

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. BINGAMAN. I yield back all remaining time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Michael P. Shea, of Connecticut, to be U.S. District Judge for the District of Connecticut?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Virginia (Mr. WEBB) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), the Senator from South Carolina (Mr. DEMINT), and the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "nay," and the Senator from Tennessee (Mr. ALEXANDER) would have voted "nay."

The PRESIDING OFFICER (Mr. BENNET). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 23, as follows:

[Rollcall Vote No. 222 Ex.]

YEAS—72

Akaka	Graham	Merkley
Ayotte	Grassley	Mikulski
Baucus	Hagan	Moran
Begich	Harkin	Murkowski
Bennet	Hatch	Murray
Bingaman	Hoeven	Nelson (NE)
Blumenthal	Inouye	Nelson (FL)
Boxer	Johanns	Portman
Brown (MA)	Johnson (SD)	Pryor
Brown (OH)	Johnson (WI)	Reed
Burr	Kerry	Reid
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Kyl	Sessions
Casey	Landrieu	Shaheen
Coats	Lautenberg	Shelby
Collins	Leahy	Snowe
Conrad	Levin	Stabenow
Coons	Lieberman	Tester
Corker	Lugar	Udall (CO)
Durbin	Manchin	Udall (NM)
Feinstein	McCain	Warner
Franken	McCaskill	Whitehouse
Gillibrand	Menendez	Wyden

NAYS—23

Barrasso	Enzi	Risch
Blunt	Heller	Roberts
Boozman	Hutchison	Rubio
Chambliss	Inhofe	Thune
Coburn	Isakson	Toomey
Cochran	Lee	Vitter
Cornyn	McConnell	Wicker
Crapo	Paul	

NOT VOTING—5

Alexander	Kirk	Webb
DeMint	Rockefeller	

The nomination was confirmed.

Mr. COBURN. Mr. President, I wish to explain my vote against Mr. Michael

Shea, nominee to the District Court of Connecticut. My decision is based on Mr. Shea's assistance in drafting an anticus brief in the Supreme Court case of Kelo v. New London on behalf of the Connecticut Conference of Municipalities and other municipalities.

The Kelo decision delivered a serious blow to private property rights by upholding a municipality's use of eminent domain to seize private homes and transfer the property to a pharmaceutical company for purposes of "economic development." As Justice Sandra Day O'Connor stated in her dissent, the "Court abandoned its long-held, basis limitation on government power" in the Kelo case. The Fifth Amendment of the Constitution states: "No person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." The Kelo decision altered what was traditionally viewed as "public use." As Justice O'Connor noted, as a result of this decision, "Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory. . . . Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms."

In contrast, Mr. Shea's amicus brief argued the eminent domain action taken by New London was constitutional and should be upheld. He asserted the "taking of some of the petitioners' homes" is "undeniably a genuine cost of realizing the City's goal of improving the economic well-being of its citizens?" But, the Public Use Clause "sweeps as broadly as the [State's] police powers." He said siding with the Kelo plaintiffs in the case would "contort" the Public Use Clause. Justice Stevens, the author of the 5-4 majority opinion in Kelo, cited Mr. Shea's brief in his opinion.

Perhaps the saddest aspect of this case is the "economic development" that was key to the taking being a "public use" never happened because the developer could not get funding. Susette Kelo lost her property for nothing. The site of her former home is a garbage dump. This fact exposes another reason the takings clause was only intended for public use, because the government is more likely to have the funding ready to use the property. Normally, I would not hold a lawyer responsible for the legal views of his clients, but the Kelo decision dealt such a serious blow to private property rights, a crucial element of our founding principles, and so clearly departs from the original understanding of the Constitution, I feel I must vote no.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid

upon the table. The President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate shall resume legislative session. The Senator from Michigan.

RUSSIA AND MOLDOVA PNTR

Mr. LEVIN. Mr. President, the Russia PNTR bill that is before us takes a long overdue action by ending the application of Jackson-Vanik sanctions to Russia. Jackson-Vanik is no longer relevant to Russia because Russia no longer restricts the free emigration of its people.

The Soviet Union began to relax its restrictions on Jewish emigration in 1987, during Gorbachev's perestroika. Following the collapse of the Soviet Union in 1991, millions of Soviet Jews were permitted to leave. Since then, Russia has allowed free emigration.

I have felt for a long time that we should have graduated Russia from Jackson-Vanik when Jackson-Vanik's noble purpose was achieved, rather than waiting years, often in the effort to make other points relative to Russia on other issues. First some history.

In 2007, I met with Rabbi Lazar, chief rabbi of Russia, regarding Jackson-Vanik. He urged passage of legislation ending the application of Jackson-Vanik to Russia.

Also in 2007, I received a letter from the chairman of the Federation of Jewish Communities, which represents presidents and rabbis of over 200 Jewish communities in Russia, a letter which urged me to work to graduate Russia from the Jackson-Vanik amendment in view of the fact that its goals had already been met. Part of his letter reads as follows:

[We are thankful for all your efforts toward gaining freedom for our country's Jews. We will always appreciate the role of Jackson-Vanik in bringing about change. We also remain grateful to those who forced the U.S.S.R.'s Communist regime to permit Jews to emigrate, and to end discrimination. For us this was a huge morale boost—Jews behind the Iron Curtain were thrilled that Americans were willing to risk political and economic confrontation, in order to stand up for the freedom and rights of their fellow human beings.

He continued:

Nevertheless, in the last 15 years the situation has changed, radically. The freedom for Soviet Jews to live wherever they desire was fully obtained; nearly a million Jews from the F.S.U. now live in Israel, while hundreds of thousands live in other countries throughout the world. We are positive that these developments were in part thanks to the American lawmakers who supported the Jackson-Vanik amendment. Yet we now see a backward migration, when Jews from abroad move back to Russia. This proves that Jews in Russia feel as confident as those inhabiting other countries of the Free World.

The rabbi added: "The provisions of the Jackson-Vanik amendment have

already achieved the goals of its initiators." That was in 2007. Mr. President, I ask unanimous consent that the letter from the Federation of Jewish Communities of Russia be printed in the RECORD.

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

FEDERATION OF  
JEWISH COMMUNITIES OF RUSSIA,  
APRIL 16, 2007.

Hon. Senator CARL LEVIN,  
*Russell Bldg.,  
Washington, DC.*

DEAR SENATOR LEVIN: I am writing this letter in my name and in the name of the Presidents and Rabbis of over 200 Jewish communities throughout our country which comprise the Federation of Jewish Communities. I am writing to you on behalf of our constituency, to ask you to work to graduate Russia from the Jackson-Vanik amendment in view of the fact that its goals have already been met.

We know that the fate of Soviet Jewry is important to you, and we are thankful for all your efforts towards gaining freedom for our country's Jews. We will always appreciate the role of Jackson-Vanik in bringing about change. We also remain grateful to those who forced the USSR's Communist regime to permit Jews to emigrate, and to end discrimination. For us this was a huge morale boost—Jews behind the Iron Curtain were thrilled that Americans were willing to risk political and economic confrontation, in order to stand up for the freedom and rights of their fellow human beings.

Nevertheless, in the last 15 years the situation has changed, radically. The freedom for Soviet Jews to live wherever they desire was fully obtained; nearly a million Jews from the F.S.U. now live in Israel, while hundreds of thousands live in other countries throughout the world. We are positive that these developments were in part thanks to the American lawmakers who supported the Jackson-Vanik amendment. Yet we now see a backward migration, when Jews from abroad move back to Russia. This proves that Jews in Russia feel as confident as those inhabiting other countries of the Free World.

Today the Jewish people have equal rights with the general population. Jewish life in our country has experienced dynamic growth. While it is well known that during the years that Communism ruled we were forbidden to pray in synagogues, and to learn the Torah or Hebrew, now, most of the larger cities have built community centers, Jewish schools, day care centers, humanitarian facilities, and artistic collectives, in addition to synagogues. The country's leaders, inducting the President, regularly visit Jewish communities. Russia's Jews are treated as equal citizens and any outburst of anti-Semitism is met with harsh consequences.

The provisions of the Jackson-Vanik amendment have already achieved the goals of its initiators. At this point a public ceremony marking the official graduation of Russia from the provisions of the amendment would be a tremendous opportunity to remind the rest of the world that the U.S. has successfully completed a policy initiative, and will continue to look after the needs of the Jewish people and to defend them from discrimination. At the same time, the abolishment of this amendment in respect to Russia would reiterate to the rest of the world that America is ready to commit the resources necessary to the needs of the Jewish people. It would also demonstrate fairness, acknowledging that when a "carrot and stick" policy is pursued, the reward for compliance will, in fact, be paid as promised.

Thanking you in advance for your kind help, I remain,

ALEXANDER BORODA,  
*Chairman, FJC Russia.*

Mr. LEVIN. So I am glad, very glad, that finally, the Jackson-Vanik law is no longer going to apply to Russia.

Not only does the bill under consideration grant Russia PNTR, it also contains enforcement provisions that my brother, Congressman SANDER LEVIN, fought for to address concerns about Russia's compliance with its WTO obligations and other trade concerns such as Russia's persistent failure to stop intellectual property rights infringement, and to help promote the rule of law in Russia. These are important enforcement tools that will give us a chance to monitor Russia's progress in fulfilling its commitments. I have looked forward to getting these actions accomplished in PNTR legislation.

The bill before us also includes the Sergei Magnitsky Rule of Law Accountability Act of 2012 which was inspired by the Russian whistleblower Sergei Magnitsky, who was ruthlessly murdered. The legislation would require that human rights violators in Russia be identified and that we deny them U.S. visas as well as freeze their U.S. assets.

However, and here's the problem for me, the Magnitsky language before us is not the Magnitsky language adopted by our Finance and Foreign Relations committees. Their Magnitsky language applied the same sanctions to human rights violators wherever they might be—whether in Russia, or Syria, or Sudan, or North Korea, or China, or in any other country.

In other words, the Senate committee-approved bill wisely adopted a global Magnitsky standard. The reasoning for this is sound, because while the mechanism of U.S. visa denial for human rights violators was inspired by a single case in a single nation, the principles that it seeks to advance are universal. This bipartisan Senate committee bill, unlike the House-passed version of the Magnitsky Act that we will soon vote on, does not single out Russian human-rights violators for visa denial, but would apply the visa denial mechanism to people from any country who violate important human rights standards. The United States should be clear and firm in its commitment to protecting human rights, wherever the violations occur, and to holding those who violate those rights accountable to the best of our ability, including denying them visas to come to our country. Human rights do not end at the borders of Russia, and anyone who violates those standards, as so many did so blatantly in the case of Sergei Magnitsky, should be held accountable.

Applying the Magnitsky provisions globally, as the Senate bill approved by our committees did, follows in the spirit of Jackson-Vanik, which, while inspired by events in the Soviet Union, was not limited to the Soviet Union.

The Senate Foreign Relations Committee and the Senate Finance Committee both voted unanimously to report a version of the Magnitsky bill that applies its sanctions globally. Senators CARDIN and KYL have worked, on a bipartisan basis, to build support for that global standard, and I strongly support their effort. I commend them on their effort.

So why is that Senate committee-reported bill not before the Senate? Why would we deny visas only to Russian human rights violators? Why diminish the universality of the values the Magnitsky bill seeks to uphold?

Applying the sanctions contained in this bill solely to Russians, as the House version does, not only diminishes a universal value. Because it adds a political twist, it will stoke a nationalistic response in Russia. If this bill does not apply the same rule to all human rights violators, if it singles out Russian human rights violators, President Putin will no doubt appeal to the nationalistic passions of many Russians by saying that our bill isn't aimed at protecting human rights, but is aimed at Russia. We should not hand President Putin that argument.

The Senate bill, as approved by our committees, very appropriately pays tribute to the man whose tragic death inspired the legislation, and applies its message universally. I deeply regret that the House bill before us does not take that approach.

I don't understand why we are not taking up the Senate version, the version approved by our two committees, and applying these standards universally. The only answer I get is that the House of Representatives might not accept the Senate version. Well, we should do what we believe in, as reflected in two unanimous votes in two committees, and not be derailed by a prediction that the House will not accept our version. There is time left in this session to test that prediction. The failure to do so is inexplicable to me. The House of Representatives did not have a vote focusing on the issue of applying these sanctions globally. We should give them a chance to do so.

In summary, it is important that we lift the Jackson-Vanik sanctions. It is important that we speak out on the tragic death of Sergei Magnitsky and hold those responsible to account. These are issues on which I believe so strongly and that I have worked long and hard, particularly on Jackson-Vanik, to achieve. Taking these steps should be a cause of celebration.

But the violations of human rights that the Magnitsky bill seeks to remedy are far too widespread for us to apply remedies only to Russians human rights violators. The United States has an opportunity here to make a strong, unmistakable statement about the sanctity of human rights. We should want that statement to ring out not just in Moscow, but around the world.

I know some of my colleagues have expressed hope that we can pass legislation to address this issue in the next Congress. I know of no reason to believe that we will have significantly greater chances of accomplishing this goal next year than we do today.

Mr. President, over the next few weeks, we have time to conference and pass a defense authorization bill. We have time to debate and avoid the fiscal cliff. We have time to address a farm bill and dozens of other important issues. And we have time to address the transcendent issue of the universal rights of mankind.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I rise today in strong support of the legislation before us to enact permanent normal trade relations with respect to Russia and Moldova. This legislation will also put in place a new mechanism for combating human rights abuses and strengthening the ruling of law in Russia commonly known as the Magnitsky bill. The economic argument for the legislation before us is clear. Russia is the world's sixth largest economy; the world's fifth largest global importer of agricultural products, and home to 140 million potential customers, the largest consumer market in Europe.

Russia is already an important and growing market for U.S. businesses. Of the top 15 U.S. trading partners, Russia was the market where American companies enjoyed the fastest export growth last year, at 38 percent. If we enact PNTR, it is estimated that U.S. exports of goods and services to Russia could literally double over the next 5 years. That is why groups ranging from the American Farm Bureau to the National Association of Manufacturers to the National Corn Growers, just to name a few, strongly support PNTR.

Just last week I met with representatives from the South Dakota Soybean Association, and I was reminded of the importance of Russia as a growing export market to my State of South Dakota. While greater access to the Russian market will benefit a wide range of U.S. companies, such as manufacturers and service providers, I would be remiss not to point out the enormous opportunity for America's agricultural producers in Russia. Consider that Russia is the world's largest importer of beef on a quantity basis, with imports of nearly \$4 billion last year. Russia is the world's fifth largest importer of pork products as well as the world's largest importer of dairy products.

Despite the problems we have encountered recently with respect to our poultry exports, America remains the single largest supplier of poultry to the Russian market, accounting for 50 percent of Russian poultry imports last year.

Under the terms of Russia's WTO accession, which occurred last year, Russia is obligated to reduce tariffs across a wide range of agricultural products

while also adhering to WTO rules regarding sanitary and phyto-sanitary measures. Once we have enacted PNTR the United States will have the ability to enforce visa commitments through the World Trade Organization dispute settlement process.

It is important to note that our vote on passage of this bill is different than voting on a trade agreement where both sides make concessions in order to reach a conclusion. In contrast, our vote on the House-passed Russia PNTR bill is entirely one-sided in favor of the United States. Russia joined the World Trade Organization in August and will remain a member of the WTO regardless of what we do with respect to PNTR.

We are not giving Russia anything new because they have received PNTR on a recurring annual basis for the past 20 years. The only issue today is whether we will now allow U.S. businesses to take full advantage of the new trade commitments that Russia has made as part of joining the World Trade Organization. If we do not act, American manufacturers, farmers, ranchers, and service providers will remain at a competitive disadvantage relative to their foreign competitors doing business in Russia.

At a time when our economy is growing more slowly than any postrecession recovery since World War II, failure to enact PNTR makes no sense. American export growth has been one of the true bright spots since the great recession.

According to the Department of Commerce, jobs supported by exports increased by 1.2 million between 2009 and 2011.

If we are serious about encouraging job creation, we need to continue to open new job markets abroad for American exports. Normalizing our trade relationship with Russia is an important step in the right direction.

While this legislation is about supporting American jobs by promoting our exports, we should also recognize the importance of the Magnitsky provision included in this bill at the insistence of Senators CARDIN, KYL, MCCAIN, and WICKER, among others. By replacing the outdated Jackson-Vanik law with a new mechanism to support democratic reforms in Russia, this legislation will strengthen the rule of law while combating corruption and human rights abuses.

The only thing surprising about this vote is that it did not happen sooner. Nearly 6 months ago, on June 12, I joined Senators BAUCUS, MCCAIN, and KERRY in introducing legislation to enact PNTR. With the leadership of Senator HATCH and others, we approved the PNTR legislation in the Finance Committee by a unanimous vote on July 18.

Unfortunately, many of us believe the administration did not push forcefully enough for enactment of PNTR before Russia joined the World Trade Organization in August. As a result, we are just now finally considering this

legislation more than 3 months after Russia's WTO accession.

Nevertheless, I look forward to enactment of this bill, especially considering the overwhelming bipartisan vote of approval for this legislation in the House of Representatives just a few weeks ago. While today's vote is specific to Russia and Moldova, I hope this vote will remind us of the importance of moving forward on trade in general. It is an unfortunate reality that when America stands still on trade, we are actually falling behind relative to the rest of the world. There are more than 100 new free-trade agreements currently under negotiation around the world. Yet the United States is party to only one of those negotiations, the Trans-Pacific Partnership.

The United States has not successfully negotiated a single new trade agreement during the 4 years of the Obama administration, and this administration has not yet asked Congress for a renewal of trade promotion authority, despite the fact that TPA expired over 5 years ago. The cost of inaction on trade is high because we live in a global economy where American producers rely on access to foreign markets. More than 95 percent of global consumers live outside the United States.

Consider that in 1960 exports accounted for only 3.6 percent of GDP. Exports account for 12.5 percent of our GDP. Exports of U.S. goods and services supported over 10 million American jobs. If we do not aggressively pursue new market opening agreements on behalf of American workers, we will see new export opportunities go to foreign businesses and foreign workers.

So while I am pleased that we are considering PNTR today, I hope President Obama in his second term will recognize the potential for increased trade opportunities through a more aggressive trade agenda. I look forward to the President signing this legislation into law, and I urge all of my colleagues to vote for the legislation before us when that vote comes up tomorrow at noon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. The bill before us, the permanent normal trade relations with Russia, is important legislation to expand trading opportunities. I was thinking, as the Senator from South Dakota spoke about this debate on the floor and what it was like around this Chamber several decades ago when this issue was raised and there was a strong feeling for the Jackson-Vanik provisions which prohibited certain trade between the United States and so-called communist countries of their day, there were those voices on the other side, many from the Heartland such as Senator THUNE and myself. Senator Humphrey used to say, sell anything that can't shoot back at us, and that meant a lot of wheat sometimes and other agricultural commodities.

I will speak to that trade relation aspect in a second, but before I do, I want to address an aspect of this bill that is very important to me and should be to every Member of the Senate.

I am honored to be the chair of the Judiciary Committee Subcommittee on the Constitution, Human Rights and Civil Rights. We have had a series of hearings on the issues of human rights and laws in the United States that affect them. I have also been honored to join with Senator CARDIN of Maryland who chairs our Helsinki Commission Senate Delegation and has been on several trips overseas. He has made human rights a part of that commission and part of the United States.

One of the aspects of this bill is so important. Sadly today in the country of Russia we are seeing evidence of brutal and horrific treatment of individuals and abuse of human rights. Senator CARDIN—who I said earlier is a great voice of human rights in the Senate—introduced legislation in this Congress that would impose U.S. visa bans and asset freezes on those who commit gross human rights violations around the world. That is a Cardin amendment which I thought was a good one. The idea was simple: Those who commit such acts that are so contradictory to American values should not be allowed to visit or stash their wealth in our country, period.

The inspiration of this came from a terrible episode which occurred in Russia. A lawyer named Sergei Magnitsky died a tragic death while in custody in Russia after being arrested for uncovering official corruption. Magnitsky was working for Hermitage Capital, once the largest Russian-only fund in the world. Drawn into the feud between the fund and Russian law enforcement authorities, he testified that senior Russian Interior Ministry officers had used his employer's companies to embezzle \$230 million from the Russian treasury.

Later the same police officers he accused arrested him. They held him without bail on charges of evading taxes. After 11 months in custody, repeatedly being denied medical care, he died at age 37. Russia's top investigative commission said that he died of heart disease and hepatitis that he could have survived with basic medical care. A parallel Russian Presidential advisory report said that he may have died because of a beating while in prison.

Over time prison officials were dismissed but got jobs elsewhere. Russian authorities have also occasionally raised the prospect of a more thorough investigation, but they ignored extensive evidence linking police officials to Magnitsky's death. Incredibly, some of those involved have even received medals for meritorious service by the Russian Government.

Sergei Magnitsky's death is part of a deeply troubling retreat on basic political freedom and human rights in Russia. Activists and human rights leaders

were harassed, often threatened with new sweeping treason laws for speaking up against fraud, corruption, or denial of basic rights. We saw what happened to Sergei Magnitsky when he tried to speak out against corruption. I am saddened that the leadership of a great nation such as Russia is resorting to these hideous tactics. They are a throwback of the worst of the Soviet era. Our friends the Russian people deserve a vision that looks forward to a new future that includes freedom and human rights, not the past which adds sad chapters of the denial of both of these.

I am pleased today to speak in support of this bill. Unfortunately, it doesn't include the original Cardin amendment. The original Cardin amendment had a global reach and said that we would treat virtually anyone guilty of these crimes the same way, denying visas and freezing their assets in the United States. Incidentally, that provision is said to be similar to an amendment that I just offered on the Defense authorization bill as it related to supporting the M23 rebels causing mayhem in the Congo.

Unfortunately, the new provision modification of Senator CARDIN's original limits the activities to those that occurred in Russia. He and I both wish it had gone farther, but often those imposing harsh and arbitrary violations of their own people like to travel and hide their money. They should not be allowed to do it in the United States. If they want to enjoy the benefits of the United States, respect our basic democracy and values.

Let me say a word about the overall bill. It is an important step forward and creates more opportunity for trade. I believe trade opens the doors for exchanges of ideas, people, culture, and opens the doors to democracy.

The United States exported nearly \$43 billion in goods to Russia in 2011. My State of Illinois exported \$287 million in heavy equipment alone, such as bulldozers and tractors. Extending permanent normal trade relations to Russia will ensure business not only in Illinois but across America to make sure we don't suffer a disadvantage of trade with Russia.

Russia has made a dramatic break with the Soviet past. The United States can help Russia on its path to an even better future, one that is more integrated socially and economically.

I again commend Senator CARDIN for ensuring that our Nation's intolerance for human rights violations is not part of this process. And to the many Russian people who are trying to push for a more open and transparent country, we applaud their noble and courageous efforts.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I rise today in strong support of the legislation before us, the repeal for Jackson-Vanik for Russia and Moldova and the

Sergei Magnitsky Rule of Law Accountability Act.

The two main components of this package represent a win-win for U.S. businesses and for human rights defenders in Russia. Chairman BAUCUS and Chairman KERRY deserve a lot of credit for working together to get us to this point.

I also want to join my colleague Senator DURBIN in singling out and commending Senator CARDIN of Maryland for his tremendous effort to bring this historic piece of human rights legislation to the floor tonight.

As one of the original cosponsors of the Magnitsky Act, I remember back in May of last year when Senator CARDIN first introduced the bill. Since that time, he has been the driving force that has pushed this measure forward. It has taken a lot of patience, a lot of perseverance, but his work on behalf of human rights in Russia has paid off, and he is a big reason why we are here debating this bill today.

This legislation comes at a complex time in the bilateral relationship between the United States and Russia. The truth is the history of this relationship has always been full of complexity and seeming contradictions, and today is no different.

Over the last 4 years the subtle change in tone brought on by the reset has allowed us to establish substantial progress on some limited areas of mutual interests including the New START Treaty, Afghanistan, and Iran.

In addition, Russia has finally joined the World Trade Organization, which is another mutually beneficial outcome. Russia will become a more fully engaged member of the global trade community, and in exchange it will be forced to abide by internationally recognized rules on trade and investment, including international property enforcement, the elimination of some key tariffs, and greater transparency in its laws and regulations.

Despite these obvious advantages for the United States, our businesses are currently stuck on the sidelines and unable to benefit from Russia's accession because of the outdated Jackson-Vanik legislation. Although it was successful in its time, Jackson-Vanik remains the last obstacle for U.S. businesses to gain critical access to Russian markets and create jobs here at home.

The legislation before us now retires Jackson-Vanik and lets American businesses compete with the rest of the world to sell exports to and attract investment from Russia. Each and every State stands to gain from this legislation. In my home State of New Hampshire, exports to Russia have been on the rise over the last 2 years, particularly with respect to transportation equipment, computers, electronics, and machinery. If given the opportunity, I am confident that New Hampshire businesses will be able to successfully compete in the growing Russian market, and this legislation will help them

to do that. So even as we seek areas of mutual interest with Russia, we should be honest and admit that areas of disagreement remain.

Perhaps the most pressing issue for today's relationship with Russia is the human rights situation there. Indeed, over the last 6 months we have seen perhaps the worst deterioration in Russia's human rights record since the breakup of the Soviet Union. The Putin government has enacted a series of laws that restrict protests and public expression and severely constrain civil society in the country.

As some may know, my home State of New Hampshire has a motto that is well known throughout this country. It is: "Live free or die." We are not ambiguous regarding how we feel about the principles on which this country was founded. The United States is not, should not, and will not be shy about our staunch support for democratic values around the world. When it comes to Russia, we should be no different.

The Magnitsky bill before us is an important tool to raise the profile of human rights in Russia. It is supported almost unanimously by opposition and civil society figures across Russia. The case of Mr. Magnitsky is a tragic one, as so many people have eloquently talked about today. We are here as part of this legislation to press for accountability in his death. However, this is really more than simply a question of one man's tragic case.

The State Department's human rights report annually describes countless human rights violations, including attacks on journalists, physical abuse of citizens, politically motivated imprisonments, and government harassment and violence. There are numerous cases like Magnitsky and, unfortunately, there are likely to be many more.

That is why this bill before us is so important. It seeks to ensure that no human rights abusers in Russia are granted the privilege of traveling to this country or using our financial system. A strong, successful, and transparent Russia that protects the rights of its citizens is squarely in the interest of the United States. The Magnitsky Act will demonstrate that we stand unambiguously for the rule of law, for democracy, and for respect for human rights in Russia.

As we look forward and think about our relationship with Russia, we have to be both pragmatic and principled. A successful policy with Russia will find a way to both protect our interests and defend our values. I think the legislation that is before us today is a perfect example of how we can do both, and I certainly hope my colleagues will strongly support its passage and send it directly to the President for his signature.

Thank you very much.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I thank Senator SHAHEEN for her leadership on

this issue. We have had many discussions about how to advance human rights and what is the best strategy to get the Magnitsky bill enacted into law. She has been a real champion with her leadership on the Senate Foreign Relations Committee on Europe and her leadership on the Helsinki Commission. I thank her for her good advice for allowing us to be able to get to this day.

I am convinced tomorrow the Senate will pass this legislation, the President is going to sign it, and we will achieve a great victory for human rights.

I thank the Senator for her observations as we were talking about how to move forward with this bill in connection with PNTR for Russia. I know Senator LIEBERMAN talked about it a little bit earlier. I am convinced, as important as this bill was, that the Magnitsky bill by itself would have been extremely difficult for us to get through to the President and for the President to sign into law and that in combining it with PNTR, we got it done. I also believe that PNTR without Magnitsky would not have gotten done. So I think the marriage of these two bills was the right choice. They allow us to move forward, as Senator LEVIN said, repealing a provision that is not relevant for Russia, while also allowing us to make a new standard for Russia that is relevant for our problems we are confronting not just in Russia but throughout the globe.

I wish to comment a little bit about Senator LEVIN's point. Senator LEVIN raised the issue of why couldn't we make this global. As Senator MCCAIN said, countries are on notice, particularly those countries that are known for their human rights violations. They now know what the standard is, and they know what action the United States will take if they don't meet that standard.

The standard is very clear. I will just read it into the RECORD one more time so every country knows and every individual knows we will be taking action against those who violate human rights. It says any individual who "is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individual seeking . . . to obtain, exercise, defend, or promote internationally recognized human rights. . . ."

That is the standard. That is what is in this bill. That is what we will be voting on tomorrow. That is what has been approved by the House of Representatives and I believe will be approved tomorrow by this body and will be signed into law by the President of the United States. We are establishing the standard that will be used to deny human rights violators the right to visit our country, to obtain a visa, and to use our banking system.

Senator LEVIN is absolutely correct. The bill that came out of the Senate Foreign Relations Committee and the Finance Committee made it crystal

clear by statute that it applied globally. I strongly supported that. I support that now. I would love to see that in our bill, but we need to get this bill done. I would have preferred to see us take up the amendment, hopefully pass the amendment, and work it out with the House. However, it was the collective wisdom that in order to get this bill done, particularly with the administration's position on it—they did not support the global legislative solution at this point—that it was unlikely we would reach the finish line and get that done.

That doesn't diminish the global impact of this bill. I need to underscore that. It does not diminish the global impact of this bill. Senator MCCAIN is right. Countries and individuals are on notice. I can tell my colleagues that as a Member of this body, I will be monitoring, and if there are individual people who have committed these gross violations and who are seeking to come to America and use our banking system, I am going to take action. It may be filing additional legislation. I hope we get it done. I hope we will find an opportunity to get the Senate language into law, that the legislative standard specifically applies globally.

Let me point out we already have authority. The Secretary of State already has authority to deny human rights violators the right to come to America. Before I filed the Magnitsky bill, I sent a letter to the Secretary of State saying we know who the perpetrators of the crimes against Mr. Magnitsky are; deny them the right. They want to come to America. They are planning to come to America. Don't let them. We went back and forth a little bit as to what they were going to do.

What is interesting is that I filed this legislation with Senator MCCAIN and many others. Secretary Clinton took action. She said we will deny them the opportunity of coming to America; we have that authority. The Secretary of the Treasury has certain authorities to deny the rights of our banking system. So we have—our agencies have the inherent authority to block human rights violators from coming to America or using our banking system. Should we legislate to make that clear? Absolutely. Should we pass legislation that is global? Absolutely. I hope we will do that.

Today we have the opportunity to make a major advancement to establish the standard in statute that we expect will be honored internationally, globally, to provide the tools to act against Russia because this is a PNTR Russia bill. We will be able to do that. We also have the tools in place to be able to take further action.

So what I said earlier I think is absolutely true. This isn't an end of a chapter of U.S. leadership. I can tell my colleagues when Senator Jackson and Congressman Vanik suggested the use of trade as a leverage to block trade with countries if they didn't respect the basic human right of allowing their

people to leave, there were many people who said: Why are you doing that? Can't we just talk it out? That bill produced incredible results not only on the individuals who were able to leave the Soviet Union, but it spoke to America's leadership.

I honestly believe it helped establish the principles where the United States used trade to open and eliminate the apartheid government of South Africa. We were the leaders on that. We have been very strong on protecting human rights and saying: We will use every tool at our disposal to protect people's basic rights. We did that in South Africa and we did that in the Soviet Union and we are doing it again today. That is where America's leadership shines. That is where America's leadership will be followed by other countries. We are already seeing other European capitals pass similar legislation as the Magnitsky bill to make this clear. We are ending a chapter with Jackson-Vanik and we should be very proud of what America stood for, what we stand for today, and our leadership in the lives of real people and how it has helped keep people safer.

Now we are starting a new chapter and that new chapter is not just Russia. That new chapter is global. We are putting the international community on notice that we will not tolerate individuals who violate basic human rights, and we will use every tool at our disposal, including trade, including the right to come to America, including the right to use our banking system, including putting as much pressure as we possibly can on countries to take action against those who violate rights.

We respect the rights of individual countries. We want to work with those countries, but America will not give up its values and on promoting these values internationally. That is what this legislation is.

I understand the disappointment that we don't have everything in this bill we would like. I am certainly disappointed. I fought hard. I spoke to so many Members in both the House and the Senate about trying to make this bill even better. I am proud of how far we were able to get, and I can tell my colleagues this: The activists who are risking their lives today in countries around the world to protect the rights of citizens, to question the actions of their government, to dare to say we should have competitive elections, we should respect the religious freedoms of individuals, we should be able to speak out, these people are putting their lives at risk. They are looking at what the Senate is doing today, and they are looking at us and saying: Pass this bill. Pass this bill because it gives us hope. It lets our countries know America will stand for us, that America's leadership will be there to keep us safe.

I know we have had a spirited discussion this evening. We will have a chance tomorrow to vote on this bill. I

do believe we will have the opportunity to show America's leadership will be continuing to advance human rights. This legislation will make a difference not just in the trade relationships between Russia and the United States—it will help that—but it will help advance international respect for human rights. I am proud to be part of that effort.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

#### HONORING OUR ARMED FORCES

SERGEANT FIRST CLASS DARREN LINDE  
SPECIALIST TYLER ORGAARD

Mr. BAUCUS. Mr. President, I wish to say a few words that deserve our attention. On Monday, an attack on U.S. troops in Afghanistan claimed the lives of SFC Darren Linde and SPC Tyler Orgaard of the North Dakota National Guard.

Sergeant Linde was a graduate of Sidney High School in Montana. He earned many honors throughout his career, including the Bronze Star, Purple Heart, Army Commendation, and Army Good Conduct medals. He was a hero and a family man who put service to others above all.

May all of us honor the sacrifice and service of Sergeant Linde and Specialist Orgaard by looking for ways we can circle around our troops and their families. There are no words to express how thankful we are for the ongoing commitment and dedication they show every day.

Please join my wife Melodee and me in praying for the servicemembers and families devastated by this attack.

#### REMEMBERING WARREN B. RUDMAN

Mr. LEVIN. Mr. President, I want to join my colleagues in extending condolences to the family of Senator Warren Rudman, and add my voice to those saluting a distinguished, effective and principled member of this body.

It has been hard in the last few months, for those of us who knew and served with him, not to think of Warren Rudman. More than 2 decades ago, our circumstances were strikingly similar to the situation in which we

find ourselves today. Rising Federal budget deficits were the cause of alarm. Almost everyone agreed that we needed to bring them down. The difficulty was how. Meeting the widely differing priorities among members of Congress—and the American people we represented—seemed impossible.

Senator Rudman, along with Senator Ernest Hollings and Senator Phil Gramm, crafted a solution. It is fair to say no one liked it very much. None of us here at the time, including me, voted for it with great enthusiasm. That was its genius. By establishing a mechanism for automatic, across-the-board spending cuts that would take place in the absence of a more tailored program of deficit reduction, they sought to force all of us to make the difficult choices required to reduce the deficit.

The arrangement Senators Rudman, Gramm and Hollings concocted was disagreeable to everybody, and so we looked for ways to avoid it. I voted for the 1985 agreement in part because I believed it would help force elected officials to get serious about the fact that revenue was an important part of the deficit-reduction formula. It was true then, it was true now, and Warren Rudman helped clarify that important fact. We borrowed from Warren Rudman's playbook with the sequestration provisions which are now the subject of so much debate and concern here. I dislike the blind, Draconian cuts of sequestration today as much as I disliked them in the 1980s. Now, as then, I am hopeful that members of good will can reach across the aisle to reach compromise solutions—solutions that we may dislike in part, in order to avoid even worse outcomes. If we do so, it will be because of the Sword of Damocles called sequestration that hangs over our heads. I know that is what Senator Rudman would hope for, and be working hard for, if he were still serving here.

We should reflect on Senator Rudman's career today for another reason. When he decided not to stand for reelection in 1992, he did so, in the words of the New York Times, because "the Federal Government was not functioning" and that it was impossible to get anything done in a Senate rife with posturing and partisanship."

Maybe the lesson is that the present always looks more partisan and polarized than the past. I hope all of us can reflect on Senator Rudman's efforts to achieve practical solutions to difficult problems, his willingness to compromise, and his integrity, and keep those qualities in mind as we struggle with the many and complex problems we face today.

Barbara and I were terribly saddened to learn of Warren Rudman's passing. Our thoughts are with his family and the many close friends who mourn him.