montana, the Senator from Michigan, the Senator from Indiana, and others have been trying to do, get a pipeline built so that Alaskan oil can efficiently get to our part of the country, and the eastern part of the country, instead of being confined to the west coast.

Permitting Alaskan oil exports is the wrong signal to send to the people of this country right now. They do not believe we have an energy problem. They think they are being ripped off by the oil companies. What do we do? We confirm that by doing what the oil companies want us to do with Alaskan oil.

EXHIBIT 1

ALASKA PROFITS BOOM AS OIL PRICES TRACK OPEC'S UPPER TIER

Oil companies producing Alaskan North Slope crude have increased their profits by more than 70% thus far this year by tracking the leading edge of OPEC price increases. After-tax profits on Alaskan sales to the United States West Coast and Gulf Coast markets have soared past $3 a barrel and could reach as much as $4.10 (an 85% jump) when the latest boost is fully applied, according to a Petroleum Intelligence Weekly analysis. Alaskan crude oil prices are effectively free of U.S. price controls and can be sold at world market levels, delivered to West or Gulf Coast markets. The price of Alaskan oil at the wellhead is now between $9.50 and $10.50 a barrel and could move as high as $12.93 under present price control rules.

Alaskan crude oil prices have traditionally been linked with Saudi Arabian Light crude (with some adjustments for quality). But producers are clearly not following Saudi price "moderation" this year. In fact, one company openly endorses a higher $17 a barrel "de facto" price for marker crude, rather than the official $14.55. The higher de facto marker price was first proposed by Algerian Sonatrach's Nordine Ait-Laoussine (PIW May 28, p. 3) and other African OPEC nations and North Sea producers have raised their prices accordingly. North Slope producers are following suit, and one key seller (ironically, a Sonatrach customer) says "Ait-Laoussine's view of the world isn't all that crazy."

Higher Alaskan prices are emerging from a rough-and-tumble of hectic price moves in recent weeks. While the specifics vary depending on buyer and seller, prices are up as much as 40 percent over end-1978, an increase of more than $5 a barrel on both the West and Gulf Coasts. Buyers say Sohio has been the most aggressive in seeking price increases (it has 52.6 percent of the North Slope's 1.22-million b/d, while Exxon and Arco (with 20.6 percent each) are said to be more "moderate." Last year when crude oil was in surplus, Alaskan crude buyers put producers in a squeeze, forcing substantial price reductions. "Those that squeezed hardest then are probably regretting it most now," a supplier notes.

The target price on North Slope contract sales to West Coast buyers is now about $17.80 a barrel. That's $2.00 a barrel higher than the theoretical delivered price of "cheap" Arabian light crude, but a real bargain compared with alternative imported crude supplies. By comparison, North Slope crude, last December, was selling for $1.30 less than the landed price of Saudi Arabian Light. "Even if you could get extra Iranian or Kuwait or Abu Dhabi crude at official prices—and you can't—Alaskan looks good. Compared to $35 spot crude, North Slope is a steal at $17.80," according to a West Coast refiner.

At a $17.80 selling price on the West Coast, producers would reap an overall profit of $4.11 a barrel after tax, PIW estimates. That's at least 40% more than the profit possible on sales to the more distant Gulf Coast markets and explains why producers are moving to boost West Coast sales. Volumes are already up to 875,000 b/d, more than anyone originally expected, and the companies now talk confidently of selling 950,000 b/d in that market as total North Slope production rises to 1.4-million b/d later this year. The limitation is the ability of California refiners to handle relatively high sulfur Alaskan, though this has not proved a major obstacle in recent times. Demand is strong for the crude's larger fuel oil fraction, and refiners are a lot less picky now that crude is short.

Alaskan suppliers are clearly not interested in selling to Gulf Coast buyers at the moment and have cancelled many deals as soon as contract terms allowed. Some have even refused offers to "fully match" West Coast prices, PIW understands. The nominal Gulf Coast selling price sought by some suppliers is now about $18.55 a barrel, leaving producers a very substantial $3.71 after-tax profit. This price is basically connected with Mexico's pricing. One buyer tells PIW: "The Saudi price isn't the basis for the Gulf Coast any more; we're watching Mexico." The big $3 jump in Mexican prices April 1 (to $17.10) was largely the basis for the $2 May jump in Alaskan prices at the Gulf. Much of the Alaskan crude moving to the Gulf is part of exchange deals involving higher quality imported crudes. A large volume also moves to the Virgin Islands refinery of Amerada Hess.

The following tabulation shows PIW's analysis of costs and profits on North Slope oil production based on prices asked and paid in early June. But it doesn't reflect the latest $1 a barrel that North Slope sellers are seeking and West Coast buyers will probably pay. Profits are shown on both crude oil production and the Alaskan pipeline operation, with overall margins presuming an equal share in both sectors (though shares vary among the companies). PIW has selected "typical" prices for each time period, though there are substantial differences due to the confused nature of the market (prices were changed in mid-quarter and even mid-month). The "June" price was typically asked by sellers early this month, though some are still selling for much less. In May, for example, the prices under Gulf Coast contracts varied between $16.38 and $17.10 a barrel.

ESTIMATED TYPICAL TAX-PAID COST AND PROFIT AND ALASKAN NORTH SLOPE CRUDE OIL

[In dollars per barrel]

	Delivered to west coast					Delivered to gulf coast				
	4th quarter, 1978	1st quarter, 1979	April	May	June	4th quarter, 1978	1st quarter, 1979	April	May	June
Delivered price	$12.65	$13.76	$14.41	$15.44	$16.80	$13.30	$14.25	$14.75	$16.75	$17.55
Less: Shipping cost [1]	.90	.95	.95	.95	.95	3.05	2.90	2.95	2.90	2.85
Valdex f.o.b. price	11.75	12.81	13.46	14.49	15.85	10.25	11.35	11.80	13.85	14.70
Less:										
Liability fund	.05	.05	.05	.05	.05	.05	.05	.05	.05	.05
Pipeline loss	.05	.05	.05	.05	.05	.05	.05	.05	.05	.05
Pipeline tariff	6.20	6.22	6.22	6.22	6.22	6.20	6.22	6.22	6.22	6.22
Wellhead price	5.45	6.49	7.14	8.17	9.53	3.35	5.03	5.48	7.53	8.38
Less:										
Royalty (12.5 percent [2])	.60	.73	.81	.94	1.11	.41	.55	.60	.86	.97
Severance tax [3]	.67	.75	.82	.94	1.10	.67	.67	.67	.87	.97
Property tax	.17	.17	.17	.17	.17	.17	.17	.17	.17	.17
Field operating cost	.44	.44	.44	.44	.44	.44	.44	.44	.44	.44
Field financing cost	.22	.24	.24	.24	.24	.22	.24	.24	.24	.24
Depreciation [4]	.85	.85	.85	.85	.85	.85	.85	.85	.85	.85
Oil profit before income tax	2.50	3.31	3.81	4.59	5.62	1.1	2.11	2.51	4.10	4.74
Less:										
State income tax (9.4 percent)	.24	.31	.36	.43	.53	.11	.20	.24	.39	.45
U.S. income tax [5]	1.20	1.52	1.75	2.11	2.59	.57	.97	1.16	1.89	2.18
Oil profit after tax	1.06	1.48	1.70	2.05	2.50	.51	.94	1.11	1.82	2.11
Pipeline profit [6]	1.20	1.30	1.30	1.30	1.30	1.20	1.30	1.30	1.30	1.30
Overall post-tax profit	2.26	2.78	3.00	3.35	3.80	1.71	2.24	2.41	3.12	3.41

[1] Shipping costs to the Gulf of Mexico often involve producers' internal charges and are estimates.
[2] Assumes average 6.5 cents deduction from wellhead price to cover collection and transport to Pump Station 1 before calculation of royalty. This deduction has been challenged successfully in the courts by the State of Alaska but companies are continuing to take deduction on tax returns pending appeal.
[3] 11.7 percent in 1978 and 11.54 percent in 1979, with a minimum 66.5 cents per barrel.
[4] Includes depreciation and amortization.
[5] 48 percent in 1978 and 46 percent in 1979.
[6] After tax. Estimate based on average 1,100,000 bbl/d throughput in 1978 and 1,200,000 currently

Mr. RIEGLE. I yield 1 minute to the Senator from New Hampshire without losing my right to the floor.

Mr. DURKIN. I thank the Senator from Michigan and rise in support of the provisions my distinguished colleague has placed in the S. 737, Export Administration Act of 1979. I appreciate his efforts in opposing the transfer of Alaskan oil to our Pacific competitors under any sort of arrangement. Alaskan oil and Alaskan resources must be preserved for Americans. We must move Alaska's oil east to the New England market now. It is as simple as the rules in cards. I lost a lot of money in playing cards as a young gentleman, in the process of learning that you do not bet on the next card.

The President stood in Portsmouth High School and promised 240 million barrels of home heating oil would be reserved by the 1st of October. They are 20 million barrels behind at this time. Notwithstanding all the assurances of the Department of Energy, the President, and whoever is in the Cabinet today, we are running short of home heating oil this winter in the Northeast.

We have the Alaskan pipeline. If it had not been for the Department of Energy we would have had a pipeline now, or it would have been under construction, to bring that oil east, to the midwestern refineries and to the east coast. To send the oil overseas in the hopes of making up a replacement somewhere else is the height of folly.

I need remind no one in this Chamber that toughening the export restrictions on this valuable commodity—Alaskan oil—is clearly in the national interests. At a time when Americans are suffering from long gasoline lines and reduced stocks of home heating oil, it would be totally unreasonable to export Alaskan oil.

There now exists only a very weak restriction on the export of Alaskan oil. The strong check on the export of Alaskan oil contained within the Export Administration Act expired on June 22. Unless the Congress moves to restore and strengthen these restrictions, it is likely that the President will seek ways to send Alaskan oil to Japan. Permitting such exports, which are being disguised as a "swap" of oil, would be contrary to a sound energy policy and particularly harmful to New Hampshire and New England.

Alaskan oil must be saved for Americans and not shipped to some distant shore to deplete further our declining domestic supplies of energy. I realize that there is a problem in getting the Alaskan oil to the east coast, the area of the country that is perhaps most in need of this oil, but exporting the oil is not the way to solve this problem.

We could be receiving much more of this oil on the east coast if we had a pipeline from the Pacific Northwest to the East. However, ever since the oil started to flow through the trans-Alaska pipeline system, the major oil companies have resisted efforts to build this pipeline so that they might export this oil to the Far East and increase their profits. Passage of this bill will halt this campaign in its tracks and aid considerably in getting this pipeline and other needed facilities built. We must convince the President that the Congress is resolute in its conviction that Alaskan oil not be exported.

Unfortunately for my constituents in New Hampshire and the people of the Northeast, the trans-Alaska oil pipeline has become a monument to the lack of energy planning that existed in this country for so long. The Congress allowed the pipeline to be built in the wrong place at the insistence of the oil companies who naturally assumed that they would be able to ship their product to distant countries. The oil companies stand to make billions of dollars in excess profits by selling the oil to Japan, getting the world price for their product and avoiding the costly transportation charges to send the oil to those areas of the United States where it is really needed. We cannot allow the majors to blackmail the Federal Government into allowing the export of oil because of the shortsightedness of our energy policy in the past. We must not become the captive of those who seek to profit from the crisis rather than solve it.

Mr. President, I would urge all of my colleagues to refuse steadfastly to send American oil out of this country. We must undertake a national commitment of building the necessary refineries and pipelines on the west coast so that this oil can be used for our own internal needs, not the needs of a foreign country. We spend almost $50 billion annually to purchase costly imported oil. Does it make any sense whatsoever to export this oil so that we can increase our dependency on the OPEC nations.

My home State of New Hampshire is at the empty and expensive end of the energy pipeline. The export of Alaskan oil will make a bad situation worse. I urge you to retain this provision in the export bill.

Mr. RIEGLE. I wonder if we can reach a time agreement that everyone could understand.

UP AMENDMENT NO. 431, AS MODIFIED

(Purpose: To clarify provisions restricting export of Alaskan Oil)

Mr. STEVENS. Mr. President, on my time, and I think the Senator yielded to me on that basis, I wish to modify my amendment in section 3, line 4, to delete the words "otherwise subject to this subsection." That is on the last page.

The modification of this amendment is being made at the request of the State Department to insure that there is no impinging upon the agreement with

Israel as far as that provision is concerned.

Subsection 4g(3) of S. 737—the Export Administration Act of 1979—provides that:

Notwithstanding the foregoing provisions of this subsection or any other provisions of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act, provided, that the President promptly notifies Congress of each such agreement.

This language exempts from the restrictions on the export of Alaskan oil contained in subsections 4(g)(1) and (2), exports to Israel under our bilateral agreement and exports to fulfill our obligations under the emergency sharing plan of the International Energy Agency.

The phrase "otherwise subject to this subsection" 4(g)(3) limits the exemption of exports to Israel to oil. Covered by this section—presently there is an exemption for Israel in the OCS Act but that applies only to agreements existing in February 1977. At present, if our commitment were activated and we had to make U.S. oil available to Israel, we believe that providing Alaskan oil would best suit United States and Israeli interests. However, this may change over the course of our 15-year commitment. The President may decide that providing oil from another source would cause less disruption to the U.S. economy or the U.S. energy market. If the phrase "otherwise subject to this subsection" were removed from 106(3), the United States would be able to export the oil which best meets our interests.

I would like to delete the phrase "otherwise subject to this subsection." The effect of this amendment will be to allow the export of U.S. oil from any source to Israel under our bilateral oil supply agreement of March 26 and its implementing arrangements. Presently, the bill exempts just the export of Alaskan oil to Israel from the restrictions of this and previous legislation. If our commitment to Israel were activated now and we had to make U.S. oil available to Israel, providing oil from Alaska might well be the best way of fulfilling our commitment. However, over the course of this 15-year agreement, the President should have as well the authority to allow the export of oil from a non-Alaskan source if that would be most easily absorbed by the U.S. energy market and better suit the interests of the United States and Israel.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. JAVITS. Reserving the right to object, Mr. President, and I will not object——

Mr. STEVENS. This is just a modification.

Mr. JAVITS. I would like to ask Senator RIEGLE if he will do the same thing respecting any part of what is contained in the bill which relates to the same problem.

Mr. RIEGLE. I am sorry, I do not believe I understood the question.

Mr. JAVITS. The problem that Senator STEVENS is now dealing with enables the United States to fulfill its contract with Israel which runs for 15 years, even though the oil may not be Alaskan oil. That is quite a proper amendment. The question I ask is this: Is the Senator prepared to do the same thing as to the bill?

Mr. RIEGLE. It is certainly my intent to accomplish the same objective.

Mr. JAVITS. That is all I need to know. I have no objection.

Mr. STEVENS. I ask that my amendment be so modified.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 74, line 22, insert new section (g) as follows:

(g) (1) Notwithstanding any other provision of this Act, no domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the requirements of either subsection (u) of section 28 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 185), or section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must meet the price standard of paragraph 2(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) The President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) except for minor impacts due to quality or gravity adjustments, will have no adverse impact on wholesale or retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are in the national interest;

(v) are in accordance with the provisions of this Act; and

(vi) in the case of crude oil which is transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), the oil to be exported consists of volumes in excess of that which was so transported on an average daily basis during the thirty days preceding July 1, 1979; and

(B) The President submits reports to the Congress containing findings made under this subsection and after date of receipt of such report, the Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's findings concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

(C) Paragraphs 1 and 2 shall remain in effect only until July 1, 1980.

3. Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act (42 U.S.C. 6271): *Provided further*, That, the President promptly notifies Congress of each such agreement.

Mr. STEVENS. Mr. President, I just want to make a brief statement and then yield to two of my friends who wish time.

In answer to the Senator from Montana, I call attention to the provisions which state categorically that the President must make and publish an expressed finding that such an exchange will not diminish the total quantity of petroleum refined within, stored within, or legally committed to be transported to, or sold within the United States.

The charge that this would in any way reduce the supply of oil is fallacious. As a matter of fact, until we are certain that we can transport this oil once it is produced, the 800,000 barrels a day that could be increased in this next calendar year will not be available in the United States.

I support the Northern Tier line. I am surprised at my friend from Montana. The production must be there before it can be financed.

Mr. MELCHER. Will the Senator yield?

Mr. STEVENS. I am delighted to yield to my friend from North Carolina for 1 minute or whatever time he needs, 2 minutes, and to the Senator from Illinois after that. Again, we are doing so without the Senator from Michigan losing his right to the floor. I am prepared, following their comments, to agree that we would vote on the tabling motion of the Senator from Michigan at 5 minutes of 3 with neither of us yielding back the remainder of our time, if that is agreeable.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. I have discussed this with Senator BAYH, who indicates it would be agreeable with the Senator from Michigan (Mr. RIEGLE).

I ask unanimous consent that a vote occur on the motion to table at 5 minutes to 3.

Mr. STEVENS. If it is on the condition that we evenly divide this time, because I have commitments to Senators STEVENSON, PERCY, and HELMS. I shall take no more time myself.

Mr. ROBERT C. BYRD. Yes, with the understanding that the 15 minutes be equally divided and controlled in the

usual form, and that the tabling motion be in order even though the time has not been yielded back.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

Who yields time?

Mr. STEVENS. I yield to the Senator from North Carolina first, then to the senior Senator from Illinois, and then to the junior Senator from Illinois.

Mr. HELMS. Mr. President, I thank the Senator from Alaska for yielding to me.

Recently I learned the details relating to a lack of refining facilities and transportation pipelines that has resulted in Alaskan oil not being produced or developed as rapidly as would otherwise be the case.

Specifically, I am informed that production capacity of the North Slope field is presently at a 1.5-million-barrel per-day level, but actual production is only 1.2 million barrels per day.

The stated reason for this was the lack of facilities to refine the oil on the west coast and the lack of pipelines on the west coast to carry the heavy Alaskan oil to refineries in the interior of the United States.

After assessing Senator STEVENS' proposal, I view it as only a temporary situation to be in effect only until we can build additional refining capacity on the west coast or a pipeline to carry this oil to America's inland refineries.

Having said that, I should emphasize that I do not believe that it is in America's long-term or broader interests to permit a long-term oil sales program to Japan, although there may be some temporary and short-term benefits. And I believe that it would be a great misfortune if Alaskan exports of oil to Japan result in a failure to build the pipelines and refining facilities which are so necessary to process Alaskan oil in the United States.

Let me explain why I feel so strongly about this:

In my view, the superficial economies and short-term benefits which appear to be offered by a long-term oil sales program to Japan are completely overridden by broader and longer term considerations. I am convinced that the so-called swap arrangements with Japan on a long-term basis would not be America's best interests.

In the past we have seen a certain amount of erratic behavior on the part of this administration concerning energy policy. And while I hope the administration eventually does the right thing as far as energy is concerned, I believe that it is important for the Congress to make its own views on important parts of America's energy policy crystal clear.

One of the most important aspects of today's energy policy is the whole question of Alaskan oil. Some have advocated a permanent sales program to Japan, and to other countries, because of the difficulty in transporting Alaskan oil to midcontinent refineries where it could be converted into gasoline, heating oil, and other products urgently needed by the American people.

This may be justified on a temporary basis but, I believe the Senate should make it clear that it believes that our Nation's interests would not be best served by a long-term program of sales of Alaskan oil to foreign countries.

No one knows for sure what the production potential of Alaska might be. But there is one thing upon which there is virtually unanimous agreement: Alaska has significant promise for future oil discoveries and expanded production. If America is ever to achieve a greater degree of energy independence, clearly, Alaskan oil must play a prominent role.

At present, many experts appear to believe that Alaskan oil is not being developed as rapidly as might be the case. And there are a number of bottlenecks, according to these experts. Until recently, leasing in some areas has been held up. In California, a pipeline proposed by the Sohio Co. to transport Alaskan oil to the large midcontinent oil refineries was delayed for years by the requirement for literally hundreds of permits and environmental procedures. Eventually the entire project was scrapped. And today, it appears that the full capacity of California's refineries is being used to process the limited quantities of oil now coming from Alaska and elsewhere.

It would seem to me to be prudent for the United States to be taking steps to increase its capacity to transport and process oil on the west coast.

Part of President Carter's energy program calls for the rapid exploitation of the massive deposits of very heavy grade California petroleum. Assuming this project actually happens—and I have reason to believe it may—the resulting crude oil will swamp suitable existing refining capacity on the west coast.

Rather than exporting Californian and Alaskan oil to Japan or elsewhere, I urge, as part of the President's new energy initiatives, that Governor Brown, in the interests of the Nation and in the interest of Californians, be encouraged to facilitate the construction of a pipeline to the Texas and Oklahoma refineries so that greatly increased amounts of Alaskan and heavy Californian oil can be refined and used directly by the people of the United States.

This project should be near the very top of the list of projects to be handled by the President's proposed new Energy Mobilization Board—whose very purpose is to cut through redtape on projects exactly like this one.

There are a number of reasons why I urge we follow this course of action—and refine our own crude oil rather than selling it to Japan or other nations.

In the first place, the entire rationale behind the construction of the Alaskan oil pipeline was to permit Americans to use this oil. At the time the pipeline was under consideration, environmentalists claimed that the whole pipeline was unnecessary because the oil companies planned to sell most of the Alaskan oil to Japan anyway. This was denied in the strongest terms by the American oil companies at the time, and after some delays, the pipeline, with a potential capacity of 2 million barrels per day, was actually constructed, at great cost.

Sadly, the pipeline has never to this day been used to its full capacity. Because of a lack of suitably equipped refineries on the west coast to process this oil, and the unfortunate delays which blocked early attempts to build unloading facilities and pipelines to carry the oil to the huge inland refineries, Americans have not been able to take advantage of the Alaskan oil to the extent that had been earlier envisioned.

Instead, we are importing extra oil from the Middle East, and putting added strains upon our balance of payments.

Now, what is wrong with selling Alaskan oil to Japanese?

Well, in the first place, these fields will then be rapidly exploited. Japan, like the United States, has a vast appetite for oil. So with Japan's unlimited requirements, Alaskan oil fields can become rapidly depleted. And, given the unsettled state of the world, I am not sure that this is really in American interests.

More importantly, however, it is becoming increasingly clear that oil on the international market is beginning to carry not only a heavy and direct purchase price, but also heavy additional indirect costs and political price tags. Take three recent cases:

First. The nations in the Middle East have made it quite clear that unless there is progress on the West Bank, the United States may find it difficult to obtain oil supplies in required amounts from that quarter.

Second. Nigeria recently threatened to reconsider its oil sales to the United States it we were to drop sanctions and recognize Zimbabwe-Rhodesia.

Third. Mexico has made it abundantly clear that increased access to Mexican oil by the United States will probably require the United States to permit large-scale immigration of unemployed Mexicans into the United States, and equally important, much more open access to the American market by Mexican manufactured and agricultural goods. Thus, in the case of Mexico, the United States will not only have to pay to Mexico $7 billion per year for every million barrels per day of oil that we import, but we will also have to shoulder the additional billions of dollars of balance of payments that will come from imported Mexican manufactured and agricultural goods.

Here, there is also an indirect price tag. Increased Mexican export of manufactured goods to the United States means fewer jobs for Americans, and unless the process is carefully controlled, it also means increased unemployment and labor unrest. Finally, increased Mexican immigration in the United States also means higher demands for energy in the United States. Although every additional million immigrants from Mexico contributes in some measure to the American economy, they also obviously require additional millions of barrels of oil for the gasoline which they use to run their cars, the fuel to heat their homes, and for the energy requirements of their jobs, schooling, and so forth.

Thus, increased access to Mexican oil, with its potential double-whammy extra price tag on balance of payments, in-

creased immigration, and import of manufactured goods, is also no simple or cheap solution to our oil requirements.

What I am suggesting here is that there are big liabilities, both political and economic, to our continued dependence on imported oil. And, because of the long leadtimes required to change this situation, we are very foolish to mortgage our future to an increased extent by selling U.S. oil to Japan, and thus increasing our own future dependence on imported oil with the political price tags and indirect costs associated with it. I urge instead that we move rapidly to increase our ability to use our own oil.

There is, however, a second problem associated with the selling of our Alaskan oil to Japan.

For years now, U.S. trade negotiators have been unhappy about the fact that the trading relationship between the United States and Japan is not only grossly out of proportion from a balance-of-payments point of view, but more importantly, they have become increasingly concerned about the structure of this trading relationship, which has increasingly taken the form of the classic colony—motherland trading relationship.

That is, cheap raw materials from the colony are traded in return for expensive processed manufactured goods from the mother country.

At the same time, the mother country prevents manufactured goods from being imported from the colony by a combination of tariffs and nontariff barriers of various kinds.

Except for specialized super high technology items, this is exactly the economic relationship which Japan has increasingly developed with the United States. And from the Japanese point of view, this is just great. Japan buys from us logs, raw grain and cereals, soy beans, cotton, coal, metal ores and scrap metal, raw skins and hides, pulp wood, et cetera. Japan runs these raw materials through her manufacturing plant, and then exports the resulting goods to the United States in the form of finished steel, television sets, textiles, et cetera.

Now, a certain amount of this is acceptable, even desirable. But when major American industries—such as the electronics and television industries—are pushed to the point where serious unemployment and structural harm is beginning to occur, then it becomes important to change the situation.

Right now, Japan is under the gun to make major changes in her own economy to permit American manufactured goods and farm products to be sold at a fair price on the Japanese market.

Our negotiators can now point to the enormous gap in our balance of payments, and rightly demand that Japan take corrective action to prevent discrimination against American manufactured goods and agricultural products in Japan.

But, if we permit Japan to purchase our oil, then although the bilateral balance of payments problems with Japan will be eased, our overall balance of payments will be worsened.

And our trade negotiators' efforts to get the Japanese economy opened up to American manufactured goods and other products will be undercut.

We will then have the worst of both worlds: A balance-of-payments problem that is worsened—but the trading partner which is causing much of our problem with its aggressive export programs and domestic protectionist measures—will be able to point to our bilaterial trade accounts and say that it is not their fault, that our balance of payments problems are with the Persian Gulf, Mexico, et cetera.

Then, more American industries will be weakened, our unemployment problems will worsen, and only the Japanese will have gained.

In my own view, Japan already profits more than she should by her relationship with the United States. The U.S. taxpayers are shouldering much of the burden of the defense of the free world, including Japan.

But our ability to continue to defend the free world depends to a large degree on the health of the American dollar.

Balance-of-payments problems are undermining this dollar, and it is a combination of energy payments and Japanese protectionism which contributes massively to the dollar's present woes.

It is, therefore, essential in my view that we prohibit the export of crude American petroleum, except under very special and controlled circumstances. We have a commitment to our allies to sell oil in the event that certain disasters should strike. We should keep these commitments, under most circumstances.

But an open-ended oil export program, in my view, is a classic case of being pennywise and pound foolish. For the sake of small economies in transport, and for the sake of slightly increased profits for the oil companies which the immediate sale of Alaskan oil to Japan would facilitate, we are endangering broader and vastly important long-term American interests.

In summary, then, I urge the Senate to exert its leadership in pushing for every possible means to keep American oil in America for Americans. Let us rapidly build the pipeline and loading facilities which are necessary to transport the Alaskan and west coast oil to the inland refineries for subsequent use by the American people. Then the question raised by this amendment will be moot, and the best interest of the American people will be served.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I know that this issue is filled with emotion. We have seen evidence of that right on the floor. It is subject to great misunderstanding in the country.

There is no misunderstanding, any longer, I believe, that we have an energy crisis. There is no misunderstanding that we need now to cut through an awful lot of things to have maximum flexibility. The problem with the bill as it now stands is that the process involving swaps would make them almost impossible. I think the administration supports this Stevens amendment because maximum flexibility is required. The Senator from Illinois supports it because I think we need maximum flexibility.

This amendment is good for the consumer, and good for the producer and, I think, is an amendment supportive of the national interest to provide the maximum flexibility that we need to face the crisis we have today. For that reason, Mr. President, I support the Stevens amendment and urge its adoption.

Mr. STEVENSON. Mr. President, I opposed the location of the pipeline in Alaska. I oppose decontrol of oil. I do not come from Alaska. And I support this amendment.

It is the policy of the United States to increase exports. It is also the policy of the United States to increase oil production. This amendment serves both of those objectives.

It only applies to increases in production from Alaska. It would only permit transfers of volumes in excess of those now flowing through the pipeline. So it cannot decrease production. By creating a market for additional production, it will increase oil production. In doing so, it will increase world oil supplies. That has the effect of putting pressure downward on the world oil price, with benefits for everybody, including the American consumer, including all the people of the United States, not just those in Alaska.

If necessary, of course, the swaps that are authorized by this amendment could be terminated. If there were ever an emergency situation or any event which interrupted the supplies or threatened shortages in the United States or any region of the United States, the swaps could be interrupted and the Alaskan oil made available.

The fact of the matter is that there is no way of absorbing the increased production that is possible from Alaska. Unless this amendment is adopted, the oil is going to stay in the ground. In the ground, it benefits no one, least of all the people of the United States. This amendment, Mr. President, is also, for those reasons, supported by the administration.

Mr. STEVENS. Mr. President, will my friend allow me to find out how much time I have left?

Mr. RIEGLE. Yes.

Mr. STEVENS. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. STEVENS. At such time as is convenient to the Senator from Michigan, I yield to the Senator from New Mexico.

Mr. RIEGLE. I yield 1 minute to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my friend from Michigan. I support him enthusiastically.

Mr. President, we ought to ask ourseves, what is the reaction of our own constituents? Can you imagine going out on the streets in Oshkosh and Milwaukee and saying you favor our export of oil to Japan? They would laugh you right off

the street. This is one issue that is very clear in my State, no question about it.

I think the Senator from Michigan has answered all the real problems here. The real beneficiaries from this are going to be (a), the oil companies; and (b), the State of Alaska. Americans are going to have to pay more, we are going to have less gas, less reliable and high-quality gasoline, no question about that, and oil.

I hope that the position taken by my friend from Michigan and others will be supported and the amendment will be defeated.

Mr. RIEGLE. Mr. President, I yield 2 minutes to the Senator from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. President, certain provisions of S. 737, the Export Administration Act, prohibit an export or exchange of Alaskan oil unless several stringent findings affecting oil supply security and consumer interest are made by the President and the proposal is submitted for congressional approval.

I support this committee language because it is necessary to reduce our dependence on foreign oil by encouraging domestic means of efficiency handling Alaskan oil.

There is a Northern Tier pipeline proposal now moving forward that is of real significance to my area of the United States. Its completion will mean a great deal to the long-range benefit of the Midwest States, specifically, and to the United States, generally.

I am concerned, Mr. President, that this area not be impacted adversely. That is one of the reasons why I think the committee language should be maintained.

How did we reach this sad state of affairs where we even consider an export of this vital natural resource?

How is it that, in the face of a severe crude shortage and skyrocketing prices, there are those who advocate exporting Alaskan oil through some convoluted exchange mechanism?

The basic reason, I submit, is that—early on—we failed to differentiate between the national interest and the interest of several major oil companies.

Specifically, Congress was mistakenly led to believe that a Trans-Alaskan pipeline was preferable to a plan that would have brought Alaskan oil to where it is needed—the Midwest and East. And, I might add. many of the same voices that urged us to build Trans-Alaskan are now equally supportive of an export.

The National Journal was correct when it described as a "great irony" the fact that, 10 years after discovering America's biggest reserve of oil and gas under Alaska's North Slope, neither the companies nor the Government have figured out where or how to sell it all. Incredibly, after spending billions of dollars to construct a pipeline in Alaska that was supposed to help meet California's needs, we find that California is unable to use all of that crude. What California cannot use—the so-called glut which currently amounts to about 300,000 barrels per day—is shipped through the Panama Canal to eager buyers on the gulf and east coasts.

Lest I be misunderstood, Mr. President, I emphasize, all available Alaskan crude is being used in the United States; the problem is the oil is not going directly to where it is needed, the Midwest and East. The additional transportation costs resulting from the longer, more costly ocean route must be absorbed by the producer. These costs cannot be passed along to the consumer because the producers already receive top dollar for every barrel of oil. This is because ANS crude is effectively free of any control, and its price mirrors OPEC prices.

In the case of Alaskan oil, the main producers are Standard Oil of Ohio (Sohio)—the same corporation that recently abandoned the plan to retrofit the pipeline from California to Texas—Exxon and Arco.

To relieve the oil companies of the burden of transporting ANS crude to the gulf coast, the administration has proposed sending the oil to Japan in an exchange arrangement where the United States would receive oil that otherwise would have gone to Japan. Producer profits will rise to still greater levels and, so goes the argument, production will increase. The economics of the situation are intriguing. In order of profitability, an export ranks first then a west-to-east pipeline and lastly shipping the oil through the Panama Canal.

An export, as opposed to the canal route, would increase producer profits by about $2 per barrel. What is more unsettling is that an export is also more profitable than transporting the oil through a pipeline. According to a recent Department of Energy study, Sohio stands to make 70 to 90 cents more per barrel by exporting than by building and using a pipeline. In short, exports will always be favored by the oil companies to the exclusion of finding more efficient means of handling Alaskan oil domestically.

And, at the same time that oil company proponents of Trans-Alaska pipeline system were assuring us or California's ability to absorb full Alaskan North Slope production, they were also denying any intention of exporting ANS crude to Japan. Yet, a close examination of the record shows that early on oil companies recognized the attraction of the Japanese markets and took steps in that direction. For example, in 1970, Edward L. Patton, president of Alyeska Pipeline Service Co., submitted confidential estimates to the Interior Department targeting 25 percent of North Slope crude for sale beyond the west coast of the United States, including direct sale to Japan by 1980.

In that same year, Phillips Petroleum president, John H. Houchin, proposed that Alaska oil be exported to Japan in exchange for that country's share of Persian Gulf oil. Similarly, Atlantic Richfield quickly detected the attraction of oil sales to Japan. Rollin Eckins, Arco's vice chairman, in a 1970 presentation to the Alaskan science conference said that Japan would be willing to pay a premium for a secure supply of Alaskan oil.

In view of this history, Mr. President, some observers of oil company behavior were not at all surprised when, contrary to earlier public estimates by the oil companies, a surplus of Alaskan North Slope crude appeared on the west coast and the idea of an export was revived.

We are now told to ignore this tortuous history and instead to concentrate on the future, specifically, the need to export and to increase producer profits.

While I agree wholeheartedly that we should not make policy on the basis of exacting a pound of flesh for past transgressions, it would be equally foolhardy to disregard the clear lessons of recent history.

There are times when what is good for the oil companies is not good for the great majority of America. The legislation before us presents such an occasion.

Restricting exports, while contrary to the interest of the oil companies, is absolutely imperative if we are to stimulate those developments that will put us on the road to energy independence.

Mr. President, I urge my colleagues to support the provisions affecting Alaskan oil in S. 737—as reported by the committee—and to oppose any weakening amendments.

Mr. JAVITS. Will the Senator yield time to me?

Mr. RIEGLE. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, at the bottom of page 76 of the bill, line 25, the words appear, "otherwise subject to this subsection." For the same reason that Senator STEVENS struck them from his amendment, because it does interfere with something nobody intended to interfere with, I ask unanimous consent that they may be stricken from the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I reserve the remainder of my time. I know the Senator from Alaska wanted to use the remainder of his time.

Mr. STEVENS. Let me yield briefly to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Alaska has 3½ minutes remaining.

Mr. STEVENS. I yield such time as he may need to the Senator from New Mexico.

Mr. DOMENICI. I shall try to be brief.

Mr. President, let me say to my good friends on the Senate floor, many of whom have argued against the Stevens amendment, that in this Senator's opinion, so long as the discussion about the energy situation in the United States continues to receive attention in the way it is receiving attention here today, we are not going to solve the energy problem. That is because most of the positions being taken have nothing whatsoever to do with American energy independence, but have to do with picking on somebody or blaming somebody or being really concerned that somebody is going to make a profit.

Let me tell you, this amendment says that we will not swap—and I call to your attention that swapping means at least a barrel for a barrel. So in the swap itself, how can you lose?

Second, it cannot occur if you are cutting America's oil imports. That is in it. So it must be for more oil rather than less.

Now, let us sit here today and talk about those obscene oil companies and do the ridiculous: Let us add $3 or $4 a barrel in transportation costs just because we want to be sure, positively sure, that we do not let a couple of steamers cross the ocean and we bring one to us that is closer, started out closer to us, so it ought ultimately to be cheaper for the cutting of costs of transportation. Do not do that because some oil company might make some money. So you ought to support Senator RIEGLE.

Mr. STONE. Will the Senator yield?

Mr. DOMENICI. Yes, I only have 30 seconds remaining.

Mr. STONE. I shall be brief.

Is it not true, if this amendment passes, we would have an increased leverage to work something out for increased Mexican production?

Mr. DOMENICI. Precisely.

Mr. STONE. Not only oil, gas?

Mr. DOMENICI. Precisely.

Tie the hands of the President so it will be harder to make any deal with Mexico. But in 2 or 3 years, we can come back and say, however, that we did not let anybody make an extra penny on this because we needed to bring every bit into America, whether it was economically right, or the thing to do to our President.

I close by saying that I am certain President Carter really wants this authority to let American oil companies get rich.

Mr. STEVENS. Mr. President, I have committed a minute to my good friend, Senator JEPSEN.

Mr. JEPSEN. Mr. President, the problem is that there is a "glut" of oil on the west coast of the United States. This is due to environmental restrictions which effectively prohibit the building of new refineries or pipelines to the central part of the country. Thus we are presently unable to effectively use Alaskan oil. It is believed that if the oil could be efficiently transported and refined that the Alaskan oil fields could substantially increase their output.

From this situation the idea of a swap arrangement has arisen. We would swap Alaskan oil to the Mexicans or Japanese in return for Mexican oil or oil the Japanese had previously contracted for. The result would be a much more efficient use of available oil resources and the United States would not lose one drop of oil.

It is unfortunately not feasible to transport the oil from Alaska to the gulf coast, where it could be used, because only small freighters can fit through the Panama Canal, rather than the more efficient supertankers which bring oil from the Middle East. It is possible that a pipeline may still be built through Canada to bring Alaskan oil to the Lower 48, but this is not certain and is many years away anyhow.

In conclusion, I think you should support amendments to the Export Administration Act to allow for swap arrangements for Alaskan oil.

Let us do something in this Senate for a change that is commonsense.

Mr. STEVENS. Mr. President, if I have 1 minute remaining, let me again state that this amendment is necessary to allow my State to increase production of oil by 800,000 barrels a day.

Today we are producing 1.1 million barrels a day. We have a pipeline designed to carry 2 million barrels.

Unless we are assured there would be a way to transport and effectively use that oil in the United States, and by agreeing to this amendment we will increase the availability of oil in the United States, then I do not believe the investment will be made to increase the pumping capacity or increase the production of the wells required to make certain we use the pipeline to full capacity.

Mr. RIEGLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. RIEGLE. I yield a minute-and-a-half to the Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator.

Mr. President, the question of production is a red herring. With the world oil prices at $20 a barrel and moving upward, we are going to produce all the oil we can find in Alaska and ship it.

What this fight is all about is a fight between big oil and American seamen. It is not even big American oil. It is BP, which is British Petroleum, which owns over half of that Alaskan oil.

The question is, do we give BP more profit or put it in the hands of American seamen, because American seamen, under the Jones Act, of course, have to go in American flagships. That is what the question is all about.

It is a tough question because it is a question of economic efficiency.

I come down on the side of American seamen because American jobs are involved.

We are not going to do anything for the American consumers by leasing them to Japan.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIEGLE. Mr. President, I want to say, in addition to the comments of the Senator from Louisiana, it is currently U.S. policy to keep U.S. crude in the United States, and it is by reason of the fact that we need it.

There is no gain to consumers in the proposition put forward by Senator STEVENS. Yet, he says this is needed to increase production.

The oil companies already announced, without any export action being taken, they plan to increase production this year to 1.6 million barrels. As stated by the Senator from Louisiana, with the price levels being what they are, and rising, every drop that can be produced from Alaska will be, and it will be used.

So I find the situation is that all we can do, if we adopt the Stevens amendment, is to hurt the United States because we do not have any oil for export today that we can afford to let go.

It would benefit Japan. I grant it would. It would make it easier for Japan to receive oil at lower prices than otherwise.

But I do not for the life of me see how that creates any advantage for the United States.

I would like Mexico to view us as their principal market and not the Japanese.

Finally, if we are going to have a pipeline in the Northern Tier, we will have to count on all the Alaskan oil.

Several Senators addressed the Chair.

Mr. RIEGLE. Mr. President, due to a longstanding speaking engagement of great importance to his State, the junior Senator from Alaska (Mr. GRAVEL) was unable to be present for this Saturday session. However, those provisions of S. 737 relating to the export of Alaskan oil are of serious concern to him, and he has asked that I submit on his behalf prepared remarks on this subject. I therefore ask unanimous consent that there be printed at this point in the RECORD a statement by the Senator from Alaska.

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

The statement is as follows:

STATEMENT OF SENATOR MIKE GRAVEL OPPOSING S. 737 AND THE BAN ON EXPORTATION OF ALASKAN OIL

In 1973 the proven oil reserves of this country totalled over 36 billion barrels with domestic production of 9.2 million barrels per day. Today our reserves have fallen to less than 29 billion barrels while domestic production has declined by 800,000 barrels to 8.4 million barrels per day. During this same period, we have seen the President shift his emphasis from an energy crisis to a crisis of confidence. However, Presidential misdirection of energy policy is not the only reason for declining reserves. With the one exception of approval of the trans-Alaska pipeline, legislation by the Congress has done nothing to improve the concoction of regulations which has passed for energy policy in this country.

S. 737 is a continuing example of the energy menu which has been served to the American people. I have long opposed the prejudicial treatment of Alaska's North Slope resources which has surfaced from Congress to Congress since 1973. This bill, like its predecessor, restricts the ability of Alaska to export its surplus oil production. Unlike its predecessor, S. 737, with its series of criteria and one-house veto provision, results in an outright prohibition on any export, regardless of the net advantage to the United States.

The arguments supporting export are persuasive. Export could ultimately improve our balance of trade by billions of dollars, with the dollar-yen exchange rate showing favorable activity immediately.

Export would also mean that more North Slope oil would be produced. The TAPS line today is operating at less than its design capacity, flowing at a rate of 1.2 million barrels per day with a potential of 2.0 million barrels. Even at this rate there is a glut of oil on the West Coast of over 200,000 barrels per day. The glut is now transshipped through the Panama Canal at much higher transportation costs than it would obetain were an exchange with Japan initiated. The only existing plan for a West-East pipeline can accommodate only the existing West Coast glut. Therefore, if the domestic production capacity of the country is to be increased, export of excess Alaskan oil is the only reasonable course. Not only would domestic production be returned to its 1973 high, but the 800,000 barrels per day which are not being produced represent a potential of $6.336 billion per year to offset our deficit with Japan.

From my State's standpoint, export could mean new pipeline construction spending, as well as additional oil revenues, on the order of $500 million per year. The expansion

would also allow increased production from proven reserves, as well as expanded programs of exploration.

Many months ago I wrote President Carter expressing my concern about the energy policy and urging export. I pointed out that North Slope oil is of no use to the United States, either in trade, in domestic consumption, or in an embargo emergency, if the infrastructure to bring it to market does not exist. That domestic infrastructure does not exist today, and it will not until its cost can be justified. The West Coast oil glut makes it impracticable now to expand the pipeline to full capacity. Export to Japan would make the expansion possible.

I continue in those sentiments and strongly oppose the export prohibition contained in S. 737.

● Mr. INOUYE. Mr. President, in your committee report on S. 737, specifically on page 14, within the section of the report pertaining to the export of Alaskan crude oil, we are told that the committee feels that there should be increased refinery capacity on the west coast, especially capacity which will be able to utilize Alaskan crude oil and produce unleaded gasoline and other light transportation fuels. We are told on that same page 14 that the committee believes that—

The Department of Commerce, should in carrying out its responsibilities under Section 4(g), review and revise, as necessary, those regulations concerning the export of petrochemical feedstocks, including naptha (sic), refined in new or reconfigured refineries. For example, the Department should not interpret any provision of S. 737 in a manner that would preclude the export of petrochemical feedstocks, including naptha (sic), if such export would facilitate the construction of a new refinery designed to produce unleaded gasoline or other light fuels, and if domestic markets for such products are not readily available or economically feasible. The Department should further take into account the need for such projects to receive commitments regarding the future issuance of export licenses.

In my State of Hawaii, a refining company which has historically processed 100 percent imported crude oil has been seeking Alaskan crude oil to use in a projected expansion of its refinery capacity. The use of Alaskan crude oil in the expanded portion of this refinery would stimulate the use of domestic oil in Hawaii, which has been almost 90 percent dependent upon foreign sources for its crude oil.

Hawaii has a heavy demand for transportation fuels—jet fuel, gasoline and diesel fuel—for its tourist-oriented economy and has minimal needs for residual fuel oil. The fuel balance situation in Hawaii is further compounded by the military needs for the same fuels. The refineries in Hawaii are unable to make a sufficient quantity of required transportation fuels without producing an excess of other products especially residual oil.

Due to the composition of available Alaskan North Slope crude oil its use in Hawaii's refineries would result in the production of high sulphur residual fuel oil as a byproduct of the refining process. United States environmental restrictions preclude the marketing of high sulfur residual oil on the west coast, therefore, the only market available for residual fuel oil of such a sulphur content—1.74 percent sulphur by weight—would be in the export market.

I believe that we can help to stimulate production of domestic crude oils, provide products which meet stringent environmental regulations to U.S. firms and provide additional fuels of the types required to meet both civilian and U.S. military defense needs in Hawaii. This can be accomplished by utilizing Alaskan crude oil in incrementally increased refinery capacity.

I, therefore, submit that the intent of the committee as outlined in the report language on page 14 would be enhanced by the addition of "refinery byproducts including high sulphur residual fuel oil," to the provision instructing the Department of Commerce in carrying out its responsibilities under section 4(g) to review and revise, as necessary, those regulations concerning the export of petrochemical feedstocks, including naphtha refined in new, or reconfigured refineries and that this provision should be applied to expanded as well as new or reconfigured refineries. Is that consistent with your view?

Mr. STEVENSON. The senior Senator from Hawaii is correct. We want to encourage the utilization and refining of Alaskan crude in west coast and Hawaii refineries and the export of certain byproducts in surplus in our western domestic markets should be assured. For example, the Department should not interpret any provisions in S. 737 in a manner that would preclude the export of refinery byproducts including high sulphur residual oil, petrochemical feedstocks, including naphtha, if such export would facilitate the construction of a new or expanded refinery designed to produce unleaded gasoline or other light fuels, and if domestic markets for such products are not readily available or economically feasible. The Department should further take into account the need for such projects to receive commitments regarding the future issuance of export licenses.●

PRESERVING ALASKAN OIL FOR THE UNITED STATES

● Mr. McGOVERN. Mr. President, I rise in support of maintaining the existing language of the Export Administration Act amendments as reported by the Committee on Banking, Housing, and Urban Affairs.

In light of the enormous implications which Alaska oil exports would have on our precarious petroleum supply picture, we cannot condone either exports at this time or give the President complete authority to authorize such exports.

Congressional control is essential.

The basic underlying premise of the Export Administration Act is to protect the domestic economy from an excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal demand. This policy has become more important today than at any other time since this act was first implemented 10 years ago.

Clearly, the intent of Congress when we passed legislation to provide for the transportation of Alaskan oil, was to mandate that Alaskan crude would be used domestically—to ease our shortages, reduce our dependence on foreign imports, and to assist in restoring our devastating balance-of-payments problem.

Both the congressional intent of this legislation and U.S. policy under the Export Administration Act, as well as our energy security objectives would be dangerously jeopardized by any attempt to export Alaska North Slope oil at this time.

In point of fact, the administration, in 1977, rejected the option to exchange surplus North Slope crude with Japan, despite the anticipated transportation savings. The administration cited very convincing reasons for their decision—including the fact the consumers would probably not realize any benefit from the anticipated transportation savings.

A recent GAO report stated that,

Given the uncertainty and concerns associated with the exchange agreement as outlined above, in the interim, continued shipment of oil through the Panama Canal to the Gulf and East Coasts would appear to be the most sound course of action.

I urge my colleagues to support the existing policy and language contained in the Export Administration Act.●

ALASKAN OIL AND ENERGY INDEPENDENCE

● Mr. CHURCH. Mr. President, with this bill we have the opportunity to help place our country on the road to energy independence. Alaskan oil is a vital part of our Nation's energy strategy because it represents over 13 percent of our domestic reserves. Congress has played a part in each stage of the development of Alaskan oil. Congress approved the route for the Trans-Alaska pipeline; Congress provided the necessary right-of-ways; Congress lifted price controls to stimulate production and now Congress must decide if we are to keep the oil for domestic use or export it overseas. It would be tragic to have gone to such enormous effort to develop this vital resource only to have it slip through our fingers.

Recent OPEC price increases have spurred another round of inflation. Each new economic forecast projects a recession. I am concerned that very soon the Senate will be confronted with inflation and rising unemployment as our people are thrown out of work as business feels the shock of the latest OPEC price squeeze. We need an energy strategy before it is too late; a strategy that protects our citizens from reliance on the instability of the world oil market; a strategy that provides workers with job security not affected by Iranian revolutions or Middle East hostilities. A central part of any such strategy is the full development of our own domestic energy supplies, including Alaskan North Slope oil.

Three steps should be taken to fully utilize North Slope oil supplies. First, we should bar the export of Alaskan oil. Second, we should encourage west coast refineries to retrofit their facilities to handle Alaskan heavy crude. Third, we should improve and secure our delivery of Alaskan crude through the development of pipelines to carry it to inland refineries that need it.

By acting to ban the export option we

will create an incentive for producers to invest domestically in pipelines, and also to retrofit their refineries to handle larger volumes of North Slope oil. When the Trans-Alaska pipeline was built, the oil companies were promising to make the investment required to retrofit west coast refineries to handle Alaska crude. Those investments have not been made, because the oil companies have never abandoned their desire to export North Slope oil at OPEC cartel prices to foreign purchasers.

The combination of increased refinery capacity for Alaskan crude and the development of a pipeline would provide us with the maximum energy security obtainable from Alaskan oil. The proposed Northern Tier pipeline would cross over our oil-starved Northern States making connections to deliver Alaskan crude to 66 refineries in 14 States with a total capacity for more than 4 million barrels of oil per day.

The United States relies on imported oil for nearly half of its petroleum needs. Our vulnerability in the event of an embargo, an international crisis, or a prolonged cutoff by one of our major suppliers has increased daily. Despite this serious predicament, the multinational oil companies are advocating the export of Alaska oil on the grounds it would yield greater profit for them if they could sell it abroad.

When the Senate Banking, Housing, and Urban Affairs Committee reported this bill, it clearly indicated that energy security was more important.

The American people fully expected that production of oil from Alaskan fields would relieve some of our dependence on imported crude oil. The hazards of that dependence, which has actually increased since production began in Alaska, are vividly evident today in the shortages suffered in California and other areas. Proposals to export Alaskan oil, in exchange for Mexican or Persian Gulf crude oil, will not serve to reduce our need for imported oil . . . Once West Coast refining capacity is increased, the East-West pipelines are built, the United States will have a little more protection from the vagaries of international oil price increases and the attendant political and economic consequences. In view of this, the Committee feels that this amendment serves a national purpose and will have a positive effect on efforts to rebuild our domestic petroleum infrastructure.

The need for us to develop a stable Alaskan oil supply and delivery system is evident. We must reduce our dependence on foreign oil. We cannot accomplish this goal if we export American oil. I urge my colleagues to join me in supporting the oil export restrictions contained in this bill.

The amendment offered by the Senator from Alaska (Mr. STEVENS) should be rejected.●

● Mr. DOLE. Mr. President, as we all know, recently the President determined that the United States must establish a positive energy program, based on responsible programs and strong leadership. The key in his decision to activate such a policy was to seek a cut in the level of imported oil, and at the same time insure that significant incentives for domestic production be provided.

In Alaska, however, the search for domestic oil was successful in the early 1970's and as many of my colleagues here in the Senate may recall, the Federal Lands Right-of-Way Act of 1973 provided for construction of a Trans-Alaska pipeline to bring the massive amounts of crude from the North Slope to the Lower 48 States. Unfortunately, this crude must be shipped to refineries of the east coast due to the shortage of refining capability of the west coast. This is one reason for the "glut" of oil on the west coast, and also for the high cost which consumers now pay.

SWAPPING OF ALASKAN OIL

The export bill reported by the Banking Committee makes it impossible for the United States to effectively deal with this "glut." Under the amendment offered by the Senator from Alaska, reasonable restrictions on the exportation of Alaskan crude through swapping could occur. This could only be done, however, in the national interest and prove to be of no adverse effect on the American consumer.

This amendment will not allow foreign sale, but permit exchanges or swaps of oil which would effectively and efficiently reduce our oil costs, and at the same time minimize the current inefficient and wasteful system of shipping Alaskan oil through the Panama Canal where it is shipped to the gulf coast and on east.

IMPACT OF THE PANAMA CANAL

The Senator from Kansas believes that serious consideration should be given to this amendment if only for the cost factors alone. The passage of the Panama Canal Treaty last year by this body not only alters our international position with the South American nations, but also alters our domestic affairs, particularly in regards to its impact on our energy supplies.

The Senate will soon be taking up the implementing legislation for the Panama Canal Treaty, and what will be raised in this measure will be costs and who will bear them. One issue that has already been made very clear has been the sharp increase in toll rates for the United States in use of the canal for transit. This is of enormous concern to this country's energy problem—due to the passage of tankers carrying North Slope Alaskan crude.

Up to 500,000 barrels per day of Alaskan crude oil is shipped through the canal to gulf coast refineries. These refineries supply the east coast with half its requirements for refined petroleum, and the proposed toll increases of 30 percent will drastically affect prices of heating oil and other products just prior to this 1979–80 winter season. This Alaskan crude is necessary to keep the refineries operating at a more economical capacity, and supplies 7 percent of the petroleum supply itself; therefore any price increase will immediately be felt by the American consumer.

In light of the ramification of this administration's foreign policy, it is my hope that we will realize this past mistake and prevent ourselves from continuing to be locked in by decisions that time has proved to be unwise and uneconomical. We must have the flexibility to swap our Alaskan oil to Japan and avoid the pitfall of our past Panama Canal strategy. Our west coast refineries unable to handle the heavy North Slope oil, can make use of the lighter oil to be swapped with Japan, and at considerable energy savings for all Americans.

SOLVING OUR TRADE IMBALANCE

Our trade imbalance with Japan is responsible for about $12 billion of our $30 billion annual deficit, nearly as much as our oil deficit. Obviously, it is an area on which we must focus immediate attention—perhaps as much as we are now on the oil situation. Oil imports do not put Americans out of work, but Japanese imports do. Through the passage of this amendment, perhaps we can help solve these problems and reflect the concern that we are acting for what is best for our national interest, rather than what is convenient or consistent with failed policies of the past. Time has shown we made a mistake in our assumptions with the Panama Canal Treaty. This Senator believes that our policy in allowing for the swap of Alaskan oil would be wiser and beneficial for the American people.

DECISION TO SWAP

In the future, should a swap be proposed, that decision would be a matter for the Executive and Congress. Some swaps would be useful, others not. However, this amendment would provide flexibility for the Executive to propose swaps which may become necessitated by future events.

The increasing production from the North Slope will not only reduce this Nation's dependency on the OPEC cartel, but also increase the world's available supplies. Our net oil imports would be reduced and higher Federal tax revenues result.

In emergency, a swap would be terminated and the security of the Nation would not be threatened.

BENEFIT THE NATION

Undoubtedly, Mr. President, passage of this amendment will benefit this Nation at a time when relief is desperately needed. The costs of drilling in Alaska would be reduced, transportation costs would be minimized, and of particular importance, such swaps would bring the nations of Japan and Mexico closer in relationship with the United States. The Senator from Kansas is pleased to join in cosponsoring this amendment by the distinguished Senator of Alaska, and urges the Senate to act affirmatively on this measure.●

● Mr. HAYAKAWA. I am very concerned with the provision in this bill which would tighten existing restrictions on exports and thus preclude any type of oil exchange with Mexico and Japan.

Currently, California is suffering from a glut of sour heavy oil because it does not have the refining capacity to handle the high sulphur Alaska crude. There is no room for storage on the west coast and no pipeline to send the excess to needy refineries in the Midwest. Therefore, in many instances, producers are leaving

oil in the ground instead of paying the exhorbitant cost of shipping excess supplies through the Panama Canal. Certainly, construction of a pipeline or refinery retrofitting would be the ideal solution. However, both of these are long-range solutions and continue to face innumerable regulatory and environmental barriers.

The quickest, most effective way to solve this problem is to allow the excess oil to be shipped directly to Japan in exchange for the sweet, light Mexican crude which would be shipped to our Atlantic and gulf coast ports. The United States would not lose one drop of oil, and it would result in transportation savings of approximately $2 per barrel. It would help diminish our trade deficit with Japan and strengthen ties with Japan and Mexico. We must not deny the administration the flexibility of allowing such a swap which would end the disruption of the California oil industry, and benefit the Nation.●

Mr. LEVIN. Mr. President, I oppose the Stevens amendment and support the position taken by the committee for many reasons. One basic reason is that I believe that only when the present destination of Alaskan crude is retained will we as a nation face up to the need to build the new refining capacity we require and construct the pipelines that we need. Those requirements and that need are beyond debate—and only when we have stated clearly and definitively that there is no way to evade our responsibilities in that area, will we finally have the compelling motive to do what needs to be done.

We may argue, Mr. President, about the impact of this proposal on prices, balance of payments, jobs, and energy supply—but we cannot debate the fact that only by preventing the sorts of swaps suggested by the Stevens amendments will we take the first steps toward making the transportation and refining decisions we need to make in order to face up to the needs of the Nation.

Mr. RIEGLE. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. Under the previous order, a motion to table is in order at this time.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Oregon (Mr. HATFIELD), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. DURENBERGER) would vote "yea."

The PRESIDING OFFICER (Mr. LEVIN). Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 52, nays 30, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—52

Baucus	Huddleston	Nunn
Bayh	Humphrey	Packwood
Bentsen	Inouye	Pell
Boren	Jackson	Pressler
Bradley	Javits	Proxmire
Bumpers	Johnston	Pryor
Byrd, Harry F., Jr.	Kennedy	Randolph
	Leahy	Riegle
Cannon	Levin	Sarbanes
Chiles	Magnuson	Sasser
Church	Mathias	Schweiker
Cranston	Matsunaga	Stafford
Danforth	McGovern	Stewart
DeConcini	Melcher	Tsongas
Durkin	Metzenbaum	Warner
Eagleton	Moynihan	Williams
Glenn	Muskie	Zorinsky
Hollings	Nelson	

NAYS—30

Armstrong	Hatch	Percy
Baker	Hayakawa	Roth
Bellmon	Heinz	Schmitt
Boschwitz	Helms	Simpson
Byrd, Robert C.	Jepsen	Stennis
Chafee	Kassebaum	Stevens
Dole	Lavalt	Stevenson
Domenici	Long	Stone
Garn	Lugar	Thurmond
Goldwater	McClure	Wallop

NOT VOTING—18

Biden	Exon	Morgan
Burdick	Ford	Ribicoff
Cochran	Gravel	Talmadge
Cohen	Hart	Tower
Culver	Hatfield	Weicker
Durenberger	Heflin	Young

So the motion to table the amendment of Mr. STEVENS (UP No. 431) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Alaska was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENSON. Mr. President, will the manager of the bill yield me 4 minutes?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

UP AMENDMENT NO. 432

(Purpose: To modify method of approval with regard to certain crude oil exports)

Mr. EAGLETON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 432.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 76, strike lines 19 through 21 and substitute the following:

(B) the President reports such finding to the Congress and the report is approved in accordance with paragraph (3).

(3) The report of the findings of the President required by paragraph (2) shall be considered approved, and shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after such report is submitted, unless the House of Representatives and the Senate adopt a resolution during such period stating that it does not favor such findings. For the purposes of this paragraph—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than 3 days to a day certain are excluded in computing the 60-day period.

(4) A resolution under paragraph (3) shall be considered in accordance with the procedures established by section 551 of the Energy Policy and Conservation Act.

On page 76, line 22, strike out "(3)" and insert in lieu thereof "(5)".

Mr. EAGLETON. Mr. President, I yield 4 minutes to the Senator from Pennsylvania and the Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment has been tabled and in so doing the most restrictive provision against a producing State that Congress has ever leveled has just been, in effect, approved by the Senate.

I can understand what the Senator from New Mexico said when he stated that we have provincial differences here. But we will not solve the problem of increasing production of oil in this country if these differences persist. I just wanted to state to the Senate that in some ways the people of Alaska will be very pleased by this vote. I was urged by some not to press this amendment because the net result of the Riegle amendment is to prohibit entirely any exchange. It will deter any future expansion of our production capacity until we put refineries in Alaska.

So what Senators really have done now is, they have deferred the production cycle for Alaska until the refineries are built. I hope that as they see plans for these refineries as announced, and as the result of this vote I predict that one will be announced in the next month. they will understand that with the refinery capacity we have now become associated with OPEC whether we like it or not.

The Senator from South Carolina was there when we were told OPEC was saying, "In the future, if you want our oil, you are going to have to refine it here."

Now what Senators have told Alaska is, if Alaska is to get a fair price for its oil, if Alaska is to work out incentives for increased production, it must have refineries in the State of Alaska.

I have never seen a decision, which in the long-term best interests of the people from the Midwest and the east coast, in particular, will do more harm.

I just want people to understand that we tried today to make the record that we were willing to work with the Nation, that we in Alaska tried not to become associated with OPEC. We will be producing within the next decade at least 3.5 million barrels of oil. There is no transportation mechanism for that oil, and it will be refined, I believe, in Alaska, and the products will be sent where the people who manage the refineries in Alaska will decide they will be sent.

And the Senator from Michigan may say that this is a threat. It is not a threat. It is a statement of sheer economics. Senators have transformed Alaska into an OPEC producer rather than making it a part of the productive capacity of the United States, a decision I sincerely regret and one that I think the Nation will regret in the not too distant future.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, the amendment before us is a very narrow and targeted one dealing solely with the issue of whether there should be a one-House veto or a two-House veto. I do not think the debate on this amendment will consume any great length. It deals with the question of whether with respect to this bill there should be a one-House veto of Presidential action—that is what the committee bill calls for—or in my opinion a two-House veto.

Section 4(g) of the committee bill sets out certain restrictions on any exchange of Alaskan oil for a like quantity of foreign-produced crude oil. I support those restrictions especially the requirement that the President certify that at least 75 percent of the transportation costs saved by the exchange be passed on to consumers.

My only objection to the provision as reported is the requirement that, in addition to meeting the conditions written into law, the final exchange plan also be approved by concurrent resolution of the two Houses. That means either the Senate or the House can block the plan by disapproving the resolution or simply not bringing it to a vote. In short the language in the bill would allow a one-House legislative veto.

Mr. President, the Senate soon will be debating in a broader context the wisdom of the legislative veto. I will oppose any such authority. I am convinced that it would lead to chaotic congressional intervention in the day-to-day activities of executive departments and agencies and further deflect Congress from its policy-setting responsibilities.

I am particularly opposed to a legislative veto in energy matters where we already suffer from fragmented leadership, indecision, and confusion. Somebody has to lead this country. I think it is essential that Congress invest some measure of trust and confidence in the President who is the only person in a position to provide that leadership. That is the issue here.

My amendment simply substitutes for the one-House veto now in the bill a provision for disapproval of any final plan by both Houses within 60 days. The amendment incorporates the expedited procedures of section 551 of the Energy Policy and Conservation Act, which assures that resolutions of disapproval will not be bottled up in committee or filibustered on the floor.

Mr. President, in no way would my amendment alter the purposes of this section which is to assure that any exchange of Alaskan oil meet the tests of national and consumer interest spelled out. The amendment merely eliminates the unnecessary and divisive provision for a legislative veto. I hope the amendment will be accepted by the floor manager.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Does the Senator from Illinois yield time?

Mr. HEINZ. I will yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. First, let me say that I have a great regard for my friend from Missouri and, therefore, never happily find myself on the other side of an issue from him.

But I think his amendment here will substantially weaken what the committee has done in terms of drafting this legislation that is before us.

The committee approved a provision here which the Senator from Missouri would replace, which requires that the President would have to report a finding to the Congress if he wants to engage in the export of American oil abroad, and after he had reported the findings to the Congress, Congress would then have 60 days in which to pass a resolution approving and affirming that transaction that he was proposing to us. That requires an active and an affirmative act by Congress.

The reason, in my view, why the committee chose to go with that affirmative requirement by Congress is because this is such a vital issue. As the President said to us the other night,

> We are into a war, in effect, with our fight on the energy problem, and we are going to respond to it in wartime fashion.

So the notion of taking the commodity that is in the shortest supply and that strikes right at the heart of our ability to function as a country, namely our oil reserves, and to start sending those abroad, is a matter of such importance in terms of its economic effect, in terms of its strategic military effect, that that is the kind of an issue that Congress should have to join the President in making an affirmative judgment about it.

What the Senator from Missouri is proposing is something very different, and it takes away that requirement of affirmative action by Congress and substitutes in its place what I would characterize as a very passive kind of involvement by Congress. It simply says that if Congress fails to act within a 60-day period then the action of the President would therefore go forward.

I think that is quite a different requirement. That, in my mind, puts quite a different burden on Congress than what the committee has chosen to insert in the language of the bill, which is that we address the question directly and make an affirmative judgment on it.

So I hope we will not accept the language of the Senator from Missouri, although I must say that, generally speaking, I support the proposition that we ought not to be involved in legislative vetoes on each and every item. We have got plenty of work to do. Also I think as a general proposition we ought not to move further in that direction.

But, quite frankly, I do not see this as a legislative veto. I think this crosses the line into the kind of national policy and foreign policy questions of a size and of an import where it requires the President and Congress, I think, to act together, if we are going to go ahead and engage in the export of American oil to foreign customers.

Therefore, I hope we will stay with the committee language as adopted and defeat the amendment of the Senator from Missouri.

I thank the Senator from Pennsylvania for yielding the time.

Mr. EAGLETON. Mr. President, if nobody else desires to speak on the amendment, I am about at the point where I will yield my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. HEINZ. We are prepared to yield back the remainder of our time on this side.

Mr. EAGLETON. Mr. President, I have just a few more words and then I will yield back the remainder of my time if no one else decides to speak on the amendment.

I think Senator RIEGLE has espoused his views very ably, as he always does. It is a choice of what is being presented here, a question of a one-House veto or a two-House veto.

I do not under any circumstances think that a one-House veto is the appropriate remedy. Senator RIEGLE has pointed out from his point of view why he thinks it is proper under the circumstances.

The issue is joined.

I yield back the remainder of my time.

Mr. RIEGLE. Mr. President, I wonder if the Senator from Pennsylvania will yield 1 more minute to me?

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, will the Senator from Pennsylvania yield an additional minute—reluctantly?

[Laughter.]

Mr. HEINZ. With joy in my heart.

Mr. RIEGLE. Mr. President, I just want to say one other thing, and that is we do have precedents that exist today for the exact language that is in the committee bill. In the Public Utility Regulatory Policies Act of 1978 we had virtually identical language to what has been proposed in the bill here. Also in the Alaska National Gas Transportation Act of 1976. We again would make the same requirement we have written into the legislation before the Senate and which the Senator from Missouri would strike.

So, having already in two other important measures related to energy taken this step, I hope we will, consistent with those precedents, stick with the committee language here.

When all time is yielded back, it will be my intention to make a motion to table the amendment.

Mr. EAGLETON. I yield back my time.

The PRESIDING OFFICER. Is all time yielded back? Does the Senator from Pennsylvania yield back his time?

Mr. HEINZ. I am prepared to yield back the time.

The PRESIDING OFFICER. All time is yielded back.

Mr. RIEGLE. Mr. President, I move to table the amendment of the Senator from Missouri.

Mr. EAGLETON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan to lay on the table the amendment of the Senator from Missouri. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators wishing to vote?

The result was announced—yeas 34, nays 48, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—34

Baker	Kennedy	Riegle
Baucus	Leahy	Sarbanes
Bayh	Levin	Sasser
Bentsen	Mathias	Schweiker
Boren	McGovern	Stafford
Byrd, Robert C.	Melcher	Stewart
Church	Metzenbaum	Tsongas
DeConcini	Moynihan	Warner
Durkin	Nelson	Williams
Goldwater	Packwood	Zorinsky
Humphrey	Pressler	
Javits	Proxmire	

NAYS—48

Armstrong	Cannon	Eagleton
Bellmon	Chafee	Garn
Boschwitz	Chiles	Glenn
Bradley	Cranston	Hatch
Bumpers	Danforth	Hatfield
Byrd, Harry F., Jr.	Dole	Hayakawa
	Domenici	Heinz
Hollings	Magnuson	Schmitt
Huddleston	Matsunaga	Simpson
Inouye	McClure	Stennis
Jackson	Muskie	Stevens
Jepsen	Nunn	Stevenson
Johnston	Pell	Stone
Kassebaum	Percy	Thurmond
Laxalt	Pryor	Wallop
Long	Randolph	
Lugar	Roth	

NOT VOTING—18

Biden	Exon	Morgan
Burdick	Ford	Ribicoff
Cochran	Gravel	Talmadge
Cohen	Hart	Tower
Culver	Heflin	Weicker
Durenberger	Helms	Young

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Missouri. Does the Senator from New Mexico wish to be recognized?

Mr. SCHMITT. Will the Senate yield me 1 minute?

The PRESIDING OFFICER. All time has been yielded back on the amendment, unless the Senator gets time from the bill.

Mr. STEVENSON. Mr. President, I yield 1 minute on the bill.

Mr. SCHMITT. Mr. President, I just want to be sure my colleagues who are interested in the legislative veto as applied to rulemaking activities in the rulemaking agencies in the executive branch draw a sharp distinction concerning the discussion which has gone on here, which is the executive veto applied to legislative action. The legislative veto as applied to rulemaking activities is another subject which will be coming up in the next few months.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Missouri, UP amendment No. 432.

(Putting the question.)

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 343, AS MODIFIED

(Purpose: To remove automatic decontrol through "indexing")

Mr. JACKSON. Mr. President, I call up my amendment No. 343, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, Mr. MOYNIHAN, Mr. BAYH, Mr. DOMENICI, and Mr. THURMOND, proposes a printed amendment numbered 343, as modified.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

Beginning with "In" on page 81, line 14, strike out through the period on page 82, line 4, and in lieu thereof add the following:

In order to assure that requirements for national security controls are removed when no longer necessary, the Secretary of Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached, according to law, to remove or relax such controls.

Mr. JACKSON. Mr. President, this amendment would delete a provision of the bill which would permit the automatic decontrol of goods and technologies based upon projections of obsolescence. This decontrol provision is predicated upon the erroneous assumption that the extent to which goods and technologies become "obsolete with respect to the national security of the United States" is a predictable and measurable phenomenon. The provision does not define "obsolescence." The ordinary dictionary meaning is "no longer used." It is extremely difficult to predict with any reasonable degree of accuracy when goods and technologies will become obsolete by U.S. standards. However, it is impossible to predict the rate of obsolescence by the standards of the Soviet Union or other adversary nations. In any event, an item which is obsolete by U.S. standards may nevertheless make a significant contribution to the military potential of such an adversary nation.

The thrust of the provision—which this amendment would delete—is to substitute factual investigation and technical analysis with a simple-minded litmus paper test. To suggest by law that the relative rates of obsolescence of United States and Soviet technology is predictable and measurable is dangerous folly.

Mr. President, the amendment that I have offered has been modified after consultation with the distinguished Senator from Massachusetts (Mr. TSONGAS). In place of the current language, the following language would be substituted: "In order to assure that requirements for national security controls are removed when no longer necessary"—and that, I think, is what the Senator from Massachusetts has in mind; I support that—"the Secretary of Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached according to law to remove or relax such controls."

I yield to the distinguished junior Senator from Massachusetts.

Mr. TSONGAS. Mr. President, the Export Administration Act of 1979 creates a climate for export expansion to reverse the enormous trade deficits of recent years. We were very careful to retain export controls for security and foreign policy purposes. In fact, section 4(o) of the bill encourages the development of a process that will allow more time to review controlled items by removing items which no longer present a risk to our security. The administration supports the provision.

During the current round of COCOM negotiations on control lists, the United States proposed a limited system for automatically increasing the performance levels of goods and technology. This has been partially adopted.

High-technology products advance at a rapid rate, but performance levels are reviewed infrequently—only every 3 to 4 years when COCOM reviews take place. Maufacturers are forced to continue product lines for export that have been superseded by more cost-effective items with a slightly higher level of technology. The licensing process becomes bogged down with products that should no longer be controlled because it has no systematic approach for their removal.

It is estimated that the Commerce Department handled more than 77,000 applications for validated licenses last year, and the number is growing by nearly 20 percent each year. We must institute procedures to trim obsolete items from the lists. If we do not, the staffs at Commerce and Defense will remain mired in a blacklog of applications, and exporters will continue to be frustrated by delays.

For example, the U.S. computer industry has reached the end of the 100 megabyte disk drive life cycle. Most, if not all, U.S. companies have terminated production of this drive in favor of more cost-effective products. The artificial extension of a product's life not only ties down valuable resources which could be better utilized on other projects, but increases the unit cost on current products due to lower production volumes.

Performance guidelines indexing could enable U.S. industry to:

Offer competitive equipment at competitive prices;

Avoid the burdensome marketing and production expense of selling and installing obsolete products; and

Proceed on a planned basis to install and upgrade systems.

This is a very technical issue, Mr. President, and I shall not take the Senate's time, but there are two tables here which so much simplify the issue that I should like to have them printed in the RECORD at this point.

(The charts submitted are not reproducible in the RECORD.)

Mr. TSONGAS. Mr. President, the issue, very briefly, is that in high technology industries, the process of review, which is a function of the so-called COCOM—which is the United States-NATO minus Japan—includes Japan without Iceland. The review of high technology equipment takes place every 4 years where, indeed, the increase in the technology is simply much more expansive. I have worked with the distinguished Senator from Washington State. If I could ask him just two questions, I think we may resolve this issue.

One, is there not agreement that this amendment would not preclude indexing if it were found to be appropriate within the national security terms as defined?

Mr. JACKSON. The Senator is correct.

Mr. TSONGAS. Second, would he agree that we would not jeopardize our efforts to implement indexing in COCOM, based on the same assurances that we had previously?

Mr. JACKSON. The Senator again is correct. The amendment would not jeopardize on-going efforts within COCOM.

Mr. TSONGAS. Within those constraints, Mr. President, I am prepared to support the amendment.

Mr. STEVENSON. Mr. President, I understand this would, in no way, affect the administration's authority to index.

Mr. JACKSON. The Senator is correct, it would not affect it. We were both in agreement as to the need to get rid of some of the regulations and controls. The question here was some ambiguities which I think we have resolved and the objectives that the Senator from Massachusetts had in mind—he, I believe, was the author of the amendment in committee—will be achieved.

Mr. STEVENSON. Mr. President, with that assurance, I have no objection to the amendment.

Mr. HEINZ. Mr. President, we have no objection on this side. I am prepared to yield back the remainder of our time.

The PRESIDING OFFICER. Is all time yielded back? Does the Senator from Washington yield back his time?

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 433

(Purpose: To provide a legislative veto)

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for himself, Mr. JEPSEN, and Mr. BELLMON, proposes an unprinted amendment numbered 433.

Mr. McCLURE. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 79, insert the following between lines 6 and 7:

(3)(A) The Secretary of Commerce shall transmit to the House of Representatives and the Senate a summary of any proposed exercise of the authority conferred by this section with regard to agricultural commodities.

(B)(i) Except as provided in subparagraph (ii), such proposal shall not become effective if within sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, one House agrees to a resolution of disapproval and at the end of thirty additional such calendar days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

(ii) Notwithstanding subparagraph (i), if at the end of sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, neither House has agreed to a resolution of disapproval concerning such proposal, and the committee to which a resolution of disapproval concerning such proposal has been referred has not reported and has not been discharged from further consideration of such a resolution, such proposal shall be effective at the end of such sixty-day period or such later date as may be prescribed by such proposal.

(C) For the purposes of this chapter—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of calendar days of continuous session.

(D) The provisions of this section are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith;

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House; and

(iii)(I) resolutions of disapproval, and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the Presiding officer of the Senate or of the House of Representatives to the appropriate standing committee of the Senate or the House of Representatives;

(II) if the committee to which a resolution has been referred does not report a resolution within forty-five * * *

* * * * *

days thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order.

(iii) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order.

Mr. McCLURE. Mr. President, I ask unanimous consent to yield to the Senator from New York to handle an amendment which he has without losing my right to the floor.

Mr. JAVITS. Mr. President, if my amendment is contested, I shall withdraw it.

The PRESIDING OFFICER. Is there any objection to the amendment of the Senator from Idaho being temporarily laid aside? Without objection, it is so ordered.

The Senator from New York is recognized.

UP AMENDMENT 434

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. RIBICOFF, proposes unprinted amendment numbered 434.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of Section 4 (page 82 after line 20) insert the following new Section:

Sec. (a) The Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has made the following determinations:

(1) that such country has demonstrated a pattern of support for acts of international terrorism, and 2) that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

(b) The President may suspend the applicability of paragraph (a) of this Section with respect to any particular country or any particular transaction if he finds that the national interest so require.

Mr. JAVITS. Mr. President, this is an amendment directed at international terrorism and provides that the Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has determined that such country has demonstrated a pattern of support for acts of international terrorism, and that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

The amendment also contains a provision allowing the President to suspend it if, in his judgment, the national interest so requires.

It is a fact, Mr. President, that three countries are now named by the Department as aiding and abetting international terrorism. Those countries are Iraq, South Yemen, and Libya. There may be others, or some of them may be delisted. As, for example, Somalia, which was originally listed, is now delisted.

Mr. President, all this does is erect a signpost for the President. I have discussed this matter with the managers of the bill and I have advised them that I have talked with the Secretary of State and he would like to provide for this particular matter by letter to Senator RIBICOFF and myself. That is satisfactory to us. The difficulty is that we may finish this bill today and there will be no vestige of anything that we propose to do.

Under those circumstances, if agreeable to the managers, I hope they can take the amendment and if we can arrive at a suitable letter, then we shall ask them to drop it in conference. If not, we shall ask them to negotiate it in conference under whatever conditions they think are wise.

Mr. STEVENSON. Mr. President, with the understanding just stated by the distinguished Senator from New York, I support this amendment. The understanding is that we shall have a chance to reconsider the matter in conference and with the benefit of views that will be received from the Department of State.

Mr. JAVITS. Of course, and I hope to agree with them on a suitable letter in this instance.

Mr. STEVENSON. I am assured of that.

Mr. JAVITS. Mr. President, I ask unanimous consent that the occupant of the chair (Mr. LEVIN) be added as a cosponsor.

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

Is all time yielded back?

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I compliment the Senator from New York on this amendment. It is quite consistent with some things he and I and Senator RIBICOFF have worked on for some time. I think the majority will accept it.

I am prepared to yield back my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the motion by which the amendment was agreed to

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 433

Mr. McCLURE. Mr. President, the amendment I am offering seeks to strike a middle ground with respect to the positions taken by the Congress on the legislative veto with a Presidential veto or with a two-House veto. The law as presently written, with the amendment offered by the Senator from Kansas, has a two-House veto on the Presidential embargo of the export of agricultural commodities. As I understand it, this bill, if passed, will wipe out that provision. My amendment would provide that either House could veto the action taken by the President in embargoing such export but would give the other House the opportunity to override that veto, thus siding with the President and reinstating the embargo.

Mr. President, without belaboring the subject of whether or not an agricultural embargo ought to be subject to this action specifically, let me address just that question of the legislative veto. It has been a very difficult thing for both the executive and the legislative branch to deal with.

It seems to me this middle ground, which seems to be emerging from the deliberations in the other body, and as I understand it the deliberations on the Federal Trade Commission legislation amendment which may be offered, is to try to find a way around the arguments that the one-House veto is too arbitrary and involves only one House and does not have in it any element of action by the other body.

This permits both Houses of the Congress to be involved, if they desire to be involved, permits one to veto the action of the Executive in such an embargo, but does not leave it there if the other body desires to be involved.

Mr. President, I think it is a reasonable compromise between what is existing law and wiping out the legislative veto provision altogether.

Mr. President, I do not want to belabor the subject if, as a matter of fact, the managers will accept the amendment. I know that they are both puzzled and intrigued, and I hope favorably so, by this attempt to compromise that issue.

If, on the other hand, they are not prepared to accept the amendment, I would like to discuss for a moment the reasons for my concern about the embargo of the export of agricultural commodities.

Mr. HEINZ. The Senator may go ahead.

Mr. McCLURE. Mr. President, without belaboring that subject, and because I have been invited by the manager of the bill to do so, let me indicate that a number of years ago, when we had been for a number of years pushing the export of soybeans and urging on our friends in Japan that they should accept more and more soybeans, they had done so to the point that 43 percent of the protein in their diet was then in soybeans in one form or another.

Suddenly, without any notice to the Japanese at all, there was an embargo imposed on the export of soybeans.

I remember that incident particularly because I was in Japan at the time, sitting down talking with a number of the members on the Japanese Diet, and one young man who was involved in those discussions seemed extremely exercised by the action that had been taken by the President of the United States in that precipitate embargo.

It turned out that I understood, when I became informed that he was the Deputy Minister of Agriculture in that country and, therefore, was responsible for the Government action that had allowed themselves to be so dependent upon U.S. soybeans as the source of basic nutrition in their diet.

It was a very damaging blow, not only to the Japanese-American relations, but it was also a very damaging blow to the soybean industry in the United States, because we have never been able to recover the credibility we had before that time as a supplier, as a secure source of supply, for the dietary requirements of that specific ally of ours, and a very important trading partner.

Mr. President, I do not have to underscore the importance of soybean exports to the agricultural markets in this country. They have been the salvation for agriculture over a number of years, and far too many farmers in the United States, to have to demonstrate that any action that destroys foreign markets for soybeans has a tremendously crippling effect on the economic being of agriculture in the United States.

I mention this incident, Mr. President—because I am not from a State that produces any soybeans, I cannot be accused of any direct parochial interest because of my interest in soybean export—because I am interested in the health of the agricultural economy.

Mr. President, it seems to me that there needs to be some kind of a congressional involvement in a sudden change of direction with respect to the agricultural commodity exports. This amendment which I have offered would provide that mechanism by which the Congress could, if it desired, exercise some influence upon the negative effects of a suddenly imposed embargo which

can be and sometimes, as has been demonstrated, is invoked by the legislative branch.

Mr. President, I would hope that the managers of the bill, knowing of the importance of this subject, as so many Members of this body and the other body, recognizing the sincere effort to try to find a compromise between the various proposals that have been made, would see fit to accept this proposal as a compromise and take it to conference with the hope we can get the Members of the other body to agree with us with regard to this provision.

Mr. President, I bring before the Senate today an amendment designed to minimize the Government's ability to grossly interfere with the export of agricultural commodities..

Back in 1972, we saw for the first time in many, many years a prosperous domestic wheat industry. U.S. wheat yields were good while world stocks were down, thus giving the American farmer the brief, unusual possibility to market his wheat for premium prices. For many producers, this meant paid-up mortgages, new and better equipment, or maybe the opportunity to finally buy up—after so many years of waiting—that adjoining quarter section wanted so badly.

For all too many, these dreams were literally shuttered by the administration's sudden, harsh, and unnecessary embargo of all export wheat stocks. And the farmers were not the only parties injured in the move. Grain companies and farm cooperatives found themselves unable to fulfill export contracts. Dockworkers and ship companies had to find work elsewhere. And, perhaps worst of all, those foreign nations we would like to call our trading partners, suddenly learned what kind of risk it took to do business with the United States. Some are only now getting over those wounds.

Mr. President, this amendment I offer today will minimize—if not eliminate—the chances that such capricious embargoes can ever again be imposed by the executive branch. My amendment provides a 60-day buffer zone between the time any such embargo action on agricultural commodities is proposed and the time it can go into effect; and within that time period, either House can stop the action by adoption of a resolution of disapproval. There is a further safeguard here, however, in that if one House approves a resolution of disapproval the other House may, within 30 days, vote to agree with the Executive's proposed embargo action rather than that of the other House. In such cases, the Executive's action would go into effect as planned.

The net result of this amendment is not merely a shift of power away from the executive to the legislative branch. On the contrary, the Executive's action may in the end prevail, however, in the meantime, the Congress would be given the opportunity they fully should by law have to oversee all aspects of commerce. Moreover, my amendment, at the very least, will provide an adequate time period in which current export contracts could be completed, new jobs could be found, and, for the foreign nations, new—and perhaps more reliable—sources for their so badly needed foodstuffs can be located.

It is my feeling this is the very least we can and must do to protect our farmers, our export cooperatives and companies, and, indeed, our reputation as a reliable and trustworthy trading partner.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. WILLIAMS). The Senator from Illinois.

Mr. STEVENSON. Mr. President, I share the Senator's feelings about embargoes on exports of agricultural commodities. I am against them. But I believe there are adequate safeguards in existing law to make us all confident that there will not be such embargoes.

For one thing, they cannot even be imposed unless agricultural commodities are insufficient to meet domestic requirements.

For another thing, if embargoes were to be imposed on exports of any commodity, the effect would be to immediately peg the loan level at 90 percent.

That would put the rate up for corn to $3.75; $1.94 for oats.

There is no chance that the administration would do that.

But, Mr. President, my main objection to this amendment is based on the veto provision which it contains.

This measure provides for a one-House veto of any embargo and, as I understand it, it establishes a new procerure which would give one House a veto over the other House.

It is a 1½-House veto.

I can appreciate that the Senator is trying to strike a compromise on this issue of one-House vetoes. But I think it is of doubtful wisdom and constitutionality.

For that reason, mainly, not because I do not share his concern about embargoes against agricultural commodities, I have to oppose this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I associate myself with the comments of the Senator from Illinois.

I say to my good friend from Idaho that I, too, remember well the case he cites. Obviously, it was a question of being very shortsighted. We not only upset the Japanese diet, but we upset their appetite and their parliamentary diet, as well.

Yet, I really do believe that the provisions we have will protect us in the future much better than we have been protected in the past and will protect us from the kinds of very arbitrary actions that have been taken.

Second, I think even the Senator from Idaho will admit his procedure is innovative and unique. I have some grave reluctance about trying out such a new procedure in this situation.

I am not a particular fan of one-House vetoes. Because there is a one-House veto and a one-House override of the veto, I find that that does not double my pleasure or double my fun.

Mr. McCLURE. Does it double the Senator's displeasure with the one-House veto?

Mr. HEINZ. In moves in that direction. So I must reluctantly oppose the Senator's amendment.

Mr. McCLURE. Mr. President, I am sorry that the floor managers of the bill have seen fit to oppose the amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I will not belabor the subject, except to say that this device of trying to strike a balance between the arguments of a one-house veto versus a two-house veto, I predict, will be adopted. If not in this amendment, it will be adopted as we go forward, not just on this particular subject but also on the broad array of areas in which Congress legitimately desires to give the Executive some discretion and legitimately desires to restrain that discretion by saying, "We want to see how you use it," without having to come in and pass a law, which then must be accepted by the Executive to overcome what the Executive has just done.

We must find some way, or we are going to find more and more developing a resistance to the delegation of authority to the executive branch of Government and the retention of that authority in the hands of the legislative body.

Mr. President, I think this is a constructive effort. I hope the Senate will agree with me and adopt this amendment.

If the managers of the bill are prepared to yield back the remainder of my time, I am prepared to do so.

Before doing that, Mr. President, I ask unanimous consent that the names of the Senator from Iowa (Mr. JEPSEN) and the Senator from Oklahoma (Mr. BELLMON be added as cosponsors of the amendment.

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

Mr. NUNN. Mr. President, I submit a statement by the senior Senator from Georgia (Mr. TALMADGE) and ask unanimous consent that it may be printed in the RECORD.

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

STATEMENT BY SENATOR TALMADGE

I would like to take this opportunity to express my support for S. 737 the Export Administration Act of 1979. This legislation provides long overdue revisions to the existing U.S. export licensing procedures to cut through the myriad of redtape and paper shuffling which has needlessly burdened and delayed American businessmen and exports.

Increased export of American products is vitally needed as an important component in strengthening our American economy and the value of the American dollar worldwide. Certainly, the enhancement of American exports and increased trade should be given a very high priority in all U.S. policy planning now and in the future.

I would like to join my colleagues in expressing appreciation for the fine job which the Subcommittee on International Finance,

so ably chaired by the Senator from Illinois, Mr. Stevenson, has done in pulling together this desparately needed legislation. In addition, I would like to pay particular tribute to the voluntary contributions to this effort that have been made by the distinguished Governor of my state, the Honorable George Busbee. As Chairman of the International Trade and Foreign Relations Committee of the National Governor's Association, Governor Busbee has generously given of his time and effort in directing the initiatives of our nation's governors towards improving the opportunities for the export of American goods and commodities. His committee has conducted seminars and met with thousands of businessmen nationwide in order to make available to the Congress and the American public the kind of information which will enable us to devise effective legislative remedies to the complex obstacles that have plagued U.S. export policies and procedures in recent years.

I would also like to commend and recognize the efforts of the students and staff of the Rusk Center of International Law of the University of Georgia Law School for the research and technical support and advise it has provided to the Governor's Association and to the Congress during the development of this legislation. Under the able guidance of my warm friend Dean Rusk, the Rusk Center has been a tremendous success during its two years of existence and is making significant contributions in the area of international trade and U.S. foreign policy.

The state of Georgia is most fortunate to be able to claim the talents of our outstanding Governor and the Rusk Center of International Law, and I am happy on behalf of the people of Georgia to have had this opportunity to recognize the contributions to this legislation made by our Governor and the Rusk Center.

Mr. STEVENSON. Mr. President, if no other Members wish to be heard on this matter, it is my intention to move to table the amendment.

Mr. McCLURE. Before doing that, I ask the Senator from Illinois, since he plainly is intrigued by the idea, and the Senator from Pennsylvania says he is half-pleased by the idea, whether we might have an up and down vote on the merits, rather than a motion to table.

Mr. HEINZ. I would not go that far.

Mr. STEVENSON. I am not pleased with this amendment.

Mr. HEINZ. I did not say I was half-pleased with the amendment.

Mr. McCLURE. I thought the Senator from Pennsylvania said he was half-pleased.

Mr. HEINZ. No. I said it did not double my pleasure or double my fun.

Mr. McCLURE. But the Senator from Pennsylvania admitted that it cut in half his displeasure over the single-House veto.

Mr. HEINZ. No, it tended to double it. [Laughter.]

Mr. STEVENSON. Mr. President, I sense that the happy hour is approaching. [Laughter.] We had better get moving.

Is such motion in order?

The PRESIDING OFFICER. If all time has been yielded back.

Mr. STEVENSON. I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

Mr. STEVENSON. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Idaho. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 46, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—33

Bentsen	Hatfield	Nelson
Bradley	Heinz	Pell
Bumpers	Hollings	Pryor
Byrd, Robert C.	Huddleston	Randolph
Cannon	Inouye	Riegle
Chafee	Javits	Sarbanes
Chiles	Mathias	Stafford
Cranston	Matsunaga	Stevenson
Durkin	Metzenbaum	Stone
Eagleton	Moynihan	Tsongas
Glenn	Muskie	Williams

NAYS—46

Armstrong	Hayakawa	Percy
Baker	Humphrey	Pressler
Baucus	Jackson	Proxmire
Bellmon	Jepsen	Roth
Boren	Johnston	Sasser
Boschwitz	Kassebaum	Schmitt
Byrd, Harry F., Jr.	Laxalt	Schweiker
	Levin	Simpson
Church	Long	Stennis
Danforth	Lugar	Stevens
DeConcini	Magnuson	Stewart
Dole	McClure	Thurmond
Domenici	McGovern	Wallop
Garn	Melcher	Warner
Goldwater	Nunn	Zorinsky
Hatch	Packwood	

NOT VOTING—21

Bayh	Exon	Leahy
Biden	Ford	Morgan
Burdick	Gravel	Ribicoff
Cochran	Hart	Talmadge
Cohen	Heflin	Tower
Culver	Helms	Weicker
Durenberger	Kennedy	Young

So the motion to lay on the table Mr. McCLURE's amendment (UP No. 433) was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent to vitiate the order for the yeas and nays.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

UP AMENDMENT NO. 435

(Purpose: To exempt from disclosure information collected from exporters under a pledge of confidentiality until June 30, 1980, but thereafter exempt only license applications. 96th Congress, 1st Session)

Mr. HATCH. Mr. President, I call up an unprinted amendment, send it to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 435.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 104 beginning on line 16, strike out all through the last complete sentence on line 25, and insert in lieu thereof the following:

"(c) Except as otherwise provided by the third sentence of section 5(b)(2) and by section 9(c)(2)(C) of this Act, information obtained prior to June 30, 1980, under this Act, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552(b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Information obtained after June 30, 1980, under this Act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary of Commerce to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted."

Mr. HATCH. Mr. President, I am introducing an amendment to delete the indefinite blanket exemption to Freedom of Information Act requests and replace

it with an exemption until June 30, 1980. This will give exporters almost a year's time to prepare for a change in the law at that time, which would result in all export control information being subject to the Freedom of Information Act except for license applications. These license applications are the items that exporters are most concerned about becoming available to their competitors, plus they contain sensitive national security information. I have been informed that this issue of access to export control information will be coming up again next year, so we will have an opportunity to more fully explore this issue at that time.

It is my understanding that the managers of the bill will accept this amendment and, therefore, I reserve the remainder of my time.

Mr. STEVENSON. Mr. President, I think this is a sound amendment and I am prepared to accept it.

Mr. HEINZ. Mr. President, I want to compliment the Senator from Utah for offering this amendment. I think it is a well-balanced amendment and is deserving of support.

Mr. HATCH. I am prepared to yield back the remainder of my time.

Mr. STEVENSON. I yield back my time.

Mr. HATCH. I move the adoption of the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 436

(Purpose: to revise the time periods and procedures for reviewing export licenses)

Mr. CHAFEE. Mr. President, I send to the desk on behalf of myself and Senator NUNN a printed amendment.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself and Mr. NUNN, proposes an unprinted amendment numbered 436.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 63, lines 13 through 15, strike out ", unless additional time is required and the applicant specifically requests an extension".

On page 70, lines 5 through 7, strike out ", unless additional time is required and the applicant specifically requests an extension".

On page 70, line 7, after the period insert "All agency reviews of preliminary decisions and appeals to the appropriate authorities set forth in this Act shall be accomplished within that ninety-day period.".

On page 71, between lines 3 and 4, insert the following:

"(D) If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, or otherwise to arrive at a decision, the Secretary may extend any time period prescribed in this subsection. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.".

Mr. CHAFEE. Mr. President, what this amendment does is to remove a provision that permits the Secretary to say to the applicant that she, the Secretary, requests an extension of time, which the applicant therefore goes along with, because of the fear that if the applicant does not there will be further delay or that the application will be denied.

It is my understanding that the managers of the bill agree with this provision, and in lieu of that particular provision it provides that the Secretary, in cases of exceptional importance or complexity, can request additional time. But if she does she must notify Congress and the applicant of such extension and the reasons therefor.

I reserve the remainder of my time, Mr. President.

Mr. HEINZ. Mr. President, I earlier examined this amendment and I think it is quite consistent with what we are trying to do, with the spirit of the law, and I compliment the Senator from Rhode Island in offering the amendment. On this side we are prepared to accept it.

Mr. CHAFEE. I thank the Senator.

Mr. STEVENSON. Mr. President, I am prepared to accept the amendment.

Mr. CHAFEE. Mr. President, I yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

UP AMENDMENT NO. 437

Mr. JACKSON. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 437.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 61, line 10, after the period add the following:

"Rules and Regulations shall reflect the difficulty of devising effective safeguards which would prevent a nation which poses a threat to the United States from diverting critical technologies to military use, the difficulty in devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the re-export of critical technologies from non-controlled countries to nations that pose a threat to the security of the United States. Such rules and regulations shall not assume that effective safeguards can be devised.".

Mr. JACKSON. Mr. President, amendment No. 437 is being offered as an alternative for printed amendment No. 342. Effective implementation of the critical technologies approach endorsed by the bill requires far more than the creation of a list of goods and technologies. Unfortunately, the bill would accomplish little more than the formulation of such a new list by its failure to remedy important loopholes in the existing system.

Indeed, the bill would make it U.S. policy to subject critical technologies to traditional validated license controls only to the extent that multilateral control agreements could be secured. Instead of establishing effective control of critical technologies and goods as our highest national priority, the bill would lay the groundwork for a lowest common denominator approach whereby one noncooperating nation could undermine controls.

Amendment No. 342 would correct this deficiency, but in a manner consistent with the highly desirable objective of achieving multilateral control agreements. Amendment No. 342 would do this by specifying the policy that should generally be followed with respect to exports of critical technologies and goods. As to nations threatening U.S. national security, exports of critical items should be prohibited. As to free world nations, effective safeguards against reexports should be provided by validated export license. Both of these control policies are to be implemented "to the maximum extent consistent with the other provisions of the act." Thus, if efforts to eliminate foreign availability of any critical item by multilateral agreement or otherwise are not successful, then the provisions removal or relaxation of the control would be operative, unless the President invoked a special exception in the bill.

If a critical technologies approach to national security export controls is to achieve its purpose, there must be a clear policy directive from Congress as to how these technologies and related goods should be controlled. Experience has shown that the Soviet Union and other Warsaw Pact nations have acquired and will continue to seek advanced American technologies in order to enhance their military power. Even where multilateral controls are obtained, the bill would merely continue the status quo in which determinations of whether to permit export of an item to a Communist nation are made on an ad hoc basis in the licensing process.

Licenses may be granted on the basis that the recipient nation makes a representation that the "end-use" will be non-military or on the basis that there are safeguards against diversions to military use. However, end-use statements and safeguards provide no protection against the diversion of "critical" technology or goods. By definition,

they consist of know-how or products which transfer know-how for which safeguards against diversion cannot be devised. Amendment No. 342 would direct that, to the maximum practicable extent consistent with the provisions of the act, exports of critical items shall be prohibited or embargoed to nations threatening U.S. security. This would also have the benefit of obviating many unnecessary license proceedings.

Amendment No. 342 would also direct that, to the maximum possible extent consistent with the provision of the act, export of critical goods and technologies to non-Communist nations be subject to validated license controls which are reasonably designed to prevent the re-export of such critical items to Communist nations. Present export regulations generally do not control exports of technologies to most non-Communist nations. As a consequence, many sensitive technologies—including those employed in the cruise missile system—can be exported to most non-Communist nations without having to obtain advance clearance from the Government. Given this loophole, the opportunities for Soviet acquisition of U.S. technologies are most disturbing.

Amendment No. 342 would not—as some critics have asserted—increase controls on exports of goods to non-Communist nations. Most high technology products are subject to controls even to CoCom member nations. Of course, the danger of re-export of items subject to CoCom controls is significantly less than the danger present by exports to non-CoCom member nations. It is the purpose of this amendment No. 342 that the risk of re-export of critical goods in these situations be carefully considered—which is not the case under the present system of cursory review of such license cases.

The most important objective of this policy on free-world controls is to close the glaring loopholes whereby exports of many critical technologies are completely unregulated.

Amendment No. 342 provides sufficient flexibility to take into account our traditional special relationship with Canada. Most items the export of which are controlled to other nations do not require validated licenses for export to Canada. The policy with respect to exports to free-world destinations is designed to prevent re-exports. Amendment No. 342 provides that to "the maximum extent consistent with the provisions of the act" that the re-exports of critical technologies are to be prevented by validated license controls.

One section of the bill—which is the same as current law—provides that U.S. policy toward individual countries shall take into account all factors, including its relationship to countries friendly and hostile to the United States and its ability and willingness to control retransfers of U.S. exports in accordance with U.S. policy. Given the special relationship between the United States and Canada and its reliable export controls, there would be no reason to disturb the present open borders policy.

Mr. President as I previously indicated, amendment No. 437 is being offered as an alternative for amendment No. 342. I have conferred with the managers of the bill, and I believe it represents a fair compromise in trying to deal with this problem of diversions of U.S. exports to military use by hostile nations and diversions of U.S. exports by nonhostile countries to hostile countries. In the case of critical technologies and goods this problem is of special importance.

It is my understanding that the amendment is acceptable to both sides.

Mr. MATHIAS. Mr. President, will the Senator yield for an inquiry?

Mr. JACKSON. Yes.

Mr. MATHIAS. Do I understand it is an unprinted amendment?

Mr. JACKSON. We have amended my original amendment No. 342, and this is really an alternative for that. We have stricken everything out of my amendment 342 which involved some problems that the administration felt would not be workable.

Mr. MATHIAS. Is the text available?

Mr. JACKSON. I will give you a copy.

Mr. MATHIAS. Committee counsel has just handed me a copy.

Mr. CHAFEE. Mr. President, will the proponent of the amendment yield for a question?

Mr. JACKSON. Yes.

Mr. CHAFEE. Is this amendment acceptable to the administration?

Mr. JACKSON. Yes. We worked it out with the representative of the Department of Commerce, who is off the floor.

Mr CHAFEE. I thank the Senator.

Mr. HEINZ. Mr. President, the minority has examined the amendment and, at this time, I know of no objection to it. My staff and I have worked with Senator STEVENSON's staff, with the administration and, of course, with my good friend from Washington, Senator JACKSON.

We believe it is a realistic approach to a very difficult question which is nothing less than how do you approach the question of making sure that critical technologies do not somehow drift into the wrong hands. I think it is fair to say this is about the best we can do.

Mr. JACKSON. Mr. President, I think we have made a real effort to at least make a beginning in dealing with this problem of diversion as it affects critical technologies, and I am prepared to yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENSON. I yield back my time.

Mr. HEINZ. We yield back our time if everybody else does.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 438

(Purpose: (1) To provide an opportunity for license applicants to petition for consideration of licenses in conformity with the Act. (2) To require the Secretary of Commerce to issue regulations providing for export control list reviews. (3) To provide an opportunity for interested Governernment agencies and other affected parties to submit views on export control list revisions. (4) To require reports on the domestic economic impact of export controls. (5) To require that applicants be informed of the reasons for license denials or deferrals and to establish appeals procedures)

Mr. STEVENSON. Mr. President, I have five amendments at the desk. They are all procedural amendments. I believe no one objects to them. I ask unanimous consent that they be considered en bloc.

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

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes five unprinted amendments, en bloc, numbered 438:

Mr. STEVENSON. I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 73, after line 15 insert a new paragraph as follows:

"(10) The Secretary shall establish appropriate procedures for applicants to appeal denials of export licenses. In any case where the absence of a license approval exists because of agency action or inaction that clearly conflicts with the procedures, standards, or policies of this Act, the applicant may file a petition with the Secretary requesting that such action or inaction be brought in conformity with the appropriate provisions of this Act. When such petition is filed, the Secretary shall determine the validity of the petition and, if valid, shall take appropriate corrective action."

On page 63, line 18, strike out the phrase "The Secretary shall review" and insert in lieu thereof:

"The Secretary shall issue regulations providing for review of."

On page 63, strike out the last word of line 21 and strike out all of lines 22, 23, and 24 and insert in lieu thereof: "carry out the policies of this Act, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that as part of such review, there shall be an assessment of".

On page 66, line 7, insert the following immediately after "controls": "and the estimated domestic economic impact on the various industries affected by such controls". trols".

On page 71, strike out the phrase, "to the maximum" on line 1 and strike out all of lines 2 and 3 and insert in lieu thereof: "in writing within five days of such decision of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with national security and foreign policy, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this subsection, the applicant shall be informed in writing within five days of such deferral. The Secretary

shall establish appropriate procedures for applicants to appeal such deferrals or denials."

Mr. STEVENSON. I offer these amendments on behalf of myself, Mr. HEINZ, and Mr. JEPSEN. These amendments all originated with the Governors' Committee on Exports, chaired by the Governor of Georgia, Mr. Busby. They provide opportunities for the public to comment on proposed provisions for export control; they provide an appeals process for license applications which are delayed beyond the time limits set forth in the act, or are denied; they provide that license applicants be notified promptly if their license applications are delayed more than 5 days beyond the deadlines in the act; they require the Secretary of Commerce to require reports on the domestic impact of export controls; and they also permit applicants to petition to have their applications considered in accordance with the provisions of the act.

These amendments are designed to expedite procedures to carry out the provisions of the act and to improve congressional oversight.

The administration has no objections to them.

Mr. HEINZ. We have no objection.

Mr. STEVENSON. So, Mr. President, I am prepared to yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments of the Senator from Illinois (Mr. STEVENSON) (No. 438).

The amendments, en bloc, were agreed to.

UP AMENDMENT NO. 439

(Purpose: To provide validated license control for crime equipment exports)

Mr. STEVENSON. Mr. President, I send another amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 439:

On page 82, after line 20, add a new subsection as follows:

Mr. STEVENSON. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 82, after line 20, add a new subsection as follows:

"(q)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, and such other countries as the President shall designate consistent with the purposes of this subsection 502(b) of the Foreign Assistance Act of 1961, as amended.".

Mr. STEVENSON. Mr. President, this amendment would carry over the existing provisions of law with respect to exports of crime control and detection equipment, with one minor modification: It requires that the primary law with relation to crime control and detection equipments be approved by the Secretary of Commerce to validate a license, except for export to countries which are members of the North Atlantic Treaty Organization, Japan, Australia, and New Zealand.

The modification simply adds to that list of countries such other countries as the President shall designate consistent with the purposes of the Foreign Assistance Act of 1961.

I know of no objection to this amendment.

Mr. HEINZ. Mr. President, I have examined the amendment. I know of no objection to it, or reason why it should not be adopted. I am prepared to accept the amendment, and yield back the remainder of our time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (UP No. 439) of the Senator from Illinois (Mr. STEVENSON).

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, if there are no further amendments, I am prepared to yield back all time on the bill.

UP AMENDMENT NO. 440

(Purpose: To insure that the Commodity Credit Corporation does not act as a National Grain Marketing Board)

Mr. BELLMON. Mr. President, I have an amendment at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as folows:

The Senator from Oklahoma (Mr. BELLMON), for himself and Mr. BOSCHWITZ, proposes an unprinted amendment numbered 440.

On page 78, strike out all after the period in line 1 down through line 11.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. The remainder of the material is simply explanation, not a part of the amendment.

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

Mr. BELLMON. Mr. President, this provision of the bill would seem to give the Government, through the Commodity Credit Corporation, authority to go back in the business of buying and owning agricultural commodities. Some Members may remember the time when the Commodity Credit Corporation owned enormous quantities of various kinds of agricultural commodities, and the great difficulties that were experienced when the Government tried to dispose of those commodities, and also the fact that a great many producers of agricultural commodities felt that the Secretary of Agriculture was using his power in the marketplace to control the prices of various kinds of agricultural commodities.

I can see no reason for this bill to get us back in the business of buying or giving the Secretary of Agriculture or the Commodity Credit Corporation authority to buy agricultural commodities. I believe the bill would be greatly improved if this section were simply stricken.

Mr. STEVENSON. Mr. President, this provision in the bill gives no authority to the Secretary of Agriculture, to the CCC, or to anybody else for export controls. It does absolutely nothing to enlarge on any existing authority in the law for control of the exports of agricultural commodities.

I am against controls on exports of agricultural commodities. There are more of them now than we need.

What the bill does is suggest that, if there is a short supply situation, we would have some alternatives to another across-the-board embargo, such as the soybean embargo. One of the alternatives suggested in the bill is to license exports. It is not only in this bill; it is in the law.

The situation that the authors of this provision had in mind would be a case though it is hard to conceive, of a soybean embargo, far enough. That requires a short supply situation to begin with, and then, instead of an across-the-board embargo, this provision would have the President consider the alternative of using the CCC as the exclusive sales agent for sales to foreign governments. The bill is just permissive; it does not provide any new authority.

The countries that we have in mind are nonmarket countries, the PRC and the U.S.S.R. Any sales to those countries could be channeled through the CCC in order to obtain for the United States maximum economic advantage, instead of leaving ourselves to the choice of either embargoes across the board or the multinational corporations.

But I point out to the Senator again that this does not add any additional authority. The President is controlling the volume of grain sales to the U.S.S.R. right now under current law.

Mr. BELLMON. Mr. President, if the language gives no additional authority, it seems to me to be superfluous. But the language of the section seems to me, say very plainly—I will read beginning on page 78, beginning on line 3:

Given full consideration to the alternative of using the Commodity Credit Corporation to purchase such commodity and arrange sales to foreign governments in accordance with the provisions of the Commodity Credit Corporation Charter Act so as to stabilize markets and maximize returns to agricultural producers.

Mr. President, that is precisely what the Commodity Credit Corporation did for 20 years, and almost bankrupted the agricultural sector. I can see no reason for putting the Commodity Credit Corporation back in the grain business with this kind of bill. If that is to be done, let it be done by an agricultural bill, where we will know what the circumstances are.

This business of putting the Commodity Credit Corporation into the business of stabilizing markets and maximizing returns to agricultural producers is not a proper function of a trade bill.

Mr. STEVENSON. Mr. President, the Commodity Credit Corporation already has this authority. All we are saying in this bill is: instead of soybean embargoes

across the board, which I want to get away from, you can use the CCC under its existing authority. You do not give it any additional authority to control your sales to the Peoples Republic of China or to the U.S.S.R. We do not even go that far really. The bill just says you have to give attention to the authority you already have before you impose an embargo on soybeans, corn, wheat, or any other agricultural commodity. What, Mr. Prsident, is wrong with giving attention to that kind of a possibility?

I suggest that it not only would enhance our competitive position in the world, but it might begin to signify to the world that the United States is getting its act together, instead of giving, as we do now, all the advantage in the marketplace to the People's Republic of China and the U.S.S.R.

This would mean that if those countries need exports and we have to embargo, they are going to have to come to any agency of the U.S. Government, as they would with any other exporting country in the world. They would have to bargain instead of sneaking into our markets quietly as they do over and over again with prices of commodities skyrocketing as the word gets out, to the disadvantage of American farmers and the advantage of the Soviet Union, which can then turn around and sell food at a profit and at our expense.

As I say, it does nothing to change existing authority. It just points out that there are some alternatives under existing authority by which the United States can enlarge its power, its economic power and its political power, in the world by using an instrumentality that already exists, and only as an alternative to an across-the-board soybean embargo or wheat embargo.

Mr. BELLMON. Mr. President, in the first place, it does do something else. If the Members will look at page 15 of the committee report, the top of the page, under the subtitle Agricultural Commodities, it says:

S. 737 revises provisions concerning the export of agricultural commodities which are contained in the present Act. S. 737 adds a requirement that the President, before resorting to export controls, consider using the Commodity Credit Corporation as the exclusive sales agent for sales to foreign governments in order to stabilize markets and maximize returns to agricultural producers. The Committee believes that in circumstances in which purchases by foreign governments are the principal cause of a tight supply situation for a particular agricultural commodity, it may be preferable to have the CCC take over sales to that country than to apply comprehensive export controls on sales of the commodity in question.

What we are talking about here is putting the CCC in the business of buying and hopefully exporting agricultural commodities. It is a very large, new authority that the CCC has not used in the past and, in my opinion, is not in the national interest.

I would remind the Senator from Illinois that agriculture generally has fought for years to keep the CCC out of the marketplcae, that we have even opposed establishing a so-called strategic reserve for the reason that we do not want the Secretary of Agriculture to have commodities he can dump on the market and control prices in that way. This, no matter what good intentions the manager of the bill may have, is exactly what we are doing here. If we let the Commodity Credit Corporation start buying commodities for one purpose we have no way of knowing that they will not use them for market control.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, the Senator from Minnesota is to be added as a cosponosr of the amendment.

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

Mr. STEVENSON. Mr. President, I have no desire to prolong this. I will reiterate that this is no authority that is not already in the law. All it does is require that the President, before resorting to export controls, consider using the Commodity Credit Corporation as the exclusive sales agent for sales to foreign governments. The only governments that I have in mind, or that the authors of this provision have in mind, are the People's Republic of China and the Soviet Union, and only then in circumstances that authorize across-the-board embargoes.

Under those circumstances, Mr. President, if embargoes would be imposed, it would behoove us as an alternative not to impose them except with respect to those countries and then give ourselves all the leverage and all the power we can get in the marketplace. The way to do that is through the CCC and it requires no additional authority. They can do it right now.

With that, Mr. President, unless there are further comments, I intend to move to table the amendment.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. STONE). Do Senators yield back their time?

Mr. STEVENSON. I yield back the remainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay on the table UP Amendment No. 440. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. TALMADGE), and the Senator from Texas (Mr. BENTSEN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator wishing to vote in the Chamber?

The result was announced—yeas 20, nays 57, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—20

Bradley	Levin	Riegle
Byrd, Robert C.	Matsunaga	Sarbanes
Cannon	Metzenbaum	Sasser
Cranston	Moynihan	Stevenson
Durkin	Muskie	Tsongas
Glenn	Nelson	Williams
Inouye	Pell	

NAYS—57

Armstrong	Hatfield	Percy
Baker	Hayakawa	Pressler
Baucus	Heinz	Proxmire
Bellmon	Hollings	Pryor
Boren	Huddleston	Randolph
Boschwitz	Humphrey	Roth
Bumpers	Jackson	Schmitt
Byrd, Harry F., Jr.	Javits	Schweiker
	Jepsen	Simpson
Chafee	Johnston	Stafford
Chiles	Kassebaum	Stennis
Church	Laxalt	Stevens
Danforth	Long	Stewart
DeConcini	Lugar	Stone
Dole	Magnuson	Thurmond
Domenici	Mathias	Wallop
Eagleton	McClure	Warner
Garn	McGovern	Zorinsky
Goldwater	Nunn	
Hatch	Packwood	

NOT VOTING—23

Bayh	Exon	Melcher
Bentsen	Ford	Morgan
Biden	Gravel	Ribicoff
Burdick	Hart	Talmadge
Cochran	Heflin	Tower
Cohen	Helms	Weicker
Culver	Kennedy	Young
Durenberger	Leahy	

So the motion to lay on the table UP amendment No. 440 was rejected.

Mr. HEINZ. Mr. President, I ask unanimous consent that the yeas and nays on the Bellmon amendment be vitiated.

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

The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 440) was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENSON. Mr. President, I do not know if there are any more amendments.

Mr. President, we have today adopted a number of amendments which strengthen and improve the bill. Taken together, they leave the existing array of responsibilities for the administration of export controls within the executive branch unchanged and impose no new constraints on export licensing. The Secretary of Commerce retains the responsibility for maintaining the export control list, and the responsibility of the Secretary of Defense to identify critical goods and technologies for possible inclusion on that list is made clear.

I note in particular the provision in amendment No. 340 which states that the Secretary of Commerce shall prepare and maintain the control list "subject to the authority of the Secretary of Defense under subsection [4](a)(2)(B)." The cross reference in this provision refers to the authority of the Secretary of Defense, newly recognized by the amendment, to develop a list of militarily critical goods and technologies for possible inclusion on the commodity control list. The present procedure whereby the Secretary of Commerce prepares and maintains the actual commodity control list would not be altered.

I urge the Senate to approve this bill.

SEVERAL SENATORS. Third reading!

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PERCY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

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

Mr. ROBERT C. BYRD. Mr. President, I wish to thank all Senators who remained here today for their services in disposing of this important piece of legislation.

ORDER TO CONSIDER S. 1309—THE FOOD STAMP BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of this measure the Senate proceed, with the understanding there will be no action thereon tonight, to the consideration of S. 1309, the food stamp bill.

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

The bill having been read the third time, the question is, Shall it pass? All time has been yielded back. The yeas and nays have been ordered and the clerk will call the roll on final passage.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), and the Senator from Vermont (Mr. LEAHY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 74, nays 3, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—74

Armstrong	Hayakawa	Packwood
Baker	Heinz	Pell
Baucus	Hollings	Percy
Bellmon	Huddleston	Pressler
Boren	Humphrey	Proxmire
Boschwitz	Inouye	Pryor
Bradley	Jackson	Randolph
Bumpers	Javits	Riegle
Byrd, Harry F., Jr.	Jepsen	Roth
Byrd, Robert C.	Johnston	Sarbanes
Cannon	Kassebaum	Sasser
Chafee	Laxalt	Schmitt
Chiles	Levin	Schweiker
Church	Long	Simpson
Cranston	Lugar	Stafford
Danforth	Magnuson	Stennis
DeConcini	Mathias	Stevenson
Dole	Matsunaga	Stewart
Domenici	McClure	Stone
Durkin	McGovern	Thurmond
Eagleton	Metzenbaum	Tsongas
Garn	Moynihan	Wallop
Glenn	Muskie	Warner
Hatfield	Nelson	Williams
	Nunn	Zorinsky

NAYS—3

Goldwater	Hatch	Stevens

NOT VOTING—23

Bayh	Exon	Melcher
Bentsen	Ford	Morgan
Biden	Gravel	Ribicoff
Burdick	Hart	Talmadge
Cochran	Heflin	Tower
Cohen	Helms	Weicker
Culver	Kennedy	Young
Durenberger	Leahy	

So the bill (S. 737) was passed, as follows:

S. 737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export Administration Act of 1979".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the balance of trade, employment, and production of the United States.

(3) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(4) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(6) Uncertainty of export control policy can curtail the efforts of American business to the detriment of the overall attempt to improve the trade balance of the United States and to decrease domestic unemployment.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national security purposes give special emphasis to the needs to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

DECLARATION OF POLICY

SEC. 3. The Congress makes following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) It is the policy of the United States to restrict the ability to export only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to prevent the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States;

(B) to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance

of a uniform export control policy by all nations with which the United States has defense, treaty commitments.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person;

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods and technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a counrty friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including liecnse fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States or to the security of those countries with which the United States has defense treaty commitments.

AUTHORITY

SEC. 4. (a)(1) To the extent necessary to carry out the policies set forth in section 3 of this Act, the President, by rule or regulation, may prohibit or curtail the export of any goods or technology, or for the purpose of section 6 information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation thereof by any person. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.

(2)(A) In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potenial relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors the President may deem appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(B) Rules and regulations under this subsection to carry out the policy set forth in section 3(2)(A) of this Act may provide for denial of any request of application for authority to export goods or technology from the United States, its territories and possessions, which would make a significant contribution to the military potential of any nation or combination of nations threatening the national security of the United States if the President determines that their export could prove detrimental to the national security of the United States. In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of existing or potential military systems, including weapons, command, control, communications, intelligence systems, and other military capabilities, such as countermeasures, which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States. The Secretary of Defense shall bear primary responsibility for identifying such militarily critical goods and technologies. Taking this fully into account, the Secretary of Commerce, in consultation with the Secretary of Defense, shall review and revise not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, export controls maintained for national security purposes pursuant to this Act for the purpose of insuring that such controls cover and (to the maximum extent consistent with the purposes of this Act) are limited to such critical goods and technologies and the mechanisms through which they may be effectively transferred. Rules and Regulations shall reflect the difficulty of devising effective safeguards which would prevent a nation which poses a threat to the United States from diverting critical technologies to military use, the difficulty in devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the re-export of critical technologies from noncontrolled countries to nations that pose a threat to the security of the United States. Such rules and regulations shall not assume that effective safeguards can be devised.

(C) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with this subparagraph and subparagraph (D). Any such extension and any subsequent extension shall not be for a period of more than one year. When imposing, increasing, or extending export controls for foreign policy purposes pursuant to the authority provided by this Act, the President shall consider—

(i) alternative means to further the foreign policy purposes in question;

(ii) the likelihood that foreign competitors will join the United States in effectively controlling such exports;

(iii) the probability that such controls will achieve the intended foreign policy purpose;

(iv) the effect of such controls on United States exports, employment, and production, and on the international reputation of the United States as a supplier of goods and technology;

(v) the reaction of other countries to the imposition or enlargement of such export controls by the United States; and

(vi) the foreign policy consequences of not imposing controls.

(D) Whenever the President imposes, increases, or extends export controls for foreign policy purposes pursuant to authority provided by this Act, he shall inform the Congress of his action within thirty days and, to the extent consistent with the national interest, make public a report specifying his conclusions with respect to each of the matters considered as provided in subparagraph (C) of this paragraph and indicating how such export controls will further significantly the foreign policy of the United States or fulfill its declared international obligations.

(E) The President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. With respect to controls imposed for national security purposes, a finding of foreign availability which is the basis of a decision to grant a license for, or to remove a control on the export of a good or technology, shall be made in writing and be supported by reliable evidence, such as a scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence. Where, in accordance with this paragraph, export controls are imposed for foreign policy or national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiations with the governments of such countries to prevent

such foreign availability. In any instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such foreign availability.

(b) (1) Except as otherwise provided in this Act, the Secretary of Commerce shall reorganize the Department of Commerce as necessary to effectuate the policies set forth in this Act. Subject to the authority of the Secretary of Defense under subsection (a) (2) (B) of this section, the Secretary of Commerce shall prepare and maintain a list of goods and technology the export of which from the United States, its territories and possessions, is prohibited or regulated pursuant to this Act. The Secretary shall issue regulations providing for review of such list not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, in order to carry out the policies of this Act, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that as part of such review, there shall be an assessment of the availability from sources outside the United States, its territories and possessions, of goods and technology in significant quantities and comparable in quality to those items included on such list. The provisions of this paragraph relating to revisions and changes in such list and assessment of foreign availability apply also to the functions of the Secretary of Defense under subsection (a) (2) (B) of this section. In order to further effectuate the policies set forth in this Act, the Secretary shall establish within the Office of Export Administration a capability for monitoring and gathering information on the foreign availability of goods and technology subject to export control.

Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, consistent with the protection of intelligence sources and methods, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office upon request or where appropriate shall furnish the information it gathers and receives to such departments and agencies.

(2) The Secretary of Commerce shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology.

(c) (1) (A) To effectuate the policies set forth in this Act, the Secretary of Commerce shall establish at least the following three types of licenses in addition to such other types as the Secretary may deem appropriate:

(i) A validated license.

(ii) A qualified general license.

(iii) A general license.

(B) As used in this subsection—

(i) a "validated license" is a license authorizing the export of goods or technology pursuant to an application by an exporter in accordance with rules and regulations issued pursuant to this Act. A validated license may be required for the export of goods and technology subject to multilateral controls in which the United States participates or as determined pursuant to paragraph (2) of this subsection;

(ii) a "qualified general license" is a license authorizing the export to any destination of goods or technology, or a class of goods or technology, subject to the conditions contained in rules and regulations issued pursuant to this Act, including conditions pertaining to approval of the particular consignee and end-use of the goods or technology. The goods and technology subject to control by qualified general license shall be determined pursuant to paragraph (2) of this subsection; and

(iii) a "general license" is a license authorizing the export of a class of goods or technology without specific approval if the export is effected in accordance with the conditions contained in rules and regulations issued pursuant to this Act.

(2) To effectuate the policies set forth in section 3 of this Act, it is the intent of Congress that the use of validated licenses be limited to the greatest extent possible to the control of the export of goods and technology which are subject to multilateral controls in which the United States participates. To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of other goods and technology, or more stringent controls than the multilateral controls, he will report to the Congress not later than six months after the date of enactment of this Act, and thereafter in each annual report, the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such control. It is further the intent of Congress that export controls which exceed the multilateral controls shall be effected to the greatest extent possible consistent with the purposes of this Act by means of qualified general licenses.

(3) Not later than sixty days after the date of enactment of this Act, the Secretary of Commerce shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.

(d) (1) (A) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this subsection.

(B) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

(C) To the extent necessary, the Secretary shall seek information and recommendations from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. These departments and agencies shall cooperate fully in rendering such information and recommendations.

(2) Within ten days after the date on which any export license application is received, the Secretary shall—

(A) send the applicant an acknowledgement of the receipt of the application and the date of the receipt;

(B) submit to the applicant a written description of the procedures required by this subsection, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

(C) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this subsection;

(D) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred; and

(E) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(3) In each case in which the Secretary determines that it is not necessary to submit an application to any other agency for its information and recommendations, a license shall be formally issued or denied within ninety days of the receipt of a properly completed application.

(4) In each case in which the Secretary determines that it is necessary to submit an application to any other agency for its information and recommendations, the Secretary shall, within thirty days of the receipt of a properly completed application—

(A) submit the application together with all necessary analysis and recommendations of the Department of Commerce concurrently to other appropriate agencies; and

(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be submitted to such other agencies with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(5) (A) Any agency to which an application is submitted pursuant to paragraph (4) shall submit to the Secretary, within thirty days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in subparagraph (B), any such agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(B) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in subparagraph (A) for submission of its recommendations that more time is required for review by such agency, such agency shall have an additional thirty-day period to submit its recommendations to the Secretary. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(6) (A) Within ninety days after receipt of other agency recommendations, as provided for in paragraph (5), the Secretary shall formally issue or deny a license. All agency reviews of preliminary decisions and appeals to the appropriate authorities set forth in this Act shall be accomplished within that ninety-day period. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendations of an agency advising on the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the ninety days provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(B) In cases where the Secretary receives questions or negative considerations or recommendations from other agencies advising on an application, the Secretary shall, to the maximum extent consistent with the national security or foreign policy of the United States, inform the applicant of the specific

questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(C) In cases where the Secretary has determined that an application should be denied, at the time of the formal denial, the applicant shall be informed, in writing within five days of such decision of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with national security and foreign policy, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this subsection, the applicant shall be informed in writing within five days of such deferral. The Secretary shall establish appropriate procedures for applicants to appeal such deferrals or denials.

(D) If the Secretary determines that a particular application or set of applications is of exceptional importance in complexity, and that additional time is required for negotiations to modify the application or applications, or otherwise to arrive at a decision, the Secretary may extend any time period prescribed in this subsection. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

(7)(A) Notwithstanding any other provision of this subsection, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(B) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be reviewed by him in order to make a determination referred to in subparagraph (A). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subparagraph and, not later than thirty days after notification of the request, shall—

(i) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(ii) notify the Secretary that he would recommend approval subject to specified conditions; or

(iii) recommend to the Secretary that the export of goods or technology be approved.

If the President notifies the Secretary, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(C) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this paragraph, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this subsection.

(D) Whenever the President exercises his authority under this paragraph to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any determination made by the Secretary of Defense pursuant to section 4(a)(2)(B) or 4(b)(1) of this Act with respect to list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

(8) In any case in which an application, which has been finally approved under paragraph (4), (7), or (8) of this subsection, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such paragraphs, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review.

(9) The Secretary and any agency to which any application is referred under this subsection shall keep accurate records with respect to all applications considered by the Secretary or by any such agency, including the factual and analytical basis for the decision, together with any dissenting recommendations received from any agency.

(10) The Secretary shall establish appropriate procedures for applicants to appeal denials of export licenses. In any case where the absence of a license approval exists because of agency action or inaction that clearly conflicts with the procedures, standards, or policies of this Act, the applicant may file a petition with the Secretary requesting that such action or inaction be brought in conformity with the appropriate provisions of this Act. When such petition is filed, the Secretary shall determine the validity of the petition and, if valid, shall take appropriate corrective action.

(e)(1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any goods (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy, or any sector thereof. Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act, and shall include the gathering of data concerning the volume of exports indicated under all contracts providing for the export of such goods following the date of the filing of the petition under section 8(a)(1). Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section 11(c) of this Act.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(f) In imposing export controls to effectuate the policy stated in section 3(2)(C) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees.

(g)(1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653) (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state to be refined and consumed therein, in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within three months following the initiation of such exports or exchanges, result in (a) acquisition costs to the refiners being lower than the acquisition costs such refiners would have to pay for the domestically produced crude oil in the absence of such an export of exchange and (b) that not less than 75 per centum of the savings shall be reflected in reduced wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such finding to the Congress and the report is approved in accordance with paragraph (3).

(3) The report of the findings of the President required by paragraph (2) shall be considered approved, and shall take effect at the end of the first period of sixty calendar days of continuous session of the Congress after such report is submitted, unless the House of Representatives and the Senate adopt a resolution during such period stating that it does not favor such findings. For the purposes of this paragraph—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than three days to a day certain are excluded in computing the sixty-day period.

(4) A resolution under paragraph (3) shall be considered in accordance with the procedures established by section 551 of the Energy Policy and Conservation Act.

(5) Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act; *Provided*, That the President promptly notifies Congress of each such agreement.

(h) Petroleum products refined in United States Foreign Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(C) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce may issue such rules and regulations as may be necessary to limit exports.

(i)(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in sections 3(2)(A) or (B) of this Act.

(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(C) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.

(3)(A) The Secretary of Commerce shall transmit to the House of Representatives and the Senate a summary of any proposed exercise of the authority conferred by this section with regard to agricultural commodities.

(B)(i) Except as provided in subparagraph (ii), such proposal shall not become effective if within sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, one House agrees to a resolution of disapproval and at the end of thirty additional such calendar days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

(ii) Notwithstanding subparagraph (i), if at the end of sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, neither House has agreed to a resolution of disapproval concerning such proposal, and the committee to which a resolution of disapproval concerning such proposal has been referred has not reported and has not been discharged from further consideration of such a resolution, such proposal shall be effective at the end of such sixty-day period or such later date as may be prescribed by such proposal.

(C) For the purposes of this chapter—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of calendar days of continuous session.

(D) The provisions of this section are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith;

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House; and

(iii)(I) resolutions of disapproval, and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the presiding officer of the Senate or of the House of Representatives to the appropriate standing committee of the Senate or the House of Representatives;

(II) if the committee to which a resolution has been referred does not report a resolution within forty-five calendar days of continuous session of Congress after the date of transmittal of the proposal to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution; and

(III) such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same proposal); and debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees.

An amendment to the motion is not in order.

(E)(i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

(ii) When the committee has reported or has been discharged from further consideration of a resolution with respect to a proposal, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order.

(iii) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order.

(j) Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.

(k) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary of Commerce, the Secretary of Defense, and Secretary of State pursuant to the provisions of this Act.

(l)(1) Any United States firm, enterprise, or other nongovernmental entity which, for commercial purposes, enters into an agreement with an agency of a government in another country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary of Commerce.

(2) The provisions of this subsection shall not apply to colleges, universities, or other educational institutions.

(3) The Secretary of Commerce is authorized to issue such rules and regulations as are necessary to implement the provisions of this subsection.

(m) The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for negotiations with other countries regarding their cooperation in restricting the export of goods and technologies whose export should be restricted pursuant to section 3(9) of this Act, as authorized under section 4(a)(1) of this Act, including negotiations on the basis of approved administration positions as to which goods and technologies should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

(n) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward reaching—

(A) an agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such list, and all changes thereto;

(B) an agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of providing guidance on export control policy issues to the Committee;

(C) an agreement to modify the scope of the export controls imposed by agreement of the Committee to a level accepted and enforced by all governments participating in the Committee; and

(D) an agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

(o) In order to assure that requirements for national security controls are removed when no longer necessary, the Secretary of

Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached, according to law, to remove or relax such controls. Consideration shall also be given by the Secretary, where appropriate, to removing site visitation requirements for goods and technology which are removed from the above-mentioned list unless objections described in this subsection are raised.

DISAPPROVAL OF LICENSE FOR THE EXPORT OF GOODS OR TECHNOLOGY TO COUNTRY WHICH SUPPORT ACTS OF INTERNATIONAL TERRORISM

SEC. 5. (a) The Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has made the following determinations:

(1) that such country has demonstrated a pattern of support for acts of international terrorism, and

(2) that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

(b) The President may suspend the applicability of paragraph (a) of this section with respect to any particular country or any particular transaction if he finds that the national interest so require.

(p)(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

(q)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, and such other countries as the President shall designate consistent with the purposes of this subsection 502(b) of the Foreign Assistance Act of 1961, as amended.

FOREIGN BOYCOTTS

SEC. 6. (a)(1) For the purpose of implementing the policies set forth in section 3 (5), (A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycottng country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms on or after June 22, 1978, other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than ninety days after the date of enactment of this section and shall be issued in final form and become effective not later than one hundred and twenty days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than one year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed one additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b)(1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(a) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that

section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) The provisions of this section and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 7. (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than thirty days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity; and (2) the effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PETITIONS FOR MONITORING OR CONTROLS

SEC. 8. (a) (1) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested. The petition shall include information reasonably available to the petitioner indicating (A) that there has been a significant increase over a representative period in exports of such material or commodity in relation to domestic supply, and (B) that there has been a significant increase in the price of such material or commodity under circumstances indicating that the price increase may be related to exports.

(b) Within fifteen days after receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported From the United States, (3) notice of whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) notice that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opportunity for oral presentation. At the request of the petitioner or any other entity described in subsection (a) (1) with respect to the material or commodity which is the subject of the petition or at the request of any entity represenative of the producers or exporters of such material or commodity, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period shall be extended to forty-five days.

(c) Within forty-five days after the end of the thirty-day or forty-five-day period described in subsection (b) or within seventy-five days of publication of the petition in the Federal Register, whichever is the later, the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; and

(2) publish in the Federal Register a detailed statement of the reasons for such determination.

(d) Within fifteen days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) For the purposes of publishing notices in the Federal Register and the scheduling of public hearings, the Secretary shall have the authority to consolidate petitions and responses thereto with respect to the same or related commodities.

(f) If a petition has been fully considered under this section and a notice has been published with respect to a particular commodity or group of commodities and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that a petition for monitoring or control of such commodity or commodities does not merit the full consideration mandated under this section.

(g) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(h) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a) (1) and the Secretary's determination under subsection (c) if the Secretary deems such action to be necessary to effectuate the policy set forth in section 3(2) (C) of this Act. If such authority is used the Secretary shall afford interested persons an opportunity to submit written comments thereon and such comments shall be considered by the Secretary in making the determination required under subsection (c) and in the development of any final regulations.

(i) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under section 4(e) (1) or any other provision of this Act.

(j) The provisions of this section shall not apply to any agricultural commodity.

(k) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicability of section 552(b) of title 5, United States Code.

CONSULTATION AND STANDARDS

SEC. 9 (a) In determining what shall be controlled or monitored under this Act, and in determining the extent to which exports shall be limited, and department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall fully cooperate in rendering such advice and information. Consistent with considerations of national security, the President shall seek information and advice from various segments of private industry in connection with the making of these determinations. In addition, the Secretary of Commerce shall consult with the Secretary of Energy to determine whether, in order to effectuate the policy stated in section 3(2) (C) of this Act,

monitoring or controls are necessary with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gassification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(b)(1) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary of Commerce shall include in the notice published in the Federal Register an invitation to all interested parties to submit written comments within fifteen days from the date of publication of the impact of such restrictions and the method of licensing used to implement them.

(c)(1) Upon written request by representatives of a substantial segment of any industry which produces goods or technology which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, or whenever he deems appropriate to further the purposes of this Act, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such goods or technology which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government, including the Departments of Commerce, Defense, and State, and, when appropriate, after Government departments and agencies. No person serving on any such committee who is representative of indsutry shall serve on such committee for more than four consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(e) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribes by the Secretary of Commerce, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each committee adequate information, consistent with national security and foreign policy, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary of Commerce that goods or technology are available in fact from sources outside the United States in sufficient quantity and of comparable quality so as to render United States export controls ineffective in achieving the purposes of this Act, and provides adequate documentation for such certification, the Secretary of Commerce shall investigate and report to the technical advisory committee on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a)(2)(E) of this Act.

(d) The Secretary of Defense shall have the same authorities and responsibilities as the Secretary of Commerce under paragraphs (1) through (5) of subsection (c) in order to carry out his responsibilities under this Act.

VIOLATIONS

SEC. 10. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both.

(c)(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the rules and regulations issued pursuant to section 5(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 6(a) of this Act may be imposed only after notice and opoprtunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 6(a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 11. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the

books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) Except as otherwise provided by the third sentence of section 6(b)(2) and by section 10(c)(2)(C) of this Act, information obtained prior to June 30, 1980, under this Act, which is deemed confidential, including Shippers' Expert Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552(b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Information obtained after June 30, 1980, under this Act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary of Commerce to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted.

Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 12. (a) Except as provided in section 10(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) It is the intent of Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered. The Secretary shall include in the annual report required by this Act a detailed accounting of the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of this subsection.

ANNUAL REPORT

SEC. 13. (a) The Secretary of Commerce shall make an annual report to the President and to the Congress on the implementation of this Act.

(b) Each annual report shall include an accounting of—

(1) actions taken by the President and the Secretary of Commerce to effect the anti-boycott policies set forth in section 3(5) of this Act;

(2) organizational and procedural changes instituted and any reviews undertaken in furtherance of the policies set forth in this Act;

(3) efforts to keep the business sector of the Nation informed about policies and procedures adopted under this Act;

(4) any changes in the exercise of the authorities of section 4(a) of this Act;

(5) the results of review of United States policy toward individual countries called for in section 4(a)(2)(A);

(6) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 4(a)(2)(B);

(7) actions taken pursuant to section 4(b)(1), including changes made in control lists and assessments of foreign availability;

(8) evidence demonstrating a need to impose export controls for national security or foreign policy purposes in the face of foreign availability as set forth in section 4(a)(2)(E);

(9) the information contained in the reports required by section 4(e)(2) of this Act, together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other nations in response to such shortages or increased prices;

(10) delegations of authority by the President as provided for under section 4(k) of this Act;

(11) the progress of negotiations under section 4(n) of this Act;

(12) the number and disposition of export license applications taking more than ninety days to process pursuant to section 4(d) of this Act;

(13) consultations undertaken with technical advisory committees pursuant to section 9(c) of this Act, the use made of advice given, and the contribution such committees made in carrying out the policies of this Act;

(14) violations of the provisions of this Act and penalties imposed pursuant to this Act; and

(15) any revisions to reporting requirements prescribed in section 11(d).

(c) The heads of other involved departments and agencies shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce to complete the annual reports.

DEFINITIONS

SEC. 14. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "goods" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data; and

(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves.

EFFECTS ON OTHER ACTS

SEC. 15. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) On October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1611–1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1980, unless previously and specifically authorized by legislation.

(b) There are authorized to be appropriated to the Department of Commerce $8,000,000 (and such additional amounts as may be neecssary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal year 1980 to carry out the purposes of this Act, of which $1,250,000 shall be available only for purposes of establishing and maintaining the capability to make foreign availability assessments called for by section 4(b)(1).

(c) There are authorized to be appropriated to the Department of Defense $2,500,000 for fiscal year 1980 to carry out its functions under subsection 4(a) of this Act.

EFFECTIVE DATE

SEC. 17. (a) This Act takes effect upon the expiration of the Export Administration Act of 1969.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), or the Export Administration Act of 1969 shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. 18. The authority granted by this Act terminates on September 30, 1983, or upon any prior date which the President by proclamation may designate.

The title was amended so as to read: "A bill to provide authority to regulate exports, improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the distinguished chairman of the Subcommittee on International Finance of the Banking Committee, Mr. STEVENSON, for his leadership and extensive work on the Export Administration Act of 1979. He has guided the Senate in its consideration of a matter of the most vital importance for our Nation.

The U.S. Government needs the authority to impose export controls for the purpose of pursuing national security, foreign policy, and domestic economic goals. Particularly in the area of critical technology, we require controls on exports which could make a significant contribution to the military potential of adversary nations. At the same time, recognizing that restrictions on U.S. exports from the United States can have serious adverse effects on our balance of payments and on the availability of jobs for American workers, we must strive to limit restrictions on exports to those absolutely necessary.

The Senator from Illinois, together with the ranking minority member of the subcommittee, Mr. HEINZ, and the other members of the Banking Committee, have carefully evaluated these issues. In developing the Export Administration Act of 1979, they sought to maintain the balance between our need to protect critical technology from our adversaries with the need to allow and encourage U.S. foreign trade.

Mr. President, the task before the drafters of S. 737 was no easy one. They are to be congratulated for a job well done.

Mr. MAGNUSON. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield to the Senator from Washington.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. MAGNUSON. Mr. President, as much as I hate to revive the Labor-HEW appropriations bill, I must.

This will correct a printing error in the bill.

It conforms with the action taken by the subcommittee, approved by the full committee, and explained fully on page 27 of the report.

Senator MATHIAS had moved this deletion of bill language in the committee. I believe Senator KASSEBAUM also had an interest in this matter.

While the committee was supportive of the "intent" of the House action, such a broad, all-inclusive prohibition went too far. The Department of HEW was offbase in their interpretation of existing law and corrective action is taking place.

This technical amendment will merely bring the Senate-passed bill into conformation with the action taken by the committee and adopted Thursday and Friday during consideration of H.R. 4389.

There is a printer's error in the Labor-HEW appropriations bill, H.R. 4380, which the Senate passed last night and I move the following technical amendment.

On page 53, strike out lines 8 through 11.

This was the intent of the Senate.

The amendment was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 263.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, my reservation was for the purpose of advising the majority leader that the calendar item is cleared on this side and we have no objection to consideration and passage.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. 195) waiving section 402 (a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1309.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. 195) was agreed to as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 1309. a bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program. Such waiver is necessary because S. 1309 authorizes the enactment of new budget authority that would first become available in fiscal year 1979, and the bill was reported after May 15, 1978.

S. 1309 is emergency legislation that would authorize increased appropriations for the 1979 food stamp program. The amount of appropriations currently authorized for the 1979 program will not be sufficient to provide participants in the food stamp program with full program benefits through the end of the 1979 fiscal year.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 30 minutes and that Senators may speak therein up to 15 minutes each.

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

The Senator from New York.

FORMER SECRETARY OF TRANSPORTATION BROCK ADAMS

Mr. MOYNIHAN. Mr. President, I rise to call attention and to pay tribute to an extraordinary act of political integrity and of constitutional insight that occurred yesterday when Mr. Brock Adams, formerly a member of the House of Representatives and until yesterday a member of the President's Cabinet as Secretary of Transportation, chose to leave the Cabinet rather than to submit to conditions which in his view were incompatible with the institution as we have known it and in which he has served with such distinction as Secretary of Transportation.

This morning, Mr. President, there was an editorial in The Washington Post praising the Transportation Secretary for his courage under pressure and the clarity of his understanding of his role.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

. . . AND A CLASS ACT AT DOT

Transportation Secretary Brock Adams acted with class. He was a good team player for two and a half years. But the president misjudged the man if he assumed that Mr. Adams would react gratefully or compliantly to the declaration that he could stay at DOT only if he would just jettison some of his top staff. Mr. Adams's reply was that he, too, had a few points to get settled before he made up his mind.

The most refreshing aspect of his rejoinder was that it reached beyond conflicts of personnel and personalities to the issues on which Mr. Adams has felt most frustrated: promotion of mass transit and development of a more efficient automobile.

On both questions, Mr. Adams has been very strong—and very right. He drove this region's Metro system through the most searching reexamination that it has ever received—because he wanted to ensure its success. For three years, too, he has been arguing for a larger federal investment in mass transit nationwide. Just last weekend it seemed that energy problems had finally

brought Mr. Carter around to that view. Then on Monday, officials from the White House and the Office of Management and Budget made frantic last-minute efforts to get the $1.7-billion Metro financing bill deferred in the House. And by Wednesday, Mr. Adams had been told that the president's commitment to a new, $10-billion mass-transit program did not mean a $10-billion increase in transit aid after all. So once again the secretary had to go up to Capitol Hill and defend the administration's backing-off.

It is no wonder that Mr. Adams got fed up with White House bungling and the OMB's penny-wise approach. By spelling out the causes of his discontent, he has left Mr. Carter doubly on the spot. Apparently DOT, an increasingly vital and visible department, is now to be managed largely from the White House; the new acting secretary, W. Graham Claytor, is serving only in an interim role. So the burden is now on Mr. Carter to clarify not only how that arrangement is going to work—but also what kinds of transportation policies are going to be pursued.

Mr. MOYNIHAN. Mr. President, the essence of the position that Mr. Adams took was that it was inappropriate for a Cabinet officer to be asked to report to a member of the White House staff rather than directly to the President. The specific situation arose when a member of the White House staff had instructed him that while he could remain in his recent Cabinet arrangement he would have to dismiss certain of the Presidential appointees who were in his Cabinet.

He took the position that he reported to the President and would abide by the President's wishes in any matter but that it was inappropriate to receive such instructions secondhand when this was to be institutionalized. Any such ordinary occasion such as messages can be transmitted. But the question is what is a Cabinet officer's position?

I believe Mr. Adams was right in this, and I think the American political institutions owe him a debt, if it may be said institutions owe debts. We who depend on such institutions owe him a debt.

Mr. President, perhaps it is not generally recognized, but the Cabinet is not an informal institution of American Government wholly malleable to the purposes of any particular President.

A Cabinet was very carefully foreseen in the constitutional convention. At one point a Council of Ministers of the executive department was envisaged to advise the President.

It finally was not done because it was felt the President should not have an inhibition on his power.

But article II, section 2, of the Constitution specifically provides the President:

> May require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices.

A head of an executive department is an officer and holds an office under the Constitution.

It was from the first assumed that they would meet in council with the President, although totally subject to his direction.

It is perhaps worth noting that Prof. Richard F. Fenno, Jr., in his fine work, a standard book, the book on the subject, The President's Cabinet, notes that in 1781 when we were still at war the Continental Congress established four executive departments, a Secretary of Foreign Affairs, a Superintendent of Finance, a Secretary of War, and a Secretary of Maine. This in itself was a departure.

In Britain at that time and under colonial governments, departments of this kind would be run by committees. The Prime Minister in England is merely the first Lord of the Treasury. The Lord of the Admiralty was a multiple leadership.

We chose to have single department heads and to have the President make such appointments.

This is a system that has endured for two centuries and has acquired traditions of which the most important, I think, is that a President may call any citizen of these United States and ask him to serve in the Cabinet with a high order of assumption that he will do so; that a Cabinet office is of such importance that no one capable of serving ought to reasonably decline and, with some exceptions, that has been our experience, I believe.

But it is no accident that within the very same week that these new arrangements appeared in the White House with respect to one of the senior departments, a department that was in the original Cabinet, two men of impeccable qualifications and demonstrated capacity and patriotism were offered that position by the President and declined, the new arrangements being such that while no one might decline to serve a President, anyone might feel free to decline to serve a Presidential aide, and the capacity of this Nation for governance is diminished when the range of persons who can be called upon to govern is so narrow.

I think this was the point which Mr. Adams made, and I rise simply to pay my respect to his unconcern for his personal position in face of the question of the integrity of so important an institution of Government.

I know if there were more persons on hand at this very late hour, they would wish to join me in expressing their admiration for the way in which a former Member of this Congress, Brock Adams, acquitted himself under circumstances of great personal difficulty.

I thank the Chair.

GROWTH IN THE PRESIDENTIAL STAFF

Mr. MOYNIHAN. Mr. President, in some supplementary remarks on the first budget resolution I drew attention to the observations of Arthur S. Link, the biographer of Woodrow Wilson, on the way the Presidency has been hampered by the extraordinary growth in Presidential staff.

This is not something about which one wishes to and would normally speak, but contrasting the experience of Wilson with the experience of our present President, two men with very similar interests and formations, Link describes Wilson's greater success and flexibility due to the fact that he did his own work, wrote his own speeches, made his own telephone calls to Congress with much greater success than, perhaps, so far agreed, with the institutionalized Presidency which becomes increasingly introverted and cut off from both the executive department and Congress itself.

Mr. President, I ask unanimous consent, in closing, that the passages in my remarks on the institutionalization of the White House be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Our objective, like the President's, was to carry out responsibilities more effectively; to get more work done. Any who question this need only consider in the exceptional talents and often heroic exertions of the staffs of the White House and the Congress. No two cadres in American society work harder. In the case of Congressional staff the exertions are compounded by no less incredible crowding.
>
> Yet it is necessary to ask just how effective these changes have been. Memories of the earlier era have quite vanished in the White House, and are fast fading on Capitol Hill. In such circumstances, historians are of help. To those interested, I would call attention to some recent observations of Arthur S. Link, the distinguished biographer of Woodrow Wilson. Professor Link notes that Wilson "had a very warm working relationship with Congress." Asked why such a relationship seems to elude President Carter—and, one might add, so many recent Presidents—Link replied:
>
> "The answer is complicated, but one main reason is the enormous White House staff, which has been a buffer in recent years between the President and Congress, and the people, too, and the heads of governmental departments. The President now has so many assistants of one kind and another that he spends his time running the staff, and the staff runs the country, or tries to. That was definitely not true in Wilson's time. . . .
>
> "A President with a staff of 400 has to spend most of his time dealing with that staff. You have to take the position that you are the leader. Truman put it very well: 'The buck stops here.' FDR had only two or three assistants in the White House before 1938."
>
> The common assumption, Link continues, that it "has to be this way" is simply wrong: "If we had a Wilson in the White House we'd see a dramatic change."
>
> This was not intended as personal criticism but was simply the observation of a wise and practiced historian concerning the effect institutions have on those who preside over them. Link concludes:
>
> "It's axiomatic today that the President has to have a battery of speechwriters. This began with FDR, and it's been assumed ever since that a President hasn't the time—or the capacity!—to write his own speeches. The whole office of the Presidency has become so bureaucratized and overstaffed that there isn't time for the President to perform a leadership role."
>
> "There isn't time." This is the heart of it. After a point—reached sooner, perhaps, than generally realized—increased assistance begins to defeat its purpose by consuming the very time and energy it was supposed to free up. The small group takes on a life of its own: it becomes an organization in its own right, and commences to behave like organizations behave.

FLEECE OF THE MONTH AWARD FOR JULY

Mr. PROXMIRE. Mr. President, yesterday I gave my Fleece of the Month Award for July—the first since the June 26 Supreme Court decision on this issue—to the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) for spending at least $6,000 to determine if pot smoking has a bad effect on scuba divers. While the amount may be relatively small, the taxpayers should get high over this one. One might seriously ask, "Were these trips really necessary?"

I intend to continue to issue the Fleece of the Month, to criticize vigorously the wasteful spending of public money, and to strive to be just as emphatic, vivid and, if possible, as humorous in the denunciation of waste as I can be.

The experiment was a minor part of an otherwise useful appearing $726,000 Federal grant, matched by $625,000 from the University of Hawaii, into human performance in the sea.

Ten pot-smoking men students aged 21 to 28 were recruited from a large class at the University of Hawaii. According to the published results entitled "Marijuana Smoking and Cold Tolerance in Man," appearing in the Journal of Aviation, Space, and Environmental Medicine:

> Specifically we were interested in cold stress similar to that encountered by scuba divers off Hawaii.

The effects of marihuana smoking after 1- or 2-hour exposures to both mildly cold water and cold air were undertaken.

After a preliminary hour's rest, the 10 were subjected to 1 hour immersions with only their heads above the 28°C (82.4°F) water. This was done three times, each on a separate day with a day in between, after smoking pot, after smoking a placebo, and after no smoking at all.

Similar cold air experiments were performed on the subjects lasting 2 hours in a chamber with the air temperature at 20° Centrigrade (68° Fahrenheit). Dressed only in bathing suits, they were hooked up to temperature gauges attached to nine parts of the body. In addition, breath holding tests taking from 15 to 30 minutes were involved.

While the body core temperatures were essentially unaffected, there were significant losses of body heat, elevated heart action, and shivering after smoking pot.

The diving aspects of the study were summarized as follows:

> Marijuana did not produce simple hypothermia [1] during cold exposure at rest, but it did increase heat production, probably due to more rapid and intensive shivering. Thus, it would appear hypothermia during diving is not anticipated. However, the consequences of tachycardia [2] due to marijuana interacting with diving bradycardia [3] may be consequential. Similarly, the observed increase in oxygen uptake might conflict with the normally higher $\dot{V}O_2$ during swimming. In either case, caution should be suggested until cannabis action on swimmers can be determined. (Emphasis in italics.)

[1] Subnormal temperature of the body.
[2] Swift action of the heart.
[3] Slow action of the heart.

In my view, the Government was at sea on this one. What the study tells us is that if you smoke pot, do not go swimming, scuba diving, or mountain climbing.

If there were an unlimited budget, perhaps it might be undertaken. But on the scale of national needs, this experiment seems to have a very low priority.

Mr. President, I think many Americans might be amused by this, but I think when we recognize the fact that two families, two typical American families, pay all of their taxes, $6,000, for an activity of this kind, I think it is an outrage, and I would hope that the agency would be more careful in the future in spending the taxpayers' dollar.

Finally, a word about costs. While no detailed figures for this specific part of the overall project were available, the Commerce Department estimated the cost at $6,000, which seems misleadingly low. Here is why.

Some seven professional researchers signed the academic article.

The 10 students were involved for more than 200 hours.

A similar amount of time was involved with the lab, breathing equipment, smoking equipment—spirometer techniques were used—et cetera.

The routine charges by universities for lab time, professional salaries, equipment costs, and overhead, apparently not available for this study, are not routinely insignificant.

All this, plus the cost of the pot itself—I am told $40 to $45 an ounce is not an unusual price—would indicate that, at best, the Department's estimate is based on the marginal rather than the total costs.

DR. A. AUSTIN PEARRE OF MARYLAND

Mr. MATHIAS. Mr. President, Mrs. Mathias and I were saddened today to learn of the death of Dr. A. Austin Pearre of Frederick, Md. Dr. Pearre died peacefully in his sleep last night after a lifetime of service to his friends and neighbors in the community in which he was born and spent his whole life.

"Success" is a word that can be applied to almost every aspect of Dr. Pearre's career. He was chosen by his colleagues as president of the Frederick County Medical Association and later elected president of the medical and chirurgical faculty of Maryland. He was never satisfied with his current level of knowledge and constantly enrolled in courses and programs that advanced his professional skill. "Success" to a physician does not, however, depend on such material factors, but rather upon the relief he brings to people who suffer the pain and fear of illness.

By this test, Dr. Pearre would be acclaimed an outstanding success by the thousands he helped restore to health, not only by treating their bodies but by calming their fears and raising their confidence.

Dr. Pearre took a long view of his profession. Many years ago he commented to me that the previous century of medical research had been devoted to the fight against infection, but that the next century would concentrate on body chemistry. As the miracles of medical science have continued to unfold they have underscored his insight and his accuracy.

But with all the recognition that Dr. Pearre received in his profession and for all the advanced training he disciplined himself to absorb, I personally think nothing better can be said of him than that he was the ideal "family doctor."

Our own family experience in benefiting from his skill and kindness is merely an example of many such relationships that made the community so dependent on him.

When I was a child my parents took me to see him for the usual variety of childhood complaints. He was my grandmother's doctor. He helped my father through his last illness and came to his beside at the time of his death. He continued to be my mother's doctor until his recent retirement and ever since has been on call for her when she needed him. He responded to the crises in our own lives whenever Mrs. Mathias and I called upon him whether the occasion was childbirth or bee stings.

And so I take this moment to bid farewell to Dr. Pearre and to express my appreciation not only for his work, but also for his example. His colleagues in the healing arts will do well to remember the standard of humane service rendered by Dr. A. Austin Pearre to the men, women, and children with whom he shared his life.

Mrs. Mathias and I want to express our sympathy to Mrs. Pearre and to the children and grandchildren who were Dr. Pearre's special pride and joy.

RESIGNATION OF SECRETARY CALIFANO

Mr. BAYH. Mr. President, it is with great regret that I note the resignation of the Secretary of Health, Education, and Welfare, Joseph A. Califano, Jr. As a member of the Labor-Health, Education, and Welfare Appropriations Subcommittee, I have had the opportunity to work closely with Joe Califano over the past 2½ years. There are few jobs in Washington more difficult or more often the subject of criticism than the job of Secretary of the Department of HEW. I feel that few have performed the duties of that office with greater skill or dedication than Secretary Califano.

He developed bold strategies for combating disease and serious illness. I applaud his efforts in calling for a national antismoking campaign. His program to educate young people, particularly teenage girls, to the potential health hazards associated with smoking is an important step toward ending our citizens' addiction to smoking and will eventually lead to a reduction of the large number of deaths annually linked to cancer. This program is not popular in many parts of the country, but Joe Califano had the courage to fight a serious health hazard affecting the people of the Na-

tion. We can ask no more of a dedicated public servant than to have him stand up for his beliefs, act on them, and then be prepared to accept any adverse reaction. None was more adamant than Joe Califano in pointing out the needless suffering from diseases such as lung cancer, heart disease and respiratory ailments linked to smoking.

Secretary Califano also worked diligently to control and reduce the rising costs of hospital care and was instrumental in the development of the administration's national health care plan. I strongly supported his program to reduce the high number of adolescent pregnancies. He was an experienced and professional administrator as illustrated by his efforts to reduce fraud in HEW and streamline many procedures within the Department. Joe Califano fulfilled his duties as Secretary for the administration with great energy and enthusiasm. He created new programs with bold brush strokes and always had a grasp of the diverse nature of the tasks ahead. He is an individual with a great sense of compassion and a strong commitment to improving the quality of human life in this country.

I wish Joe Califano the best in his future endeavors and am sure he will be successful in whatever he undertakes. Congress will miss his presence in the Government. We are all better off for having worked with him and known him. He has served his country as a dedicated American and future generations will live a better life because of his efforts. I am proud to know him as a friend.

JACOBO TIMERMAN

Mr. SARBANES. Mr. President, in April 1977, Jacobo Timerman, editor and publisher of the widely respected Argentine newspaper La Opinion, was kidnaped from his home in Buenos Aires and imprisoned. Although he was never formally accused of any crime, his case was heard, first by a military tribunal and eventually by the highest civilian court in Argentina, the supreme court. In both instances he was exonerated, ironically of charges never officially filed against him. Released from prison in April 1978, he has been held since that time under house arrest. Recently La Opinion, seized at the time of his arrest, was definitively confiscated by the Argentine Government. His children have emigrated to Israel. Jacobo Timerman, in poor health, separated from his family, and deprived of the right to speak through the newspaper which he established in 1969, is seeking to emigrate to Israel. Thus far his efforts have been callously rejected by the Argentine regime.

On June 17 of this year the Anti-Defamation League of the B'nai B'rith presented its third annual Hubert Humphrey Freedom Prize to Jacobo Timerman. The honesty and courage which have characterized Mr. Timerman's distinguished career as a journalist certainly made him a clear choice to receive the prize, which was established in Senator Humphrey's memory "to give public recognition and honor to individuals and institutions who have made significant and lasting contributions to the protection and advancement of freedom of the press." Because the house arrest of Mr. Timerman obviously precluded him from making the trip to New York to receive the award in person, it was accepted on his behalf by his son Hector Timerman.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement made by Benjamin R. Epstein, executive vice president of the Anti-Defamation League Foundation and for many years the extraordinarily able executive director of the ADL, in presenting the Hubert H. Humphrey Freedom Prize in abstentia to Jacobo Timerman, along with Hector Timerman's moving response in accepting this award on behalf of his father.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PRESENTATION TO HECTOR TIMERMAN

(By Benjamin R. Epstein)

I am here representing the family of Dwayne Andreas whose foundation has endowed the Hubert H. Humphrey Freedom Award.

Someone is missing from this luncheon.

He was supposed to be here. He was invited. He just couldn't make it. Not because he didn't want to. He would have loved to be with us.

He's not here because he has been prevented from attending.

Instead, he is in prison. The fact that the prison is his own home does not make it any less a prison because it has become a place of confinement. It is a jail just as if its doors were iron gates and its windows barred.

That man who should be here is named Jacobo Timerman.

Although his person is incarcerated in Argentina, his name and fame have crossed international borders. He has come to symbolize the world wide struggle for freedom of the press. Of more than 600 journalists and writers who at this very moment are victims of repressive government action in some 55 countries, he is the most prominent and his case the most outstanding. He is one of 119 Argentinian journalists—the best and brightest of the country's newspapermen—who have been either imprisoned, placed under house arrest, or forced into exile.

Why did it happen to him? Why was he, the founder of two weekly magazines and the independent newspaper La Opinion, dragged from his home by a group of armed men on the morning of April 15, 1977? Why, if no charge was brought against him then or since, did he spend the next year in prison? Why was he tortured and stripped of his civil rights? Why is he under house arrest if the military tribunal which tried him found no evidence linking him to subversion?

The answer to these questions? There has been no answer. So far as anyone can determine he is an Argentinian Jew who has been a conscientious newspaperman doing an exemplary journalistic job which managed to shock and offend the powers that be in Buenos Aires.

I have searched my mind for a parallel in history. Is his case like that of the American, Peter Zenger? Not quite. Zenger was permitted to plead his case and defend his right to press freedom! Timerman did not get his day in court.

Is there a closer parallel to the French Dreyfus case? The unspoken charge against Captain Dreyfus was that he was a Jew. Is it thus with Timerman? But Dreyfus was brought to trial, and though falsely convicted was able to defend himself, to bring the anti-Semitic charges out into the open, and ultimately win his freedom.

Not so with Timerman! He has had no day in court. In fact, the Supreme Court of the Argentine has decreed that there is no basis in law, no charges have been presented, and there are no grounds for detaining him. The anti-Semitism has not come out into the open, but it lurks in the shadow behind the official silence.

Because he is forcibly detained, he cannot be with us to accept the Hubert H. Humphrey Award for his devotion and dedication to a free press. He is absent even though permission for his presence was requested from President Jorge Rafael Videla of Argentina. Regrettably, there has been no answer to this request either.

Therefore, as we did with Anatoly Scharansky who is held in a Soviet Gulag, this presentation must be made in absentia.

Fittingly, a son will stand in for his father.

This is not the first time Hector Timerman, who flew here from Israel, has substituted for his father. He took over the editorship of La Opinion when Jacobo Timerman was arrested, a most courageous act under the circumstances.

He remained in that post until the military junta expropriated the paper and it became apparent that he, too, might be marked for imprisonment.

Fortunately, he was able to leave for Israel, where he now lives.

I hope that soon he and his father will be reunited so that he can pass on to him this very richly merited award that we are now presenting.

STATEMENT OF HECTOR TIMMERMAN, UPON ACCEPTING THE HUBERT HUMPHREY FREEDOM PRIZE

For reasons which are publicly known, I've come in behalf of my father to receive and thank you for the Hubert Humphrey award bestowed upon him.

When I told him about his having been awarded such honor, his remark was "Once again Hubert Humphrey comes out to defend a man persecuted for his struggle for freedom".

Political instability and ideological confrontations have always been one of the features in most Latin American countries. Fear and prejudice, passion and vested interest, economic inequality and social frustration have contributed to build up in this continent's countries, which lacking a democratic tradition, a climate of violence which, in the last few years, has grown into terrifying proportions.

And it is in such climate wherein a journalist in Argentina has to cope with the hard, thankless and dangerous task of bringing back a sane attitude, an attitude of peaceful coexistence among citizens, of respect for human rights and of denunciation of violence.

And because, for painful reasons, I have the honor of receiving the award in my father's name, allow me to—modestly but justly—point out that Jacobo Timerman fulfilled this aim fervently and passionately, without letting himself be discouraged by threats both from the right and the left wings.

I know for certain that he had the opportunity to safeguard his own interest, and avoid a painful imprisonment; however, he chose to fight for his principles and the values advocated by him. No other way for someone who decided "to your own self be true" as well as true to the world he believed in.

Jacobo Timerman was imprisoned by the Argentine authorities, charged with numerous and terrible crimes. None, however, could be proved in any way whatsoever by the Military Court which tried him. The military courts said he should be released.

My father has been imprisoned for over two years, and up to this day the authorities in Argentina have been unable to explain the reasons for his arrest. I can tell you he is a

political prisoner. But there were not only political reasons which caused my father's arrest and the fact that the same authorities ignored the order for his release, issued by the Supreme Court of Justice, the highest judicial power in Argentina.

There is another conspicuous reason, a well-known one, and one which arose during the frightful questioning he was subject to. Jacobo Timerman is a Jew. Among the absurd humbugs woven about him and the arbitrary, never-proven charges, my father was questioned about his links with the Elders of Zion and his activity in behalf of projects for world dominance by the jews.

To defend democratic principles was already a serious crime; but for a jew to do so caused an impact exceeding the acceptance capabilities of some military leaders of Argentina. Only in a country wherein antisemitism is well-rooted, where it is attempted to deny to the jews the right to take part, as any other citizen, in the political activities, can official enquirers pose such unheard of questions.

As a member of the Argentine Jewish Community, my father's activity is open and well-known. The newspaper "La Opinion", which he founded and managed up to the time of his arrest, did at all times defend the interests of the country's jewish community and resolutely waged war against manifestations of antisemitism as well as the restriction of political rights of jews and their status as a national minority.

In the climate of prejudice and antijewish hostility endured in Argentina, such attitude requires unique daring. According to the criteria of the rulers, his daring could not be left unpunished.

Jacobo Timerman is paying the high, the painful price for such attitude, both as a man and as a jew.

A contemporary thinker stated that "violence is unlearned"; and my father had chosen the dangerous road of letters.

I thank the antidefamation league of the B'nai Brith authorities, consistent fighters for human rights and against discrimination, for having decided to bestow the Hubert Humphrey award upon my father as a symbol of persecuted and discriminated men, and as a protest against the conspicuous violation of human rights in Argentna.

OIL IMPORTS QUOTAS

Mr. THURMOND. Mr. President, the American people have, once again, had the opportunity to hear President Carter's comments about this Nation's energy problems. He correctly identified the energy crisis as real and as a clear and present danger to our Nation. He further emphasized that our dependence on foreign oil threatens our economic independence and the very security of the United States.

Mr. President, while the administration's emphasis seemed correctly placed, we still heard only generalities with respect to positive programs. Hopefully, the much needed specifics of these general program suggestions will be provided soon.

Mr. President, I rise today to comment briefly regarding two points of President Carter's remarks. One, that this Nation will never again use more foreign oil than we did in 1977 and, second, that he will set import quotas to insure a reduction in imports of foreign oil. Certainly these are important and meaningful goals and we of the Congress will be watching very carefully the implementation of these import quotas and restrictions.

One decade ago, following extensive hearings in several committees of the Senate, there was a forceful, but unsuccessful warning given by several distinguished Senators—and I refer most particularly to the efforts led by Senators Hruska and Dirksen—that the removal or relaxation of oil import quotas would be severely detrimental to this Nation's economy, to the national security, and to the consuming public. This warning went unheeded by the Democratic and liberal Members of the Congress. Thus, for 10 years, we have experienced this continually worsening energy situation that could, and should, have been avoided.

Mr. President, we face today an energy crisis that is several orders of magnitude greater than that of a decade ago. We must meet resolutely the hard decisions that will move this Nation toward economic independence with respect to energy. It is most regrettable that the lack of appropriate action over the past decade has been so costly to this Nation and its effects will continue to plague us for many years in the future. We must, however, no longer delay the development and implementation of effective energy measures that will once again provide our American citizens with their rightful rewards in terms of energy supplies for their everyday needs and the needs for our Nation's security and economic independence.

Mr. President, in order that my colleagues might have the opportunity to review the pertinent and still relevant comments made on this issue by Senator Hruska nearly a decade ago, I ask unanimous consent that this opening statement to the March 3, 1970, hearings before the Senate Subcommittee on Antitrust and Monopoly be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. THURMOND. Mr. President, I look forward to joining with my fellow Senators in the development of positive and effective programs that will meet this Nation's energy needs.

EXHIBIT 1

OPENING STATEMENT OF SENATOR ROMAN HRUSKA

President Richard M. Nixon, on February 9, received the task force report on oil import control from Secretary George Shultz, whom he appointed last March as the chairman of a seven-Cabinet-member task force. This task force was the first Cabinet-level study on the subject since its inception in 1959. The report was not unanimously agreed to by the seven members and no one expected such agreement. I quote from the President's message of February 20, 1970:

"Reasonable men can and will differ about the information, premises, and conclusions contained in the report. None, however, can fail to be impressed by the depth and breadth of this study . . .

"It is not surprising that the members of the task force did not reach unanimous agreement on a set of recommendations. The conclusions reached by the Secretary of Commerce and the Secretary of the Interior differ sharply from those reached by the remaining five members of the task force.

"Among the majority there is also divergence of views with the Secretaries of State and Defense expressing particular concern over the implications of the report's conclusions for the Nation's security and our international relations."

As I view the above quotes and the general message of the President, I conclude that a plan was not submitted to the President which he could put into immediate operation. But, the report did refer to several items and he acted immediately as I will note later. However, a report was submitted to the President, though not complete, but one that raises pertinent issues requiring further study and attention.

I shall briefly refer to some of these issues that I consider pertinent:

(1) The issue of the advantages in substituting tariffs for the present quota system. Discussions with our neighbors and our allies as recommended by the report could have a significant impact on the issue. So could a further study of the issue by the new management system that has been recommended and immediately put into effect by the President.

(2) The question of national security in its fullest application under existing law.

(3) The issue of pollution and the alternative products needed, such as no-lead gasoline, to reach future goals for lessening pollution.

(4) What impact has the Tax Reform Act passed by the 91st Congress on domestic oil production, exploration, reserves, and their appropriate place in the national security issue. This issue is significant because at page 166 of the appendix of the report, reference is made to "tax incentives" as point 6 of report on energy supplies and resources policy issued on February 26, 1955, at the White House.

The President responded immediately to the areas of agreement that a new management system be inaugurated to set policy for an oil import program. He ordered the director of the Office of Emergency Preparedness to chair an interdepartmental panel which will initially include the Secretaries of State, Treasury, Defense, Interior, and Commerce, the Attorney General, and the Chairman of the Economic Advisers.

The President noted further that while the day-to-day administrative functions will continue to be performed by the Oil Import Administration of the Department of Interior, the policy direction, coordination and surveillance of the program will be provided by the Director of OEP, acting with the advice of this permanent oil policy committee.

I read with interest the press conference on the task force report where Presidential Assistant Peter Flanigan spoke for the administration. Several of the questions by reporters referred to why do you need to study the whole thing.

The answer was clear that "we are not going to restudy the whole thing," and "the study suggested, one, that there be created this management system, and two, the results of this study is the recommendation that before anything is done, we have discussions with Canada regarding the common energy policy, and Mexico, and that we have discussions with our allies and other affected nations."

I ask unanimous consent that the President's statement, the press conference statement and the summary guide to task force report on oil import control be placed at the conclusion of my statement.

We all recall that President Nixon, about 1 year ago, reinvested in the President the responsibility to make the decisions in dealing with the mandatory oil import program, which responsibility President Johnson had placed in the hands of the Secretary of Interior.

Hence, the President has the sole responsibility of making the decisions under existing law. He has been and is aware of the many public hearings by the Interior committees of both Houses and by the Finance and Ways and Means Committees in the past few years pertaining to the changes in the

mandatory oil import quota program created by Presidential proclamations in the Johnson administration. President Nixon acted promptly to appoint that task force on March 23, 1969, and he acted quickly on February 20 of this year, 11 days after receiving the report. He has made his decision.

The President also stated:

"The Congress properly has a vital interest in this program which affects every area of our country and many facets of our economy. Committees of both the House of Representatives and the Senate have indicated interest in holding hearings on the oil import program and any recommended changes in it. I expect much additional valuable information will result from these Congressional hearings, and I direct the Oil Policy Committee to carefully review all such information."

Thus, we of the Congress must devote our efforts toward legislative action, if any is needed. This subcommittee held 19 days of hearings in 1969 on the oil import quota program. At times the subcommittee went far afield in areas which belong, under our rules, to other committees which live regularly with the specific problems discussed in our subcommittee. As I noted earlier, those committees held hearings of the dangers created by opening up the oil import quotas from the established figure of 12.2 percent of U.S. crude production to approximately 20 percent of U.S. crude production. Predictions were that the percentage would go higher.

Reports of those committees sustained the fears of the dangerous impact of the removal of import quotas on the all-inclusive national security issue.

Among us today is Secretary Shultz, the task force chairman. He has with him some of his advisers during the study. The report speaks for itself. The divergent views of the various members speak for themselves. This raises the question of why then does the Senate Antitrust Subcommittee call Secretary Shultz when the report speaks for itself and he has many other things of significance for his immediate attention.

Certainly, the subcommittee has no legislative jurisdiction over the Senate bill S. 3477, introduced by Senators Stevens and Bellmon. This bill will impose statutory quotas on imports of petroleum, et cetera, and has been referred to the Finance Committee under our rules.

It is my understanding that the Senate Finance Committee will conduct hearings on these issues this month.

With the members of the Senate being pressed with daily and Saturday sessions, and with many committee and subcommittee hearings so early in this session, I was hoping that the antitrust subcommittee would leave the oil import control issue to the appropriate legislative Senate committee. However, I reluctantly agreed not to oppose this 1-day hearing from being held, but that is as far as my agreement shall go, because I believe this subcommittee is setting a bad precedent to continue to inject itself in this area for the reasons noted above.

MARSHALL SPACE FLIGHT CENTER

Mr. STEWART. Mr. President, 10 years ago today this Nation watched with wonder, anxiety and pride as an American citizen planted a flag on the surface of the moon. That was an accomplishment of such scientific and technological genius that I sincerely doubt its impact will be equaled in our generation.

I am rising today to recognize not only American ingenuity. I don't think too many folks will argue with the fact that it really takes a total national commitment to land a man on the moon. I am also rising to remind my colleagues of the invaluable role Alabama played in the Apollo 11 mission. For it was the Marshall Space Flight Center, which is located in Huntsville, Ala., that literally catapulted mankind into its greatest space adventure.

The Saturn V rocket—which stands 363 feet tall and weighs 6.5 million pounds at full load—was developed by the National Aeronautic and Space Administration at the Marshall Center, under the leadership of the internationally recognized rocket pioneer, Dr. Wernher von Braun.

While Marshall itself played a number of key roles in the drama that unfolded around the Saturn V program, it was the center's program-management philosophy that was perhaps the prime element in the successful development of the launch vehicle. For Marshall personnel were involved in virtually every phase of the development process, from qualification testing to systems engineering to program control and budgeting to actual flight operations.

But, Mr. President, it did not stop there. The center took an active role in the design and development, the checkout and tests and the fabrication and transportation of all stages, engines and instrument units for the Saturn V. The first four stages of the vehicle, two designed for testing and two designed for flight, were manufactured at Marshall.

And, as if all that were not enough, the Marshall Center was responsible for managing the transportation of the Saturn V hardware. This proved to be a massive understanding, requiring a fleet of cargo airplanes and a fleet of ocean-going barges to transport the stages, engines, instrument units and other hardware among manufacturing sites, test facilities and launch facilities.

Mr. President, Marshall rose to the occasion with resounding success. The launch vehicle that the center produced was tested five times before the Appollo 11 mission, and from its very first flight, the Saturn V performed successfully. The first two of these tests were unmanned, followed by three manned flights, one in near-Earth orbit and two to the vicinity of the moon.

Then, of course, came the launch of Apollo 11 and, as they say, the rest is history.

But Marshall's role in American scientific genius did not end with the Apollo program. And while the center has played a key role in the Space Shuttle program, the benefits it affords for the future should not be underestimated. During a recent tour of the installation, I saw some significant projects that could have an important role on our energy planning for the future.

So, Mr. President, the Marshall Space Flight Center and the people of Alabama have cause to be proud today. For the support and faith of the folks of Huntsville, Madison County and the entire State contributed to an endeavor so incredible that its impact will be felt forever.

THIRD PARTY PRIVACY ACT: A BILL WHOSE TIME HAS COME

Mr. PERCY. Mr. President, recently, lawyers' offices in Los Angeles, Calif., and St. Paul, Minn., were visited unannounced by law enforcement officials representing State or local prosecutors. The officers brought warrants to search the lawyers' offices. These attorneys had no warning. They were not suspected of committing any crime. The law enforcement officials did not know that the attorneys would withhold the evidence of alleged crimes being sought.

To the attorneys whose private offices were searched, it may well appear that their constitutional rights to protection against unreasonable search and seizure were violated. However, under a recent Supreme Court decision, Zurcher against Stanford Daily, law enforcement officials can search and seize, as long as they have a warrant, virtually anywhere they wish—from an attorney's office to that of a psychiatrist.

It is for these reasons that I enthusiastically join my distinguished colleague, Senator MATHIAS, in cosponsoring S. 115, the Third Party Privacy Act of 1979.

This bill is urgently needed to protect the rights of all Americans, for a gaping hole in the protection against unreasonable searches has been opened by the Supreme Court in the Zurcher case. In that case, the Court held that police, as long as they had a warrant, could conduct surprise searches of a newsroom for evidence of a crime even though no one in the office to be searched was suspected of any complicity in the crime.

These police raids, increasing in frequency since the Zurcher decision, conjure up an America we never knew before, where the press is no longer free and the sacred privileges of privacy are sacrificed without probable cause to limit such rights.

The Third Party Privacy Act would protect all citizens—journalists as well as accountants, physicians, lawyers and social workers, to name a few—from a Zurcher-type raid. Law-abiding citizens who are not suspected of a crime should be able to challenge the Government's demands for evidence and should be permitted to provide such evidence without being searched. This is simple due process. It is our obligation in the Congress to insure that those who enforce the law respect the dignity of those who abide by it.

This bill requires Federal, State, and local law enforcement officials to first obtain a subpena for evidence of a crime when it is believed to be in the possession of someone not connected with the crime. The measure would still allow police to obtain a search warrant if probable cause can be established that the evidence is contraband or that it would be destroyed, hidden or removed.

A subpena would provide prior notice to the individual or organization, enabling a legal challenge if the subject of the search chooses to do so. At the same time, this due process guarantee would permit the subject of the subpena to voluntarily produce the evidence requested without suffering the indignity

of a legally warranted but procedurally unnecessary search.

I believe that the Zurcher decision has diluted the protection of private citizens against unreasonable searches. Restoration of this protection is up to the Congress. As Justice Byron White said in his majority opinion, nothing in the Constitution prevents Congress from providing more protection than the Court found for innocent third parties in the first and fourth amendments. Clearly, Congress has an obligation to close the doors to our homes, offices, and newsrooms thrown open by the Court.

The gradual erosion of our rights to privacy must be stopped now.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEVIN, from the Committee on Armed Services, without amendment:

S. Res. 202. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 111. Referred to the Committee on the Budget.

By Mr. LEVIN, from the Committee on Armed Services, with an amendment and an amendment to the title:

H.R. 111. An act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977 (Rept. No. 96-255).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WILLIAMS (for himself, Mr. BAKER, Mr. BRADLEY, Mr. CRANSTON, Mr. JAVITS, Mr. METZENBAUM, and Mr. SARBANES):

S. 1552. A bill to amend the copyright law, title 17 of the United States Code, to create public performance rights with respect to sound recordings, and for other purposes; to the Committee on the Judiciary.

By Mr. EAGLETON (for himself, Mr. WILLIAMS, Mr. JAVITS, Mr. INOUYE, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. LUGAR, Mr. RIEGLE, and Mr. TSONGAS):

S. 1553. A bill to amend the Higher Education Act of 1965 to establish a system of grants or urban universities; to the Committee on Labor and Human Resources.

By Mr. DURKIN:

S. 1554. A bill to amend title II of the Social Security Act to provide that renewal commissions, received by a retired insurance agent from insurance policies which were sold by him before his retirement, shall not be taken into account in determining his net earnings from self-employment for purposes of the earnings test; to the Committee on Finance;

S. 1555. A bill to provide a program for the rehabilitation of the Nation's railroads; to the Committee on Commerce, Science, and Transportation;

S. 1556. A bill to provide for grants to the States to employ State foresters, to provide for a current determination of the number of woodlot owners in each State, to provide for the availability of forest fuel utilization training, and to increase the assistance and information provided by the Department of Energy to the Forest Service and by the Small Business Administration to small woodlot owners and wood fuel distributors and marketers; to the Committee on Agriculture, Nutrition, and Forestry;

S. 1557. A bill to authorize construction of a turnaround basin on the Piscataqua River, Portsmouth, N.H.; to the Committee on Environment and Public Works;

S. 1558. A bill to amend the Federal Power Act to permit the Federal Energy Regulatory Commission to enter into agreements with States under which State authorities may exercise the licensing authority of the Commission with respect to small hydroelectric projects at existing dams, and for other purposes; to the Committee on Energy and Natural Resources; and

S. 1559. A bill authorizing a study to develop small hydroelectric projects for rural areas or communities; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WILLIAMS (for himself, Mr. BAKER, Mr. BRADLEY, Mr. CRANSTON, Mr. JAVITS, Mr. METZENBAUM, and Mr. SARBANES):

S. 1552. A bill to amend the copyright law, title 17 of the United States Code, to create public performance rights with respect to sound recordings, and for other purposes; to the Committee on the Judiciary.

SOUND RECORDING PERFORMANCE RIGHTS AMENDMENT

● Mr. WILLIAMS. Mr. President, I am pleased to introduce legislation today to remedy a long-standing inequity in the copyright laws of this Nation. My bill, S. 1552 would create a performance right in sound recordings.

The sound recording is the only copyrighted product that does not now have a performance right.

This measure would, for the first time, require broadcasters and others who use sound recordings for their profit to compensate performers, musicians and record companies for the exploitation of their creative efforts. Seventy-five percent of all radio broadacst time sold to advertisers is devoted to playing sound recordings. As it is, broadcasters already pay for all their other types of programing—sports, news, disc jockeys, even the publishers and composers of the musical compositions underlying the records they play. It is only appropriate that broadcasters likewise pay for the prime programing material they use to secure their audiences, advertising revenues and equity values.

At one time, broadcasters did pay for "live" performers. Many radio stations employed musicians and vocalists as "staff." These artists have now been replaced by their own recordings.

Who knows what kind of "technological unemployment" we will see in the future if we do not enact a performance right. Who knows what developments technology will bring. Imagine what would have happened to the movie industry if motion pictures had not had a performance right, and television stations were free to broadcast movies at will, without compensation to the creators.

The Register of Copyrights said it exceptionally well when she explained why Congress should create a performance right in sound recordings:

> The lack of copyright protection for performers since the commercial development of phonograph records has had a drastic and destructive effect on both the performing and the recording arts. . . . It is too late to repair past wrongs, but this does not mean they should be allowed to continue. Congress should now do whatever it can to protect and encourage a vital artistic profession under the statute Constitutionally intended for this purpose: the copyright law.
>
> Broadcasters and other commercial users of recordings have performed them without permission or payment for generations. Users today look upon any requirement that they pay royalties as an unfair imposition in the nature of a "tax." However, any economic burden on the users of recordings for public performance is heavily outweighed, not only by the commercial benefits accruing directly from the use of copyrighted sound recordings, but also by the direct and indirect damage done to performers whenever recordings are used as a substitute for live performances. In all other areas the unauthorized use of a creative work is considered a copyright infringement if it results either in damage to the creator or in profits to the user. Sound recordings are creative works, and their unauthorized performance results in both damage and profits. To leave the creators of sound recordings without any protection or compensation for their widespread commercial use can no longer be justified.

It is for these reasons and others that the performance rights principle has received the strong endorsement of such diverse groups as the AFL/CIO, the American Federation of Musicians, the American Federation of Television and Radio Artists, the Consumer Federation of America, the Recording Industry Association of America, Actors' Equity, the Screen Actors Guild, the National Endowment for the Arts, the American Council for the Arts, the Department of Commerce, the copyright section of the American Bar Association, the National Citizens Communications Lobby, and the Copyright Office.

The royalty rate in S. 1552 is fair and easily affordable. The National Radio Broadcasters' Association admitted as much in a congressional hearing last year. The maximum royalty provided for in the bill is 1 percent of the advertising receipts for a station with revenues of more than $200,000 a year. For the great number of stations with lesser revenues—61 percent of the stations nationwide—only a token royalty fee is required: Stations with revenues between $100,000 and $200,000 pay only $750 a year. Stations

with revenues under $100,000 pay only $250. Stations with revenues under $25,000 are totally exempt from the royalty payment.

In any event, these added expenses properly would be passed along to advertisers who benefit from the enormous audiences that recorded music draws to radio. Thus, the minimal fee should have little, if any, impact on broadcasters' profit picture. The Copyright Office so concluded in a study of the performance rights issue commissioned by Congress.

In addition to the royalties earned from radio stations, American performing artists and copyright owners would, for the first time, be eligible to receive performance royalties from abroad. Virtually every other nation in the Western world recognizes a performance right in sound recordings, yet the nation whose music dominates the world has no equivalent right. Enactment of this legislation would put the United States back in step with the rest of the world.

The time has come for the enactment of this legislation. It has already been the subject of intensive study and extensive debate. The scholarly report prepared by the Copyright Office analyzing the subject in comprehensive detail emphatically endorses the creation of a performance right in sound recordings.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Sound Recording Performance Rights Amendment".

SEC. 2. Section 101 of title 17 of the United States Code is hereby amended by deleting the definition of "perform" and inserting the following:

"To 'perform' a work means to recite, render, play, dance, or act it, either directly or by means of any device or process. In the case of a motion picture or other audiovisual work, to 'perform' the work means to show its images in any sequence or to make the sounds accompanying it audible. In the case of a sound recording, to 'perform' the work means to make audible the sounds of which it consists.".

SEC. 3. Section 106 of title 17 of the United States Code is hereby amended by deleting clause (4) and inserting the following:

"(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, motion pictures, and other audiovisual works, and sound recordings, to perform the copyright work publicly; and"

SEC. 4. Section 110 of title 17 of the United States Code is hereby amended as follows:

(a) in clause (2) insert the words ", or of a sound recording," between the words "performance of a non-dramatic literary or musical work" and "or display of a work,";

(b) in clause (3), insert the words "or of a sound recording," between the words "of a religious nature," and the words "or display of a work,";

(c) in clause (4), insert the words "or of a sound recording," between the words "literary or musical work" and "otherwise than in a transmission";

(d) in clause (6), insert the words "or of a sound recording" between the words "nondramatic musical work" and "by a governmental body";

(e) in clause (7), insert the words "or of a sound recording" between the words "nondramatic musical work" and "by a vending establishment";

(f) in clause (8), insert the words "or of a sound recording embodying a performance of a nondramatic literary work," between the words "nondramatic literary work," and "by or in the course of a transmission"; and

(g) in clause (9), insert the words "or of a sound recording embodying a performance of a dramatic literary work that has been so published," between the words "date of the performance," and the words "by or in the course of a transmission".

SEC. 5. Section 111 of title 17 of the United States Code is hereby amended by inserting, in the second sentence of subsection (d)(5)(A), between the words "provisions of the antitrust laws," and "for purposes of this clause" the words "and subject to the provisions of section 114(c),".

SEC. 6. Section 112 of title 17 of the United States Code is hereby amended as follows:

(a) in subsection (a), delete the words "or under the limitations on exclusive rights in sound recordings specified by section 114(a)," and insert in their place "or under a compulsory license obtained in accordance with the provisions of section 114(c)," and

(b) in subsection (b), delete the reference to "section 114(a)" and insert "section 114(a)(5)".

SEC. 7. Section 114 of title 17 of the United States Code is hereby amended in its entirety to read as follows:

"§ 114. Scope of exclusive rights in sound recordings

"(a) LIMITATIONS ON EXCLUSIVE RIGHTS.—In addition to the limitations on exclusive rights provided by sections 107 through 112 and sections 116 through 118, and in addition to the compulsory licensing provisions of subsection (c) and the exemptions of subsection (d) of this section, the exclusive rights of the owner of copyright in a sound recording under clauses (1) through (4) of section 106 are further limited as follows:

"(1) the exclusive right under clause (1) of section 106 is limited to the right to duplicate the sound recording in the form of phonorecords, or of copies of motion pictures and other audiovisual works, that directly or indirectly recapture the actual sounds fixed in the recording;

"(2) the exclusive right under clause (2) of section 106 is limited to the right to prepare a derivative work in which the actual sounds fixed in the sound recording are rearranged, remixed, or otherwise altered in sequence or quality;

"(3) the exclusive right under clause (4) of section 106 is limited to the right to perform publicly the actual sounds fixed in the recording.

"(4) the exclusive rights under clauses (1) through (4) of section 106 do not extend to the making, duplication, reproduction, distribution, or performance of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording; and

"(5) the exclusive rights under clauses (1) through (4) of section 106 do not apply to sound recordings included in educational television and radio programs (as defined in section 397 of title 47) distributed or transmitted by or through public broadcasting entities (as defined by section 118(g)): *Provided*, That copies or phonorecords of said programs are not commercially distributed by or through public broadcasting entities to the general public.

"(b) RIGHTS IN SOUND RECORDING DISTINCT FROM RIGHTS IN UNDERLYING WORKS EMBODIED IN RECORDING.—The exclusive rights specified in clauses (1) through (4) of section 106 with respect to a copyrighted literary, musical, or dramatic work, and such rights with respect to a sound recording in which such literary, musical, or dramatic work is embodied, are separate and independent rights under this title.

"(c) COMPULSORY LICENSE FOR PUBLIC PERFORMANCE OF SOUND RECORDINGS.—

"(1) Subject to the limitations on exclusive rights provided by sections 107 through 112 and sections 116 through 118, and in addition to the other limitations on exclusive rights provided by this section, the exclusive right provided by clause (4) of section 106, to perform a sound recording publicly, is subject to compulsory licensing under the conditions specified by this subsection.

"(2) When phonorecords of a sound recording have been distributed to the public in the United States or elsewhere under the authority of a copyright owner, any other person may, by complying with the provisions of this subsection, obtain a compulsory license to perform that sound recording publicly.

"(3) Any person who wishes to obtain a compulsory license under this subsection shall fulfill the following requirements:

"(A) On or before January 1, 1981, or at least thirty days before the public performance, if it occurs later, such person shall record in the Copyright Office a notice stating an intention to obtain a compulsory license under this subsection. Such notice shall be filed in accordance with requirements that the Register of Copyright, after consultation with the Copyright Royalty Tribunal, shall prescribe by regulation, and shall contain the name and address of the compulsory licensee and any other information that such regulations may require. Such regulations shall also prescribe requirements for bringing the information in the statement up to date at regular intervals.

"(B) The compulsory licensee shall deposit with the Register of Copyrights, at annual intervals, a statement of account covering the preceding calendar year, and a total royalty fee for all public performances during that calendar year, based on the royalty provisions of clause (7) or (8) of this subsection. After consultation with the Copyright Royalty Tribunal, the Register of Copyrights shall prescribe regulations prescribing the time limits and requirements for the filing and contents of the statement of account and royalty payment.

"(4) Failure to record the notice, file the statement, or deposit the royalty fee as required by clause (3) of this subsection renders the public performance of a sound recording actionable as an act of infringement under section 501 and fully subject to the remedies provided by section 502 through 506 and 509.

"(5) Royalties under this subsection shall be payable only for performances of copyrighted sound recordings fixed on or after February 15, 1972.

"(6) The compulsory licensee shall have the option of computing the royalty fees payable under this subsection on either a prorated basis, as provided in clause (7), or on a blanket basis, as provided in clause (8), and the annual statement of account filed by the compulsory licensee shall state the basis used for computing the fee.

"(7) If computed on a prorated basis, the annual royalty fees payable under this subsection shall be calculated in accordance with standard formulas that the Copyright Royalty Tribunal shall prescribe by regulation, taking into account such factors as the proportion of commercial time, if any, devoted to the use of copyrighted sound recordings by the compulsory licensee during the applicable calendar year, the extent to which the compulsory licensee is also the owner of copyright in the sound recordings

performed during said year, and, if considered relevant by the Tribunal, the actual number of performances of copyrighted sound recordings during said year. The Tribunal shall prescribe separate formulas in accordance with the following:

"(A) for radio or television stations licensed by the Federal Communications Commission, the fee shall be a specified fraction of the 1 per centum of the station's net receipts from advertising sponsors during the applicable calendar year;

"(B) for other transmitters of performances of copyrighted sound recordings, including background music services, the fee shall be a specified fraction of 2 per centum of the compulsory licensee's gross receipts from subscribers or others who pay to receive the transmission during the applicable calendar year; and

"(C) for other users not otherwise exempted, the fee shall be based on the number of days during the applicable calendar year on which performances of recordings took place, and shall not exceed $5 per day of use.

"(8) If computed on a blanket basis, the annual royalty fees payable under this section shall be calculated in accordance with the following:

"(A) for a radio broadcast station licensed by the Federal Communications Commission, the blanket royalty shall depend upon the total amount of the station's gross receipts from advertising sponsors during the applicable calendar year:

"(i) receipts of at least $1,000,000 but less than $100,000: $250;

"(ii) receipts of at least $100,000 but less than $200,000: $750;

"(iii) receipts of $200,000 or more: 1 per centum of the station's net receipts from advertising sponsors during the applicable calendar year;

"(B) for a television broadcast station licensed by the Federal Communications Commission, the blanket royalty shall depend on the total amount of the station's gross receipts from advertising sponsors during the applicable calendar year:

"(i) receipts of at least $1,000,000 but less than $4,000,000: $750;

"(i) receipts of $4,000,000 or more: $1,500;

"(C) for other transmitters of performances of copyrighted sound recordings, including background music services, the blanket royalty shall be 2 per centum of the compulsory licensee's gross receipts from subscribers or others who pay to receive the transmission during the applicable calendar year;

"(D) for commercial establishments such as discotheques, nightclubs, cafes, and bars at which the principal form of entertainment is dancing to the accompaniment of sound recordings, the blanket royalty shall be $100 per calendar year for each location at which copyrighted sound recordings are performed. This royalty fee shall not be applicable to establishments at which the performance of sound recordings is solely by means of coin-operated phonorecord players as defined in section 116(e)(1);

"(E) for other users not otherwise exempted, the blanket royalty shall be $25 per calendar year for each location at which copyrighted sound recordings are performed.

"(9) Public performances of copyrighted sound recordings by operators of coin-operated machines, as that term is defined by section 116, and by cable systems, as that term is defined by section 111, are subject to compulsory licensing under those respective sections, and not under this section. However, in distributing royalties to the owners of copyright in sound recordings under sections 116 and 111, the Copyright Royalty Tribunal shall be governed by clause (14) of this subsection. Nothing in this section excuses an operator of a coin-operated machine or a cable system from full liability for copyright infringement under this title for the performance of a copyrighted sound recording in case of failure to comply with the requirements of section 116 or 111, respectively.

"(10) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal, as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on an annual basis, a compilation of all statements of account covering the relevant calendar year provided by subsection (c)(3) of this section.

"(11) During the month of May in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding calendar year shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 810 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (B) of subsection (c)(3) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws, for purposes of this subsection any claimants may, subject to the provisions of clause (14) of this subsection, agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

"(12) After the first day of June of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees for which claims have been filed under clause (11) of this section. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners and performers entitled, or to their designated agents. If it finds that such a controversy exists, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(13) During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

"(14) One-half of the royalties available for distribution by the Copyright Royalty Tribunal shall be paid to the copyright owners, as defined in subsection (e), and the other half shall be paid to the performers, as also defined in subsection (e). With respect to the various performers who contributed to the sounds fixed in a particular sound recording, the performers' share of royalties payable with respect to that sound recording shall be divided among them on a per capita basis, without regard to the nature, value, or length of their respective contributions. With respect to a particular sound recording, neither a performer nor a copyright owner shall be entitled to transfer his or her right to the royalties provided in this subsection to the copyright owner or the performer, respectively.

"(d) EXEMPTIONS FROM LIABILITY AND COMPULSORY LICENSING.—In addition to users exempted from liability by other sections of this title or by other provisions of this section, any person who publicly performs a copyrighted sound recording and who would otherwise be subject to liability for such performance or to the compulsory licensing requirements of this section, is exempted from liability for infringement and from the compulsory licensing requirements of this section, during the applicable calendar year, if during such year—

"(1) in the case of a radio broadcast station licensed by the Federal Communications Commission, its gross receipts from advertising sponsors were less than $25,000; or

"(2) in the case of a television broadcast station licensed by the Federal Communications Commission, its gross receipts from advertising sponsors were less than $1,000,000; or

"(3) in the case of other transmitters of performances of copyrighted sound recordings, including background music services, its gross receipt from subscribers or others who pay to receive transmissions were less than $10,000.

"(e) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

"(1) 'Commercial time' is any transmission program, the time for which is paid for by a commercial sponsor, or any transmission program that is interrupted by or includes commercial matter.

"(2) 'Performers' are instrumental musicians, singers, conductors, actors, narrators, and others whose performance of a literary, musical, or dramatic work is embodied in a sound recording, and, in the case of a sound recording embodying a musical work, the arrangers, orchestrators, and copyists who prepared or adapted the musical work for the particular performance of the sounds fixed in the sound recording. For puposes of this section, a person coming within this definition is regarded as a 'performer' with respect to a particular sound recording whether or not that person's contribution to the sound recording was a 'work made for hire' within the meaning of section 101.

"(3) A 'copyright owner' is the owner of the right to perform a copyrighted sound recording publicly.

"(4) 'Net receipts from advertising sponsors' consist of gross receipts from advertising sponsors less any commissions paid by a radio station to advertising agencies.

"(f) SOUNDS ACCOMPANYING A MOTION PICTURE OR OTHER AUDIOVISUAL WORK.—The sounds accompanying a motion picture or other audiovisual work are considered an integral part of the work that they accompany, and any person who uses the sounds accompanying a motion picture or other audiovisual work in violation of any of the exclusive rights of the owner of copyright in such work under clauses (1) through (4) of section 106 is an infringer of that owner's copyright. However, if such owner authorizes the public distribution of material objects that reproduce such sounds but do not include any accompanying motion picture or other audiovisual work, a compulsory licensee under sections 116 or 111 or under section (c) of this section shall be freed from further liability for the public performance of the sounds by means of such material objects.".

SEC. 8. Section 116 of title 17 of the United States Code is hereby amended as follows:

(a) in the title of the section insert the words "and sound recordings" after the words "nondramatic musical works" and before the colon;

(b) in subsection (a), between the words "nondramatic musical work embodied in a phonorecord," and the words "the exclusive right" insert the words "or of a sound recording of a performance of a nondramatic musical work,";

(c) in the first sentence of subclause (A) of clause (1) of subsection (b), delete the

word "$8" and insert in lieu thereof the word "$9". In the second sentence of the same provision, delete the word "$4" and insert in lieu thereof the word "$4.50";

(d) in the second sentence of clause (2) of subsection (c), between the words "provisions of the antitrust laws," and "for purposes of this subsection," insert the words "and subject to the provisions of section 114(c),";

(e)(1) in clause (4) of subsection (c), redesignate subclauses (A), (B), and (C) as (B), (C), and (D), respectively, and insert a new subclause (A) as follows:

"(A) to performers and owners of copyright in sound recordings, or their authorized agents, one-ninth of the total distributable royalties under this section, to be distributed as provided by section 114(c)(14);" and

(2) in the newly designated subclause (B), between the words "every copyright owner" and the words "not affiliated with" insert the words "of a non-dramatic musical work".

SEC. 9. In section 801 of title 17 of the United States Code, amend subsection (b)(1) as follows: In the first sentence, between the words "as provided in sections" and "115 and 116, and" insert "114,"; and in the second sentence, between the words "applicable under sections" and "115 and 116 shall be calculated" insert "114,". Amend subsection (b)(3) by inserting, between the words "Copyrights under sections 111" and "116, and to determine" the following: ", 114,".

SEC. 10. In section 803 of title 17 of the United States Code, insert at the end of that section a new subsection (c) as follows:

"(c) with respect to the distribution of royalties under section 114, the Tribunal shall retain the services of one or more private, nongovernmental entities to perform the functions necessary to monitor the performance of sound recordings, to value said performances, to distribute royalty funds to recipients, and to perform such other functions as the Tribunal shall deem necessary, unless the Tribunal shall detremine that it is inappropriate to do so. The performance of said functions by private entities shall not relieve the Tribunal of the resoonsibility to insure the fair and equitable distribution of royalty fees in accordance with section 801(b)(3).".

SEC. 11. In subsection (a) of section 804 of title 17 of the United States Code, insert "114," following the words "as provided in sections" and "115 and 116, and with", and at the end of clause (2) of subsection (a) add a new subclause (D), as follows:

"(D) In proceedings under section 801 (b)(1) concerning the adjustment of royalty rates under section 114, such petition may be filed five years after the effective date of this Act and in each subsequent fifth calendar year.".

In subsection (d) of section 804, insert ", 114," between the words "circumstances under sections 111" and "or 116, the Chairman".

SEC. 12. Amend section 809 of title 17 of the United States Code by inserting ", 114," between the words "royalty fees under sections 111" and "or 116, the Tribunal".

SEC. 13. (a) Except as provided in subsection (b) of this section, this Act becomes effective on January 1, 1981.

(b) The provisions of section 114(c)(3)(A) of title 17 of the United States Code, as amended by section 7 of this Act, become effective upon the enactment of this Act.●

By Mr. EAGLETON (for himself, Mr. WILLIAMS, Mr. JAVITS, Mr. INOUYE, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. LUGAR, Mr. RIEGLE, and Mr. TSONGAS):

S. 1553. A bill to amend the Higher Education Act of 1965 to establish a system of grants or urban universities; to the Committee on Labor and Human Resources.

URBAN GRANT UNIVERSITY ACT OF 1980

● Mr. EAGLETON. Mr. President, during the past 40 years, higher education in America has undergone what can only be described as a major upheaval. Before World War II, higher education in this country was much the same as it had been in this country for hundreds of years, and in Europe for hundreds more. It was the province of the rich and the privileged. Of course, there were no laws which kept the sons and daughters of working class men and women out of college. But as a matter of social custom, it usually was the children of the upper classes who went to college, while the children of the working classes went to work.

Following World War II, things changed rapidly. Our young men by the millions were marching back from war, and a grateful Nation wanted to give them all a boost toward a better life. To show our gratitude, we passed the GI bill with the aim of making college affordable for every American.

The impact of the GI bill was overwhelming. Anyone who attended college in the decade after the war remembers the crowded classrooms as American colleges struggled to catch up with the exploding student population.

The temporary swell of college students was only the beginning. For what the GI bill did in the long run was to take an entire generation of young men and women who had perceived higher education as a privilege, and teach them that higher education is a right. By instilling that belief in the GI generation, the shape and purpose of higher education was forever altered.

One outgrowth of this change has been the emergence of urban universities located in major metropolitan areas. This was partly in response to the population migration to the cities. But a larger factor in the emergence of these institutions is the changing character of today's students. Today, not only are Americans routinely staying in school into their twenties, but they are coming back to school in their thirties, forties, fifties, and beyond. Some are picking up where they left off, some are starting anew. Some are seeking the traditional liberal arts curricula, but many are looking for programs designed to foster professional and personal development. Whereas in the 1950s, only seven percent of the adult population was engaged in formal academic activity, today about 15 percent of adults are in school, and that percentage continues to grow.

Mr. President, the bill I am introducing today seeks to strengthen these new urban universities and encourage their new thrust of responding to concerns within the metropolitan environment by establishing a competitive grant program for project assistance to join their research efforts with the planning efforts of local government agencies.

My view of the Federal Government's role in urban higher education is to act as a catalyst to stimulate local cooperative efforts to alleviate the problems plaguing our cities. That is precisely what this legislation will do.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Urban Grant University Act of 1980".

SEC. 2. The Higher Education Act of 1965 is amended—

(1) by redesignating title XII as title XIII, by redesignating 1201 through 1208 as sections 1301 through 1308, respectively, and by redesignating any reference to such title or such sections accordingly; and

(2) by inserting immediately after title XI the following new title:

"TITLE XII—URBAN GRANT UNIVERSITY PROGRAM

"FINDINGS AND PURPOSE

"SEC. 1201. (a) The Congress finds and declares—

"(1) that there exists within the Nation's urban universities an underutilized reservoir of skills, talents, and knowledge applicable toward the amelioration of the multitude of problems that face the Nation's urban centers;

"(2) that these skills, talents, and knowledge must be applied in a systematic and sustained manner to impact successfully upon these problems;

"(3) that the application of these skills, talents, and knowledge is impeded due to the limited funds available to sustain their commitment; and

"(4) that it is the public policy of the United States to encourage and facilitate the application of these skills, talents, and knowledge toward serving the needs of the Nation's urban centers.

"(b) The Commissioner shall carry out programs in accordance with the provisions of this title, for the purpose of aiding urban universities to help find answers to urban problems, and aiding such universities to make their resources more readily and effectively available to the urban communities in which they are located.

"APPROPRIATIONS AUTHORIZED

"SEC. 1202. (a) For the purpose of carrying out the provisions of this title there is authorized to be appropriated $25,000,000 for the fiscal year 1981, $50,000,000 for the fiscal year 1982, $70,000,000 for the fiscal year 1983, and $90,000,000 for the fiscal year 1984.

"(b) Funds appropriated under this section shall remain available to the Commissioner for the duration of the period for which funds are authorized to be appropriated under subsection (a), in order to permit multiple-year funding of projects under this title.

"PROJECT ASSISTANCE

"SEC. 1203. (a) The Commissioner may make grants to urban universities to assist them in carrying out urban-oriented projects consistent with the purposes of this title.

"(b) An application submitted under this section must show that the chief executive of the local agency or agencies of general government within whose jurisdiction fall the needs to be addressed by the project or projects described has been afforded a reasonable opportunity to review and comment upon the proposed project or projects. In making grants, the Commissioner shall consider the degree to which there is evidence in the application of: (1) the participation of such local agency or agencies of general government in the development of the project or projects for which assistance is requested under this section; (2) local government and community participation in the implementation of the proposed project or projects; and

(3) a commitment by such local agency or agencies of general government to pay the portion of the non-Federal share of the cost of such project or projects required by subsection (d) of this section.

"(c) The Commissioner may request the advice of any Federal agency he considers appropriate before approving an application for project assistance under this section.

"(d) No grant under this section shall exceed 90 per centum of the cost of the project for which assistance is granted.

"(e) An institution which receives a grant under this section shall be designated by the Commissioner as an 'urban grant university'. The Commissioner shall annually publish a list of the institutions of higher education which have been so designated.

"LIMITATION

"SEC. 1204. (a) The total amount of payments in any fiscal year under section 1203 to institutions within any one State shall not exceed 15 per centum of the total amount paid.

"(b) In allocating assistance under section 1203 of this title, the Commissioner shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"DEFINITIONS

"SEC. 1205. As used in this title—

"(1) 'urban area' means a standard metropolitan statistical area having a population of not less than five hundred thousand persons; or, in any State which has no standard metropolitan statistical area within its borders which has such a population, the Commissioner may designate one urban area for the purposes of this part,

"(2) 'urban university' means an institution of higher education which (A) is located in an urban area, (B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous urban areas, (C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas, (D) has the present capacity to provide resources responsible to the needs and priorities of such urban area and contiguous areas, (E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and (F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people;

"(3) for the purposes of paragraphs (2) and (4) of this section, 'institution of higher education' includes any combination of such institutions, any one of which meets all the qualifications of paragraph (2);

"(4) 'resources' are programs of institutions of higher education including specialized training, research, services and technical assistance responsible to the needs and priorities of the urban area and contiguous areas.".

SEC. 3. Reference in any provision of law (other than the Higher Education Act of 1965) to title XII of that Act, or to any provision of title XII, shall be deemed to refer to title XIII or to the appropriate provision thereof as redesignated by section 2(1) of this Act.

By Mr. DURKIN:

S. 1554. A bill to amend title II of the Social Security Act to provide that renewal commissions, received by a retired insurance agent from insurance policies which were sold by him before his retirement, shall not be taken into account in determining his net earnings from self-employment for purposes of the earnings test; to the Committee on Finance.

● Mr. DURKIN. Mr. President, today I am introducing legislation to insure fair treatment under the social security retirement test. My bill is deliberately aimed at helping self-employed insurance agents who currently face unjust benefit denial for receiving renewal commissions on policies previously written, before their retirement.

As a result of the 1977 Social Security Act amendments, which changed the test of retirement from a monthly exemption to an annual limit, the independent underwriter stands to lose hard-earned benefits even though he or she may be completely retired. Unlike an insurance agent employed by a firm, "the independent" is forced to allow his or her renewal premium to be counted as employment income under the new retirement standard. In my view, this is a gross injustice, to be explained but not excused as a technical, legislative oversight.

Legislation similar to the needed social security reform I propose today is before the House of Representatives with two bills pending in the Ways and Means Committee. Under my bill, so long as a self-employed insurance agent is 65 years of age and retired, the renewal commissions he or she receives on policies sold before quitting work will no longer wrongly be considered self-employment income. In keeping with congressional intent of current law, this measure realizes that the social security earnings limitation is a test of retirement, not need. It recognizes an individual's employment activity, and respects the rewards of one's earlier labors.

Mr. President, the issue of social security reform is a matter of on-going concern to me. Modifying the social security retirement test as I now propose will rid the system of a major inequity. Rather than allowing problems which plague this complex program to mount, I urge favorable Senate action be taken on my bill. It is narrowly drawn in an effort to ensure much needed enactment. Like every American, self-employed insurance agents who retire expect and deserve a fair return on their investment in the social security system. The reform I am recommending meets this critical challenge.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(f)(5)(D) of the Social Security Act is amended to read as follows:

"(D) In the case of an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secretary—

"(i) that he is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he attained the age of 65, and that the property to which the copyright or patent relates was created by his own personal efforts, or

"(ii) that he is receiving renewal commissions from insurance policies which were sold, in whole or in part, by his own personal efforts before the taxable year in which he attained the age of 65,

there shall be excluded from gross income any such royalties or commissions."

SEC. 2. The amendment made by the first section of this Act shall apply with respect to taxable years beginning January 1, 1978.●

By Mr. DURKIN:

S. 1555. A bill to provide a program for the rehabilitation of the Nation's railroads; to the Committee on Commerce, Science, and Transportation.

NEW ENGLAND RAILROAD IMPROVEMENT ACT OF 1979

● Mr. DURKIN. Mr. President, today I am introducing legislation that will move us one step closer toward a faster, less costly, more energy-efficient railroad system. This bill, the New England Railroad Improvement Act (NERIA), creates a Federal administration to acquire, maintain, and modernize the railbeds of New England as the basis of a pilot project designed to revitalize the Nation's railroads, long the forgotten stepchild of this country's transportation system. The bill would give the railroads the benefits of full Federal support long enjoyed by the automotive, trucking, airline, and river-users industries.

The railroads have historically played an important role in the economic development and industrial expansion of this country. The New England economy and the region's rail system have evolved over the course of time in a mutual relationship, serving the needs of commerce, national defense, and long-range goals of energy-efficient transportation and environmental preservation. In promulgating the Regional Rail Reorganization Act of 1973, popularly known as the 3R Act, the Congress recognized the fundamental dependency characterizing the relationship between the Northeast and its rail lines. The vitality of the railroad industry is critical to the economic health of the Northeast.

Just as importantly, an unsound rail system adds to the fires of inflation by pushing up transportation costs, which in turn raise the price of all the goods coming into New Hampshire and New England. To fight inflation we need good railroads.

The railroads are caught in a classic "Catch 22" of deteriorating track and equipment, subsequent decline in service, and resultant loss of revenues. The declining profit picture of the railroads has forced deferred capital maintenance to a point where trains are now traveling slower than they did 20 years ago. This vicious cycle must be brought to a halt.

The legislation I am proposing provides for the rehabilitation and maintenance of the railroads' roadbeds and rights-of-way. My bill establishes a Federal Rail Property Administration (FRPA) to acquire and upgrade to modern standards the railroads' rights-of-way. The acquisition process will be achieved through the voluntary transfer of rail properties by those rails seeking to participate. The FRPA will enter into long-term lease agreements with the railroads' carriers, allowing them exclusive use of the line. The Federal Government would contract to pay the cost of rehabilitation, with the leaseholding

railroads performing the task. In turn railroads would be charged an annual "rail user's fee."

The burdensome costs to railroads of maintaining their rights-of-way has often been cited as the estimated 6 to 10 percent difference in expenditures which determine whether a railroad operates in the red, or in the black. Total outlays by the industry in 1977 for maintenance costs on rights-of-way and structures amounted to close to $3.5 billion. The attraction of having the Government assume the cost of improving the roadbeds and providing upkeep should serve as sufficient fiscal encouragement to railroads, profitable as well as bankrupt, to participate voluntarily.

By assuming these costs, the Federal Government would be creating the rail's counterpart to the Federal Highway Administration, the outlays for rails roughly comparable to the level of public investment in competing modes of transportation, with user charges levied as a partial source of income recovery. Let me add, the legislation is constructed so as to safeguard the public investment, establishing that schedules will be adhered to and modern standards achieved in capital improvements—it is not a blank check written in blind faith to the private rail carriers.

I have worked for similar legislation during the past two Congresses. Since the drafting of the original bill, circumstances for the rail industry have only worsened. The task of rebuilding our railroads has always been desirable; now it has become an absolute necessity. The northeast rail crisis only signifies the most glaring example of the national financial and physical deterioration of the railroads. The gravity of the situation requires an immediate response, with many railroads running literally in, or on the borderline of, bankruptcy. The failure of previous efforts to date requires an urgent and immediate response.

In simple and stark terms the industrial base of the New England region is dependent upon the Northeast Corridor. The area cannot continue to be economically viable without improvement of the railbeds and rail service. For example, in my home State more than 12 percent of the entire New Hampshire work force, some 38,000 employees, work in jobs which are touched by the rails in some direct way, shipping either finished products or raw materials.

The present set of circumstances, coupled with the impending consideration of the President's railroad deregulation proposal, mandates that accelerated measures be taken to address the specifics of New England's transportation needs.

Many would prefer to cast New England adrift from the rest of the Nation, preferring to ignore the particular problems the region faces. That sort of mindset reveals a parochialism of the lowest order. It ignores the basic fact that as one country we reap benefits and share losses together. What is good for New England, is good for America. We, here in Congress, have a collective responsibility to assure that New England, and all regions of this country, have a viable transportation system.

The irony of the present uncompetitive status of the railroads in relation to the trucking, airline, and the domestic shipping industries, is that it is the responsibility of the Federal Government, more than any other single entity. In the words of the Department of Transportation's "Study of Federal Aid to Rail Transportation."

> The Federal aid provided to the competing modes (of transport) vastly accelerated and increased the adjustment problems which the railroads had to face with the new technologies.

Federal spending for highways in the postwar period has been 19 times greater than railroads, with airways enjoying 5 times the level of funding offered rail transportation. Yet the inequities in Federal aid to transportation continue.

It seems to me inconceivable in a time when we are declaring "the moral equivalent of war" on our impending energy crisis, talking about gas rationing, and asking all Americans to make greater use of mass transit alternatives, that the Secretary of Transportation can simultaneously, and quite consciously, recommend a rail transportation policy which fails to promote the use of this fuel-efficient mode of transportation.

DOT has estimated that on long-haul routes, railroads can move four times the tonnage of freight per gallon of fuel used than trucks. The Secretary of Transportation pretends to be able to justify a 43-percent cutback in Amtrak passenger services as "cost-saving measures." The farcical nature of those savings becomes all the more apparent when seen in the context of our total transportation outlays. We are spending $30 billion annually on highways and $50 billion on foreign oil, most of which goes into our cars and trucks. This meat-ax assault on railroad passenger service subsidies contradicts Secretary Adams' assurances that future transportation decisions would be studied for their impact on energy usage.

There are no easy answers to America's transportation problems. A blanket policy will not serve to achieve those ends. Congress must attempt a variety of approaches. The solution to our energy, economic, and environmental problems must be predicated upon a balanced transportation system. This is exactly what the legislation that I am introducing today will do.

I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "New England Railroad Improvement Act of 1979".

TITLE I—FINDINGS, PURPOSE, AND DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds and declares that—

(1) essential rail service in the northeast region of the United States is provided by railroads which are not meeting essential needs;

(2) essential rail service is threatened with cessation or significant curtailment because of the inability of such railroads to formulate acceptable plans for service;

(3) such rail service is operated over rail properties which were acquired for a public use, but which have been permitted to deteriorate and now require extensive rehabilitation and modernization;

(4) the public convenience and necessity require adequate and efficient rail service in this region and throughout the Nation to meet the needs of commerce, the national defense, the environment, and the service requirements of passengers, United States mail, shippers, States and their political subdivisions, and consumers;

(5) continuation and improvement of essential rail service in this region is also necessary to preserve and maintain adequate national rail services and an efficient national rail transportation system;

(6) rail service and rail transportation offer economic and environmental advantages with respect to land use, air pollution, noise levels, energy efficiency and conservation, resource allocation, safety, and cost per ton-mile of movement to such extent that the preservation and maintenance of adequate and efficient rail service is in the national interest; and

(7) such needs cannot be met without substantial action by the Federal Government.

(b) The purpose of this Act is to—

(1) designate an Interstate Railroad System to serve the New England States;

(2) organize an Administration of the Department of Transportation to acquire, rehabilitate, maintain, modernize, and to restructure the rail lines included within such System;

(3) require minimum standards of maintenance for all such rail lines;

(4) establish rights of access by rail carriers to rail lines they do not own; and

(5) provide Federal funding to the Administration and to the States for rehabilitation of rail lines.

DEFINITIONS

SEC. 102. For the purpose of this Act, the term—

(1) "Administration" means the Federal Rail Property Administration created by this Act;

(2) "Administrator" means the Administrator of the Federal Rail Property Administration as established by this Act;

(3) "Association" means the United States Railway Association established by the Regional Rail Reorganization Act of 1973;

(4) "bridge traffic" means any traffic carried by a railroad which neither originates nor terminates on the railroad, but is received from and delivered to another carrier for further movement;

(5) "Commission" means the Interstate Commerce Commission;

(6) "Conrail" means the Consolidated Rail Corporation established by the Regional Rail Reorganization Act of 1973;

(7) "Governor" means the Governor of any State and includes the Mayor of the District of Columbia;

(8) "Office" means the Rail Services Planning Office of the Interstate Commerce Commission established by the Regional Rail Reorganization Act of 1973;

(9) "overhead traffic" means any freight traffic carried over a rail line but which neither originates nor terminates on the line, nor is halted in its movement over the line for any purpose other than those incidental to freight transportation operations;

(10) "rail carrier" has the same meaning as in section 10102 (17) of title 49, United States Code;

(11) "railroad" has the same meaning as in section 10102 (18) of title 49, United States Code;

(12) "rail line" includes any main rail track (or tracks), side track, and yard track

adjacent to such main track; the roadbed supporting such track, any signaling, communication, and power transmission structure and device as is permanently installed on or adjacent to such track and roadbed; any bridge, culvert, fill, tunnel, and other structure occupied by such track and roadbed; any real estate occupied by such track and roadbed; real estate adjacent to such track and roadbed which is used for drainage of, maintenance of, access to, and protection of such track and roadbed; any rail yard; any station and terminal track and facility, including air rights over, and mineral rights under, such track and roadbed and other property as acquired;

(13) "railroad company" means any railroad or rail carrier, including the Consolidated Rail Corporation and switching and terminal companies, as designated by the Interstate Commerce Commission and subject to subtitle IV, title 49, United States Code, together with all subsidiaries, affiliates, and leased lines of such railroads;

(14) "Secretary" means the Secretary of Transportation;

(15) "State" includes the several States and the District of Columbia;

(16) "System" means the Interstate Railroad System established by this Act; and

(17) "transportation property other than rail lines", includes any facility or equipment used for the repair and maintenance of rolling stock, track, signals, power transmission, facilities or any moveable property specifically designed for primary operation on rails; but shall not include any vehicle used or designed for personal transportation use primarily on highways, air or water.

TITLE II—INTERSTATE RAILROAD SYSTEM

ESTABLISHMENT OF SYSTEM

SEC. 201. (a) Within ninety days after the date of enactment of this Act, each railroad company shall provide the Secretary with the following items:

(1) A map showing each rail line owned, controlled, operated, or any combination thereof by the rail carrier including any leased line, rail property operated for the account of another, and rail line out of service but not abandoned or taken out of service pursuant to subchapter I of chapter 109 of title 49, United States Code.

(2) One copy of the latest edition of each employee operating timetable of such carrier with related special instructions; all temporary and semipermanent "slow orders" on such track in effect on the date of transmittal to the Secretary; all other restrictions on train operations on such date not included in the preceding items.

(3) A statement verified by the chief operating officer of such railroad, identifying each rail line or portion of rail line which is out of service on date of transmittal to the Secretary, but which has not been abandoned, or taken out of service pursuant to subchapter I of chapter 109 of title 49, United States Code.

(4) A statement verified by the chief operating officer of such railroad identifying the reasons why each rail line identified, pursuant to paragraph (3) of this subsection is out of service together with an estimate, if available, of the cost of restoring each of such rail lines to operation.

(5) Track charts, or other documents sufficient to identify all parameters of track geometry, including but not limited to radius of curvature, which preclude improving the track to Federal Railroad Administration class VI for each main line and Federal Railroad Administrator class IV for all other lines.

(6) A statement verified by the chief operating officer of such railroad identifying the maximum speed authorized on each rail line identified pursuant to paragraph (1) of this subsection at any time since January 1, 1935, including the dates between which such speed was authorized.

(7) A statement verified by the chief operating officer of such railroad concerning each rail line where the present authorized speed for such line, identified pursuant to paragraph (2) of this subsection, is less than the highest maximum authorized speed authorized on such line since January 1, 1935, identified pursuant to paragraph (6) of this subsection; and identifying for each such rail line the reasons why the present authorized speed is less than previously authorized highest maximum speed.

(8) A statement verified by the chief operating officer of such railroad identifying the location, type, and condition of all signals, interlockings, and controls.

(9) Such data as is deemed by the Secretary as adequate to determine all rail lines owned or used by such rail carrier, which consist of more than one track, and identification of the information required pursuant to paragraphs (1) through (8), inclusive, of this subsection for each track in such rail lines containing more than one track.

(b) Upon request by the railroad company, the Secretary may modify or waive any of the provisions specified in subsection (a) for any railroad company provided that alternative information is offered by the railroad company which the Secretary finds adequate to satisfy the intent of this section.

(c) Additions, deletions, and changes in the information required pursuant to subsection (a) shall be forwarded by the railroad company to the Secretary within seven days of any event which causes such additions, deletions, and changes to be made. The provisions of this subsection shall apply during the period of time beginning with the submission required in subection (a) and ending with conveyance of any such rail line to the Administration pursuant to the provisions of this Act. Notwithstanding any other provisions of this subsection, no notice is required to be given of temporary show order which are expected to be removed within fifteen days.

(d) Within one hundred and twenty days after the date of enactment of this Act, each rail carrier shall provide to the Secretary a verified statement identifying all rail lines of such carrier, or segments of such rail lines upon which have originated and terminated a total average of less than fifty loaded carloads of revenue traffic per mile during the three hundred and sixty-five days preceding the date of enactment of this Act. Such statement shall identify the stations on such rail lines where revenue traffic originated or terminated along with the number of carloads which originated or terminated at each station during the three hundred and sixty-five days preceding the date of enactment of this Act. Such statement shall also identify the amount of overhead traffic carried on each such rail line during the three hundred and sixty-five days preceding date of enactment of this Act, the points of each such rail line between which such overhead traffic was carried, and the number of days that each such rail line was cut of service during the three hundred and sixty-five days preceding the date of enactment of this Act.

(e) Information supplied by the rail carrier to the Secretary pursuant to this section shall be, when practicable, on magnetic tape or other machine-readable form determined by the Secretary to be acceptable.

(f) The Secretary may waive or modify any of the provisions of subsections (a) and (d) of this section for any individual track within terminal and yard areas provided that such waiver or modification is deemed by the Secretary to be consistent with the intent of this Act.

INITIAL DESIGNATION OF THE SYSTEM

SEC. 202. (a) Except as provided in subsection (b) of this section, the Initial Interstate Railroad System (hereinafter called the "Initial System") shall consist of:

(1) all rail lines operated within the United States by railroad companies on the date of enactment of this Act;

(2) all rail lines within the United States owned, leased or otherwise controlled by domestic railroad companies which are out of service on the date of enactment of the Act, but which have not been abandoned or taken out of service pursuant to subchapter I, chapter 109 of title 49, United States Code; and

(3) such rail lines outside the United States which are operated by a railroad company which primarily operates within the United States and which are deemed essential to the System by the Secretary.

(b) Notwithstanding the provisions of subsection (a) of this section, the Initial System shall not include any rail line which meets any of the following criteria:

(1) A rail line which has carried no overhead traffic during the three-hundred-and-sixty-five-day period preceding date of enactment of this Act, except overhead traffic to and from other rail lines not in the Initial System, provided that such a rail line has been designated as unnecessary by the Governor of each State in which the rail line is located.

(2) A rail line ten miles or less in length which—

(A) has been in service for not less than three hundred and fifty of the three hundred and sixty-five days preceding the date of enactment of this Act;

(B) which has carried no overhead traffic in the three hundred and sixty-five days preceding the date of enactment of this Act, except overhead traffic to and from other rail lines not in the Initial System;

(C) which has carried no passenger service in the three hundred and sixty-five days preceding the date of enactment of this Act;

(D) upon which service has been offered at least one hundred times in the preceding three hundred and sixty-five days; and

(E) upon which has originated and terminated a total average of less than twenty-five loaded carloads of revenue traffic per mile in the three hundred and sixty-five days preceding the date of enactment of this Act.

(3) Rail lines between ten and fifty miles in length which have been maintained during the three hundred and sixty-five days prior to the date of enactment of this Act to, or better than the Federal Railroad Administration class II track standard, and which otherwise satisfy all of the conditions specified in subsection (b)(2).

(4) Rail lines fifty miles or more in length which have been maintained during the three hundred and sixty-five days prior to enactment of this Act to, or better than, the Federal Railroad Administration class III track standard and which otherwise satisfy all of the conditions specified in subsection (b)(2).

(c) Within one hundred and eighty days of the date of enactment of this Act, the Secretary shall prepare a report containing a concise description or summary, together with a map, of all rail lines included within the Initial System. Copies of the report shall be transmitted by the Secretary to the Association, the Office, the Governor of each State, the Public Utilities Commission of each State, the Congress, each court having jurisdiction over a railroad in reorganization, and interested persons. The Secretary shall further cause a copy of the report to be published in the Federal Register.

(d) Within one hundred and eighty days of the date of enactment of this Act, the Secretary shall prepare a statement identifying all rail lines excluded from the Initial

System pursuant to subsection (b), along with a statement of the reason for each such exclusion, and along with the data upon which each such exclusion is based. Copies of the statement shall be transmitted by the Secretary to the Association, the Office, the Governor of each State, the Public Utilities Commission of each State, the Congress, each court having jurisdiction over a railroad in reorganization, and interested persons. The Secretary shall further cause a copy of the statement to be published in the Federal Register.

HEARING BY THE OFFICE

SEC. 203. (a) Thirty days after release of the Initial System, pursuant to section 202 of this Act, the Office shall hold public hearings to solicit comments on the Initial System. Notice of date, time, and place of each such hearing shall be given in a manner as to assure a full and fair opportunity to be heard for consumers, shippers, rail carriers, rail passengers, industry, labor, State and local governments, and other interested persons.

(b) The Office shall employ and utilize the services of attorneys and such other personnel as may be required in order properly to protect the interests of those communities and users of rail service which, for whatever reason, such as their size or location, might not otherwise be adequately represented in the course of the hearings and evaluations which the Office is required to conduct and perform under other provisions of this Act.

RECOMMENDATIONS OF THE OFFICE

SEC. 204. (a) Within one hundred and fifty days after release of the Initial System by the Secretary under sections 202 (c) and (d), the Office shall release and report to the Secretary its recommendations for additions to and deletions from such System.

(b)(1) Such recommendations shall include, whenever possible, proposals for rerouting of through-train operations of one or more railroad companies onto a single rail line as long as adequate capacity appears to exist on such rail line for all present traffic and for all rerouted traffic and so long as such a rerouting will not seriously harm the quality or cost of rail services presently available, and so long as such a rerouting shall not constitute the granting of access to additional markets to the railroad companies whose traffic is to be rerouted, and so long as such reroutings do not create unreasonable circuitry to require the use of connections with significant operational problems for any rail carrier so rerouted.

(2) Recommendations made under paragraph (1) shall be reviewed by an independent panel established by the Secretary and such panel shall provide the Secretary with an impact analysis of such recommendations.

(c) Each recommended rerouting of through-train traffic operations shall be accompanied by a recommendation by the Office as to how adequate local rail service is to be maintained on the rail line from which through-train operations are recommended to be rerouted.

(d) The Office may recommend inclusion of any individual rail line into the System that was excluded by the Secretary pursuant to section 202(b). Each such recommended inclusion shall be accompanied by a report of findings by the Office that continued rail service on such line recommended for inclusion appears to be necessary to provide adequate rail service, to avoid significant violation of the Clean Air Act, to prevent excessive unemployment, to provide efficient transportation of fossil fuels resources from their source to their user, or to provide for the continued transportation of hazardous materials that should for reasons of safety, be transported via rail rather than via alternative modes.

(e) The Office may recommend exclusion from the System of rail lines designated by the Secretary as part of the Initial System. Each such recommended exclusion shall be accompanied by a report of findings by the Office that continued rail service on each such line recommended for exclusion appears to be not necessary to provide adequate rail services, to prevent excessive unemployment, to provide efficient transportation of fossil fuel resources from their source to their user, or to provide for the continued transportation of hazardous materials that should, for reasons of safety, be transported via rail rather than via an alternative mode.

(f) The Office may, as it deems necessary, publish addenda to the recommendations released pursuant to this section.

INTERMEDIATE DESIGNATION OF THE SYSTEM

SEC. 205. (a) Upon receiving the recommendations of the Office, the Secretary shall within ninety days, after giving full consideration to such recommendations and after giving consideration to such other pertinent information that is available to the Secretary, prepare and release a concise descriptive summary, along with map and other description adequate to enable specific identification of the rail properties involved, of an Intermediate Interstate Railroad System (hereafter called the Intermediate System).

(b) The report of the Secretary shall include findings in support of each addition to or deletion from the Initial System.

(c) The Intermediate System shall reflect to the extent possible, the result of potential rerouted through-train operations recommended by the Office pursuant to section 204(b).

(d) The report of the Secretary shall include a detailed description of revisions to the System which would be necessary if rerouted through-train operations were not implemented due to failure of a railroad company to convey its rail facilities to the Administration pursuant to section 304.

(e) The Intermediate System shall designate the future maintenance standards of each rail line in the System according to the following criteria:

(1) On all rail lines, ten miles or less in length, on which the Secretary anticipates no overhead traffic: FRA class I.

(2) Or all rail lines, between ten miles and fifty miles in length, on which the Secretary anticipates no overhead traffic: FSA class II.

(3) On all rail lines, fifty miles or greater in length on which the Secretary anticipates no overhead traffic: FRA class III.

(4) On all rail lines on which the Secretary anticipates overhead traffic: FRA standards allowing the highest speeds operated at any previous time since January 1, 1935, on each given rail line.

(5) On all rail lines greater than ten miles on which the Secretary anticipates more than ten million gross ton miles per mile per year: FRA class IV.

(6) Or all rail lines on which the Secretary anticipates a total of more than twenty intercity passenger trains in all directions, daily: FRA class IV.

(7) For the passenger corridor between Boston, Massachusetts, and Washington, D.C.: Standards allowing one hundred and fifty miles per hour operation.

(8) For all lines upon which the Secretary anticipates a total of more than two intercity passenger trains in all directions daily: FRA class III.

(f) When more than one standard applies to a given rail line pursuant to subsection (e), the higher standard shall apply.

(g) Notwithstanding the provisions of subsection (f), the Secretary may designate the maximum track standards allowed by the geometry of the right-of-way of a given right-of-way where such standards are lower than the standard prescribed pursuant to subsection (e). Such lower track standards shall apply only to portions of the rail line where such limited right-of-way geometry exists.

(h) The Secretary may set standards for any rail line higher than those specified in subsection (e).

(i) The Secretary may upon publication of findings that passenger service or service to freight shippers will not be adversely affected, reduce the standards otherwise specified in this section for a given rail line by not more than one FRA class, provided that no reduction of standards below FRA class I shall be made.

HEARINGS BY OFFICE

SEC. 206. (a) Not later than thirty days after release of the Intermediate System, the Office shall hold public hearings to solicit comments on the Intermediate System. Notice of date, time, and places of such hearing shall be given in a manner as to assure a full and fair opportunity to be heard for consumers, shippers, rail carriers, rail passengers, industry, labor, State, and local governments, and other interested persons.

(b) The Office may employ and utilize the services of attorneys and such other personnel as may be required in order properly to protect the interests of those communities and users of rail service which, for whatever reason, such as their size or location, might not otherwise be adequately represented in the course of the hearings and evaluations which the Office is required to conduct and perform under other provisions of this Act.

RECOMMENDATIONS BY THE OFFICE

SEC. 207. Within ninety days after release of the Intermediate System by the Secretary, pursuant to section 205, the Office shall release and report to the Secretary its recommendations for additions to and deletions from and changes to the System along with the reasons for such recommendations. A copy of the recommendations shall be published in the Federal Register.

FINAL DESIGNATION OF THE SYSTEM

SEC. 208. (a) Upon receiving the recommendations of the Office, the Secretary shall within sixty days, after giving full consideration to such recommendations, and with the cooperation and assistance of the Office, prepare and transmit to the Congress the Final Interstate Railroad System (hereinafter called the "Final System"). The Final System shall be designed to promote and enhance the ability of rail carriers to provide modern, efficient, and economical interstate rail freight and passenger service responsive to present and future needs and demands. The report of the Secretary shall include findings in support of each addition to or deletion from the Intermediate System and findings with regard to recommendations of the Office which were not included.

(b) The Final System shall contain no deletions from the Intermediate System other than deletions which were recommended by the Office pursuant to section 207 or deletions which were approved by the Governor of the State in which the rail lines to be deleted are located. The Secretary may choose to designate as part of the Final System any rail line designated as part of the Intermediate System notwithstanding recommendations by the Office or approval of deletion by the Governor of the State in which the rail line is located.

(c) The Final System shall contain future maintenance standards for each rail line which are no lower than those contained in the Intermediate System unless:

(1) a lower standard for any individual rail line was recommended by the Office pursuant to section 207,

(2) such lower standard was approved by the Governor of the State in which such rail line is located,

(3) the individual rail line was recommended for deletion from the Final System by the Office pursuant to section 207, and

(4) deletion of the individual rail line from the System was approved by the Governor of the State in which the rail line is located.

(d) The Final System shall be deemed approved at the end of the first period of sixty calendar days of continuous session of Congress after transmittal thereto unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the System. If either such body passes a resolution of disapproval, the Secretary with the cooperation and assistance of the Office shall prepare and transmit to Congress a revised System within sixty days of the date of passage of such resolution. Each such revised System shall be submitted to Congress for review pursuant to this subsection. Each such revised System shall be deemed approved at the end of the first period of sixty calendar days of continuous session of Congress after transmittal thereto unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the System. For purposes of this subsection, continuity of session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period. Upon becoming effective after review by Congress, the System shall not be subject to review by any court.

REHABILITATION, CAPITAL IMPROVEMENT, AND MAINTENANCE PROGRAM

SEC. 209. (a) Upon receiving the recommendations of the Office made pursuant to section 207, the Secretary shall within ninety days determine and publish a rehabilitation, capital improvement, and maintenance program for the restoration of all rail lines in the System to the future maintenance standards set forth in the Final System. Within such program projects scheduled to take place during the four years following enactment of this Act shall be individually scheduled. Each project within such program scheduled to take place more than four years after the enactment of this Act shall be identified as to approximate year of expected completion. If either body of Congress passes a resolution of disapproval of such program pursuant to subsection 208(d), the Secretary shall, within ninety days of passage of such resolution, publish a revised rehabilitation, capital improvement and maintenance program to correspond with the revised system prepared pursuant to subsection 208(d).

(b) The entire program shall be scheduled by the Secretary for completion within twelve years following enactment of this Act.

(c)(1) Not later than three years after the date of enactment of this Act, the Secretary and the Secretary of the Army shall jointly undertake and carry out a study of the long-term capital needs for modernization of signal systems, line relocation, tunneling, highway grade crossing elimination, electrification, and other major upgrading to the Final System as revised. The study shall include recommendations for investment priorities among the various upgrading projects.

(2) Upon completion of such study, the Secretary and the Secretary of the Army shall submit to the President and to the Congress, and shall release to the public, a full report thereon together with their recommendations for such legislative, administrative, and other actions as they deem appropriate for implementing the report.

(3) Not later than ninety days after completion of such study, the Administrator shall determine and release a revised rehabilitation, capital improvement and maintenance program showing the schedule for completion of each element of the program. All elements of the program shall be scheduled for completion within twelve years following the date of enactment of this Act. Provision shall be made for revision of such schedule should one or more railroad companies fail to transfer railroad facilities to the Administration pursuant to section 305.

(4) The Administrator may revise the program as necessary because of failure of one or more railroad companies to transfer in a timely fashion, railroad facilities to the Administration pursuant to section 305.

RAIL PROPERTIES REORGANIZED UNDER THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 210. Notwithstanding the contrary provisions in sections 201 through 208 of this title, all rail lines designated to be transferred to Conrail or to be offered for sale to a profitable railroad or to be purchased, leased or otherwise acquired by the National Railroad Passenger Corporation pursuant to the Final System Plan of the Association developed under section 206(c) of the Regional Rail Reorganization Act of 1973, shall be part of the Final System.

REVISION OF FUTURE MAINTENANCE STANDARDS

SEC. 211. The Administrator shall revise the future maintenance standards designated pursuant to subsection (e) of section 205 and pursuant to subsection (c) of section 208 so long as such revision shall reflect changes in the anticipated use of the individual rail lines. The Administrator may at any time specify future maintenance standards higher than those required to be specified pursuant to sections 205 and 208.

VERIFICATION OF DATA SUPPLIED BY RAILROADS

SEC. 212. (a) Not later than two hundred and ten days of the date of enactment of this Act, the Secretary shall publish an inventory of all rail lines in the United States. Such inventory shall include a listing of the maximum allowable speed for freight and passenger trains on July 1, 1979, on each portion of each rail line.

(b) Not later than one hundred and twenty days after the date of enactment of this Act, all rail carriers shall supply the Secretary with a verified statement describing each slow order, speed restriction, and change in employee operating timetable that became effective on or after July 1, 1979. Such verified statement shall also give the reason for each such slow order, speed restriction, and timetable revision.

(c) The Secretary may make whatever physical inspections or other investigations necessary to insure that the inventory is correct.

(d) Upon receipt of satisfactory evidence that the inventory is incorrect, the Secretary shall correct such inventory.

TITLE III—FEDERAL RAIL PROPERTY ADMINISTRATION

ESTABLISHMENT OF ADMINISTRATION

SEC. 301. (a) There is established an Administration of the Department of Transportation to be known as the Federal Rail Property Administration. The Administration shall be deemed not to be a railroad for purposes of subtitle IV of title 49, United States Code.

(b) The management, powers, and duties of the Administration shall be vested in an Administrator to be appointed by the President, by and with the advice and consent of the Senate.

(c) To assist the Administrator there shall be a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(d) To further assist the Administrator, there shall be four Assistant Administrators who shall be appointed by the Administrator. The Assistant Administrators shall perform such duties as the Administrator may designate.

(e) The Administrator shall prepare a budget and staffing plan within sixty days from his appointment, and shall submit the proposed budget and plan to Congress for review. Congress shall have sixty legislative days in which to revise this budget or failing, shall allow the budget to stand as if approved. The staffing plan shall make provision for the employment of sufficient personnel at all levels to carry out the purpose of this Act.

GENERAL POWERS OF THE ADMINISTRATION

SEC. 302. (a) The Administration may acquire rail lines and transportation property other than rail lines from any railroad company operating in the United States or whose principal place of business is in the United States. Such property may include properties of United States railroads outside the United States in contiguous portions of Canada and Mexico where such properties are part of and necessary to the functioning and operational integrity of the Interstate Rail System established pursuant to this Act.

(b) The Secretary shall promulgate regulations establishing the basis for determinations of fit, willing, and able with regard to operators under this Act. Such regulations may include the establishment of requirements that an applicant—

(1) register with the Secretary;

(2) demonstrate knowledge of, agree to, and provide evidence, including accident and compliance histories and out of service ratios, of his ability to operate in compliance with all applicable standards promulgated by the Secretary, pursuant to this Act, the Department of Transportation Act, the Hazardous Materials Transportation Act, and sections 831–835 of title 18 of the United States Code;

(3) carry such documentation as the Secretary may require;

(4) carry adequate liability insurance or enter into comparable bonding arrangements; and

(5) designate an agent for service of process.

The Secretary may also promulgate such regulations as the Secretary may determine appropriate to assist in the implementation of this section, including rules to require that applications filed with the Commission include such information as the Secretary may require to assist the Secretary in making determinations as to whether a person is fit, willing, and able.

(c) The Administration may, pursuant to section 303, enter into leases with a railroad company which deeds rail lines to the Administration. Any such lease shall be for the purpose of providing common carriage rail service over rail lines previously owned by the railroad, and shall be granted for a term of not more than ten years and shall be renewable upon certification by the Interstate Commerce Commission that the carrier is fit, willing and able to perform common carriage services in the territory and over the tracks covered by the lease. The Commission shall, not later than ninety days before the expiration of the lease, make a determination as to whether the carrier is fit, willing and able to perform common carriage services in the territory and over the tracks covered by the lease. In the event that the Commission fails to make such a timely determination, the Administrator shall grant an extension in time of the lease for a period of one year from the date of termination of the lease. No further extension or renewal shall be granted until the Commission has issued such certificate. Each such lease shall provide, at a minimum, the following—

(1) that during the term of the initial lease, the railroad company shall have exclusive rights to use the rail facilities, except as provided in paragraphs (7) and (9);

(2) that the carrier shall provide common carriage freight service to all stations, shippers and receivers located along or adjacent to the properties leased in the manner normally prescribed in law;

(3) that the rail carrier shall agree to pay the Administration a user charge pursuant to section 402;

(4) that the maintenance of the rail properties shall be as determined pursuant to section 305;

(5) that rehabilitation and capital improvement projects on the rail properties determined pursuant to section 304 in accordance with the program and schedule established pursuant to section 209 or pursuant to section 303(d) or 304(g);

(6) that in the event that the Commission finds that a carrier is not fit, willing, and able to provide services as required under the provision of the lease, the Commission shall order the termination of the lease and shall evoke the provisions of paragraphs (15) and (16) of section 1 of the Interstate Commerce Act;

(7) for the exclusive use of the property previously owned or controlled by the carrier, except that—

(A) the terms and conditions of existing agreements for joint usage of rail properties shall remain in force unless terminated by mutual consent of the parties to the agreement and with the concurrence of the Administrator;

(B) the Administrator may grant bridge trackage rights to another railroad (hereinafter referred to as the "bridge railroad"), if the Administrator finds that:

(i) sufficient capacity exists on the rail property of the leaseholding railroad so that the bridge traffic does not materially impair the operations of the leaseholding railroad company;

(ii) said bridge trackage rights do not permit diversion of traffic to the bridge railroad from the leaseholding railroad;

(iii) the bridge trackage rights do not permit the bridge railroad to serve markets previously not served by the bridge railroad; and

(iv) the bridge railroad shall pay to the leaseholding railroad $0.10 per thousand gross ton-miles carried as bridge traffic;

(C) the Administrator may grant operating rights to the National Railroad Passenger Corporation or to a State, local, or regional rail passenger authority for the operation of a passenger service over the former property of the leaseholding railroad company if—

(i) the operation of such passenger service does not materially impair the operations of the leaseholding railroad;

(ii) the leaseholding railroad is fully compensated by the operator of the passenger service for all costs resulting from the operation of said passenger service including the costs resulting from the operation of such passenger service and including the cost of delays to freight trains because of the passenger train operations; and

(iii) the Administrator specifies operating rules to give passenger trains priority over freight trains when appropriate;

(D) the lease may allow other operating rights to railroads other than the leaseholding railroad: *Provided*, That the granting of such operations rights to another carrier be for the purposes of system rationalization and shall not constitute a penetration of the market served by the leaseholding carrier unless such a penetration shall have been agreed to by the leaseholding carrier;

(8) for modification to exclude service over properties over which discontinuance of service has been ordered by the Commission whenever such orders are issued;

(9) not later than one year from the enactment of this Act, the Administrator shall establish regulations for the planning and implementation of plans for projects to coordinate, consolidate, and rationalize operations of railroads, which shall specify—

(A) the parties to the planning process, including States;

(B) goals, standards and criteria for such planning;

(C) social, economic, and environmental impact standards to be met under the process;

(D) the times and places for public hearings and methods for public participation; and

(E) such other criteria as may be required by the Administrator;

(10) that the Administrator shall under no circumstances grant any operating rights for private or contract carriage on properties owned by the Administration;

(11) that upon application by the leaseholding carrier, the Commission may grant permission for the lease or a portion of the lease to be assigned to another carrier so long as such assignment is consistent with the standards which the Commission normally uses in allowing the voluntary transfer of operating rights from one carrier to another, and the Commission shall not later than one hundred and eighty days from receipt of such an application either grant permission to assign or shall refuse such permission for specific reasons; and

(12) that such other necessary provisions to ensure reasonable reuse of materials removed from existing track or other properties owned by the Administration during maintenance and rehabilitation of such properties, and shall further apply such conditions as shall ensure that materials provided by the Administration shall not be used in a wasteful manner.

(d) The Administrator shall specify operating rules for bridge traffic under paragraph (7)(B) of subsection (C) to ensure that the operations of the leaseholding railroad are not materially affected by the bridge operations. The Administrator shall suspend or revoke such bridge trackage rights if he finds that traffic normally carried by the leaseholding railroad is being diverted to the bridge railroad because of such bridge trackage rights.

TRANSFER OF RAIL FACILITIES

SEC. 303. (a) At any time after the Final System as designated by the Secretary is approved pursuant to section 208, any railroad company may offer to transfer all of its rail facilities which are included in the System to the Administration. For purposes of this subsection, the term "railroad company" shall include all and not less than all railroad subsidiaries of the company and railroad subsidiaries of its parent company.

(b) Not later than one hundred and twenty days of receipt of an offer to transfer rail properties of a railroad company pursuant to subsection (a), the Administration shall enter into a lease described in section 302, and shall accept title of the rail facilities so offered.

(c) At any time after one hundred and twenty days after the date of enactment of this Act, Conrail may offer to transfer to the Administration all of its rail facilities, as designated by the Association in the Association's Final System Plan pursuant to section 206(a)(1) of the Regional Rail Reorganization Act of 1973: *Provided, however*, That the Corporation has not previously disposed of such rail facilities so designated in the Final System plan.

(d) Not later than thirty days of receipt of notification of an offer pursuant to subsection (c), the Association shall submit to the Corporation and to the Administration a detailed program plan for the rehabilitation, modernization, and maintenance of the rail lines to be transferred by Conrail.

(e) Not later than one hundred and twenty days of receipt of an offer from Conrail to transfer its rail facilities pursuant to subsection (c), the Administration shall enter into a lease as described in section 303, and shall accept title of the rail facilities so offered. For purposes of such lease, the program plan submitted by the Association pursuant to subsection (d) shall be used rather than the program plan to be published pursuant to section 209, until such program plan published pursuant to section 209 becomes available.

(f) At any time after one hundred and twenty days after the date of enactment of this Act, but prior to the date that the Final System is approved pursuant to section 208, any railroad company other than Conrail may offer to transfer to the Administration of all its rail facilities, except that (1) such rail facilities shall include all rail facilities owned or operated by the railroad company on July 1, 1979, (2) the railroad company agrees to accept a return transfer of any such rail property which is not included in the Final System and which the Administrator wishes to return to the railroad company within thirty days of the date that the Final System is deemed approved pursuant to section 208.

(g) Not later than one hundred and twenty days of receipt of an offer of transfer of rail facilities pursuant to subsection (f), the Administration shall enter into a lease as described in section 302 and shall accept title to rail facilities so offered if there exists an interim program plan for rehabilitation, modernization, and maintenance agreeable to both the Administration and the railroad company and which shall be applicable until the date that the Final System is deemed acceptable pursuant to section 208. The Administration shall set forth as a term of the lease an interim maintenance program specifying track standards not lower than those existing on the rail facilities on the date of transfer, and not higher than standards which the Administrator anticipates will be specified in the Final System, the interim standard offered shall be equal to the standard existing on the date of transfer. Any lease entered into pursuant to this subsection shall contain a provision under which the Administrator may, within thirty days of the date that the Final System is accepted pursuant to section 208, transfer any such rail property not included in the Final System to the railroad company and under which the railroad company shall accept any rail facility so transferred. Upon the date that the Final System is accepted, the interim standards specified pursuant to this subsection shall be superseded by the program plan published pursuant to section 209.

(h) At any time after the date that the Final System is accepted pursuant to section 208, a railroad company may offer to transfer to the Administration any portion of the rail facilities owned or operated by the railroad company on July 1, 1979, and included in the Final System, as revised pursuant to section 208.

(i) The Administrator may enter into a lease and accept title to rail facilities offered for transfer pursuant to subsection (h) where—

(1) the Administrator finds that the rail facilities offered for transfer will represent a lower cost per mile to the Administration for rehabilitation, modernization, and maintenance less any user fees that would exist if all of the rail facilities owned or operated by the railroad company on July 1, 1979, and included in the Final System as revised were transferred to the Administration; and

(2) the Administrator finds the transfer of rail facilities so offered to be more consistent with the intent of this Act than would be the transfer of all rail facilities owned or operated by the railroad company on July 1, 1979, and included in the Final System as revised.

For purposes of this subsection, the Administrator may set user charges greater than those specified in section 402, and may specify the conditions of lease agreements more favorable to the Administration than the conditions specified in section 302.

(j) Notwithstanding any other provision of this Act, the Administrator shall not enter a lease agreement, or accept title to rail facilities pursuant to subsection (b), (e), (g), or (i) where any of such rail facilities are restricted to maximum speeds lower than those existing on July 1, 1979, unless payment is made to the Administration by the railroad company to fully compensate the Administration for the costs of restoration of the rail facilities to either the condition existing on July 1, 1979, or the condition specified in the future maintenance standards in the Final System as revised, whichever condition is lower.

(k) At any time after the Final System is deemed approved pursuant to section 208, any State which has acquired railroad properties excluded from the Final System plan pursuant to the Regional Rail Reorganization Act of 1973, may offer to the Administration transfer of all properties which are included in the Final System. Not later than one hundred and twenty days of such an offer of conveyance, the Administration shall accept title to such properties and shall make payment to the State for any State funds expended in the acquisition and modernization of such rail properties.

REHABILITATION OF RAIL FACILITIES

SEC. 304. (a) The Secretary shall develop programs of rehabilitation and capital improvements for rail properties owned by the Administration and such programs shall be incorporated into and be made terms of the lease of such property. Programs developed under this section shall be consistent with the provisions of sections 209, 303 (d) and (g).

(b) The Administrator shall pay the costs of implementation of such programs. The Administrator shall contract with the leaseholding railroad to implement such programs unless, in the determination of the Administrator the railroad does not possess forces sufficiently large or skilled to perform the work, or unless in the determination of the Administrator, the terms and conditions of such a contract make it a cost to the Administration sufficiently greater than the cost of having the project performed by some other responsible party.

(c) The Administrator shall, within 30 days of completion of any program or project for rehabilitation of a line or facility, or of the completion of a capital project on any line or facility make an inspection of the property, and shall make a determination of compliance of the work with the standards set forth in the contract and the program covering such work. If, in the determination of the Administrator, work has been performed in a fully satisfactory manner, he shall issue a certificate of rehabilitation or a certificate of completion as the case may be.

MAINTENANCE OF RAIL PROPERTIES

SEC. 305. (a) The Administrator and any rail carrier leasing property from the Administration shall establish within thirty days after the date of certification by the Administrator that the property has been rehabilitated to the standard set by the Secretary under section 208(c), a schedule of maintenance whereby such leased property shall be maintained at a standard not less than that established under section 208(c).

(b) Maintenance of facilities of the Administration used exclusively by one carrier shall be the responsibility of that carrier. Where more than one carrier utilizes a facility of the Administration, responsibility for maintenance shall be shared as provided in the respective leases. In all cases maintenance shall be to standards set by the Secretary in designating the System, which standards shall be incorporated in the lease. The Administrator shall make all materials and equipment necessary for maintenance available to the responsible carrier or carriers.

(c) Failure to maintain to standards shall be a violation of the lease and shall require the payment by the carrier to the Administration of $1,000 per day per mile of track not meeting standards as specified in the lease unless in the determination of the Administrator, such failure shall have been for causes beyond the control of the carrier.

ANNUAL REPORT

SEC. 306. The Administrator shall report annually on the first of January of each year to the President and to Congress on the extent and condition of all properties owned by the Administration, and on the condition of all other rail properties in the Nation.

TITLE IV—FUNDING

AUTHORIZATIONS FOR REHABILITATION AND MAINTENANCE

SEC. 401. There are authorized to be appropriated each year beginning with the year in which this Act is enacted and continuing for a period of ten years such sums as are necessary for (1) rehabilitation of lines as required under section 209, and (2) to provide the materials used in maintenance as required under section 209.

RAIL USER CHARGE AND OTHER REVENUES

SEC. 402. There shall be a Rail User Charge (hereinafter referred to as "User Charge"), imposed on all railroads operating on facilities of the Administration. The User Charge shall be $0.20 annually per thousand gross ton-miles of freight, passengers, and rail equipment moved on the facilities of the Administration. The User Charge shall be collected from the railroad by the Administration at the end of each calendar quarter for the period of the preceding quarter, and shall be deposited in the Treasury as miscellaneous receipts together with such revenues as the Administration shall earn from the sale or lease of property, or interests or uses thereof or from all other sources.

ADDITIONAL AUTHORIZATIONS

SEC. 403. (a) There are authorized to be appropriated to carry out the provisions of this Act such sums as are necessary, not to exceed $20,000,000 to remain available until expended.

(b) There are authorized to be appropriated to the Commission for the use of the Office in carrying out its functions under this Act such sums as are necessary, not to exceed $5,000,000 to remain available until expended. The budget for the Office shall be submitted by the Commission directly to the Congress and shall not be subject to review of any kind by any other agency or official of the United States or used by the Commission for any purpose other than the use of the Office. No part of any other moneys appropriated to the Commission shall be withheld by any other agency or official of the United States to offset any money appropriated pursuant to this subsection.

(c) There are authorized to be appropriated for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $50,000,000 to remain available until expended.

(d) Sums authorized under this section may be adjusted in accordance with the Consumer Price Index as determined under appropriation Acts.

MAINTENANCE MATERIALS

SEC. 404. (a) The Administrator is authorized to make necessary expenditures for purchase of materials to be used in maintenance, modernization or improvement of facilities owned by the Administration.

(b) There are authorized to be appropriated such amounts as are necessary for the purpose of this section.●

By Mr. DURKIN:

S. 1556. A bill to provide for grants to the States to employ State foresters, to provide for a current determination of the number of woodlot owners in each State, to provide for the availability of forest fuel utilization training, and to increase the assistance and information provided by the Department of Energy to the Forest Service and by the Small Business Administration to small woodlot owners and wood fuel distributors and marketers; to the Committee on Agriculture, Nutrition, and Forestry.

FOREST FUEL UTILIZATION ACT OF 1979

● Mr. DURKIN. Mr. President, the bill I introduce today is designed to increase the availability of wood fuel in New Hampshire and throughout the United States.

I need tell no one in this Chamber that this Nation is moving into an era of severe oil shortages. In my home State of New Hampshire, our predicament is particularly serious because we rely so heavily on the automobile for transportation and oil for heating our homes. Indeed, it appears likely that New Hampshire will not have sufficient stocks of home heating oil to see us through the coming winter.

The energy situation in New Hampshire would be even graver were it not for the abundance of unused natural resources which have the potential of lessening our dependency on costly imported foreign oil. Small-scale hydroelectric, wood, wind, and solar power all hold significant promise for making New Hampshire more energy independent. Of these energy sources, wood may hold the most promise.

New Hampshire is almost 90 percent forested, and the wood harvested from my home State on a sustained yield basis has the ability to save hundreds of millions of gallons of home heating oil.

The thrust of my bill is a simple one: It lists the woodlot owners in an individual State, establishes training programs for those owners, and provides for increased assistance from the Department of Energy, the U.S. Forest Service, and the Small Business Administration to those owners and wood fuel distributors. It also provides grants to the States to employ foresters.

Because of anticipated shortages of home heating oil this winter, the woods in my home State and throughout the Nation will be subjected to heavy cutting pressures. It is absolutely essential that we meet this demand for firewood with a sound program of forest management and public education on proper cutting techniques. It is also vital that we aid the small woodlot owner and wood distributor—who will play a pivotal role in keeping people warm in New Hampshire—in their business endeavors so that they will be able to harvest and deliver their product efficiently and reliably, and at a reasonable cost.

Mr. President, wood will undoubtedly play an increasingly important role in the energy picture of New England. This bill helps wood to fill that role.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Forest Fuel Utilization Act of 1979".

SEC. 2. (a) The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") is authorized to make grants through the rural forestry assistance program of the Forest Service to the States for the employment by the States of additional State foresters or equivalent State officials.

(b) In determining the amount of financial assistance to be provided to a State under subsection (a) the Secretary shall consider the underutilization of forest growth in the State and the potential utilization in the State of wood as a fuel in place of oil.

(c) In addition to any sums otherwise authorized to be appropriated, there is authorized to be appropriated to the Secretary to carry out subsection (a) the sum of $6,500,000 for the fiscal year ending on September 30, 1980, and the sum of $6,500,000 for the fiscal year ending on September 30, 1981.

SEC. 3. (a) The Secretary shall determine not later than one year after the date of the enactment of this Act the number of woodlot owners in each State (as of the date the determination with respect to such State is made).

(b) The determination with respect to each State made pursuant to subsection (a) shall be used after that determination is made whenever the number of woodlot owners in such State is a factor in any law, regulation, custom, or usage or is a factor in the application of any law, regulation, custom, or usage.

SEC. 4. (a) The Secretary is authorized to take such actions as the Secretary deems are necessary to make forest fuel utilization training programs available to State foresters, or equivalent State officials, in States in which forest growth is underutilized and in which there is a potential for the utilization of wood as a fuel in place of oil.

(b) The Secretary shall submit to the House of Representatives and the Senate not later than one year after the date of the enactment of this Act a report on the actions taken by the Secretary under subsection (a).

SEC. 5. Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall—

(1) after consulting with the Secretary, develop a plan to increase the assistance and information provided to the Forest Service by the Department of Energy; and

(2) submit to the House of Representatives and the Senate a report (including a copy of the plan developed pursuant to paragraph (1)) on the progress made since the date of the enactment of this Act in increasing the assistance and information provided to the Forest Service by the Department of Energy.

SEC. 6. Not later than one year after the date of the enactment of this Act, the Administrator of the Small Business Administration shall—

(1) after consulting with the Secretary, develop a plan to increase the managerial assistance and information provided to small woodlot owners and wood fuel distributors and marketers by the Small Business Administration; and

(2) submit to the House of Representatives and the Senate a report (including a copy of the plan developed pursuant to paragraph (1)) on the progress made since the date of the enactment of this Act in increasing the managerial assistance and information provided to small woodlot owners and wood fuel distributors and marketers by the Small Business Administration.●

By Mr. DURKIN:

S. 1557. A bill to authorize construction of a turnaround basin on the Piscataqua River, Portsmouth, N.H.; to the Committee on Environment and Public Works.

● Mr. DURKIN. Mr. President, the bill I offer today is designed to correct a very serious situation regarding the safety of navigation along the Piscataqua River in Portsmouth, N.H.

The safe passage of large ships is something that all of us take for granted. Unfortunately, we often lose sight of the fact that it takes more than just good fortune and skillful navigating to guide a ship from the open sea to a dock for unloading. It takes safe waterways—well-dredged channels that are deep and wide enough—to insure that these ships can pass through congested areas without incident.

In the Portsmouth area, there is a critical need for improvement in the river channel to alleviate a very serious safety problem. My bill authorizes that these improvements be done now, not after a tragic accident occurs. Portsmouth and the neighboring town of Newington are a major terminus for energy supplies, especially heating oil, liquid propane and jet fuel, and it is a rare day when loaded tankers are not negotiating the tricky waters of the Piscataqua to deliver their products.

The implications of a tanker accident to Portsmouth are devastating. An explosion on a gas-carrying tanker has the potential to do tremendous damage to lives and property. A major oil spill could seriously harm the beauty and ecological integrity of the seacoast. And even a relatively minor accident in the channel could disrupt the traffic flow along the river and with it the vital delivery of energy supplies. Indeed, it is a testament to the exceptional skill of our river pilots that there has never been a serious accident involving tankers in the Portsmouth area.

Against this backdrop of extremely hazardous cargoes and an oftentimes unpredictable river current, one would think that the Federal Government would do everything possible to see that the hazards of navigating tankers in the rivers are minimized. That, unfortunately, has not been the case. In 1970 the Senate Environment and Public Works Committee authorized a study to investigate the possibility of making navigation improvements along the river. Although 9 years have elapsed since that initial authorization, I am sorry to report that the study is still not complete and the much-needed improvements are no closer to reality than they were when the study began.

I believe there is near-unanimous agreement that what the Piscataqua needs most is a turnaround basin between the first and second lift bridges. This basin will allow ships that have been disabled or damaged near the center of population to turn around and head back for the open sea, out of harm's way.

Because of the pressing need for this turning basin, this legislation will direct the Army Corps of Engineers to proceed with the dredging of this much-needed safety improvement. While I am not demeaning studies, I think that we have an unfortunate tendency in government to study everything to death. From my investigation of this issue, it is clear that a pressing safety issue exists here. The time to perform this work is now, not 10 years in the future.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake construction, in such a manner as he may deem necessary, of a turnaround basin between the first and second lift-bridges on the Piscataqua River at Portsmouth, New Hampshire.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. DURKIN:

S. 1558. A bill to amend the Federal Power Act to permit the Federal Energy Regulatory Commission to enter into agreements with States under which State authorities may exercise the licensing authority of the Commission with respect to small hydroelectric projects at existing dams, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. DURKIN. Mr. President, the bill that I offer today is designed to halt bureaucratic redtape involved in getting small-scale hydroelectric power back into operation in New Hampshire and New England. This bill amends the Federal Power Act to allow the Federal Energy Regulatory Commission (FERC) to enter into agreements with States under which State authorities may exercise FERC's licensing authority for small-scale hydro projects at existing dams.

Small hydropower facilities played a prominent role in the early growth and development of New Hampshire and New England. The numerous rivers and streams privided a ready source of power which could be harnessed quickly, easily and cheaply and made the region the center of commerce and industry in the early days of our Nation. In modern times, however, these small powerplants were abandoned in favor of huge centralized plants fired by oil that used to be cheap and abundant, but now is neither.

The days of cheap oil are long gone now, and it has become an absolute necessity to get small-scale hydropower back into operation. The white water in New Hampshire that tumbles unused down our rivers and streams to the sea has the capability of saving us millions of barrels of costly imported oil each year. We cannot allow in good conscience such waste to continue.

One of the real problems associated in putting small hydro facilities back on line has been the Government redtape, the requirements that various agencies place on the developer. This bill will allow FERC—which has the prime responsibility for licensing projects—to surrender that responsibility to the ap-

propriate State agency, such as the State Public Utilities Commission.

During a recent Senate hearing I held in New Hampshire on small-scale hydroelectric power, numerous witnesses testified that the FERC licensing requirements were cumbersome, time-consuming and costly. In fact, these requirements are sometimes so burdensome that the individual developer without corporate money is unable to proceed with the project. Because most of the small-scale hydro projects also need State approval before they can move forward, this change in the law will speed up the process and permit the developer to bypass unnecessary redtape.

I need to remind no one in this Chamber that this Nation is in the throes of a grave energy crisis. The development of small-scale hydro power is one small way to promote energy independence. We have a responsibility to explore every avenue which furthers that aim, and that is the purpose of the bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 31. (a) The Commission may enter into cooperative agreements with the States for purposes of avoiding duplication and delay in the licensing of small hydroelectric power projects at existing dams. Such agreements may provide that, with respect to any small hydroelectric power project at an existing dam, the licensing authority of the Commission under this part may be exercised, in accordance with the requirements of this Act and other applicable law, by an appropriate authority of the State.

"(b) As used in this section, the terms 'small hydroelectric power project' and 'existing dam' have the meanings prescribed for such terms in title IV of the Public Utility Regulatory Policies Act of 1978."●

By Mr. DURKIN:

S. 1559. A bill authorizing a study to develop small hydroelectric projects for rural areas or communities; to the Committee on Environment and Public Works.

● Mr. DURKIN. Mr. President, today I offer a bill which is designed to get more small-scale hydroelectric plants back into operation. This bill authorizes the U.S. Army Corps of Engineers to study ways to develop small hydroelectric facilities for rural communities.

Residents of New Hampshire and New England are very familiar with the vital part that waterpower played in the growth and development of the region. In the early days of our Nation, the moving waters of our rivers and streams fueled the industrial revolution and made the area into the commercial and manufacturing hub of the Nation.

Despite a record of long and efficient service, waterpower was gradually phased out as a source of energy in favor of huge centralized powerplants fired by cheap oil and nuclear fuel. The Department of Energy has estimated that in the past 30 years hundreds of small hydro facilities throughout New England have been abandoned, causing us to consume hundreds of millions of barrels of oil that would otherwise have been conserved.

The time is long overdue for us to bring these dams back into service, especially in New England where we are at the end of the energy pipeline. We must now stop relying on costly imported oil to take care of our future energy needs. In the rural areas of New Hampshire and New England—areas that have probably suffered the most at the hands of rising energy costs—there is, quite literally a gold mine of power flowing downstream to the sea every day. We have an absolute responsibility to harness that power and bring it to the persons who need it the most. I am convinced that this study will begin to lead us in that direction.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a study of the possible rehabilitation of the hydroelectric potential at former industrial sites, millraces, or other types of facilities constructed in the past, and the possible conversion of such sites for use as new, small hydroelectric projects that will serve rural areas or communities. For the New England area, sites with a potential capacity of twenty-five kilowatts and up will be considered. Studies should stress systematic hydroelectric development and operation on a regional and individual project basis fully considering potential benefits from water storage, conservation, flow regulation, and integrated operation of multiproject systems. The Secretary of the Army, acting through the Chief of Engineers, is further authorized and directed to provide technical assistance to local public agencies or cooperatives in any such rehabilitations at sites identified under this section, or that would qualify under the terms of this section.●

ADDITIONAL COSPONSORS

S. 23

At the request of Mr. CHURCH, the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 23, a bill to amend the Plant Variety Protection Act.

S. 246

At the request of Mr. BENTSEN, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code of 1954 to encourage greater individual savings.

S. 391

At the request of Mr. ROTH, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 391, the Federal Administrative Improvements in Reports Act.

S. 535

At the request of Mr. SCHMITT, the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 535, the Nuclear Waste Transportation Safety Act.

S. 1446

At the request of Mr. DURKIN, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1446, a bill to reserve funds for small, medium, and nonhub airports.

S. 1532

At the request of Mr. MOYNIHAN, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1532, the Kennedy Center Act Amendments of 1979.

SENATE JOINT RESOLUTION 43

At the request of Mr. DURKIN, the Senator from Florida (Mr. STONE) was added as a cosponsor of Senate Joint Resolution 43, to proclaim March 21, 1980, as "National Energy Education Day."

SENATE RESOLUTION 194

At the request of Mr. DURKIN, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of Senate Resolution 194, entitled "Wheat for Oil."

AMENDMENTS NOS. 340 THROUGH 352

At the request of Mr. JACKSON, the Senator from Indiana (Mr. BAYH) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of amendments Nos. 340 through 352 intended to be proposed to S. 737, the Export Administration Act of 1979.

SENATE RESOLUTION 202—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. LEVIN, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget.:

S. RES. 202

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 111, the Panama Canal implementing legislation. Such waiver is necessary to permit the consideration of legislation authorizing new budget authority for fiscal year 1980 for programs relating to the implementation of the Panama Canal Treaty. The Committee on Armed Services was unable to consider and dispose of the proposed legislation prior to May 15, 1979, because it was deemed prudent to await House passage of the legislation before marking up the Senate version.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 111 as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED APPROPRIATIONS, 1980—H.R. 4392

AMENDMENT NO. —

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to H.R. 4392, an act making appropriations

for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

● Mr. PELL. Mr. President, as chairman of the Committee on Rules and Administration I announce that on Tuesday, July 24, at 2:30 p.m., the committee will meet in room 301 of the Russell Senate Office Building to consider and mark up proposed amendments to the Federal Election Campaign Act, along with other legislative and administrative business.●

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on pending calendar business.

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

ADDITIONAL STATEMENTS

GOVERNMENT HARASSMENT OF A CIVIL SERVANT—LAWRENCE BRADY

● Mr. HUMPHREY. Mr. President, I wish to bring to the attention of the Senate a matter of serious concern to me and I am sure to all of my colleagues.

Apparently a deception was perpetrated on the Congress recently with testimony presented in executive session by Mr. Stanley Marcuss, Deputy Assistant Secretary of Commerce for Industry and Trade before the House Armed Services Committee.

In his testimony, he portrayed the U.S. export control laws in glowing terms. When the chairman of the committee, Representative RICHARD ICHORD, called upon Marcuss' assistant, Lawrence Brady, Acting Director of the Office of Export Administration, to comment on the state of our export control system, he characterized them as "in a complete shambles."

In his testimony, he revealed that the Soviet Union was using the Kama River Truck Factory—a factory built with some $500 million in American designs, tools and computers—to make military vehicles and parts.

Under the agreement with the Soviet Union to help construct that factory, the United States was led to believe that such a diversion was not to have taken place. But it did.

Now, trucks produced at the factory reportedly are being used for military purposes.

Shortly thereafter, Mr. Brady, a New Hampshire constituent, made this information available to Congress, he was demoted to the lesser post of Deputy Director of the Export Control Unit.

He was demoted because he had the courage and, yes, the responsibility, to come before Congress and, as a responsible public servant, report this serious violation of U.S. export control laws.

Because his testimony was at variance with that of Mr. Marcuss, however, Mr. Brady was immediately demoted.

To add insult to injury, although he no longer held the post of Acting Director, Mr. Brady was asked to continue to carry out the responsibilities of that position until a replacement could report to duty.

And now, Mr. President, I understand that Mr. Brady may be eased out of the export control office altogether.

He has now become the victim of harassment by his superiors.

For example, I understand that a letter recently was sent under the signature of Commerce Secretary Juanita Kreps to Representative ICHORD and to Senator HENRY JACKSON, saying that Mr. Brady's testimony on the diversion of trucks from the Soviet Kama River factory for military purposes was not true.

Mr. Brady attempted to draft a memorandum to respond to that letter, a letter which I am now informed was not approved either by the Office of Management and Budget or the National Security Agency.

I was informed yesterday that as Mr. Brady's secretary was typing the memorandum to respond to Kreps' letter to the Members of Congress, Mr. Brady's immediate boss attempted to tear the memorandum from the typewriter of Mr. Brady's secretary.

In addition, when my staff called Mr. Brady on the telephone to discuss this matter with him, Mr. Brady had to request permission to accept the phone call from my staff and to be left alone in the room to do so.

Mr. President, such inexcusable action by the superiors of Mr. Brady is nothing less than harassment. It is this kind of harassment which even President Carter publicly condemned on the occasion of pushing his Civil Service reform legislation which passed Congress last session.

Mr. President, for a person in the position of Mr. Brady to perform responsibly, it is necessary for him to alert Congress to gaps in our export control laws. That is what Mr. Brady did. Certainly, he should not be penalized for his diligence.

Mr. Brady's opinion on the state of U.S. export control laws was sought by a congressional committee charged with the responsibility of insuring their effectiveness.

For Mr. Brady to receive this kind of treatment of immediate demotion and now threat of dismissal at the hands of his bosses is inexcusable and Congress has an obligation to protect such individuals.

As a consequence, I have written a strong letter of protest to Secretary Kreps. In that letter, I called upon her to consider dismissing Mr. Marcuss for his deceptive testimony before a congressional committee and to immediately reinstate Mr. Brady.

If that was not forthcoming, I also said that I would vigorously seek a congressional investigation into the treatment of Mr. Brady. I view such harassment as so serious, Mr. President, that such an occasion warrants a strong response.

Mr. President, I ask that my letter to Secretary Kreps be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., July 19, 1979.

Hon. JUANITA M. KREPS,
Secretary of Commerce,
Washington, D.C.

DEAR SECRETARY KREPS: I strongly protest the treatment accorded a New Hampshire constituent, Lawrence Brady, who was recently demoted as Acting Director of the Export Administration.

In addition to the demotion, apparently because of his recent testimony before a Congressional Committee, Mr. Brady reportedly is being eased out of his job altogether.

For a person in his position to perform responsibly, it is necessary for him to alert Congress to gaps in our export laws. That is what he has done. Certainly, he should not be penalized for his diligence.

Mr. Brady's opinion on the state of U.S. export control laws was sought by a Congressional Committee charged with the responsibility of insuring their effectiveness.

His testimony followed that of Mr. Stanley Marcuss, Mr. Brady's boss, which portrayed U.S. export laws in glowing terms.

Mr. Brady's testimony, however, told a different story—a story which pointed directly to a clear and present danger that such laws were posing to U.S. national security, particularly with respect to the sale of highly sophisticated U.S. technology to East Europe.

Mr. Brady bolstered his testimony with the revelation that the Soviet Union was using the Kama River truck factory—a factory built with some $500 million in U.S. designs, tools and computers—to make military vehicles and parts.

While this is only the most recent example of how our export control laws are like sieves, there are other confirmed instances of U.S. sophisticated technology either unwittingly arriving in Soviet hands or being diverted for military purposes.

In the attempt by Mr. Marcuss to present Congress with a glowing report on the state of U.S. export control laws, it is now apparent that Congress was, in fact, deceived by his testimony.

By the action of Mr. Brady's superior to purposely deceive Congress, a very serious breach of trust has resulted between Congress and your Department.

As a result of Mr. Brady's testimony, and the fact that he came forward to inform Congress of the serious nature of U.S. export control laws, I intend to offer a series of amendments designed to strengthen them once and for all.

Because Mr. Brady, one American concerned for the security of his country, had the courage to step forward and alert Congress to these serious problems, I am now calling on you to dismiss Mr. Stanley Marcuss, whose testimony before Congress was a laundry list of deception.

In addition, I ask for Mr. Brady's immediate reinstatement, and I further request to be kept informed of your actions in regard to this serious matter.

I want to hear from you at the earliest possible date on this matter of importance to me and my constituent. If I do not, I shall be compelled to ask Senator William Proxmire, Chairman of the Banking, Housing and Urban Affairs Committee, which has jurisdiction over U.S. export control laws, to im-

mediately investigate the treatment of Mr. Brady by your Department.

Sincerely,

GORDON J. HUMPHREY,
U.S. Senator.●

THE ELECTORAL COLLEGE

● Mr. MOYNIHAN. Mr. President, I rise to speak briefly and for the first time in what I believe will be an extended debate on the matter before us, Senate Joint Resolution 28. I wish to address this subject in the context, as I see it, of the historical experience of the American Constitution and the American political system.

There is no fact more singular about our Constitution than its durability. As a written constitution, it is the oldest in the world save for the medieval Constitution of Iceland, which still persists in that small nation. No other large industrial, and certainly no continental, nation has anything like our experience of a sustained and stable government under a written constitution basically unchanged from its original construction.

We, perhaps, do not understand how singular this history is. If I may make a personal comment, I recall that one afternoon in the General Assembly Hall of the United Nations, in the course of a long debate on a not altogether absorbing subject, I found myself looking at the two large scoreboards, as one might say, located in the front of the Assembly Hall, on which the member nations are listed and where their votes are recorded.

I found myself asking how many of the 143—now 151—nation members of the U.N. both had existed in 1914 and had not had their governments changed by force since 1914. It was not a great exercise to determine that in that great universe of nations exactly seven met both criteria: that they both existed in 1914 and had not had their form of government changed since.

There are some who might ascribe our good fortune to the insularity of the Nation in its early years, and the size and strength of the Nation in its later years. But I would say that in no small measure it has also been the result of the genius of the American Constitution and the way it has served this political community for almost two centuries.

I would not disguise, at the outset, my sense of the measure before the Senate today, proposing the abolition of the electoral college. In the guise of perfecting an alleged weakness in the Constitution, it in fact proposes the most radical transformation in our political system that has ever been considered, a transformation so radical and so ominous, in my view, as to require of this body the most solemn, prolonged and prayerful consideration. In particular, it requires a consideration that will reach back to our beginning, to learn how we built and how it came about that we built better than we knew.

Mr. President, at the base of Capitol Hill, just a few feet outside this Chamber to the west, looking west past Shrady's great equestrian statue of Grant, past the Washington Monument, and on to French's seated Lincoln, is a bronze statue of John Marshall, also seated. It cannot be altogether by chance that these four men, defining the unity and the tension of the active and the contemplative in American public life, should be the only persons so honored on the central axis of the mall. Nor is it chance at all that a marble tableau on the northeast face of the plinth of the Marshall statue depicts, in the allusive but plain language of the time, the scene "Minerva Dictating the Constitution to Young America."

This statue, erected in 1884, suggests that a century into our constitutional experience we had a live and vibrant sense that our Constitution was constructed by persons who had studied history and had come to what they viewed as a new and better understanding of what they thought might be judged the most elevated principles of government.

I begin at the beginning with the Declaration of Independence and the "self-evident truths," as they were termed, by which the new Nation sought to justify its revolution and its new form of government.

As the late Martin Diamond has reminded us, the political credo of the Founding Fathers, encapsulated in the words of Jefferson, was based upon the scientific and philosophic advances of the 17th and 18th centuries. The respect for human rights, which constituted liberty as they understood it, was not in their view an idiosyncratic value of a remote group of Anglo-Saxons with no claim on any other political culture. It was not a tribal aspect of our inheritance. Rather, it was seen as the primary political good, of whose goodness any intelligent man would convince himself if he knew enough science. In Diamond's words:

> They regarded liberty as a modern idea, as the extraordinary achievement of 17th and 18th century political thought. With that achievement in mind, George Washington, for example, said that Americans lived in "an epoch when the rights of mankind are better understood and more clearly defined, than at any former period."

This understanding and clarity were all part of the new "science of politics" to which Hamilton referred in the Ninth Federalist Paper. I would cite that passage of Hamilton and his sense of how relevant it was.

He noted that previous republics had had such stormy histories that republicanism had admittedly fallen somewhat into disrepute. This tendency, however, could be overcome, thanks to progress in political science. He went on to say:

> The science of politics, . . . like most other sciences, has received great improvement. The efficacy of various principles is now well understood, which were either not known at all or imperfectly known to the ancients.

Hamilton went on to cite as examples of "new discoveries" the various constitutional institutions with which we are now familiar: separation of powers, the system of checks and balances, representation of the people in the legislature, the independent judiciary, and so on.

I would stress once again the idea the Founding Fathers had learned from history. They had studied its principles and judged that liberty was not just a quality characteristic of the ancient peoples from which the American peoples sprang, but was a principle of government of which any person who would learn enough natural science would persuade himself.

They recognized that republics in the past had been turbulent. They had all studied with great attention the history of Greece and of Rome. There had been democracies in both places—or republics if they were not democracies—which at certain times witnessed the appeal of one man or of one issue which came along and swept away the judgment of the people. And in the aftermath, what did they find but a ruined and defunct republic and a tyranny in its place?

So the Americans developed these new discoveries—as they saw them—separation of powers, the independent judiciary, the representation directly and indirectly of people and States in the Congress, a principle that involved not just one majority, but in the most important sense, many majorities.

Dr. Judith Best, the distinguished professor of political science at the State University of New York in Cortland, N.Y., and one of the foremost authorities on the electoral college, has spoken at length and with special clarity on the principle of concurrent majorities. In her testimony earlier this year before the Subcommittee on the Constitution, she put it quite luculently when she said:

> • • • the principle of concurrent majority, is, has been, and was intended to be the American idea of democracy because the size of the popular vote is not sufficient to maintain liberty.

All through our system we find majorities at work, but they have to be at work simultaneously. John C. Calhoun referred to them as concurrent majorities, and while he often spoke only of the States and the Federal Government, he perceived a self-evident property of our constitutional arrangements to be found everywhere. A concurrent majority is required between the House of Representatives, based upon the direct election of the people, and a majority in the U.S. Senate, Members of which at that time were indirectly elected through the State legislatures and which to this day represents the States and the people of the several States, regardless of their actual numbers. It is a majority of the States which counts in this body, not the majority of the population, per se.

Concurrent majorities are also required between sufficient majorities in both Houses of this Congress and the Presidency to enact a law, while the President himself comes to office by having achieved a majority of the electoral votes cast. The power subsequently evolved, but clearly anticipated by the framers—and I think this is settled—that the Supreme Court may review the acts of the Congress and the President in their concurrent majorities, and the majority of the court could judge upon constitutionality.

This pervasive and understood principle of the Constitution was thought to be—and who would argue that history has not supported that expectation—learned from history. And of all these

majorities, none was more subtle or more central to their thinking than the majorities required to elect a President.

Again there would be several majorities, not in any rigid, absolute sense but in the sense that a clear preponderance of choice would emerge. The President would be elected by a majority of the popular vote and by a majority of the States. That has been our principle ever since. It is the principle enshrined in the electoral college, and it has been the basic institution which has given structure to American politics, and the politics of our Presidency.

At an early time in our history the electoral college changed its nature from a deliberative body which followed its own will, to a body which simply reflected the majority of the electors as they voted in their several States.

While we are a people very much given to the principle of written constitutional arrangements, I believe we have shown a capacity in our Government to adopt through practice matters which attain to the condition of principle. As an example, early in the Republic it became understood that a President would only serve two terms. George Washington established that. It was a century and a half before it was written into the Constitution. Yet it had the effect of a constitutional principle for all but the administration of one President in a wartime situation, and that was very special indeed. Even so, that experience led to its being written down as an amendment to the Constitution itself. When, in fact, an informal constitutional principle was violated it soon became a formal one.

That tradition served us well for a very long period. It served us with respect to the single great problem which republics have always dealt with, which is how to persuade persons in power to leave power. It is a problem which, for example, the republics founded in Latin America in the early 19th century never successfully coped with, or rarely did. This led, in the Mexican Republic, for example, to an eventual recognition that no one ever left power of his own accord, resulting in a constitutional provision for only one term and one term only.

Our election of 1800 marked the most remarkable and most enduring of all political events in our history the party out of power won an election and the party in power voluntarily left office. It was John Adams who was defeated when the votes finally came in from the South, and he went back to Quincy, Mass., thinking himself a failure, having turned over the Treasury, the Great Seal, and the Army of the United States to Thomas Jefferson. Far from being a failure, he began democracy in the modern world.

He proved that it could work. It does not work everywhere. We are reduced, to this day, to some 35 democratic societies in the world, about the same number there were in 1914. But the oldest constitutional democracy is ours, and it lives under the Constitution established with great sensitivity for the need to see that power is never installed, save when it is consented to by more than one majority. That was the principle of the electoral college.

There is another aspect of our Constitution, one, I think, perhaps not always recognized that assume conflict in political systems. This is not ordinary; this is unusual.

There is no prior constitution anywhere, even in the ancient constitutions of the Greeks, which recognized that conflict is normal to a political system and needs to be organized and channeled. A much more common assumption was that of monarchy, in which the king is assumed to represent the interests of all, and what the king does, is by definition, harmonious with the interests of all; or, consider the curious doctrine of the Soviets, which they acquire from Marx, that such are the basic harmonies of communist society that, after a period of socialism, that state will wither away, the state being coercive by nature and there being no need to coerce in a society where natural harmonies had been allowed to evolve.

James Madison knew better. He knew conflict is normal and perpetual. He also believed it could be controlled. And, of course, again, an extraconstitutional institution emerged, one which, interestingly, the founders had feared, but to which they very clearly lent their formidable energies and enterprise. The political party emerged. And from the beginning of the Republic, or to be more precise, from 1796, our third Presidential election, political parties developed for the purpose of organzing conflict and limiting conflict.

Only once have we seen them disappear in that brief period, in the 1820's. In the election of 1820, with the first appearance of the so-called faithless elector, Mr. Plumer of New Hampshire decided that only George Washington should be entitled to the honor of having been unanimously elected by the electoral college, and so cast his vote for John Quincy Adams. Even there, we see the electoral college being used as an institution to define majorities, and the parties that emerged had as their single most characteristic quality—again different from anything else in the experience of republics—that they were not ideological, that they were not sectional nor confessional, and rarely, in the two great parties, extremist.

It has been a source of frustration in the youth of as many generations as this Republic can measure that our parties have not been extremist. And if we look to the question, why have they not been this way, the answer is that the electoral college makes it impossible for them to be extremist if they are to continue effectively to be parties. Indeed, when some have begun to do so, they have ceased to exist.

The electoral college requires the assembly of consent—again, concurrent majorities—in one part of the country and another part of the country, and yet another part, all defined in terms of several States. It has as its extraordinary ability the formation of consensus as between widely differing regions, political purposes and styles, and political agendas. It has as its purpose and function the narrowing of differeces, a narrowing which is repeatedly to be encountered in the narrow range of votes as between the parties in Presidential elections. There are few landslides as we call them.

And these landslides are really nothing of the sort. They rarely attain to 60 percent of the vote. When, in fact, one party momentarily belongs to an extreme faction it almost instantly is hugely rebuffed. It has been the experience of two centuries that just as instantly, they resort to a traditional practice of obtaining consensus, retaining a structure or concurrent majorities around the Nation that makes it possible to win a majority of the votes and electoral college, and thereafter, to govern with the legitimacy that has come of attaining to such diverse majorities.

Mr. President, I recapitulate, to state my judgment—and it can only be mine—that the proposal before us, in the guise of perfecting an alleged weakness in the Constitution, proposes the most radical transformation in our constitutional system that has ever been considered.

I remarked that the Founders devised our system with the idea of a network of concurrent majorities which would be required to exercise power. The fundamental thrust of this measure, however unintended—nonetheless it seems to be ineluctably clear—would be to abolish that principle of concurrent majority.

If there is once introduced into the Constitution the proposition that a President may routinely be elected by 40 percent of the vote, you have the most ironic of all outcomes, that in the name of majoritarianism we have abolished even that single majority which the Founders so feared.

Mr. President, politics is an argument about the future, and no one knows that future. However, as Hamilton and his colleagues argued, the study of history can give you some sense of probabilities. If we would study the modern history of Europe as they studied the ancient history of Greece, what would we repeatedly encounter but a democratic republican society succumbing to a plebiscitary majority, to one man, and to the end of the republic?

It happened in France; it happened in Italy; it happened in Germany. Almost the only places it has not happened in Europe on one occasion or another—I dare to suggest that it is an interesting point—are the constitutional monarchies.

Indeed, there was a moment, recently, when the only democracies left in Europe were constitutional monarchies. Having a hereditary chief of state, they never had to elect one with real power, and they could govern from their legislatures, where members were elected in individual constituencies as is the case in Britain today. They never succumbed to the ever-present threat of an overwhelming issue, an overpowering person, and the end of liberty. That is precisely what we invite if we adopt this radical measure.

Consider the situation: We shall have introduced the runoff, the very symbol of splintered European political systems, where no majority ever can be ac-

cumulated by the political process of one party presenting itself to the country and asking for a majority.

Why? Because it maintains its internal cohesion by the narrowness of its agenda, which is always and repeatedly reflected in the narrowness of its votes.

There are two ways to maintain a political party. Roughly speaking, there are two models.

On the one hand, one can assemble a narrow agenda of issues and find a constituency that cares strongly about those issues and will vote for one's party regardless, as long as it maintains that narrow agenda, that purity of doctrine, for that constituency will begin to dissolve when that purity begins to be diluted. That is the fate of democracies where it is not necessary to win a majority of the vote the first time out, and where it becomes possible to take the chance on winning a majority in the runoff.

The nature of the American political party which, as I said, has been the despair of every generation of college youth since John Quincy Adams, is that it seeks a majority to begin with. It is broad. It tends to dull conflict that is inspiring to youth and to seek much that is consoling to age, to wit, a not always pristine consensus.

What will we see if this resolution should come into law? To repeat, Mr. President, we do not know what we will see, but we know what others have encountered. We will see a situation in which at the very least we will have four parties because both of the major parties incorporates within themselves two parties.

One of the great influences of the electoral college is that after the party convention takes place the party that loses stays in the party, so to speak. Otherwise, there would be no prospect, even for the minimal rewards that go to the losing faction. But under this amendment, why not go off and run on your own?

Conceivably, at least four people will run. It will become normal. It would not be abnormal for 14. And you get a kind of randomness in outcome that is characteristic of a purposeless system. Anyone feeling strongly, as people will, and legitimately, about issues, will say:

> What if I run and get 19 percent of the vote, and the next highest person gets 24 or 39, and together we go into the runoff, and who knows but that I will emerge?

It will be a normal and legitimate calculation, and it will be a calculation that will have as its most distinguishing characteristic that no one would any longer think of those units of Government, the States, which more and more, as we progress into the 20th century, become indispensible to the management of a governmental system which is increasingly loaded with tasks.

Theodore H. White, in a graphic description of events on election night as he would foresee them, suggests all the drama we know so well—as the early returns from Massachusetts, South Carolina, and Florida come in and then the great progression across the continent to California, Alaska, and Hawaii begins—would dissipate. To the contrary, as the undifferentiated votes mounted up, the pressures would be on the mountain States and then the coastal States and the island State, to get out votes to change outcomes. There would be genuine pressures to fraud and abuse. It would be an election no one understood until the next day or the day after, with recounts that go on forever, and in any event, with no conclusion, and a runoff to come. The drama, the dignity, the decisiveness and finality of the American political system would be drained away in an endless sequence of contests, disputed outcomes, and more contests to resolve outcomes already disputed.

That is how legitimacy is lost. That is how a nation trivializes those solemn events that make for the single most important ingredient of a civil society, which is trust.

There was once, Mr. President, an acquaintance of mine who served as a diplomatic officer in Southeast Asia during the period of American aid who had a poignant conversation with a friend he had made in that country. The friend was a native to that country. As he was leaving, the friend said to him:

> You know, you come here and you give us this technical assistance and that material assistance but we know that you never give us the one secret you have and we do not and makes all the difference, which is that you trust one another.

And that is what we have to show for two centuries of a Constitution that has made trust possible, partly because it has made conflict visible and manageable.

Mr. President, the present craze for amending the Constitution to cure every imperfection from the common cold to the cold war is not new. But I can suggest that it should be looked at with great care.

There is an experience in my own State. I think how frequently each of us in this Chamber thinks of his own State because that is what he represents and he is unique in that representation. No other State is alike and no two Senators from one State come from quite the same constituency.

In 1858, on March 3, the New York Times reported from Albany that 86 State senators had presented a petition so brief and so explicit to the times that they gave it lines in the Times, and I read the petition. It said:

> The undersigned citizens of the State respectfully represent that owing to the great falling off of the Canal revenue as well as the increasing drafts upon the State Treasury and the large expenses of carrying on the several departments of the State Government thereby swelling up the taxes, therefore, with the view of relieving the people from the large amount now unnecessarily expended to sustain the executive and legislative departments and to secure the honest and better administration thereof, your petitioners respectfully ask that your honorable body pass an act calling a convention so to alter the Constitution as to abolish both the executive and legislative departments as they now exist and to vest the powers and duties thereof in the President, Vice President, and directors of the New York Central Railroad Company.

The Times reported that this was intended as a joke. But in no time at all it passed the senate. It thereupon passed the assembly and the following autumn failed of adoption on the ballot by 6,360 votes.

I mean no immediate parallel, Mr. President, but we have before us an amendment designed to abolish the Democratic and Republican Parties and vest their present powers in the President, Vice President, and the directors of the National Broadcasting Corporation.

The reign of television would be Orwellian and the Republic would decline. Have we not had enough of this? Do we not realize that we are on the edge of being required by the States to call a constitutional convention, for the purpose of putting algebra into the Constitution? But once the constitutional convention convenes they need no more stop than when they gathered in Philadelphia for the same purpose in 1787.

Mr. President, there is a solemn obligation of persons who have been blessed, as we have been blessed by a stable political system to look to that stability as the most precious inheritance anyone can have. Look about the world and think of the experience of mankind in this generation. Ask what society has lived from 1813 without foreign invasion. Ask what society has never known a break in its congressional or Presidential or judicial successions. Ask what society so accepts the principles of the Constitution as to enable the Supreme Court, appointed for life, to strike down laws of this very legislature, and to do so with heightened respect when it fulfills its constitutional mandate.

Ask what the legitimacy of justice is once we tinker with the balancing phenomenon of the electoral college.

We have a republic. It has endured. We trifle with its arrangement at a risk not only to the future of that republic, but, most assuredly, to the reputation of this generation of political men and women.

It is one thing to be, as often we must feel we are, outthought and outperformed by our predecessors, but are we so to undervalue our own worth as to fall into an almost destructive and adversarial relation to their work?

I would hope not, Mr. President. I respect altogether the purposes that prompt this amendment. I suggest they may easily be remedied by an arrangement which abolishes the individual office of the elector. Indeed 19 States already require that electors vote as their majority dictates. But the remedies are simple, and surely the experience of a people long accustomed to successful government, in a given arrangement, ought not to tamper with that arrangement owing to hypothetical problems, emergencies that do not arise, and which have never in our time arisen.

Mr. President, there was a time in the 19th century when on patriotic occasions, and almost any occasion that gave the opportunity, Americans would rise and offer the toast: "To the President and the Constitution of the United States," so intimately did they associate those institutions.

I hope the day does not come when tearing the Constitution asunder we effectively diminish the role of the President of the United States that as men or women are elected with so narrow a base that in order to continue in office—given the intensity of factions there that brought the person there in the first place, and the narrowness of base that threatens that incumbency—they commence to consider the most unpresidential and antirepublican temptations.

We have prospered and endured. Let us hope that we shall continue to do so. There is work aplenty before this Congress. Let us get on with that work and leave the Constitution be. If the time comes when the true experience of an emergency arises because of the extraconstitutional practices that obtain as to the condition of principle, as was the case when the two-term practice was broken and Congress and the State legislatures therein did react, then the time to consider a measure such as this will be upon us. But let us wait until its necessity is plain.●

JOSEPH SOBRAN'S SYNDICATED COLUMN

● Mr. GARN. Mr. President, it gives me a great deal of pleasure to bring to the attention of our colleagues the latest success of a remarkable young writer and critic, M. J. Sobran. Joe Sobran has begun writing a syndicated column that is distributed by the Los Angeles Times Syndicate. The column appears in the Washington Post.

Mr. Sobran has distinguished himself as one of the bright new talents recruited by William F. Buckley, Jr. for National Review. Now, after several years with National Review, Joe Sobran is a senior editor. His work for National Review encompasses such diverse topics as constitutional law and history, sociology, theology, and book and movie reviews. Almost always, he has something to say which places him among the Nation's best analysts and writers. I am happy to see that through his syndication he will be read by a larger and more politically varied audience. His new readers will be well rewarded, and soon come to regard his work as highly as I do.

The Sobran brain and pen have also been turned toward longer essays in the excellent quarterly, the Human Life Review. Human Life Review is the foremost American publication dealing with the important issues of life and death, birth and abortion, euthanasia, and other aspects of human dignity that are central to our traditional ideals. The Human Life Review and its creator and editor, J. P. McFadden, are performing one of the most important services in American publishing, and, when the Nation regards its senses about the value of human life, it will have a debt of gratitude to pay to Jim McFadden and his journal. And McFadden—himself just falling short of being able to do the whole job alone—has recruited people like Joe Sobran—who has contributed to nearly every issue of Human Life Review.

The Op Ed pages in this country will be better written now that Joe Sobran is writing a syndicated column. I request that the following example of his work be printed in the RECORD to prove my point.

The article follows:

WHOSE CHILD IS THIS, ANYWAY?

(By Joseph Sobran)

Why is it that every time somebody asserts a new right, all of us wind up less free than we were before?

The Supreme Court has now ruled unconstitutional a Massachusetts law requiring minors to get parental approval before obtaining an abortion. Though divided, the majority seems to think a girl should be able to get the necessary permission from a judge who deems her "mature." And if the judge deems her immature, he himself should be the one to decide whether the abortion is in her best interest.

Leave aside the ethics of abortion. Leave aside the question how these minutia are quarried from the Constitution. Let us simply consider what the court's ruling implies about the rights of parents, the relations of parents and children, and the scope of state power.

In the first place, the court holds that the girl who wants an abortion owes no obedience to her own father and mother. In the second place, it holds that she does owe obedience to the court, which has the discretionary power of deciding whether she may or may not make the abortion decision for herself.

To put it another way: The court assumes the right to act in loco parentis—while denying parents themselves that right.

The girl herself has no new freedom. She has, it is true, a right to defy her parents, but not to defy the court. She has merely exchanged submission to her father and mother for submission to some judge who barely knows her.

Justice Byron White, the lone dissenter, asked how on earth the Constitution can be construed to deprive parents of the right to decide whether their minor child shall have surgery. It is a question that should give pause even to those who regard abortion as a valid freedom.

So-called children's rights mean, in practice, increased state power over parents. In Sweden, it is now illegal to spank your own children. Whether this makes children freer in any real sense is very doubtful. What is certain is that the state has a new jurisdiction over the home and the family. In effect, Swedish parents are being whittled down into minor-grade civil servants. That is the shape of things to come in the totally bureaucratized society our social reformers aspire to.

Every right requires some agency to enforce it. The perennial political problem is how to establish a power to protect our real rights, while ensuring that such power won't itself be used to violate our rights.

A peculiarly modern problem is this: that many of the so-called "rights" we enjoy—or are about to have inflicted on us—are not protections against power, but claims against the freedom of our fellow citizens for the discretionary use of their own property.

They do more. They create a power in the state to set explicit standards for what was formerly private behavior. Every citizen becomes answerable to some public authority, usually a federal bureaucrat, for an ever-broader range of personal decisions.

The last stronghold of private freedom is the family. A few weeks ago, the court recognized this when it held that parents have the right to commit their children to mental hospitals. In so ruling, it acknowledged that this is a decision better made by parents than by public officials. It would be unfair, therefore, to characterize the court simply as an enemy of the family as an institution.

Nevertheless, the court is afflicted by the general confusion about the public and private spheres. In limiting the range of private discretion—even in the name of "rights"—it limits our freedom. This is nowhere more obvious than in its increasing tendency to treat the family as nothing but the lowest administrative level of the state.

By conferring on children so-called "rights," the state actually alters the structure of the family. Some think this a fine thing: Reform should know no bounds. But we have come a long way from the days when it was assumed that there were some things no man could put asunder. And what has been the result of all our tampering with the traditional family? Soaring rates of divorce and abortion; a tripling of the number of children who grow up with a single parent. If there is any evidence of a corresponding increase in human happiness, I have yet to hear of it.●

SPORT FISHING

○ Mr. DURKIN. Mr. President, if any recreation speaks a universal language, then that recreation must be sport fishing. It is done by millions of Americans, young and old, rich and poor, famous and not so famous. There is a real bond between fishermen, no matter where they are: the Floridian who seeks the feisty bonefish off the Florida Keys feels the same excitement and anticipation as the New Hampshirite in search of brook trout on a gently flowing stream.

I can think of no better pastime than fishing in my home State of New Hampshire. There is a real pleasure in loading a boat with live bait and heading off New Hampshire's seacoast to pursue bluefish. Inland, in New Hampshire's rivers, streams, and lakes, the bass, trout, and salmon lurk beneath the surface, ready to bite at the lure or fly the fisherman throws at them. As an ardent fisherman, I know firsthand the tremendous value this sport has for an individual. It is relaxing, healthy and a wonderful form of recreation for the family. More important, it develops a concern and appreciation for the scenic beauty and natural resources found throughout this great Nation. When I am fishing for trout on a remote stream in northern New Hampshire, I realize how lucky I am to experience this peaceful and beautiful landscape.

Mr. President, Nelson Bryant, the outdoor writer for the New York Times and a former resident of New Hampshire, has written two excellent articles on fishing for bass and trout in New Hampshire.

I ask that these articles be printed in the RECORD.

The articles are as follows:

OUTDOORS: SOME BIG SMALLMOUTH FISHING

(By Nelson Bryant)

CORNISH, N.H.—A passion for trout and landlocked salmon on the part of most New Hampshire freshwater anglers has resulted in a sublime neglect of the smallmouth bass, one of the country's most exciting game fishes.

Scattered throughout the state are dozens of warm-water lakes and ponds with excellent populations of smallmouths, and some rivers, including the Connecticut and the Merrimack, are similarly blessed. But these bass are so seldom sought in the state that there is no closed season for them and

no length or weight limit. The daily creel limit, with certain exceptions, is five.

More than a quarter of a century ago, when I served as managing editor of The Claremont (N.H.) Daily Eagle, I discovered the Connecticut's bass and pursued them diligently from a two-man kayak with my young son, Steve. After some prospecting, we found that the most productive spots in our area were over the rocky shoals at the heads of three islands, one upstream (Jarvis) and two downstream (Woolcott and Hubbard) of the old ferry landing—still a public access with considerable space for parking and launching—in West Claremont.

At that time, I too was most interested in trout, and many of our bass were taken with fly-rod popping bugs, the bass man's equivalent of the dry flies.

Others were caught on bait, usually live crickets, also fished with a fly rod. On a few occasions, we used worms. And once in a while we set a little wire pop for crayfish, and they, if I recall correctly, usually resulted in the largest fish.

Since then, I have never lost my interest in smallmouth angling, but except in special circumstances—as when I can fish a fly-rod popping bug over bass spawning beds—I've gone to conventional (revolving spool reel) gear and the myriad plug, spoons, jigs and artificial worms designed for such outfits.

A year ago a Claremont hunting and fishing companion, Victor Pomiecko, told me that he and another angler had experienced incredibly good smallmouth fishing on the Connecticut River north of Claremont in Cornish. In 1978, they visited the spot half a dozen times in mid and late summer and often hooked and released 20 or 30 bass in an afternoon's angling. (Vic has learned to enjoy fishing for bass but has not taken the next step, which is eating them. He should, The bass has firm, white, sweet meat and few onerous small bones.)

So titillated, I waited impatiently for the time when we could fish the area together. And a few days ago, we launched his car-top boat from the public landing in Cornish, about a quarter of a mile upstream from the covered bridge that spans the river and links Cornish to Windsor, Vt.

In three hours, we fished both shores for about a mile upstream of the landing and caught eight bass, the largest about a pound and a half.

Vic was disappointed.

"That's the slowest fishing I've had here," he said.

He thought that our success had been limited by high water. The river was running strong enough (though it was not muddy), so strong that our three-horsepower outboard could barely shove us upstream.

"When the water is low," Vic said, "I never seem to have any trouble finding fish. It's really high today—I guess three and one half feet above the usual level."

(The Connecticut in this area is affected by the hydroelectric dam about 10 miles upstream, a few miles south of Hanover. This New England Power Company plant is usually generating from 9 until noon, from 1 P.M. until 3:30 or 4 P.M. and for a few hours in the evening. There are also three major streams entering the Connecticut below the main stem dam: the Mascoma, from the New Hampshire side, and the White and Ottauquechee, from Vermont. Under stable conditions—that is, no heavy rainfall in the areas drained by these rivers—one may expect the Connecticut in the Cornish area to be at its lowest in early morning.)

I was eminently pleased with our angling, but Vic suggested that we try again. The next morning we were on the river at 8 and were delighted to see that it had dropped nearly four feet.

The day was brilliantly clear and crisp. A plover stilted along the shore where we launched our boat, and, a few hundred yards upstream, cliff swallows were busily sallying forth for insects from myriad holes in a bluff. An osprey screamed overhead, and a muskrat plowed a furrow in a quiet eddy.

Vic, who was running the boat, chose to troll a small swimming plug, while I cast a popping plug to the shore as we moved slowly upstream.

On my fifth or sixth cast, a bass of about two pounds hit two feet from shore. A moment later my companion was also fast to a fish.

In about an hour and a half, always using the popper, I had my limit of five fish, and Vic had done equally well.

All my bass had struck the lure within four feet of shore, and I surmised that they were over their spawning beds. When guarding thier nests, bass will savagely attack anything that moves close by.

Upon cleaning my fish, I discovered that several were roe-laden females. And in most of these the eggs were full and firm, indicating that spawning was at least a week away.

IF YOU'RE GOING

Smallmouth bass were introduced into New Hampshire about a century ago. The less common largemouths arrived much later and were quite rare until two decades ago.

Smallmouths are in perhaps 150 New Hampshire lakes and ponds. Three-thousand-acre Lake Wentworth in Wolfeboro is probably the best smallmouth lake in the state, but there is first-class bassing in dozens of other places as well.

Knights Pond in Alton, Northwood Lake in Northwood, Pawtuckaway Lake in Nottingham and Onway Lake in Raymond hold good populations of largemouths.

Upon request, the New Hampshire Fish and Game Department—34 Bridge Street, Concord, N.H. 03301—will mail a pamphlet listing, county by county, warmwater lakes and streams (for bass, perch, pickerel, etc.) as well as trout and salmon waters.

In general, top-water lures are best for New Hampshire bass fishing in May, June and the first week of July. After that, subsurface plugs, the plastic worms often favored by Southern largemouth anglers and bait are usually more productive.

Bass will take minnows, worms, grasshoppers and crickets readily. Crayfish are also excellent, though of course you must have a means of procuring them.

On some of the larger lakes, only single-hook lures or flies may be used from May 1 through June 30, and on these lakes in this period the daily bag limit is two. This regulation is designed to afford some protection to the fish during their spawning period.

REMOTE TROUT POND FRUSTRATES 2 ANGLERS

(By Nelson Bryant)

ALSTEAD, N.H.—There are times—more than I care to acknowledge—when anglers with decades of experience fail miserably.

Such was the case a few days ago when a fly-fishing companion and I, who together have nearly 80 years of tossing flies at trout, visited Caldwell Pond here.

Caldwell is one of New Hampshire's so-called remote trout ponds: those places far from the beaten track, accessible only by four-wheel drive vehicle and, sometimes, only on foot.

On the eastern slope of an unnamed mountain about three miles south of Lake Warren in East Alstead, Caldwell covers 28 acres and is one of the state's best brook trout ponds. Fish of two pounds are not uncommon.

SOME LOCAL ADVICE HELPS

I had never been to Caldwell, so some time was wasted trying to locate the woods access road to it. My topographic map—such maps are essential when visiting remote ponds—showed two possible approaches, but a conversation with a young man working with a highway crew revealed that one might be better than the other. We found the access road off the dirt-surface town road that links Roundys Corner with East Alstead.

A mile up the woods road to the pond—it is perhaps 2½ miles long—I realized that the vehicle I was driving, a four-wheel drive truck with a fold-top camper, was too high and too wide for the terrain, but there was no room to turn around even if I had so desired.

There was one truly difficult moment in negotiating a crumbling log bridge that crosses the stream that drains the lake, but we eventually reached the spot and launched our boat.

No trout were rising, but that did not trouble us for the sun was high and one does not usually see surface activity at midday in June on such waters.

I rigged up one flyrod with a fast-sinking line and another with a floater in anticipation of evening topwater activity. My companion chose to go all the way with the first-named.

Except in May or during the fall, one cannot expect much action with dry flies on New Hampshire's trout ponds. The exceptions to this would be early in the morning or at dusk or thereafter. A sinking line is a necessity most of the time. Because lakes and ponds warm in the summer, one must let a fly down to the cold depths the trout prefer, and the quicker it gets there, the more water one can prospect.

After rowing to the western shore, where a little shade was provided by the mountain, we cast for 45 minutes with no success.

I decided to row and troll my fly while my friend cast to the shore. Over the years we often have located trout in this manner, and have taken our limits by anchoring and casting to the spot.

WHEN PATIENCE DIDN'T PAY

An hour later a fish hit my Muddler Minnow. Brought aboard, it proved to be a fat, 10-inch brookie, its stomach crammed with three still-alive dragon-fly nymphs and a host of other tiny nymphal aquatic insects I could not identify.

We worked that area for two more hours. My companion got one follow and I two strikes, but that was all.

At one point our spirits soared when we saw splashing on the water's edge 50 yards ahead. For all the world it looked like several surface-feeding trout, but it proved to be a flotilla of seven baby wood ducks, their tiny wings flailing the water as they raced along. Their mother was nowhere to be seen (although she undoubtedly was watching us from the woods), quite unlike the mother grouse who, as we drove up the mountain, had staged a broken wing ritual for us to call attention from her brood of chicks.

Toward sundown, a few hatching mayflies joined the dozens of dragon-flies that were zooming across the water, but we saw only two fish rise.

FLOTATION DEVICES ARE NECESSARY

The breeze died, the water became glass-smooth and we could look down through it 25 feet or more to sunken trees and boulders. The lake's deepest spot is 51 feet and its average depth 18 feet. It is a classic brook trout pond, and each year the state's Fish and Game Department stocks it with fingerling, yearling and two-year-old fish. There is little or no natural reproduction by these pond trout because the species needs water flowing over (or welling up through) gravel for spawning, conditions that do not exist to any appreciable degree in any of New Hampshire's remote ponds.

On nearly all such waters, fly fishermen must have a boat, canoe or some flotation

device to get out on the water. The forest usually grows to the pond's edge leaving no room for a backcast, and the pond bottom is usually too mucky for wading.

The sun slid behind the mountain, the chill of dusk descended, and, even then, no trout were feeding on top.

ARRIVAL OF THE BUG SEASON

Conceding defeat, we rowed to shore where hordes of mosquitoes went to work on us. As we were loading, two lads in a new Jeep drove up, chatted awhile, then drove off, saying they were going to explore an old woods road in the area.

Less than a quarter of a mile from the pond on the way out, we had some mechanical trouble. The truck could not be driven, so, as the mosquitoes harassed and the light failed, I searched through my tool kit until I found a clamp to repair the truck.

As we were driving off one of the aforementioned youths arrived, redfaced, panting and frantically slapping mosquitoes from his body. He was wearing shorts and a short-sleeved shirt, scarcely suitable woods garb in prime bug time.

"We hung up our Jeep on a rock about a mile back in the woods," he said. "We heard you start up and I ran like hell. I didn't want to have to walk down the mountain dressed like this. We'll get my dad to bring his skidder in tomorrow and pull us out."

Four of us crowded into the truck's cab and jounced our way back out, finding the downhill negotiation of the log bridge less onerous.

"That's the first time I ever hitched a ride in the woods, and I hope it's the last," one of the lads said as we let him out at his trailer park home.

A list of New Hampshire's remote trout ponds may be had by writing the Fish and Game Department at 34 Bridge Street, Concord, N.H. 03301.●

GASOLINE CONSUMPTION PATTERNS

● Mr. BUMPERS. Mr. President, I asked the Library of Congress to prepare information comparing the gasoline consumption patterns and the cost of gasoline in certain Western European countries and Japan with the United States.

These statistics are most revealing. As costs have increased in each country, consumption has continued to increase. We have been told that raising the price of gasoline will have a dampening effect on consumption patterns in this country. This has not been true where prices have risen even more dramatically than in the United States. I am convinced that rising prices will only make life more difficult for those who are least able to afford increased prices, and will result in very little increased production.

For many Americans, the energy crisis is just an annoyance, but energy costs are rising far faster than the ability of the poor to pay for them. There are approximately 25 million Americans living below the Federal poverty level—$3,140 a year for a single person living in a city. In many parts of the country, these people spend 20 to 30 percent of monthly income on heating and utility bills during the winter.

The attached statistics dramatically reveal the amount of gasoline consumed in the United States as compared to other nations. It is also interesting to note the amount of taxes included in the pump price of gasoline in foreign countries as compared to the United States.

Mr. President, I ask that the report prepared by the Congressional Research Service of the Library of Congress be printed at the conclusion of my remarks.

The report follows:

LIBRARY OF CONGRESS, CONGRESSIONAL RESEARCH SERVICE

A COMPARISON OF ANNUAL GASOLINE CONSUMPTION, REPRESENTATIVE SUMMER PRICES, AND GASOLINE TAXES IN SELECTED COUNTRIES, 1975–79 [1]

[Consumption in billion gallons, price and tax data in U.S. dollars per U.S. gallon equivalent]

	1975	1976	1977	1978	1979
United States:[2]					
(a) Motor gasoline consumed	102.45	107.68	110.48	114.03	NA
(b) Pump price of regular gasoline (New York)	0.64	0.64	0.66	0.68	[3] 0.90
(c) Taxes included in the pump price	0.13	0.13	0.13	0.13	0.13
(d) Oil industry cost/price factor [4]	0.51	0.51	0.53	0.55	0.77
France:[5]					
(a) Motor gasoline consumed	5.86	5.97	6.08	6.28	NA
(b) Pump price of regular gasoline (Paris)	1.56	1.40	1.70	2.15	[6] 2.22
(c) Taxes included in the pump price	0.88	0.77	1.03	1.22	1.53
(d) Oil industry cost/price factor [4]	0.68	0.63	0.67	0.93	0.69
Great Britain:[7]					
(a) Motor gasoline consumed	NA	6.03	6.20	6.56	NA
(b) Pump price of regular gasoline (London)	1.27	1.25	1.18	1.40	[8] 2.10
(c) Taxes included in the pump price	0.50	0.53	0.64	0.72	0.96
(d) Oil industry cost/price factor [4]	0.77	0.72	0.54	0.68	1.14
Italy:[5]					
(a) Motor gasoline consumed	NA	3.87	3.79	3.96	NA
(b) Pump price of regular gasoline (Rome)	1.67	1.70	2.06	2.15	[6] 2.25
(c) Taxes included in the pump price	1.26	1.22	1.48	1.59	1.60
(d) Oil industry cost/price factor [4]	0.41	0.48	0.58	0.56	0.65
West Germany:[7]					
(a) Motor gasoline consumed	NA	7.56	8.06	8.38	NA
(b) Pump price of regular gasoline (Bonn)	1.25	1.39	1.44	1.68	[6] 1.80
(c) Taxes included in the pump price	0.82	0.84	0.92	1.05	1.09
(d) Oil industry cost/price factor [4]	0.43	0.55	0.52	0.63	0.71
Japan:[7]					
(a) Motor gasoline consumed	NA	7.96	8.27	8.86	NA
(b) Pump price of regular gasoline (Tokyo)	1.36	1.36	1.62	2.07	[6] 2.24
(c) Taxes included in the pump price	0.48	0.59	0.64	0.98	0.92
(d) Oil industry cost/price factor [4]	0.88	0.77	0.98	1.09	1.32

[1] Original information has been obtained from various sources and reconciled for inconsistencies and different methods of computing taxes. Figures shown are best estimates for regular gasoline pump prices during summer in key cities (unless noted otherwise) computed from local currencies and either metric or British measurements.

[2] Government price controls in effect.

[3] Last week of June 1979.

[4] The oil industry price/cost factor as considered here is the difference between the price the consumer pays and the revenue the consuming government collects. It naturally includes the cost of crude oil whether domestic or imported. Its significance derives from the fact that this amount, although heavily influenced by the actual cost of delivered crude oil is also largely dependent on how much income retention the industry is allowed in the various economic systems and at various times within the same economic system.

[5] Government price ceilings in effect.

[6] May/June 1979.

[7] Free market for oil products has been traditional in West Germany and Japan; the new British Conservative Government inaugurated a free market in June 1979.

[8] This estimate is an average of varying prices in a recently freed market which reflects imported oil acquired at substantially different prices in addition to a new amount of the gasoline excise tax and a new higher VAT rate. If the Government keeps its total tax amount at present levels as the market works off the large fluctuations of the international spot market the pump price is expected to decline from the present highs.

Note: All figures have been rounded to full cents.

General note: Because of the fluctuating value of the U.S. dollar in foreign exchange markets some price changes shown in this table may be due more to changes in the relative value of the dollar with local currencies than actual changes in local prices.

Sources: OECD, Quarterly Oil Statistics; OPEC, Annual Statistical Bulletins; Energy Week; DOE, International Petroleum Annuals; direct communications with embassies; CRS estimates and computations.●

THE PRESIDENT'S SPEECH ON ENERGY

● Mr. GOLDWATER. Mr. President, when I was asked by my local press in Arizona to state my thoughts relative to the President's speech on Sunday night, I stated, in a general way, as follows: I will give him "A" for effort. He recited campaign speeches that he made before his election. He brought to the attention of the American people those things that many of us have long observed; namely, a growing interest in material things, a lessening of morals, a lessening of a desire to really produce and no real desire to participate in anything that would mean personal sacrifice. I think we are indebted to him for that, but when we get into the meat of what he had to say, particularly on energy, I had to declare that after his speaking so highly of what America had practiced to get where we are, he failed to mention the free market anywhere in his points on energy.

I think that was a mistake because without deregulating the oil industry, regardless of what happens to the price of fuel, this country will be dragged further and further down on shortages. Why he cannot understand the free market is beyond me; why he has a fear of it is beyond me and why he should place the average American in a line to buy gasoline when sufficient gasoline and synthetic fuel could be had very readily is also beyond me. In trying to put together my total thoughts on the speech, I suddenly came across the Wall Street Journal of Tuesday, July 17, and in it there are two articles, one an editorial and the other a story by Mr. Lindley H. Clark, Jr., which I think sum up the general feeling about the President's speech as well as anything I have seen, and I ask that they be printed in the RECORD.

The material follows:

[From the Wall Street Journal, July 17, 1979]

THE REAL JIMMY CARTER

Out of all the sermonic and confusing rhetoric President Carter has showered on

the American public these last two days, at least one thing is clear. The President has weighed the merits of either getting the government out of the energy business or getting it more deeply in. He has chosen to get it further in, on a massive, almost unbelievable scale. The real Jimmy Carter has finally stood up, on the far left of the Democratic Party.

There'll be a new government "Energy Security Corp." to siphon $140 billion in "windfall profits" from the oil companies over the next 10 years. That would pretty much eliminate oil profits of any kind. While the oil companies quietly pass out of business, the ESC would squander this money on expensive and technologically risky forms of energy.

There'll be an Energy Mobilization Board to ride roughshod over normal legal processes, except maybe those that are mainly responsible for retarding energy development, the environmental laws, for example.

There'll be a new army of government inspectors scouring the country, levying $10,000 fines on any hapless building operator whose thermostats are showing something less than 78 degrees. Electric utilities will be "made" to switch out of oil—as if they themselves, and not the government, are to blame for their not doing that.

There'll be a federal "Solar Bank" finally to capture the elusive riches of solar power. The President will set conservation goals for states, import quotas for the nation, etc.

In short, Mr. Carter has reacted to the public's low opinion of his administration by "getting tough" and proposing a further suspension of private freedoms. He justifies this on grounds that it is the American people, not his administration and the Congress, who deserve the blame for our economic problems. He summons up the memory of Franklin Roosevelt as he casts himself in the role of a President leading the country out of awful crisis; except where FDR confronted Depression and poverty, Mr. Carter seems to find his crisis in excessive affluence:

"Too many of us now tend to worship self-indulgence and consumption . . . we have learned that piling up material goods cannot fill the emptiness of lives which have no confidence or purpose . . . the symptoms of this crisis of the American spirit are all around us: two-thirds of our people do not even vote, the productivity of American workers is actually dropping and the willingness of Americans to save for the future has fallen below that of all other people in the Western world . . . there is a growing disrespect for government and for churches and for schools, the news media and other institutions. . . ."

Quite an indictment. It is the kind of indictment clergymen use to lash their congregations with on Sunday mornings and it is appropriate in that setting of spiritual redemption. But it is highly inappropriate coming from the man who is supposed to be managing the affairs of the United States government. The two key problems that provoked this rhetorical outburst—inflation and gasoline lines—are clearly and directly attributable to the policies of the Carter administration.

The gasoline lines are caused by the government's refusal to remove price controls, and hence supply allocations. Given the enormous economic inefficiencies that have resulted from this refusal, it now seems clear that prices of gasoline would fall, not rise further, after decontrol. Other forms of government intervention—energy use regulation and draconian environmental rules, in particular—have added to the dislocations and inefficiencies. It doesn't take a $140 billion government program to solve the energy problem; the problem would evaporate if the government would simply get out of energy.

As to those other problems of the American "spirit," low savings and productivity and low confidence in institutions—the main cause is inflation. Why should anyone have confidence in a government that can't balance its budget or run a stable monetary policy? Or why should they save the money it prints?

Now, it seems, it will be necessary to print still more money, and generate still more inflation, to finance the latest grandiose schemes dreamed up by the statists who hold the President in their grip. They are in the saddle and they are exultant about the President's vigorous showmanship Sunday night and Monday. The only trouble is that the policies he has proposed will only get the country into a deeper tangle. And next year, the voters will have a chance to decide which side they're on—or at least so we hope.

FROM HOMILY TO DEMAGOGY

For about five minutes Sunday night, President Carter's rhetorical offensive struck the right note. The appeal to American confidence and the attack on the isolation of the federal governmental recalled the best of the grass-roots campaign that brought this political unknown to the White House. But just 12 hours later, in his Kansas City speech to the National Association of Counties, the President reverted to the dark side of grass-roots rhetoric. Instead of providing "honest answers" and "clear leadership," he sought to obscure the true causes of the current energy debacle with some old-fashioned populist scape-goating.

This tactic was signaled Sunday in the untrue statement that our excessive dependence on OPEC "is the direct cause of the long lines that have made millions of you spend aggravating hours waiting for gasoline." OPEC can be attacked for high prices, but the one thing this cartel has not been able to enforce are production cutbacks by its members. The current shortfall in world oil production comes directly from a revolution in Iran, in which U.S. foreign policy played a considerably larger role than OPEC decisions. But even this shortfall wouldn't have caused the gas lines, as it didn't in most of Europe, were it not for the massive market distortions of the federal price control and allocation systems. But it's far easier to attack dark-skinned foreigners, along the lines of the famous Eizenstat memo, than to admit that one's own policies and administrators have failed.

The Kansas City speech broadened the rhetorical offensive. "The oil companies must cooperate!" Mr. Carter declared. "We will bring the full force of the law to bear on those who profiteer . . . or who try to cheat the American public." Six hundred auditors will be deployed to keep refiners and oil dealers in line. Energy statistics will be checked and rechecked.

The President must know that auditors dont' drill oil wells and that collecting figures on energy reserves doesn't create energy reserves. But government policies can depress production and keep drilling rigs idle. When these policies go wrong, as they have to an awesome extent, it's easy and popular to shift the blame to the refiner unwilling to produce unleaded gasoline at a loss or the wildcatter so confused by new natural gas legislation that he suspends drilling.

But even these scapegoats may not be enough. Say President Carter raises $140 billion to develop uneconomic fuels through a "strong permanent windfall profits tax" on the supposed bonanza from a price decontrol which now seems indefinitely postponed. And suppose that through his "shuffling allocations," the gas lines and disruptions broaden. Then who will he blame for the grumbling and dissatisfaction?

Since Americans are not at all demoralized and corrupt, they will respond to President Carter's challenge with more enthusiasm than his policies deserve. Throughout history, the call to war has been the easy way to gain public support. But the public has the right to demand that the war strategy be sound, that the generals know their business, and that they are fighting the right enemies. When the first flush of support dies down, it will become clear that President Carter's strategy for energy war will produce disasters that no amount of demagogy conceal.

THE CARTER SPEECH: NOTHING NEW . . .

(By Lindley H. Clark, Jr.)

Jimmy Carter was clear and forceful. There were none of those odd pauses in the middle of sentences, none of the hesitancy that has marred other presentations. It was, without doubt, his best television performance.

It's too bad he found nothing worthwhile to say.

On Sunday night he told the nation that its economic and energy problems were the fault of the Organization of Petroleum Exporting Countries. "This," he said, with a perfectly straight face, "is the direct cause of the long lines that have made millions of you spend aggravating hours waiting for gasoline. It's a cause of the increased inflation and unemployment that we now face."

He didn't explain how OPEC could so neatly have arranged for gasoline lines in New York and Washington and none in the Midwest. There was no hint that a congressionally mandated allocations system could have played a part in the mess. Nor did Mr. Carter suggest that big budget deficits and expansive monetary policy could have had something to do with the inflation.

Instead he urged more government to attack the problems fundamentally caused by too much government. It was ever thus.

Last week I talked with William E. Simon, who served as Treasury Secretary from 1974 to 1977 and before that spent several uneasy months in the midst of Energy Crisis I.

Mr. Simon set down his thoughts on energy in his best-selling book, "A Time for Truth" (Reader's Digest Press). He feels that matters were badly mishandled under a Republican administration and that things haven't gotten any better under Mr. Carter.

LOSS OF CONFIDENCE

"This fellow in the White House is a bigger disaster than even his worst detractors said," Mr. Simon commented. "He has lost confidence in himself. Traveling around the world, talking with former colleagues, government officials and businessmen, it's embarrassing. This man is held in contempt."

Mr. Simon's energy plan is simple enough: "The U.S. is blessed with a superabundance of natural resources and technology. We should use that technology to achieve energy self-sufficiency. We should exercise the leadership that would persuade OPEC to moderate its prices. All the pieces are there; the only reason the right things aren't done is politics."

The former Treasury Secretary would like to see the Energy Department abolished, but he isn't optimistic. In his book he recalls the time when the Federal Energy Administration, the ancestor of the Energy Department, was scheduled to go out of existence. A newspaper reporter called him at the Treasury and asked what he thought of extending the life of the FEA:

"I exclaimed, 'Extend its life! That place is a menace. It's strangling the energy industry at the very time when we need production. It should be wiped out of existence.' . . . But that day I learned that President Ford had already decided to extend the life of this bureaucratic abortion."

Republicans tend to oppose regulation

firmly—unless they're doing the regulating. What they forget, Mr. Simon warns, is that Republicans go out of office and their sins sometimes linger on behind them.

One Republican sin that didn't get anywhere, fortunately, was Nelson Rockefeller's $100 billion energy corporation that would have lent money to private industry to develop new fuel technologies. Mr. Carter's energy subsidy scheme differs from the Rockefeller-Ford boondoggle in detail but not in substance, so Mr. Simon's comments on the earlier incarnation are appropriate:

"Even with taxation and inflation set aside," he wrote, "there is no conceivable justification for the government to subsidize a massive construction program for an industry that the same government has actively prevented from functioning. If the energy industries are simply freed from their regulatory bondage and are allowed to function sanely, they will pay for their own expansion out of their own profits.

"That is free enterprise, and in the entire history of mankind nothing has ever served better as a 'catalyst and stiumlant' to invention and innovation than the profit system. That system will quickly bring about the increase production necessary for self-sufficiency. There is time, using fossil fuels alone, the resources yet to be discovered . . . and nuclear energy for the energy industries to devise synthetic fuels and new technologies like solar, geothermal and tidal energy."

Ralph Nader, the self-appointed consumer spokesman, found only one flaw in Mr. Carter's speech: no specific attack on nuclear energy. Nuclear power does entail risks, as the accident at Pennsylvania's Three Mile Island plant has emphasized.

"Three Mile Island hasn't changed the need for nuclear energy," Mr. Simon says. "Some people talk as though we should have a government that removes all risks. Nothing is risk-free, but we should minimize the risk." He calls for frequent inspections and safety checks.

ENERGY MOBILIZATION BOARD

One of the more touching aspects of Mr. Carter's speech was the proposal to create an energy mobilization board which "like the War Production Board in World War II," would have the responsibility and authority to "cut through red tape, the delay and the endless roadblocks to completing key energy projects."

The first question that sparks is whether Mr. Carter (or his writers) bothered to read the history of World War II and WPB. War production got rolling in spite of the WPB and its competing agencies, not because of them.

Donald Nelson, the Sears executive who headed WPB, tried hard to gear the nation for war. But for some time he was still surrounded by conflicting agencies. He found it impossible to strictly control priorities or to prevent expansion of production in unneeded directions.

The second question is whether Mr. Carter or anyone else considered the fact that the best way to deal with the red tape and delays would be to eliminate or drastically cut the governmental regulations that are the root of the problem. That would free a few regulators (and an entire energy mobilization board) for more productive tasks.

In Washington, of course, things don't work that way. As Mr. Simon says, "People spend hours down there figuring out the best way for the government to do things that it shouldn't be doing in the first place. The regulatory system has gotten completely out of control. No matter how well-intentioned the administration may be, it won't be able to persuade the regulators to behave any differently."

All in all, it seems that 10 days on the mountain at Camp David did not produce much. The New York Times noted that one of the television programs canceled for the Sunday night speech was an episode of "Moses the Lawgiver" in which Moses comes down from the mountain with the Ten Commandments.

Mr. Carter is out of his league.

ANNIVERSARY OF THE BIRTH OF THE SLOVAK PATRIOT GEN. MILAN RASTISLAV STEFANIK

● Mr. PELL. Mr. President, today, July 21, marks the anniversary of the birth of the Slovak patriot, Gen. Milan Rastislav Stefanik, a cofounder of the Czechoslovak Republic. A scientists, soldier, diplomat, and statesman, General Stefanik made an enormous contribution to the liberation of the Slovak people when the Austro-Hungarian Empire collapsed at the end of World War I. He was a close collaborator of Thomas G. Masaryk—who was to become the first President of an independent Czechoslovakia—when he served as Deputy Prime Minister and Minister of War in the first Czechoslovak Government which was constituted in exile in Paris prior to independence. Tragically, Stefanik died a short time after the founding of Czechoslovakia.

Stefanik was a man of enormous energy and of great determination. In all his undertakings, he was guided by his personal motto: "To believe, to love, to work." Stefanik deeply loved his native Slovakia and his affection for the Slovak people was a constant inspiration to him as he worked to bring them freedom. Stefanik strongly believed in the justice of history, confident that it would fulfill the destiny of the Slovak people. General Stefanik shared with Masaryk the conviction and hope that Slovaks and Czechs form a single national community and he worked tirelessly toward this goal. His contribution to the liberation of the Slovak people and to the foundation of a common state with the Czechs stand as great monuments in the history of the Czechoslovak Republic.

Stefanik shared Masaryk's rejection of communism. He expressed it with great eloquence in February 1919 while addressing the 1st Czechoslovak Regiment in Russia:

> Our nation has through its history, with steadfastness and determination, defended the idea of justice for all humanity, being well aware of the fact that this ideal will be realized only through ardent and disciplined effort and nobility of spirit. The idea of freedom, of resistance to brutal force twines as a golden thread through all our national history. * * * Communism is the very negation of democracy. Democracy is productive, it is a foundation of normal life and well-being. Communism is not a philosophic orientation but an expression of sickness, and apocalyptic chaos in which occasionally the basic human instincts find expression. I tell you from the depth of my soul: the struggle against communism, in all its forms and expressions, must permeate all our political life. Let us pursue this guideline with all our energy while there is still time; if we relent in our efforts, communism will subvert small nations and transform them into weak nations and eventually into decaying nations.

In his love for his native country, his persistent efforts on behalf of freedom for his people and, finally, his unequivocal opposition to an alien ideology, General Stefanik is a shining example and a lasting source of inspiration to all of us.

The present regime in Czechoslovakia forbids its citizens to honor Stefanik's memory and to remember his legacy. His name was removed from institutions and streets, his statutes from town and village squares. However, the events of 1968 clearly demonstrated the failure of this regime's efforts. A spontaneous pilgrimage, attended by huge masses of young people, proceeded to the symbolic grave mound at Bradlo to show that Stefanik s memory remains deeply ingrained in the soul of his grateful nation and all Czechoslovak people.

As one who lived in Czechoslovakia, both in Prague and Bratislava, in the late 1940's, as an American diplomat, I came to admire greatly the indomitable love of freedom and justice of the Czechoslovak people; a spirit symbolized so well by the life and ideals of Gen. Milan Stefanik. It is, therefore, particularly fitting that we pause on the anniversary of his birth to pay tribute to the legacy of this great patriot.●

TRUTH-IN-LENDING REFORM MUST BE ENACTED

● Mr. GARN. Mr. President, on May 1, 1979, the Senate passed and forwarded to the House an extremely important reform measure known as the Truth in Lending Simplification and Reform Act. This legislation has been urgently needed for a number of years, and the Senate Banking Committee has spent a considerable amount of time in the past few years developing this very comprehensive and equitable bill.

Now I regret to say that 2½ months after the Senate acted—and I might add, without a dissenting vote—the House Banking Committee gives no indication of even considering similar reform legislation. This is particularly disappointing and troublesome in view of the virtually unanimous acknowledgement of the need for such legislation, the time and energy that has been expended on this issue, and the promise that was made at the close of the last Congress.

The movement to simplify the Truth in Lending Act really began in April of 1976 when I introduced S. 3302. Subsequent to that a series of reform bills were introduced, and in the 95th Congress the Senate Banking Committee set about the long and difficult process of developing a comprehensive reform bill. After hearings and a total of seven markup sessions, S. 2802 was reported out of the committee and passed the Senate on May 10, 1978.

No action was ever taken in the House on that bill. However, in the waning days of the 95th Congress the Honorable FRANK ANNUNZIO, chairman of the Consumer Affairs Subcommittee of the House Banking Committee, made a pledge to hold hearings on truth-in-lending legislation early in this Congress and to hopefully have a bill through the House by "early summer." (CONGRESSIONAL RECORD, Oct. 14, 1978, 38324).

Because of our commitment to truth-in-lending reform and our expectation of

similar legislation in the House, the Senate Banking Committee moved expeditiously to get its own bill through the Senate again and on to the House early in this Congress.

"Early summer" has come and gone and no hearings have been scheduled by Mr. ANNUNZIO. Concerned with this evidence of inactivity, I wrote a letter to my colleague in the House urging him to act promptly on truth-in-lending legislation. His response was anything but reassuring. It seems that not only have hearings not been scheduled, but none are contemplated either. I find this response very troubling in light of the dire need by consumers and creditors alike for relief from the complexities of the present Truth in Lending Act.

Mr. President, for illustrative purposes, I would like to mention two items respecting the Truth in Lending Act which have recently come to my attention. Both of these points are interesting since they demonstrate through two very different examples the awful complexity of the Truth in Lending Act.

The first item I would like to bring to the attention of the Senate is the fact that the Supreme Court of the United States has just granted certiorari in the case of *Milhollin* v. *Ford Motor Credit Company*, 588 F.2d 753 (9th Cir. 1978), cert. granted, 47 U.S.L.W. 3813 (U.S. June 18, 1979) (78-1487). This case is significant because it provides a graphic illustration of the complexity of the Truth in Lending Act and the utter chaos that has been created through efforts by the judicial system to make sense out of the present law.

The Milhollin case involves the question of the proper disclosure under the act of an acceleration clause. To date, six different Circuit Courts of Appeals have ruled upon this issue, resulting in a different rule for compliance in practically each circuit. The confusion for consumers and creditors which is caused by so many divergent interpretations is shocking in light of the fact that the purpose of truth in lending is to provide for uniform disclosure practices which enable consumers to comparison shop for credit.

Milhollin is also significant since it is the first truth-in-lending case to be accepted by the Supreme Court since 1973. With even the Supreme Court now acknowledging the need to address the complexity of the Truth in Lending Act, how can the House Banking Committee sit back and allow this chaos to continue?

The second item which I find extremely illustrative of the great regulatory burden that has developed from the Truth in Lending Act, is a recent announcement which appeared in a CCH publication.

Mr. President, I request that the following portion of that announcement be printed in the RECORD.

The material follows:

"TRUTH-IN-LENDING SPECIAL RELEASES—CORRESPONDENCE"

(Now Available in New CCH Book)

In the almost eleven years since the May 1968 enactment of the Truth in Lending Act, the federal agencies charged with enforcing this landmark legislation have issued voluminous materials characterized as Truth-in-Lending Special Releases — Correspondence. These have included staff interpretations, staff correspondence, policy statements, advisory opinions and other materials helpful in understanding and complying with the federal consumer credit disclosure rules.

A new CCH book, "Truth-in-Lending Special Releases—Correspondence April 1969 to October 1978", reproduces the federal agency Truth-in-Lending releases and correspondence as they appeared in the CCH Consumer Credit Guide from April 1969 to October 1978. In addition to the texts of the federal agency items, the CCH editorial staff has included in the book a topical index, a correspondence index to law and regulation sections and a table of Federal Reserve Board numbered letters and official staff interpretations.

In all, 1,080 pages, 6" x 9", heavy paper cover. Price, $17.50 a copy. (Pub. April 1979)

Mr. GARN. Does this say something about the state of the present Truth in Lending Act? If it takes 1,080 pages of agency releases and correspondence to help understand and comply with the law—and in fact, this volume does not include the law or the regulation—how are creditors and consumers expected to understand it?

As these examples demonstrate, there is a need on the part of both consumers and creditors for relief from this great regulatory burden. I urge Chairman REUSS and Mr. ANNUNZIO of the House Banking Committee to address this most important matter and act promptly to simplify the Truth in Lending Act.

SYNTHETIC FUELS

● Mr. GLENN. Mr. President, I have maintained ever since coming to the Senate that our energy problems are not going to be resolved until we adopt reasonable national goals regarding energy production and conservation, and follow that up with an aggressive program of research, development, demonstration, and commercialization to achieve those goals. When I was a member of the Interior Committee in the Senate before it became the Senate Energy Committee, I did all that I could to increase the amount of money available for R. & D. in the area of synfuels and by that I mean the production of hydrocarbon fuels from coal, oil shale, tar sands, biomass, and methanol.

We need commercial-size demonstration plants in all these areas if we are to understand how to deal not only with the technological problems associated with these processes, but the environmental and regulatory problems as well. I do not believe, Mr. President, that there is anyone in the U.S. Congress who does not believe at this time that we need to take bold action in dealing with our energy problems. The statistics speak for themselves. The United States consumed about 18.7 million barrels of oil a day in 1978, with 8.1 million barrels a day being imported.

Just 5 years earlier the United States consumed 17.3 million barrels a day of which only 6.3 million barrels was imported. The domestic output of oil and gas liquids slipped from 11 million barrels a day in 1973 to 10.6 million last year, even though the oil industry drilled almost twice as many wells in 1978 as it did in 1973. And finally, our bill for imported oil this year is going to be well over $50 billion.

Having said all this, Mr. President, and having recently listened to the President of the United States issue a warning to the American people about the direction in which our society seems to be heading, I wish to issue my own warning about the manner in which the Congress, in order to show the American people that it is willing to take positive action, is presently dealing with energy policy. The cost of a large-scale commercialized synthetic fuels program to produce up to 5 million barrels a day by 1990 is likely to be something in the neighborhood of $200 billion.

We must ask ourselves whether such an investment would not produce even more dividends if it were more balanced with respect to production and conservation, through more efficient automobiles and industrial machinery, more efficient appliances, better insulation of buildings, and the encouragement of the use of mass transit facilities. In the very long term, it is renewable resuorces that we will have to depend on as our society evolves. That suggests that investments should be geared at least in part to developing those renewable resources that will be the mainstay of our future.

This week, Mr. President, the Governmental Affairs Committee, in hearings on S. 1377, the Synthetic Fuels Production Act of 1979, was fortunate to receive the testimony of Mr. Raymond Scheppach, Assistant Director of the Congressional Budget Office, Natural Resources and Commerce Division. In this testimony, a number of important points are made that I wish to emphasize as the Senate considers the President's proposals.

First, I support the proposition that if the United States sets a goal to reduce projected oil import levels, then the first programs chosen to meet this objective should be those that will give us the highest oil import savings per dollar.

With this as a premise, it behooves us to compare synthetic fuel production to alternatives in terms of oil import savings per dollar between now and 1990. To quote the CBO testimony:

> Some alternatives appear to rank higher than additional synthetic fuel production in terms of oil import savings per dollar; these include aggressive residential and even commercial insulation programs, accelerated retirement of oil and gas boilers in both utilities and the industrial sector, production of tight gas and heavy oils, and expanded solar hot water and space heating and cooling. Synthetic fuel production above the level of 200,000–400,000 barrels per day becomes attractive only if the United States desires to reduce the oil import levels by 1990 below the 8 million barrels a day.

This suggests, Mr. President, that the Senate should be giving high priority to legislation containing provisions for incentives to use the quoted methods to produce oil import savings, and I intend to produce such legislation myself.

There is an additional point made in the CBO testimony that also de-

mands our scrutiny. Allow me to quote again:

A production goal of 3 million barrels per day would require a capital investment of more than $120 billion over a ten-year period, which could create shortages in a number of materials as well as skilled labor. Such shortages would undoubtedly be inflationary and may in fact be more inflationary than the impact of significant increases in future OPEC prices.

The message of this testimony is clear. The U.S. Congress should not allow itself to be stampeded into adopting synthetic fuel energy goals and programs that are likely to be capital exhausting, inflationary excessively environmentally damaging, and inefficient from the viewpoint of reducing our dependence on imported oil.

I wish to emphasize that I am not arguing against synthetic fuel demonstration projects; quite the contrary. I believe that they are important, indeed even critical, and that we should learn as much as we can as quickly as we can about these technologies. But that is not the same as plunging ahead blindly to turn ourselves into a synthetic fuels society with long-range consequences that may, in fact, turn out to be adverse.

I ask to have the entire CBO testimony printed in the RECORD.

The statement follows:

STATEMENT OF RAYMOND C. SCHEPPACH

Mr. Chairman, I am pleased to appear before this Committee to discuss the development of a synthetic fuel industry in the United States. In my remarks, I will address four major issues:

The costs and benefits of developing a domestic capacity to produce synthetic feuls;

The appropriate production goal for synthetic fuels;

The advantages and disadvantages of alternative financing mechanisms.

Technical issues regarding fuel type and mix of resources and technologies.

BENEFITS AND COSTS

Benefits

The benefits attributable to synthetic fuel production are essentially the same as those of any program intended to reduce oil imports. First, it would provide protection against future shortages or interruptions in the supply of oil. As both the current and the 1973–1974 experience indicate, oil shortages do have a negative effect on the economy and, in extreme cases, could even affect national security. Second, synthetic fuel production might reduce the rate of future OPEC price increases. This would improve the U.S. balance-of-payments position and would provide some relief from inflationary pressures. Finally, a unique advantage of synthetic fuel production is that it would provide information about the feasibility and costs of alternative technologies that would be helpful in designing our long-term transition to alternative energy resources.

Costs

Synthetic fuel production involves two potential costs. First, it would likely cause additional environmental degradation, especially from intensive surface mining. Second, synthetic fuels will probably be more expensive than conventional fuels, at least in the intermediate term, and thus they will likely entail higher consumer prices or government subsidies. It must be stressed, however, that there is great uncertainty about the future price of synthetic fuels relative to conventional oil. The price of conventional oil is determined largely by a cartel and reflects political as well as economic factors; the price of synfuels, on the other hand, will depend on scale economies, environmental and technological unknowns, and the effects of future inflation on the construction of large plants. Consequently, if a synthetic fuel program is developed, it should be viewed as insurance against future supply shortages and OPEC price increases, and not necessarily as an economically efficient investment.

APPROPRIATE PRODUCTION GOALS

Most of the synthetic fuels bills that are under active consideration by the Congress have production goals between 500,000 and 5 million barrels a day for various points in time between 1985 and 1990. These goals, however, need to be considered relative to time constraints and alternative ways to reduce oil imports.

With respect to construction time, synthetic fuel plants can be compared with new nuclear power plants because both have high costs and similar siting and environmental concerns. At present, nuclear power plants are taking over 11 years to bring online. Even under accelerated siting procedures, it will most likely take a minimum of 8 years to bring into production commercial-scale synthetic fuel plants that produce the equivalent of 50,000 barrels of oil per day, which is the size needed to achieve the appropriate economies of scale.

With respect to the level of production, it should be noted that a certain threshold is necessary in order to develop the critical technical, environmental, and economic information that is required to choose the most efficient technologies and resources that should be developed over the long run; any goal above that threshold is essentially to reduce oil imports. This threshold is obviously difficult to estimate, but it is most likely between 200,000 and 400,000 barrels per day. This represents four to eight commercial-size plants of alternative technologies and resources. A strong case can be made to set a program at this level on the grounds that the United States will eventually have to change to alternative fuels and that such a base of knowledge will help in choosing those resources and technologies that would allow an efficient transition.

Whether or not a synthetic fuel production goal will be set above this threshold depends on the level of dependence on imported oil that the United States desires to maintain; this decision depends on economic and defense risks, as well as on how additional synthetic fuel production ranks in relation to other oil import reduction programs. For example, if the United States is going to lower its 1990 oil import level from the projected 12 million barrels a day to 8 million, then the first programs chosen to meet this objective should be those that rank highest in terms of oil import savings per dollar. While the Congressional Budget Office (CBO) has not performed a comprehensive analysis of this issue, some alternatives appear to rank higher than additional synthetic fuel production in terms of oil import savings per dollar; these include aggressive residential and even commercial insulation programs, accelerated retirement of oil and gas boilers in both utilities and the industrial sector, production of tight gas and heavy oils, and expanded solar hot water and space heating and cooling. Synthetic fuel production above the level of 200,000–400,000 barrels per day becomes attractive only if the United States desires to reduce the oil import levels by 1990 below the 8 million barrels a day.

A synthetic fuel program on the order of several million barrels per day of oil equivalent could, of course, provide the United States with considerably increased economic and defense security, but could pose substantial economic and possible environmental strains. For example, a production goal of 3 million barrels per day would require a capital investment of more than $120 billion over a ten-year period, which could create shortages in a number of materials as well as skilled labor. Such shortages would undoubtedly be inflationary and may in fact be more inflationary than the impact of significant increases in future OPEC prices. The primary potential environmental problem is that we do not have sufficient information to know how to develop future environmental regulations.

THE ADVANTAGES AND DISADVANTAGES OF ALTERNATIVE FINANCING MECHANISMS

The private sector has not yet been willing to invest the approximately $2 billion necessary to build a synfuel plant of sufficient size to take advantage of the economies of scale common to such processes. The various risks are just too high. First, while it is almost certain that synthetic fuels can be produced, specific processes have not been demonstrated on a sufficiently large scale to offer businessmen the level of certainty that they traditionally desire regarding cost and technology. Second, regulatory uncertainties complicate both the cost and technological problems. For example, synfuel plants quite commonly require 25,000 tons per day of coal for feedstock; consequently, a change in surface mining regulations or in Interstate Commerce Commission transportation rates could create havoc with the financial viability of a synthetic fuel project. Finally, it is possible that future world oil prices will not increase as rapidly as they have in the last few years and that they may in fact fall in real terms, thus increasing the relative cost of synfuels.

In developing a synfuels program, the federal government should choose the financing mechanism that will allow the government to absorb the risk that future OPEC prices will not decrease in real terms or even increase as fast as expected. The nation as a whole benefits from lower OPEC prices and, therefore, government should be willing to absorb that risk. On the other hand, the technological and cost risks should be absorbed by the private sector, which traditionally accepts these risks in making investment decisions. Such a separation of risks should maintain the incentives within the private sector to construct and operate synthetic fuel plants efficiently. In addition to the goal of efficiency, the financing mechanism chosen should have a predictable impact on the budget and should be considered in the normal budget process.

The financing mechanisms available to the federal government include loans, loan guarantees, purchase agreements, and actual government construction of the plants.

Given the size of the investment required for these plants, as well as the overall risk, it is very doubtful that federal government loans, even at subsidized rates, would be sufficient stimulus for the private sector to construct the plants. Alternatively, if the federal government were to build these plants directly, it would then absorb all the risks—that is, the technological and cost risks, as well as the risk associated with any future changes in OPEC prices. This would give contractors less incentive to build the most cost-effective plants, since no private sector money would be at risk. Overall efficiency would, therefore, be reduced.

Loan guarantees have a similar problem in that much of the cost and technological risk of building plants would be shifted from the private sector to the government sector, and this would reduce the incentives for efficiency. Furthermore, from a budgetary standpoint, loan guarantees for large-scale projects are undesirable since they tend to obligate the federal government to a possible future outlay that does not have sufficient appropriations and is not included in the normal budget resolutions. Loan guarantees

are more appropriately used for programs such as housing, in which the individual projects are small and the default rates can be predicted with a reasonable degree of accuracy. Extremely large loan guarantees could also tend to reallocate capital within the normal capital markets.

Purchase agreements, whereby the federal government contracts to buy a given amount of synthetic fuel production, have a distinct advantage over alternative funding mechanisms in that the private sector absorbs the technological and cost risk and, therefore, maintains a strong incentive to build cost-effective plants. The federal government, on the other hand, absorbs the risk that OPEC prices will fall in real terms or not increase as fast as expected. From a budgetary standpoint, they also have the advantage of being included in the budget resolutions and are predictable outlays over time.

FUEL TYPE, RESOURCES, AND TECHNOLOGIES

Fuel type

Since the United States has an abundant supply of solid coal and the potential for domestic, Alaskan, and Mexican gas, and since low- and medium-Btu gas production processes are economically and technologically viable, the most probable future shortages will occur in liquid fuels. Consequently, any synfuel program would most profitably be oriented toward producing either liquid fuels or fuels that can free up liquids for alternative uses.

The Federal Government should probably ensure that diverse resources and technologies are developed so that ample technological, cost, and environmental information is obtained. Therefore, certain minimum levels of synfuel production by resources should be established. For example, levels could be set at 100,000 barrels per day of shale oil and coal liquids, and at 50,000 barrels per day for biomass. Failure to set minimum levels would run the risk that all synfuel production would be produced via one technology with little information gain. Other than requiring that several alternative technologies be utilized, however, the Federal Government should leave the specific technology choices to the private sector, where the technological expertise currently resides.

CONCLUSION

In conclusion, Mr. Chairman, a member of benefits—such as economic and defense security and lower future OPEC prices—would occur from synthetic fuel production; most of these benefits, however, would be similar to those flowing from any federal program that reduces oil imports. The unique benefit of a synfuels program is that it would develop a critical information base to assist in the eventual conversion to alternative fuels. Synfuels programs producing more barrels per day than this information threshold, however, should be implemented only if the United States wishes to reduce its 1990 import levels below 8 million barrels per day, since a number of alternatives are most likely more cost-effective than synfuels in reducing oil imports to about that level. Finally, with respect to financing mechanisms, purchase agreements appear to be more desirable than loan guarantees in stimulating an efficient synfuels industry.

Mr. Chairman, I would be happy to answer any questions.●

THE ENERGY SUPPLY ACT

● Mr. DURKIN. Mr. President, I am pleased to be an original cosponsor of one of the most important pieces of energy legislation the Congress will consider this session—the Energy Supply Act, S. 1308, introduced by the distinguished chairman of the Senate Committee on Energy and Natural Resources, Senator JACKSON, and several other of my Senate colleagues.

America is in the throes of a deepening energy crisis—a crisis that threatens the very foundation of this Nation. Our absolute dependence on costly imported oil has grave consequences for this and future generations of Americans. It promises to erode the dollar at an accelerated pace and push us toward a harmful recession.

The Federal Government has a responsibility to halt the uncontrolled flow of oil dollars to the Middle East. We must go to extraordinary lengths to develop domestic supplies of energy and rid ourselves of the addiction we have for costly imported oil. The American people are frustrated and angry about the energy situation. They expect and deserve action from us.

The Energy Supply Act addresses this situation head on and meets the tremendous challenge of producing adequate domestic energy supplies for this country.

The bill covers three basic areas. First, it allows all energy projects other than nuclear plants to undergo an expedited and accelerated review process. All too often energy projects which have the capacity to make this country more energy independent face endless bureaucratic delays that sometimes put the entire project into peril.

Second, this bill provides Federal officials with the necessary authority to alleviate temporary shortages. And finally, it gives the necessary incentives to produce synthetic fuels—the products which will ultimately reduce our need for imported oil.

I am pleased to have authored several provisions in the Energy Supply Act. One provision sets a national goal of producing 20 quads of energy through solar technology by the year 2000. Twenty quads is equal to 10 million barrels of oil per day, which is more than we import from the OPEC countries each day. In other words, if the goal of 20 quads is met, we could be virtually free from the OPEC stranglehold.

This bill also provides long-term, low-interest loans for persons wishing to install solar energy systems. For too long there has not been sufficient incentive for homeowners to make this transition to solar energy. Because of the large initial investment required for installation of this equipment, consumers may well find the finance costs exceed the savings made from using less fuel. We have a responsibility to reverse this situation and give people a reason for making this change.

Another provision establishes an expanded wind demonstration program. This authorizes the Federal Government to purchase wind-generating equipment at an accelerated rate and use it at Federal installations where it is economically feasible.

Another title makes such alternative forms of energy like wood and small-scale hydro higher priorities for assistance from the Department of Energy. These technologies thus become eligible for priority treatment under the Jackson-Durkin bill.

While energy has occupied a great deal of the Congress time in recent years, we have made little progress in solving this overwhelming problem. When we should have been reducing our use of imported oil and moving toward energy independence, we have actually been increasing our use. The recent shortfall of oil supplies that we have been experiencing has affected all of us in uncounted ways.

In my home State of New Hampshire, short supplies of gasoline are having an extremely serious impact on the tourist industry this summer, a major source of revenue for the State. Even more important, however, is the real likelihood that New Hampshire and New England will be without sufficient stocks of home heating oil to get through next winter. With all of this, it is not surprising that the American people are on the verge of outright revolt.

Mr. President, we face a tremendous challenge in finding workable solutions to the energy crisis. This great Nation of ours has dealt with adversity many times and can do it again. Working together, I am convinced that we can mount a program which will insure a safe, secure and adequate energy supply, a healthy economy and a sound environment.●

EVALUATION OF GASOHOL AT PURDUE UNIVERSITY

Mr. BAYH. Mr. President, I would like to share with my colleagues results of a laboratory study on gasohol recently conducted by students and faculty in the Department of Mechanical Engineering Technology at Purdue University in Indiana. These tests indicate that the 90 percent gasoline-10 percent alcohol fuel blend outperforms leaded regular and unleaded premium gasoline, while at the same time, burns cleaner than these more conventional fuels.

Mr. President, I commend Prof. D. N. McNally of Purdue University for his ingenuity and resourcefuless in conducting these tests. By training young engineers how to evaluate alternative fuels, Dr. McNally is serving our Nation by sensitizing young Americans to our need to reduce dependence on OPEC oil supplies and rely more heavily on domestic sources of energy.

I ask that the Purdue report be printed in the RECORD.

The report follows:

THE PURDUE REPORT

WEST LAFAYETTE, IND.—Gasohol outperforms leaded regular and unleaded premium gasolines and is cleaner, laboratory tests at Purdue University have revealed.

"The tests are the first objective performance tests on gasohol that we know of. Gasohol clearly comes out the winner," Prof. Daniel N. McNally in the School of Technology reported Thursday (5/31).

"If you can buy gasohol for no more than 10 cents a gallon more than the cheapest gas your car will take, gasohol will save you money and your car will run better," he said.

"If your car uses super-premium, and if you can get gasohol for five cents a gallon more, it would pay you to try it. You still might save in the long run."

McNally, who teaches a course in internal-combustion engines in the Department of Mechanical Engineering Technology, used three different engines similar to those found in standard lawn and garden trac-

tors. His students conducted more than 20 fully instrumented bench tests on engine performance from mid-March to mid-May.

They compared gasohol available from the Indiana Farm Bureau Co-op with commonly available unleaded premium and leaded regular gasolines.

Each student wrote his own report, plotted data and reached conclusions. McNally gathered the reports together, applied statistical analysis on about 700 data points, discarded the data which fell way off the performance curves and statistically averaged the remaining data.

"In terms of performance (called specific torque), all engines indicated gasohol was 8 percent better than leaded regular. In two engines, gaschol developed 5 percent more power than unleaded premium, which itself was 3 percent more powerful than leaded regular," he said. "The third engine showed unleaded premium to be just as good as gasohol."

In terms of fuel economy, or pounds of fuel consumed per hour for each horsepower produced by the engine, two engines showed gasohol to be 13 percent better than leaded regular and 7 percent better than unleaded premium which, in turn, was 6 percent better than leaded regular.

The average for all three engines tested indicated gasohol to be 14 percent more efficient than leaded regular and 4 percent more efficient than the unleaded premium.

McNally's students also were interested in how the fuels compared in exhaust emissions.

Parts-per-million of unburned hydrocarbons using unleaded premium were reduced 55 percent from those emitted when burning leaded regular, the data showed. The parts-per-million emissions from gasohol were 60 percent less, "showing that gasohol burned 5 percent cleaner than unleaded premium," McNally said.

The reduction in percent of carbon monoxide given off was the same for both gasohol and unleaded premium, he found. Both fuels reduced the percentage of carbon monoxide emissions by more than 71 percent.

McNally said there were two problems associated with gasohol which users should keep in mind.

"In summer and in warm climates, gasohol should not be stored in tanks above ground," he said. "Alcohol will evaporate, leaving the unleaded regular gasoline. That is all right to use, but you will have lost the premium price you paid for gasohol."

He said that for the same reason one should not keep a lot of it in a vehicle's fuel tank unless it is an automobile produced after 1973 when the no-vent fuel systems were adopted.

Gasohol works better than gasoline in the winter, he added, since "the engine will start quicker."

The second problem, he said, is the natural affinity alcohol has for water. Alcohol prefer water to gasoline, so if there is water in the storage tank or in the car's gas tank, it will "grab" the water and pull it to the bottom.

"Those who are blending gasohol must use alcohol which is at least 98 percent pure," McNally declared. "It should have as little water in it as possible and be stored in a dry tank with minimum condensation."

Students conducting the tests were uniformly positive about gasohol, ranging from "slight advantage" in power to "greatly improved" in emissions. One report noted that "for approximately the same performance, if gasohol is used, 10 percent less of a scarce resource is consumed."

That figures to about 240 million barrels of gasoline per year if all gasoline-engine operators were to use the mixture, McNally observed.

Purdue Technology Students Evaluate Gasohol

The first known objective performance test on gasohol was completed at Purdue University just five weeks ago. Some twenty students in Purdue's School of Technology made twenty different runs on three different engines similar to those used in lawn and garden tractors. Each engine was mounted on its own calibrated test stand, and a total of over 700 data points were determined.

Professor D. N. McNally, who teaches the course in Internal Combustion Engines for the Department of Mechanical Engineering Technology, says he decided that since he was teaching the students engine performance testing, they might as well explore some new areas while doing it. Professor McNally chose to have the students compare gasohol which is available now from the Indiana Farm Bureau Co-op with the new no-lead super-premium distributed by Standard Oil of Indiana and available from the "gold pump" at the local Amoco stations. The reference fuel these were evaluated against was Standard Oil's leaded regular as available from the "red pump" at their service stations.

Each student wrote his own report, plotted his own data which was corrected to standard atmospheric conditions, and reached his own conclusions. In a teaching laboratory, there is bound to be some experimental error in the data, and the students did not all agree as to their results. Generally their conclusions did agree, however.

During the past few weeks, Professor McNally has been applying statistical analysis to the students' data to arrive at an overall conclusion. Those data points which fell way off the performance curves were cast aside, and the remaining majority of data were statistically averaged. The results should be of interest to many citizens.

In terms of performance or "specific torque" (BMEP to the engineer), all engines indicated gasohol was 8 percent better than leaded regular. In two engines, gasohol developed 5 percent more power than the no-lead premium which was 3 percent better than leaded regular. The third engine showed no-lead premium to be just as good as gasohol.

In terms of fuel economy or pounds of fuel consumed per hour for each horsepower produced by the engine (BSFC to the engineer), the two engines noted above showed gasohol to be 13 percent better than leaded regular and 7 percent better than no-lead premium which in turn was 6 percent better than leaded regular. The average for all the engines tested indicated gasohol to be 14 percent more efficient than leaded regular and 4 percent more efficient than the no-lead super premium.

From these results, we can conclude that if you can buy gasohol for no more than 10 cents a gallon more than what you have to pay for the cheapest gas your car will take, gasohol will save you money and your car will run better. Even if you are running your car on super premium, if you can get gasohol for 5 cents a gallon more, it would pay you to try it. You might still save in the long run.

Professor McNally's students also were interested in how the fuels compared in the area of exhaust pollution. When this data for all engines was averaged, all the engines were in agreement. The parts per million of unburned hydrocarbons (PPMHC) from burning the super premium no-lead were reduced 55 percent for those emitted when burning leaded regular. The PPM of HC emissions from gasohol were 60 percent less, so that gasohol burned 5 percent cleaner than the super premium.

The reduction in percent CO (carbon monoxide) given off was the same for both gasohol and the no-lead super premium. Both fuels reduced the percent CO emission by over 71 percent.

The following are some of the students' conclusions regarding gasohol: "Although gasohol showed a slight advantage over the other two fuels the emissions of the engine improved greatly."

"Although gasohol improves the performance of an engine less than 10 percent, its clean burning qualities make it a good candidate for a fuel of the future. Since this fuel appears to burn so clean, some of the emission controls on car engines, which reduce fuel mileage, could possibly be eliminated. Research should continue to find quicker and more efficient ways to produce this fuel."

"Gasohol showed a small increase in HP and torque in all ranges of use. Gasohol also showed better fuel economy over the other fuels. The most important graphs are the emissions. The gasohol and no-lead fuels show a marked decrease in exhaust emissions."

"The really significant differences appear in the area of emissions. Gasohol and the unleaded premium had emissions that were significantly less than those of regular gasoline. The gasohol held a slight performance edge over the unleaded premium."

"The most striking results of this lab are the low (exhaust) emissions using the gasohol fuel. The (unburned) hydrocarbons emitted with gasohol were less than half of those emitted by the leaded regular at any given speed. The percent CO emitted using the gasohol was so low at times that the meter hardly registered any at all! Gasohol was by far the cleanest burning feul."

"The gasohol used in run No. 3 produced both a higher horsepower and torque. The peak BMEP was also highest with the gasohol. Overall, the regular gasoline produced the largest amount of emissions and the gasohol produced the least amount of (unburned) hydrocarbons, but (gasohol) shared the stage with (the unleaded) premium for the lower amount of carbon monoxide."

"Gasohol appears to give the best performance of the three types (of fuel) while rivaling unleaded premium in emissions. In spite of the fact that sweeping generalizations are dangerous at this point, one fact is clear. Gasohol does provide a very acceptable alternative in terms of performance and emissions."

"It appears that gasohol outperforms both the leaded regular and (the) unleaded premium in almost every category. It burns cleaner than the other two. Gasohol has fewer (unburned) hydrocarbons and (gives off) far less carbon monoxide than the other fuels. The gasohol's fuel consumption is less than either of the other fuels. It takes less gasohol to produce the same brake horsepower while producing less emissions."

"Gasohol is a fuel of the future. Not only does it decrease demand for regular fuels, but it also has some very favorable higher quality characteristics. Gasohol gives identical or better mileage than gasolines without necessary engine adjustments. Our experiments showed that gasohol yields higher horsepower, torque and BMEP at all speeds. It has a low BSFC and gives off less emissions than regular gasolines. I believe that gasohol is useful as a replacement fuel, even though it will only reduce the U.S.'s gasoline consumption by 9–10 percent or 240 million barrels per year."

"For approximately the same performance, if gasohol is used, 10 percent less of a scarce resource is consumed."

Professor McNally hastened to add that there are two problems associated with gasohol which everyone connected with it should keep in mind. In the summertime and in warm climates gasohol should not be stored in above ground tanks. If it is, the alcohol will evaporate off, and eventually you will be left with simply a no-lead regular fuel. It is all right to use this "residue,"

but you will have lost the premium you paid for gasohol. For the same reason, you should not keep a lot of it in the fuel tank of your vehicle unless it is an automobile produced after 1973 when the no-vent fuel systems were adopted.

The same property that works against gasohol in the summer makes it better than any gasoline in the winter. Due to the volatility of alcohol, gasohol will start your engine quicker than any gasoline will. It is like adding a can of "dry gas" to every gallon of gasoline in your fuel tank.

The second problem results from the natural affinity alcohol has for water. Alcohol will mix with gasoline, but it still prefers water, and water will not mix with gasoline. If more than a few per-cent of water gets into gasohol, it grabs the alcohol and drags it to the bottom. If all the alcohol is dragged to the bottom, again, what you have left is simply a no-lead regular fuel.

Professor McNally attempted to show this characteristic of gasohol to his students. The first sample of gasohol he obtained was supposedly a week or so old, but he was able to add about 2% water to it before the alcohol started to separate. However, the supply of gasohol he obtained for the students to evaluate did not work so well. When the students added 0.2% water to a sample, it mixed with the alcohol and then settled on the bottom. The students' sample already had all the water it would hold.

Professor McNally says that those who are blending gasohol must use alcohol which is at least 98% pure. It should have as little water in it as possible. And it must be kept in dry tanks with minimum condensation.●

UNDERGROUND NURSERY GROWS SEEDLINGS

● Mr. CHURCH. Mr. President, in northern Idaho abandoned mines belonging to the Bunker Hill Co. are being used as greenhouses to reforest much of the above-ground landscape. In an article printed in this month's issue of American Forests magazine, Karen Caddis describes how 84,000 trees a year are being started in the Bunker Hill underground nursery. Because of this unique advancement in two industries important to my State, and the promise it offers to the Nation's forests. I ask that the article "Subterranean Seedlings: New Forests From Old Mines" be printed in the RECORD.

The article follows:

SUBTERRANEAN SEEDLINGS: NEW FORESTS FROM OLD MINES

(By Karen Caddis)

When fires swept through northern Idaho's Silver Valley in 1910 and again in the 1930s, destroying the stands of Douglas-fir and ponderosa pine that covered the hillsides, no one envisioned that in half a century, trees grown beneath these burned hillsides would be used to reforest them.

The area is one of the richest mining belts in the country. After the fires, natural regeneration was prevented by high concentrations of sulfur dioxide gas discharged by the lead smelter and electrolytic zinc plant of Idaho's Bunker Hill mine, one of the world's largest producers of lead, zinc, and silver. The sulfur dioxide gas was trapped in the narrow valley containing the mine and the adjoining town of Kellogg. Over the years the gas precipitated into the topsoil of the hillsides, making the soil too acidic for most plant growth.

The Silver Valley's hillsides remained brown and bare until the 1970s, when Bunker Hill Company began a 10-year revegetation program aimed at greening 18,000 acres of the valley.

The planting of bare-root Douglas-fir and ponderosa pine seedlings was begun. Pollution-control facilities, installed several years earlier, had been anticipated to reduce sulfur dioxide to levels that plant growth would tolerate. In spite of these efforts, the seedlings planted nearest the smelter had a zero survival rate; the numbers of deaths decreased the farther the trees were planted from the smelter.

Soil studies showed that the sulfur dioxide had affected the pH balance of the soil to a much greater extent than anyone had ever suspected. Over the years, the first 14 inches of topsoil had acquired a pH of 3.7— far too acid to support the growth of tree seedlings. Below this level, soil pH returned to a normal 6.0 to 6.5 balance.

To overcome the problem, consideration was given to the use of containerized seedlings. When removed from the reusable plastic containers, the seedlings had a root system protected by the attached soil. This gave the tree a chance to survive until primary roots could reach below the acidic level.

Preliminary studies showed that container-grown seedlings had an 80-to-100-percent survival rate the first year, compared to zero percent for bare-root trees on harsh sites and 60 percent on good sites.

The problem was, however, that few nurseries could provide the number of container-grown seedlings that Bunker Hill needed annually for its reforestation program. Production of containerized seedlings involves high operating and capital costs, making them expensive and hard to obtain. Priority for container-grown seedlings raised in local federal nurseries was given to federal and state programs, which usually exhausted the supply. The high cost made shipping from nurseries in other areas uneconomical.

The idea of constructing a large surface greenhouse was considered, but was discarded as being next to impossible. A greenhouse would have required a large, level area on which to build—a limited commodity in this region, with its narrow valleys and steep hillsides.

Surface greenhouses were made unfeasible also by the high cost of heating and air-conditioning to ease the severe winters and hot summers, lights to compensate for the short days in the narrow valleys, plus generators to produce carbon dioxide needed by plants for growth.

In the end, it was the hobbies of a few Bunker Hill miners that provided the solution to the problem that had stumped the experts. For over 40 years, miners had been growing tomatoes, peppers, house plants, even orange trees in abandoned tunnels of the mine. With bare, 100-watt growlite fluorescent bulbs and an appreciation for the greenhouselike conditions that exist in the tunnels, the miners had built themselves small gardening areas underground. Some grew house plants; others had fresh vegetables growing all year.

Stories about the underground gardens of the miners circulated, eventually reaching Edward Pommerening, reforestation engineer for Bunker Hill Company. Pommerening, a University of Idaho graduate, had done soil studies for the company, using growth chambers with artificial light and heat. Recognizing the potential of the mine tunnels as a large-growth chamber and greenhouse, Pommerening formulated a containerized-seedling growth program for the underground.

An abandoned tunnel, to be used as the greenhouse area, was found in the mine's main ventilation area. The tunnel, which extends 700 horizontal feet into the mountain and is covered by 3,000 ft. of hillside, has conditions that are ideal for growing seedlings.

In the eight-by-eight-foot tunnel, temperatures never vary more than a few degrees from 75°F. Humidity remains at a constant 50 percent, and the carbon-dioxide level is steady at 0.3 percent, a concentration considered perfect for seedling growth.

The only problem that remained was the question of light. This was solved by installing eight high-intensity mercury-vapor and sodium lamps along the 210 feet of tunnel now in use. The 1,000-watt bulbs give out 80,000 to 132,000 lumens in the wavelengths needed by plants for good production. Each light is capable of lighting 200 plants. Cost of the lights ran $260 apiece, plus $70 for new bulbs every three years. This is a large savings when compared with the $500 per month alone that would have been spent to heat a surface greenhouse.

A plastic roof, held up by wooden beams, was constructed to support the large dome-shaped lights and to protect seedlings from the acidic water that drips constantly from the tunnel roof and walls. Wooden benches and walkways were built along the tunnel; three feet of space between the container benches serves as an aisle.

A first experimental planting of 4,000 ponderosa-pine seeds was taken underground in September 1975. Crown vetch, an herb, was planted with the pine to test for the presence of sulfuric-acid mist from the mine water. The vetch would develop spots on its leaves or die if acid was present. After four months the vetch gave no such signs.

The pine seeds germinated in 10 days; elongation of the stems began within the next seven days. By the end of 18 weeks the seedlings stood seven inches tall and had filled the 30-cubic-inch plastic cylinder container with an excellent root system. Within six months the seedlings were ready for surface planting. This compares favorably to the two to three years needed to raise surface-grown seedlings to the comparable strength and size needed to survive planting in the local area.

In the time just before planting, the seedlings are watered less, fertilizing ceases, and a day-and-night pattern is established with the lights, in order to prepare the seedlings for the harsher conditions found on the surface. The containers are then carried out of the mine on carts along a half-mile-long horizontal passage to the surface. Once on top, the seedlings are bedded for three to six weeks in sawdust piles to adjust them to surface temperatures and the ultraviolet rays of the sun.

The first batch of seedlings was field-planted in the spring of 1976 and to date has shown an excellent rate of survival, comparable to surface-grown containerized seedlings. Subsequent plantings also showed a favorable survival rate of about 80 to 90 for every 100 planted.

After this first successful planting, the greenhouse was expanded to accommodate its current output of 42,000 Douglas-fir, ponderosa, red cedar, and native-shrub seedlings every six months. The company is still using some surface-grown container trees from local nurseries, but it hopes to expand the underground greenhouse to 450 feet and 320,000 seedlings per year, thus eventually making Bunker Hill's reforestation operation completely self-sufficient.

Because the mine had few precedents to go on, many factors of underground seedling growth were pleasant surprises. One major discovery was the low rate of loss of seedlings. Normally fungus, rodents, and insects create appreciable mortality in a surface nursery. The mine tunnel was found to have no insects, rodents, or diseases. Before entering the greenhouse tunnel, air that circulates throughout the mine has traveled to the mine's hottest levels, killing any organisms that the air might have carried in. As a precautionary measure, seeds are still dusted with a fungicide to prevent such seed-borne diseases as damping-off. Also, the con-

tainer soil—60 percent peat moss and 40 percent vermiculite—is sterilized.

The pH balance in this container soil posed a problem initially. Container soil needs a pH of about 5.5 to maintain nutrient uptake and good seedling growth. Surface greenhouses usually are required to acidify their irrigation water in order to maintain this pH balance. Pommerening, recalling that mine water contains acid naturally, tested various springs throughout the mine until he found one that registered a pH of 5.5. Water from this spring is now pumped directly to the underground growing area. This mine water, a constant 60 to 65°F, maintains the pH balance of the container soil.

The underground nursery was found to have many other advantages over surface greenhouses. The high-intensity lights can be left on 24 hours a day, stimulating faster growth. Little manual labor is required. One girl plus Pommerening are all the labor force currently being used to thin, water, and maintain the seedlings.

The proximity of the underground nursery to the planting areas—between one and 10 miles—allows a minimum of handling. Seedlings can also be planted at the best time rather than only when surface nurseries are able to make seedlings available.

Costs are relatively small. There is no heating or air-conditioning expense since the air remains at a constant temperature—this saves an enormous amount of energy. Upkeep of the greenhouse area is already part of routine mine-tunnel maintenance. The only expenses after the capital investment of approximately $15 per foot are container soil, containers, labor, and light bulbs. Because of the low operating expense, the cost of raising the seedlings is about $75 per 1,000, compared with $130 to $250 per 1,000 for comparable two-year-old surface-grown transplants. Cost also tends to be reduced because of the seedlings' higher survival rate.

Basically the only problem involved in the growing of seedlings underground is the question of access to and from Bunker Hill's tunnel greenhouse, limited to a small open-car mine train that runs only on set schedules. Foot traffic is restricted to a half-mile long horizontal tunnel, the opening of which can be closed by snow during the winter. Once the problem of access is solved, the potential for underground greenhouses will be virtually unlimited.

Local studies estimate that out of the hundreds of miles of tunnels in the north Idaho Panhandle, at least 10 miles have conditions favorable for growing seedlings. At 100 seedlings per square foot, including working areas, 42 million containerized seedlings a year could be grown in the area. This is equivalent to 200 surface greenhouses, or slightly less than half of all the containerized seedlings now being grown in the Pacific Northwest.

This high output of seedlings could foreseeably provide another major industry to the area and could revolutionize regional reforestation programs. Significant savings could be made in energy, construction, and maintenance, and surface land would be released to other uses. Tunnels could also be developed to produce vegetables and fruit, and provide scientific study areas and storage facilities.

Other mining firms, such as Anaconda Mine near Butte, Montana, are already beginning underground seedling nurseries. Benefits to the mining companies could be three-fold: restored scenic value, income from seedling sales, and, in later years, timber sales.

If these potentials of mine tunnels are utilized, mines, long considered destroyers of the environment, will soon be helping to create a better one. And seedlings grown underground may one day become the future's harvest of "green gold." ●

CXXV——1263—Part 16

PROPOSALS TO CORRECT INEQUITIES SUFFERED BY RETIREES

● Mr. DURKIN. Mr. President, American public employees—Federal, State county, and municipal government workers, policemen, firemen, teachers, and postal workers—represent one of the most important and, yet, underappreciated groups in our Nation. While many of them labor faithfully and honorably for wages not commensurate with salaries they might be able to obtain in the private sector, security in old age is of as much concern to the dedicated public servant as it is to any working American man or woman.

I have introduced and am cosponsoring legislation which is aimed at providing greater financial assistance to elderly Americans who are retired public employees and who are not eligible for social security or who have only partial coverage. These measures include needed tax reform to protect public servants' retirement savings, and the repeal of certain social security offsets that cause this same group unjust annuity reduction.

Even though the Tax Reform Act of 1976 improved the retirement income credit, I believe current inflationary conditions of our economy make it too low. Moreover, it does nothing to bridge the gap between those who receive social security benefits, that are tax-free, and those who do not.

Legislation I am cosponsoring would raise the maximum base figures in computing the credit and substantially increase the current phaseout provision. I believe equity argues for such action to be taken. Both the National Association of Retired Federal Employees (NARFE) and the National Association of Retired Persons share my feeling as they give this measure their strong support.

In addition, I have introduced the Savings Incentive Act of 1979. Because older Americans are usually the most dependent upon savings, and because they are the most exposed to inflation, my bill allows them a significantly higher exclusion on their interest earnings when paying their Federal taxes. Under this measure, taxpayers who are over the age of 60 will be able to exclude $2,500 in interest. If they file a joint return, the limit will be $5,000.

Mr. President, during the last Congress I worked hard to insure pension improvement as a member of the Senate Committee on Veterans' Affairs. Not once, but twice the Senate overwhelmingly agreed to allow a social security pass-through for Veterans Administration pensioners. In addition to assuring our veterans who receive a VA pension that they would no longer suffer reductions in benefits attributable to social security cost-of-living increases, Congress finally guaranteed their aggregate incomes—pension plus social security—would rise in accordance with the Consumer Price Index.

I am proud to have been an active proponent of this long overdue change. However, experience tells me we have far more to do. I am determined to lift the burden of unjust annuity reductions, especially those which affect our loyal American public service employees.

At the start of this Congress, Senator THURMOND introduced two legislative measures that have my strong support—to end an inequity that discriminates against Federal employees who have served in the uniformed services since 1956, and to remove remaining unfair provisions of the military survivor benefit plan (SBP).

Under present law, SBP payments are reduced at age 62 by an amount equal to 100 percent of the social security entitlement due to the deceased's social security covered military service. The Thurmond-Durkin bill, S. 91, would reduce this social security offset from 100 to 560 percent. Other significant provisions of this measure include:

First. Elimination of the social security offset entirely when there is a dependent child and when social security benefits are based on the widow's or widower's own earnings;

Second. Cost-of-living adjustments to be applied in the same manner for both military and civil service retirees, so both pay the same amount for the same SBP coverage;

Third. Elimination of the social security offset for reservists in cases where social security payments were refunded;

Fourth. Authorize an open enrollment period of 270 days for retirees who declined to participate in the plan because of existing inequities; and

Fifth. Authorize SBP benefits for pre-1972 "forgotten widows" whose husbands had no opportunity to participate in the SBP before their death.

As a member of the Senate Committee on Veterans' Affairs, I strongly urge favorable action also be taken on S. 92. This second Thurmond-Durkin bill provides credit for all military service when a civil service retiree's annuity is recalculated at age 62. The measure is simple, but it promises far-reaching justice to current military retirees and Vietnam-era veterans who pursue a career of public service.

For 22 years, civil service employees who are veterans have been forced to accept a recomputation of their annuities, omitting all military service after 1956. Congress intended when writing this legislation to provide veterans with a portable social security benefit increase to their retirement income.

However, those who went into Government service have not experienced the reward of this effort. Rather, some veterans retiring in 1979 will be subject to a 54 pecent loss of annuity. It is safe to say that annuity reduction increases approximately 3 percent for each year of military service after 1956. This "Catch 62" is totally unfair. It has to be changed, and it should be done now.

Another pension improvement I believe this Congress must accomplish is recognized by Senator MATHIAS, in his bill, S. 294, which I am cosponsoring. It guarantees full entitlement to social security survivors' benefits.

Under present law, persons who retire on a civil service pension are not able to collect any social security dependent of survivor benefits which they have

earned, unless the social security benefit is larger than the civil service pension. In that case, the dependent or survivor may only be able to collect from social security the difference in amount between the social security benefit and civil service pension.

In my view, this practice is wrong. Participation in our social security system is supposed to help American workers plan for the future. The fact is, social security is failing Federal, State, and local government workers by denying their dependents cash benefit payments which have been earned, and are designed to reflect contribution amounts.

No wonder there is such a roar of opposition to the idea of enacting a universal social security coverage mandate. I want to say right here and now that I am prepared to fight any legislative move to eliminate the public service pension upon which retired workers and current employees depend.

Mr. President, my efforts in the Senate are devoted to bringing Government spending under control. However, I do not believe this can or should be accomplished at the expense of those who can least afford it. While no American household has escaped the wrath of inflation, the fight to make ends meet is taking its greatest toll in our senior citizens. Today I urge favorable Senate floor action on legislation which is designed to help a very special group, our dedicated public service employees. These measures promise needed fiscal relief. Collectively, their enactment will insure change that is long overdue, needed and deserved.●

EUROPEAN PARLIAMENT CONVENES

● Mr. KENNEDY. Mr. President, this week the European Parliament convenes in Strasbourg, France. It is an historic occasion since this is the first international political body to ever be democratically elected. The vision of Jean Monnet and other European statesmen of a united Europe is now being taken a step further. A democratically elected European Parliament as first provided for in the 1958 Treaty of Rome has at last become a reality.

The convening of the first directly elected Parliament is a welcome example of the increasing role the European Community (EC) is playing in the affairs of our greatest allies. Since the Community's first endeavor with the Common Market, its sphere of activity has expanded to include the new European monetary system (EMS) and a progressive policy on the developing world as expressed through the Lome I and II conventions.

The European Parliament, then, is a continuation of the noble effort to create a community not only of states but of peoples. A recent editorial in the Christian Science Monitor noted:

The important thing is that a people's Parliament can look beyond merely economic issues and begin to deal more thoughtfully with the evolution of a European political structure.

The Parliament is the only forum in the EC where debate occurs among representatives directly elected by the 180 million people of Europe. I am heartened by the 65 percent turnout of European voters, selecting 410 Euro-MP's from a slate of 3,000 candidates. By way of comparison, the United States has not experienced such a turnout since the 1960 Presidential election.

Moreover, the Europeans elected to serve as Euro-MP's represent a wide variety of political perspectives. Over a third have served previously in their national governments while nearly a sixth are women. Some of the brightest names in European politics now sit in Strasbourg, including former West German Chancellor Willi Brandt, Italian Communist leader Enrico Berlinguer, former Belgian Premier Leo Tindemans and French Socialist leader Francois Mitterand. The Christian Science Monitor has said:

These are the men and women who can give wing to the idea of political as well as economic cooperation among Europe's maturing nations.

Complementing the election of such a promising group of leaders was Tuesday's election of France's former Minister of Health, Simone Veil, to serve as President of the European Parliament. During her campaign, Mme. Veil said, "Europe really won't progress if it tries to impose supranational rules outside of the national contexts." The countries of the EC, she continued, will "have to move closer before they can think together."

Mme. Veil is an astute leader and a woman of strong character having survived the terror of Auschwitz and the deaths of her parents and brother during World War II. A recent article in the Boston Globe noted that Madame Veil's election as President is "a measure of how far Europe has evolved democratically from the Hitler years. Never was Veil's sex, religion, or tragic past a factor in her election."

The convening of the first democratically elected European Parliament is an important step in the development of a politically dynamic and interdependent European Community. Our European friends deserve praise and support for their latest efforts to that end.

Mr. President, I ask that the recent Christian Science Monitor editorial on the European Parliament be printed in the RECORD. I also request that the article on the election of Simone Veil in the Boston Globe be printed in the RECORD.

The articles follow:

[From the Christian Science Monitor, June 13, 1979]

CITIZENS OF EUROPE

We have heard and read all the pessimistic putdowns of the first popularly elected European Parliament. It will not have any legislative power. It will be only a dull debating club. Europeans yawned over the lackluster election campaigns. The assembly will have more symbolism than substance.

True, perhaps.

But.

Let the world, so in need today of moral and spiritual vision, not shortchange what could prove to be one of the most visionary developments of the 20th century. Someday we may all look back on these direct elections as the first momentous step on the long, difficult road toward a politically united Europe. The vision of a United States of Europe may seem dim when the European states become embroiled in nationalistic and often petty squabbles. But, from the first moment 28 years ago when the idea of European unity was born, that vision has never died. It now has new and, in our view, exciting impetus.

To be sure, only 53 percent of Europe's eligible voters turned out to vote, and many of these were required to vote by their domestic laws. But 53 percent is in many respects an astonishing beginning. Consider that something like 40 percent of eligible American voters voted in the last national election (for a legislative body that does have power). Consider that people of Northern Ireland voted in spite of threats and a bombed polling station. Consider that the Dutch voted despite phony letters stating the election had been postponed. Consider that Britons, not exactly a continentally oriented people, posted a 30 percent participation even after an exhausting national election of their own. No, the voting results were respectable.

Nor should the possible impact of the new European Parliament be underestimated. It will be largely a political forum that can only recommend, but, elected for the first time by universal suffrage instead of named by national legislatures, it is likely to speak out more forcefully than in the past. The Parliament does, moreover, have some powers in drafting the European Community's budget, and by two-thirds vote it can oust the EC Commission. The representatives therefore will probably watch the Common Market bureaucracy in Brussels with a keener eye.

The important thing, however, is that a people's Parliament can look beyond merely economic issues and begin to deal more thoughtfully with the evolution of a European political structure. As French Foreign Minister Jean Francois-Poncet comments, "This is a step toward the peoples' Europe that should satisfy all those who up until now have criticized Europe for being the concern of businessmen, industrialists, or technocrats." It will take vision of the highest order, of course, to transcend the nationalisms of the nine states. Nor does anyone suggest that national prerogatives must not be maintained. But with such thoughtful, able leaders as Willy Brandt, Simone Veil, Leo Tindemans, Gaston Thorn and others serving in the assembly, the scope and opportunity for creative approaches are vast. These are the men and women who can help give wing to the idea of political as well as economic cooperation among Europe's maturing nations.

One other point might be made. The results of the elections showed a general move away from the left toward the center right. Socialists will have the largest single bloc of seats but the center-right parties are the largest combined group. This swing toward conservatism appears to reflect less a political resurgence of the right than what one commentator calls "an intellectual and philosophical reaction against the old left, centering particularly in France, brought on by the discovery, partly from the revelations of Solzhenitsyn, that there is no true romance and certainly no liberté in communism." Many intellectuals, especially in France, today warn of Europe's tendencies toward statist systems and flirtations with idealistic brands of Marxism.

The challenge for the Parliament deputies, then—as for such conservative leaders as Margaret Thatcher of Great Britain—will be to strengthen the European Community's strong foundations and to begin to build on them a politically federated Europe based on strong individual freedom combined with a deep concern for social and economic justice. Such a Europe will stand as a bulwark of peace in the world, as a model of democracy, and as an example of harmonious coexistence of nations and peoples.

A utopian dream? What great idea did not start out as such?

[From the Boston Globe, July 13, 1979]

WOMAN WILL LEAD EUROPE CONGRESS

STRASBOURG, France.—The European Parliament, history's first directly elected multinational assembly, opened its inaugural session yesterday and elected as its first president Simone Veil, a Jewish Frenchwoman who survived the Auschwitz death camp.

Veil, a 52-year-old grandmother, narrowly missed election on the first ballot by the deputies, but emerged victorious in the second round, receiving 192 votes, three more than the required majority of 189.

Veteran Italian Socialist Mario Zagari, 65, received 138 votes, and Giorgio Amendola, an Italian Communist, received 47.

All but six of the 410 deputies attended the session, 400 voted, and 23 ballots were invalid or blank.

After 45 seconds of applause from the conservative and liberal bloc, Veil took the chair and thanked the house "for the great display of trust you have shown in me."

She quickly attended to housekeeping chores and adjourned the session until today, when a vice president will be elected.

Her election provided a poignant moment in Europe's 34-year-old quest to bury the Hitler horror and become united.

She was supported by the dominant center-right bloc in the parliament, but had a strong rival in Zagari, 65, a former anti-Nazi resistance fighter from Italy, backed by the 112-strong Socialist bloc.

It was a measure of how far Europe has evolved democratically from the Hitler years. Never was Veils sex, religion or tragic past a factor in her election.

Veil, a mother of three, served as health minister in France until being elected to the parliament of the nine Common Market nations June 10.

She is a soft-spoken woman and a champion of liberal abortion laws and rights for Frenchwomen. She was deported to Auschwitz in 1944, saw her mother die there and lost her father and brother in the Holocaust.

The delegates, plus a large audience of dignitaries, packed the assembly's horse-shoe shaped chamber to hear a speech by Louise Weiss, 86, dean of the outgoing nonelected parliament.

In her hour-long discourse on Europe, Weiss evoked Charlemagne and Charles de Gaulle in appealing to the delegates to fight for pan-Europeanism.

She denounced the United Nations—to applause from much of the chamber but silence from the Communists—for failing to help Vietnam's boat people.

Before the vote, Veil, dressed as usual in a long-sleeved dress that covers the number 78651 tatooed on her arm by the Nazis, sat almost unnoticed in a back row.

The parliament's first major quarrel broke out over a proposal by the Christian Democrat group for a 2½-year presidency instead of a one-year term.

After heated debate with the leftists opposing the idea, the issue was shelved for later discussion.

Outside the parliament, a modernistic building that from the front looks like an ocean liner, several hundred demonstrators, mostly Italian, protested Veil's record on abortion. Other groups urged federalism, pan-European currency and the admission of tiny minority groups to the parliament.●

TRIBUTE TO JOSEPH CALIFANO

● Mr. MOYNIHAN. Mr. President, Joe Califano and I have been friends and colleagues for many years and in many circumstances. We were together at the White House the night of President Johnson's dramatic announcement of the Kerner Commission, and went out to dinner together following the President's address. We worked together then and we have worked together since, most recently during the 32 months that I have served in the Senate and he has held the most difficult position in the Cabinet.

His stewardship of HEW commands our admiration. No one in public life today is more vigorous, more adept at the management of complex issues, more able to absorb the punishing pace and endless demands of executive responsibility in the National Government, or more insistent on high standards and hard work. We have not always agreed on policy, but that is hardly surprising in view of our different responsibilities. He is a distinguished public servant and has my lasting affection and regard.●

HYDROELECTRIC POWER

● Mr. DURKIN. Mr. President, one of the greatest unused sources of energy in this Nation today is hydroelectric power.

In New Hampshire, New England, and throughout the United States, there are literally thousands of dams which could be producing electric power and reducing our crippling addiction to OPEC oil.

In past years these facilities were the cornerstone of power production in this country. After World War II, however, many of the small dams were abandoned in favor of much larger, more centralized powerplants as America's energy needs grew dramatically. Now, with the price of oil at an all-time high, these small-scale hydroelectric dams have become attractive sources of clean and efficient energy. Hydroelectric stations can be returned to service at a tiny fraction of the cost of constructing a nuclear or conventional powerplant and start moving us toward energy independence.

Because of my interest in developing small-scale hydroelectric projects, I was delighted to see a paper that outlines the methods of financing such projects. The paper, written by Hugh W. McLeod of the New England Merchants National Bank, gives an excellent overview of the various ways to raise the necessary funds for such a project.

I ask that excerpts from Mr. McLeod's speech be printed in the RECORD.

The excerpts follow:

FINANCING LOW-HEAD HYDROELECTRIC PROJECTS

I. 2 BASIC TYPES OF PROJECTS THAT ARE FINANCED

A. Small ones that can be financed based on net worth of developer and his track record. An example of this might be a small project or a larger project developed by a utility or a municipality. This is the easier typo of project to finance.

B. Larger ones where the size of the project is large enough so it cannot be financed on the net worth of the developer, i.e. credit decision must be made based primarily on the cash flow of the project (usually called project financing).

C. Talk will concentrate on financing the second—or project financing.

II. WHAT ARE THE KEY COMPONENTS OF A SUCCESSFUL LHH PROJECT FINANCING?

A. A good purchase contract that will provide sufficient revenue to service the principal and interest with an adequate safety margin and provide the developer with an adequate return.

B. The necessary license and permits.

C. A good construction contract (preferably turnkey) that will insure that the project will be completed on time and within budget.

D. A qualified management—development team (probably most important).

E. Financing.

F. If any one of these key components is not available or sufficiently strong, the project's chance for success is lessened.

III. PROJECT FINANCING OF L.H.H.—HOW DOES IT DIFFER FROM REGULAR LOANS?

A. $ needed for project are usually large in relation to the developer's assets—means you cannot rely on developer's net worth—said another way, there is little fall back position outside of the project. The emphasis is on the project's cash flow.

B. Deals are much more leveraged than a normal utility—so much less room for error.

C. Unlike a real estate deal, the major dollars spent do not generate much loan collateral value as in the case of an apartment house.

D. Under a project financing each financing party must commit before all of the documents are finalized so each party must do some adjusting as details become known.

IV. WHAT TYPES OF FINANCING ARE REQUIRED?

A. Front End Money.

(1) Acquire site.

(2) Feasibility studies, environmental impact studies.

(3) F.E.R.C. licenses.

(4) Legal & Accounting fees.

B. Construction loan—while building.

C. Long-term debt—after construction is done.

D. Junior money or equity to complete long-term financing.

E. All are interrelated.

V. SOURCES

A. Government Grant—front end dollars, feasibility studies.

B. Commercial banks—front end, construction, 5–10 year junior money loans.

C. Leasing companies—medium-term financing.

D. Financial subsidiary of turbine manufacturer—medium-term financing.

E. Insurance company—long-term debt financing.

F. Savings Banks—long-term debt financing.

VI. PROJECT FINANCING—CAN IT BE DONE? YES! IS IT EASY? NO!

A. Requires a lot of work by all concerned.

B. Lenders must have experience and expertise in the utility industry, the hydroelectric industry, and in project financing because there is little outside collateral and because they must mesh with the other parties. If any one fails the project, a lot of time and money may be lost.

C. However, it can be done! LHA project shows it!

VII. NEW ENGLAND MERCHANTS AND LAWRENCE HYDROELECTRIC ASSOCIATES—A CASE STUDY

A. Front Money loan—New England Merchants.

B. Construction Loan—a New York bank.

C. Long-term debt—an insurance company.

D. Junior money loan—New England Merchants.

E. Equity investment—Essex Company and a limited partner.

VIII. SHOULD BANKERS GET INTO LOW HEAD HYDRO DEALS AND HOW?

A. You cannot do project financing on a part-time basis because of the need for experienced lenders since all forms of financing must mesh and if a bank caused the project to fail because it did not understand

the nature of the risk, it would get a lot of bad publicity and possibly law suits.

B. Three basic ways to go into project financing:

(1) Develop your own in-house expertise by spending the time and money to build up expertise in project financing and low head hydro. Reason—meshing of gears problem—if a deal fails after parties work six months—ill will.

(2) Form a loaning group or consortium of banks—savings and commercial—that will work together to hire in "experts" or "experienced people" to assist the group in evaluating and making low head hydro loans. This group could consist of commercial banks to do the front money loan, construction loans, and equity loans and savings banks and/or insurance companies for the long-term financing.

(3) Bring a deal to a bank that is experienced in project financing of low head hydro projects and have them do a participation with you until you have enough expertise to do it yourself.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER THAT NO ROLLCALL VOTES BEGIN BEFORE THE HOUR OF 2:30 P.M. ON MONDAY, JULY 23, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if any rollcall votes are ordered on Monday, except for any rollcall votes that may be procedurally necessary in getting a quorum, or some such, that such rollcall votes not begin before the hour of 2:30 p.m.

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

ORDER FOR RECESS UNTIL MONDAY, JULY 23, 1979

Mr. CRANSTON. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in recess until 12 noon on Monday next.

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

INCREASED AUTHORIZATIONS FOR 1979 FOOD STAMP PROGRAM

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1309, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1309) to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment.

ORDER FOR THE RECOGNITION OF MR. EXON ON MONDAY

Mr. CRANSTON. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order and have used their time on Monday morning, Senator EXON be recognized for not more than 15 minutes.

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

ORDER TO RESUME CONSIDERATION OF S. 1309 ON MONDAY

Mr. CRANSTON. Mr. President, I ask unanimous consent that upon completion of the standing order and the order for the recognition of Mr. EXON that the Senate resume consideration of Calendar Order 247, S. 1309.

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

RECESS UNTIL MONDAY, JULY 23, 1979

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until 12 noon, Monday.

The motion was agreed to; and at 5:48 p.m., the Senate recessed until Monday, July 23, 1979, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate on July 21, 1979:

DEPARTMENT OF ENERGY

Charles William Duncan, Jr., of Texas, to be Secretary of Energy.

DEPARTMENT OF DEFENSE

W. Graham Claytor, of the District of Columbia, to be Deputy Secretary of Defense, vice Charles William Duncan, Jr.

THE JUDICIARY

Barbara B. Crabb, of Wisconsin, to be U.S. district judge for the western district of Wisconsin, vice a new position created by Public Law 95–486, approved October 20, 1978.

Terence T. Evans, of Wisconsin, to be U.S. district judge for the eastern district of Wisconsin, vice a new position created by Public Law 95–486, approved October 20, 1978.

Eugene P. Spellman, of Florida, to be U.S. district judge for the southern district of Florida, vice a new position created by Public Law 95–486, approved October 20, 1978.

EXTENSIONS OF REMARKS

EXECUTIVE COMMUNICATION NO. 1627

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. MURPHY of New York. Mr. Speaker, following is a copy of Executive Communication No. 1627 from the Department of the Interior in explanation of a draft bill which was introduced in the form of H.R. 4887, to authorize appropriations for the San Francisco Bay National Wildlife Refuge:

U.S. DEPARTMENT
OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 14, 1979.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Transmitted herewith is proposed legislation to increase and extend the authorization of appropriations for the San Francisco Bay National Wildlife Refuge. We recommend that this legislation be referred to the appropriate Committee and that it be enacted.

The Secretary of the Interior was directed to establish and administer the San Francisco Bay National Wildlife Refuge by Public Law 92–330, June 30, 1972 (86 Stat. 399; 16 U.S.C. 668dd). The purpose of this 23,000 acre refuge is to protect the wildlife resources of the South San Francisco Bay area, provide wildlife-oriented recreation and preserve a natural area in close proximity to a large urban center.

The marshes, mudflats, open water and saltponds of the refuge form an ecosystem that supports a rich diversity of fish and wildlife. It is a major nesting and feeding area for the waterfowl and shorebirds of the Pacific flyway. The refuge also preserves a hauling ground for the wary harbor seal and habitat for several endangered and threatened species, including the California least tern, the California clapper rail and the salt marsh harvest mouse.

In addition to preserving important wildlife habitat, the refuge establishes a sorely needed wildlife-oriented public use area for the burgeoning San Francisco Bay region. Once acquisition and development is complete we expect that more than one million visitors a year will take advantage of the opportunities for fishing, animal and bird observation, and research and environmental education which will be provided by the refuge.

Public Law 92–330 contained an authorization of appropriations of $9 million for land acquisition and $11.3 million for development. These authorizations expired at the end of fiscal year 1977 and were extended through fiscal year 1980 by Public Law 95–299 (92 Stat. 3411).

Our proposal would increase the authorization for land acquisition at San Francisco Bay National Wildlife Refuge to $13.2 million, to be available until September 30, 1983. Land acquisition has been restricted pending settlement with a major property owner and the conclusion of litigation between the State of California and other landowners. The $4.2 million increase, available through fiscal year 1983, will allow us to complete acquisition.

Development of the refuge is proceeding but cannot be concluded until acquisition problems are resolved. We therefore also recommend that funds authorized for this purpose remain available until expended.

The Office of Management and Budget has advised that there is no objection to presentation of this draft bill from the standpoint of the Administration's program.

Sincerely,

ROBERT HERBST,
Secretary.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.