CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

INTELLIGENCE IDENTITIES PROTECTION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I call up the conference report on H.R. 4.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 20, 1982.)

Mr. CHAFEE. Mr. President, it is my understanding that a rollcall vote will take place at 11:30 a.m., although that has not been entered as an order; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. Mr. President, it would be my intention to seek a rollcall starting at 11:30, because I know that some Senators have to leave at that time and then others will be arriving shortly thereafter.

Mr. President, what we have before us today is the conference report on the Intelligence Identities Protection Act of 1982. The original bill passed in the Senate, as you recall, on vote of 90 to 6 at the time.

The conference took place, and the conference report was approved in the House on June 3, by a vote of 315 to 32.

I will summarize the differences between the final piece of legislation before us today and the piece of legislation that was passed in the Senate in March.

The bill is essentially the same, except for section 603. Section 603 deals with cover.

Mr. President, when we got into this matter on the floor of the Senate, there was a group of Senators who felt very strongly that nothing should be dealt with in cover that did not have an exception for the Peace Corps. So the instruction to the Senate conferees, from those who felt so strongly about this issue, was either to include an exemption for the Peace Corps or to have nothing dealing with cover. The House version did have a considerable amount dealing with cover, with no exemption for the Peace Corps. So a compromise was reached which provides as follows:

Under section 603, it really is reduced to this: The President of the United States, after receiving information from the Director of Central Intelligence, shall submit to the Select Committee on Intelligence in the Senate and the Permanent Select Committee on Intelligence in the House an annual report on measures to protect the identities of covert agents and on any other matter relevant to the protection of the identities of covert agents.

Paragraph (b) of section 603 states:

(b) The report described in subsection (a) shall be exempt from any requirement for publication or disclosure. The first such report shall be submitted no later than February 1, 1983.

That is the sum total dealing with cover. It has been greatly cut down from the version that originally existed in the House, and it is acceptable to those who felt so strongly regarding the matter of cover and the exemption for the Peace Corps.

As a matter of fact, we cleared it with those Senators, particularly the senior Senator from California, who felt strongly about it, and he approved of this version in the final bill. That is the only significant change from the legislation that was passed in the Senate in March.

Mr. President, this is the culmination of a long and difficult effort. This matter was debated for some time for 3 days on the floor of the Senate. It has been gone into thoroughly.

The conference report has been signed by the junior Senator from Delaware, who argued against the measure originally on the floor. He has signed the conference report as one of the managers on the part of the Senate. The conference report also has the signature of the junior Senator from Vermont, who also has some concerns about the overall legislation.

Mr. President, it is our hope that this legislation will accomplish its objective—namely, to punish those who make it their business to disclose the names of our agents who are serving this Nation abroad, serving us as Americans, our fellow Americans who were sent overseas to accomplish missions for us, on behalf of this country. We do not believe that other Americans should be disclosing their names.

That is the objective of this legislation. We believe we have tailored it so that we are able to walk that narrow boundary between the objectives we seek and the protection of rights under the first amendment.

I see the distinguished chairman of the full committee in the Chamber, and if he wishes to make any remarks, we will be glad to hear them at this time.

Mr. GOLDWATER. I thank my good friend from Rhode Island.

Mr. President, before I commence my remarks, I should like to compliment the Senator from Rhode Island for the very patriotic thing he has done in the matter of this legislation. It is long, long overdue, for the protection of one of the most important parts of our governmental system, the intelligence family.

Mr. President, the agent identities conference report before us today will help us protect our intelligence personnel in foreign countries. It will stop intelligence sources from refusing to cooperate with us because they are afraid their names will be exposed. It shows we can be trusted to protect them. This bill will assist us to get the information our policymakers need to make informed judgments about the world we live in. This information is vital to the continued security and freedom of our country.

Last week, the House approved this conference report by the overwhelming vote of 315 to 32. Last year, the House passed H.R. 4 by the vote of 354 to 56. On the Senate side, this bill was reported out of my committee in 1980 by the vote of 13 to 1, after 9 days of hearings and over 650 pages of testimony. In March of this year, the Senate passed this legislation by the vote of 90 to 6, after 7 long days of debate.

The bill before us today has wide support but has been delayed over the misperception that it might interfere with first amendment rights of Americans. Well, the first amendment rights of the news media were carefully considered and, as a result, the bill will protect those rights while allowing for the prosecution of those who disclose the names of agents.

This act will help protect our employees working abroad in the intelligence operations of this country. It will reduce the chances of their being identified and exposed and will reduce the risks of their being harassed, shot at, or even killed. The pernicious activity of "naming names" has the sole purpose of disrupting and destroying our intelligence activities. These unauthorized disclosures have been extensive and yet, until today, we have not had a law to stop it. I think it is high time we have such a law. I hope the Senate passes this conference report today by an overwhelming vote.

It is bad enough that our citizens serving overseas and their families are exposed to violence. But to allow someone here at home to do it by putting an ID tag on them so that they become targets does not make any sense at all.

This act sends out a clear signal that U.S. intelligence officers will no longer be fair game for those members of their own society who wish to take issue with the existence of the CIA, or have some other motive for making these unauthorized disclosures.

This bill makes one clear statement: If intelligence identities and intelligence activities are worth protecting,

they are worth protecting fully and effectively.

Mr. President, I commend my colleague on the Senate Select Committee on Intelligence, Senator JOHN H. CHAFEE of Rhode Island, for his courage and persistence in pursuing this legislation. He was an original cosponsor of this bill in 1980.

He worked to mold it into its current shape when the committee reported the bill out in the summer of 1980, and he has worked long and hard in getting this legislation through the Congress ever since. He has done a great job for the committee, for the Congress, and for the Nation. We should be pleased and proud that there are men like this in the U.S. Senate. I, for one, consider it a high point of my chairmanship of the Senate Select Committee on Intelligence that I am chairman at the time this bill has passed the Congress and will be signed into law. This is a great event and I am proud to be a part of it.

Mr. President, in concluding my remarks today, I say, thank God for patriotic Americans like Richard Welch, the Kinsman family, Jesse Jones, and many others who serve their Nation loyally on difficult and dangerous missions abroad. These patriotic American families carry the torch of freedom to the dark corners of the world. Their work, their knowledge and their understanding enlightens our Government and our policymakers. We owe them far more than the simple protection this law provides. They constitute, in effect, the first line of defense of the free world. They are soldiers in the war against ignorance, and they perform their duties amidst great hardship, difficulty and danger. Our support of this bill and of this conference report is a reflection of the Senate's understanding and support for their sacrifice and their contribution. Thank God for these patriotic American citizens.

Mr. CHAFEE. Mr. President, I thank the distinguished chairman of our full committee, the Senate Select Committee on Intelligence, for that fine statement. I also take this opportunity to express my personal thanks to him for the support he has given us in this long and arduous trip we have been on, attempting to achieve passage of this legislation.

I see the distinguished chairman of the Committee on the Judiciary in the Chamber. This measure, of course, was jointly referred, and it also went to the Judiciary Committee. I will be glad to hear from the senior Senator from South Carolina at this time.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from South Carolina.

Mr. THURMOND. Mr. President, as the senior member, I was the chairman of the conference. This matter has been worked out in a way that we think is satisfactory, and I am very pleased that action is finally being taken. It has taken a year or two to do something we should have done in 30 days in view of the high priority of this matter.

I commend the able Senator from Rhode Island.

Mr. CHAFEE. Mr. President, if the Senator will yield for 1 minute, I think we have present in the Chamber a sufficient number of Senators for a rollcall.

Mr. President, at this time, I ask for the yeas and nays on this conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. I thank the Chair and I apologize for the interruption.

Mr. THURMOND. Mr. President, I commend the able Senator from Rhode Island for the great service he has rendered on this piece of legislation. He has worked very diligently day and night to try to bring into being a law that should have been acted on long ago.

In my opinion, there should not have been any question about the passage of this legislation long before now. At any rate, there was objection, but I am glad that the differences have been ironed out and that the bill can pass.

Mr. President, I also commend the fine statement by the chairman of the Intelligence Committee on this report, and I hope that this matter will be speeded and the President will sign this bill promptly so we can give the protection that should have been done long ago to important agents of this Government who are trying to protect our people.

The conference report on H.R. 4 represents the culmination of a great deal of work during at least two Congresses. Legislation of this nature has been examined in one form or another by both the Select Committee on Intelligence and the Committee on the Judiciary since early 1980. Hearings have been held, there has been lengthy debate, and each and every section has been closely and carefully scrutinized. I do not believe that there is much disagreement in the Senate as to whether or not legislation of this type is needed. I think that it is time for the Senate to say with a loud and clear voice that we do not condone the type of action prohibited by this bill.

This measure aims at protecting the identities of those individual whose anonymity serves the interest of the country. Moreover, this legislation would insure an appropriate balance between individual rights and the absolute necessity for secrecy in intelligence collection vital to the security of the Nation.

The prohibitions contained in H.R. 4 are directed at punishing those individuals who intentionally and without authorization disclose information identifying intelligence officers and agents of the United States. This bill is not intended to apply to members of the press or others engaged in legitimate activities protected by the first amendment. It is intended, however, to stop those people who are in the business of "naming names" of our covert agents.

We must keep in mind the special needs of the brave and unsung employees of the intelligence agencies of this country. We must remember, too, that uninformed policymakers cannot properly serve the people, and without the information these agents provide, the American people will suffer.

I take this opportunity to commend our distinguished colleague from Rhode Island, Senator CHAFEE, for the exemplary service he has done the country in shepherding this legislation through Congress and for his tenacity and determination in seeing the measure become law.

If the Senate approves this conference report on H.R. 4, I am confident the President will sign the bill into law, and when that day comes Senator CHAFEE should be given a major share of the credit for enactment of this overdue and clearly beneficial statute.

I also feel that the Senate should remember the superb work done in the final days of his life by Representative John Ashbrook, of Ohio, a man held in high esteem by his colleagues in the House of Representatives and admired and respected by the Senate.

Representative Ashbrook was responsible for a significant strengthening improvement in this bill which he obtained on the floor of the House of Representatives. That action was typical of his long and distinguished career as a legislator.

I believe it is particularly fitting to remember Representative Ashbrook at this time, while the Senate is acting on one of the many bills to which he devoted his skill and labor.

For that reason I ask unanimous consent that immediately prior to the conference report on H.R. 4 there be printed in the RECORD the speech made by Representative Ashbrook on the floor of the House of Representatives on Wednesday, September 24, 1981, when the House had under consideration the legislation now before the Senate.

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

(See exhibit 1.)

Mr. CHAFEE. Mr. President, before moving passage of this legislation, I do wish to extend my thanks to a host of people who have helped me and have worked so diligently and effectively in achieving passage of this legislation.

We started on this in January 1980. So, as I mentioned, it has been a long road. I have had the help of a whole host of people. I was an original cosponsor of this legislation. Since that time, many of my distinguished colleagues have lent a strong and able hand to assist in getting this legislation to the point where it now can be signed into law.

First of all, I thank the distinguished chairman of the Judiciary Committee, Senator THURMOND, who has done such an excellent job and given such fine support, and also his able members on that committee, Senators DENTON and EAST who have shown great enthusiasm and support. These men played a key role in conducting hearings and getting the bill reported from the Judiciary Committee last fall.

Senator THURMOND has also played an important role during the conference.

I also thank the distinguished senior Senator from the State of Washington, Senator JACKSON, who joined me as principal cosponsor to our amendment on the floor of the Senate this spring. He rendered yeoman service in having that amendment agreed to by a vote of 55 to 39, and without his help we certainly would not be here today.

I also thank the majority leader, Senator BAKER, and, of course, as I mentioned earlier the outstanding chairman of our Senate Select Committee on Intelligence, Senator GOLDWATER, who has previously spoken, who have given their unqualified support for our efforts in these long and difficult days. They have worked long and hard in bringing this bill to the floor and in promoting its final passage. There are many others who I wish to thank as well, but I find the list is just too long.

Mr. President, at this time I shall take a moment to comment on the roles played by two Members of the other body regarding this important—indeed historic—legislation.

First, I pay tribute to the late John Ashbrook, whose floor amendment to H.R. 4 last year incorporated the current language of section 601(c) into the bill. John and I did not see eye-to-eye on all the issues, but when it came to the protection of American intelligence officers, we were of one mind. He was a man of unique integrity, great energy, and enduring tenacity. John was a leader in arriving at the point where we are today, and he was dedicated to the protection that we have provided for those who serve us in our intelligence community. I regret that John Ashbrook is not here with us today and that he has missed seeing this body, this Congress, pass this bill in a manner in which I know he would approve.

Second, I praise the distinguished chairman of the House Permanent Select Committee on Intelligence, the Honorable EDWARD P. BOLAND, a Representative in Congress from the Springfield area of Massachusetts. I was designated by the chairman of the Judiciary Committee, Senator THURMOND, as the one to conduct the negotiations with Chairman BOLAND.

Over the past 2 months, I have discussed the issues which this legislation involves with Chairman BOLAND on numerous occasions. His intimate knowledge of the subject, integrity, and great fairness in compromising on many points were largely responsible for the statutory language which we have voted on today. I commend him for the great service he has performed for the Congress and the Nation in this regard.

Finally, Mr. President, I thank Will Lucius and Quentin Crommelin of Senator THURMOND's staff, Joel Lisker and Bert Milling of Senator DENTON's staff, and Sam Francis of Senator EAST's staff for their untiring efforts in getting this legislation through the Judiciary Committee last year and through the conference this spring. I thank, of course, Rob Simmons, who is the staff director of the Senate Intelligence Committee, the counsel for that committee, Victoria Toensing, and Larry Kettlewell, Chip Andreae, and Rose Nahrgang, all who helped us a great deal and for their untiring efforts in support of this important legislation.

Mr. DENTON. Mr. President, I wish to add my voice to those who have spoken in support of Conference Report 97-580 on the Intelligence Identities Protection Act of 1982 (H.R. 4). The report has the overwhelming support of the House of Representatives, which passed it on June 3 by a vote of 315 to 32.

The report has been signed by all the Senate conferees.

Mr. President, this report is not perfect. In some areas I would personally have preferred tougher language, especially in dealing with section 601(c). Nonetheless, I believe that any compromise requires that all the parties accept less than they would ideally like.

In my view, Mr. President, it was imperative to do all that we could to insure that the Intelligence Identities Protection Act of 1982 became law. I believe that desirable result will now be achieved.

The disclosure of the identify of a covert agent is an immoral act, nationally and personally harmful, which cannot be tolerated. The conference report makes clear that prohibition of this activity, as it is defined by the bill, would in no way inhibit an individual from speaking about Government programs that are wasteful. Nor would it impede the whistle-blower who seeks to enhance his Government's ability to perform more efficiently by bringing to the attention or those in responsible positions deficiencies, fraud, or waste.

The reprehensible activities that this bill makes criminal have repeatedly exposed honorable public servants to personal peril and vastly reduced their effectiveness in pursuing their endeavors. This has produced a significant detriment to the national security. The insensitivity, irresponsibility, and amorality shown by those who seek to undermine the effectiveness of our intelligence capability are so inimical to our American democratic system that it seems certain that what we are about to do today should not be necessary. This bill is indeed overdue for passage.

Although in a free society we must welcome public debate about the role of the intelligence community as well as about other components of our Government, the irresponsible and indiscriminate disclosure of names and cover identities of covert agents serves no useful purpose whatsoever. As elected public officials, we have the duty, consistent with our oaths of office, to uphold the Constitution and to support the men and women of the U.S. intelligence services who perform important duties on behalf of their country, often at great personal risk and sacrifice.

I urge my colleagues to vote for this report.

Mr. DURENBERGER. Mr. President, the Intelligence Identities Protection Act, as amended and reported out of conference, should put an end to years of controversy. All of us want to protect our country against those who would maliciously expose American intelligence officers. Yet none of us wants to undermine a free and probing press, whose contributions to an informed public are a bulwark of democracy. Thanks to the hard work of many people, this bill now meets both tests.

The lion's share of the credit for this successful result must go to my good friend from Rhode Island, Senator CHAFEE. He guided this bill through the Senate since its earliest days. He steered a steady, constitutional course despite pressures to weaken the bill or to undermine the freedom of the press.

When the Select Committee on Intelligence reported out an earlier bill in 1980, we wrote a report that set clear limits on the type of conduct this bill would reach. When the Chafee amendment to the current bill was proposed last winter, many feared that it would have a chilling effect on the press. Senator CHAFEE and I recognized that the report language of 1980 was needed to underline congressional intent that the press not be harmed. So he and I engaged in a colloquy last March on the floor of the Senate to reiterate and update the 1980 report language and make it part of the current bill's legislative history.

The conference committee wisely relied upon the legislative history that Senator CHAFEE and I had created. The chairman of the House Intelligence Committee, Representative BOLAND, cited our role in his floor statement of June 2:

> In structuring statement of managers language to explain section 601(c), the so-called Ashbrook or Chafee amendment, the conferees noted that there had been little explanation in the House of the Ashbrook amendment. The most satisfactory sources of explanation were those referred to in the Senate debate—the explanation provided by the 1980 report of the Senate Select Committee on Intelligence to accompany S.

2216, the Senate forerunner of this bill in the 96th Congress, and a colloquy between Senators Chafee and Durenberger which drew from and expanded upon this same report.

It was the intention of the conferees that these sources constitute the legislative history of this statute. Therefore, the conferees very carefully excerpted text from these sources.

The conference report is the primary element of legislative history, and I am certain that the courts will heed its message of moderation. It is this moderation—in the 1980 report, the Chafee-Durenberger colloquy, and now the conference report—that has won over many former opponents of this bill. Senators BIDEN, BENTSEN, and LEAHY all opposed the Chafee amendment, with Senator BIDEN opposing the bill as a whole. All three have signed the conference report, as have seven House Intelligence Committee members who originally opposed this language. Representative BOLAND has acknowledged the constitutionality of the current bill, once this legislative history is taken into account:

As one who had serious doubts about the constitutionality of this bill as it passed the House, and who returns with a conference report substantially similar to that bill, I must say that, based on the interpretation of this statute as provided in the statement of managers, I believe that this statute can be considered constitutional. I beligve that it has a good chance to withstand the test of judicial scrutiny. It can do so because of its narrow focus and explicit avoidance of proscribing protected speech.

Senator CHAFEE and I always knew that his language had a narrow focus and did not proscribe protected speech. The fact that both Houses of Congress have come to support this stand so overwhelmingly is testament to the importance of preserving this sense of proportion in legislative history. Senator CHAFEE is to be saluted for his role in maintaining this delicate balance.

THE INTELLIGENCE AGENTS IDENTITIES PROTECTION ACT

Mr. MOYNIHAN. Mr. President, I rise to comment on H.R. 4, the Intelligence Agents Identities Protection Act, which the Senate approved by a wide margin on March 18. On May 20, the committee of conference favorably reported H.R. 4 in slightly modified form. I felt constrained to vote in the negative on March 18 and I regret that I must also do so today. The clear weight of scholarly legal opinion is that a major provision of this bill is unconstitutional. Moreover, this provision is, by any measure, imprudent. For we had before us an alternative which was less subject to constitutional objection; recommended by the Committee on the Judiciary as well as by the House Intelligence Committee; acceptable to the Central Intelligence Agency; and enforceable in the opinion of the Justice Department. Unfortunately, it was the will of the Senate and the House to reject this approach, opting instead for a standard of culpability which is preferred by the administration because it will facilitate successful prosecutions. It now appears that we will soon have a law which, while making it easier to convict scoundrels, will chill the exercise of first amendment rights.

Let me say that I do not take any pleasure in voting against H.R. 4. Indeed, it was perhaps the most difficult vote in my 5 years in this body. I sponsored the predecessor of this legislation in the last Congress, when it was considered by the Select Committee on Intelligence, of which I was then a member and now serve as vice chairman. I felt strongly then, as I do now, that the existing espionage laws need to be supplemented by clear criminal prohibitions against unauthorized disclosure of the identities of our Nation's undercover intelligence operatives. Two provisions of H.R. 4 would penalize the unlawful disclosure of a covert agent's name by persons who have had authorized access to classified information relating to the agent's identity. These provisions are sound and have received widespread support. However, a third provision of the bill, proposed section 601(c) of the National Security Act, applies to persons who have not had authorized access to classified information. It would make it a crime to identify publicly a covert agent even if the identify was discovered from public source information and even if there was no intention to harm the national interest. It is this section which, in my view, is unconstitutional. As a consequence, I could not vote for H.R. 4 and in good conscience believe that I had kept faith with my oath to support the Constitution.

Mr. President, I would ask the Chair's indulgence while I discuss the considerations which underlie my position.

Section 601(c) would impose criminal sanctions on a person if he discloses an agent's identity—

In the course of a pattern of activities intended to identity and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States ...

By a vote of 55 to 39, the Senate substituted this version for the one recommended by the Committee on the Judiciary which would have imposed criminal liability on a person who disclosed an agent's name—

In the course of an effort to identify and expose covert agents with intent to impair or impede the foreign intelligence activities of the United States by the fact of such identification and exposure.

Section 601(c) as approved by the Senate, as well as the Judiciary Committee's formulation, would criminalize the publication or other disclosure of information which could be drawn entirely from unclassified or public sources. There was general agreement among the Members of this body that the national security interest in an effective clandestine service was sufficient to warrant a proscription on what are, in essence, private counterintelligence operations which ferret out and expose the identities of covert agents for the propose of disrupting U.S. intelligence activities. The disagreements arose over how to reduce to statutory language our desire to punish those in the business of naming names without inhibiting legitimate press activity and political debate.

Many law professors and legal scholars expressed doubt that any legislation could be devised which would outlaw such conduct without violating the first amendment's guarantees of free speech and press. This advice could not be lightly dismissed. However, the notion that it was impossible to reconcile the interests of national security and first amendment rights was unacceptable.

The sharpest and most succinct scholarly comment came from Philip B. Kurland, professor of law at the University of Chicago and one of the Nation's leading constitutional lawyers. In September 1980 he wrote:

I have little doubt that it [Section 601(c)] is unconstitutional. I cannot see how a law that inhibits the publication, without malicious intent, of information that is in the public domain and previously published can be valid. Although I recognize the inconsistency and inconstancy in Supreme Court decisions, I should be very much surprised if that Court, not to speak of the lower federal courts, were to legitimize what is for me, the clearest violation of the First Amendment attempted by Congress in this era.

The Judiciary Committee took Professor Kurland's warning to heart and amended the bill as introduced to impose a requirement of proof that a defendant specifically intended to impair or impede U.S. intellience activities by naming names. By putting the Government to a more exacting burden of proof, the intent standard reflected the traditional judgment of our Nation that our interest in preserving free speech and press transcends in importance the value of prosecutorial convenience. This standard of proof properly takes into account that the chief characteristic which distinguishes a person who engages in the business of naming covert agents as against a journalist who reveals agents' names as part of a legitimate news story is the intent with which each acts. The manner of names intends to expose the identity of covert agents with the ultimate purpose of disrupting intelligence operations. The journalist's purpose in disclosing the identity of a covert agent is not to disrupt intelligence activities, but to inform his readers, for example, of possible wrongdoing.

In rejecting the Judiciary Committee's recommendation, the supporters of the "reason to believe" version of section 601(c) have maintained that it would not affect the first amendment rights of those who disclose the identities of agents as an integral part of another enterprise such as news media

reporting of intelligence failures or abuses. The statement of the managers in the conference report on H.R. 4 expressly embraced this interpretation. However, saying it does not make it so. There is nothing on the face of this provision which codifies such a limitation. In a September 1980 letter to the Judiciary Committee, another University of Chicago professor of law, Geoffrey R. Stone, pointed out that:

> . . . [A]s drafted, . . . [this provision] relies soley upon the "pattern of activities" clause to limit the bill's scope. This is inadequate. The clause is ambiguous and is subject to easy manipulation. Moreover, it might (and probably would) cover a newspaper or other publication that made a regular practice of investigating undercover activities in order to expose abuse.

Professor Stone went on to conclude, as did his colleague Professor Kurland, that a malicious intent standard is "essential if the legislation is to comport with the First Amendment."

I am deeply saddened that the Senate has foresaken the opportunity to codify its desire not to infringe upon the exercise of press freedom. Neither the press nor any member of this body can or should take any comfort in seeingly benign interpretations of section 601(c) offered by its proponents and the conferees. Indeed, the Senate voted down an amendment offered by the Senator from New Jersey (Senator BRADLEY) which would have codified one such interpretation. Moreover, the arm of Government which will be responsible for enforcing this law has given every indication that it will not apply the law benignly.

During congressional consideration of this legislation, the Justice Department spokesman plainly stated that the language of section 601(c) would be construed to minimize the possibility of a successful defense based on a claim that a disclosure of an agent's name was intended to inform the public about wrongdoing or abuse by intelligence agencies. He stated that this provision would permit prosecution of someone who was merely "negligent" in overlooking the adverse consequences of his disclosure on intelligence activities. Asked how this provision would apply to a journalist who engages for 3 years in a pattern of activity intended to identify double agents or moles in the CIA and writes articles naming such agents, the spokesman acknowledged that this hypothetical at least raises a "question" whether a crime would be committed.

Do we want journalists to be at risk of prosecution and conviction if they reveal covert agents' names in order to expose misconduct such as occurred in the news stories on the Wilson-Terpil affair? Do we want to put a newsman in jail for negligent conduct? Every Member of this body most assuredly would answer "no." But where are the words in the statute that permit the journalist to predetermine that the exercise of his first amendment rights will not constitute a crime in the eyes of the Government? The answer is simply that there are none.

By failing to differentiate between protected first amendment activity and conduct which properly may be made criminal, section 601(c) forces a journalist, at his peril, to speculate as to whether the disclosure of certain information would constitute a violation. The risk which proceeds from the uncertainty in the statutory language is the very essence of a "chilling effect." "Due process" requires fair notice or warning. This requirement is greatest when first amendment values are at stake. Legitimate legislative goals cannot, according to the Supreme Court, "be pursued by means that broadly stifle fundamental person liberties when the end can be more narrowly achieved." *Shelton* v. *Tucker*, 364 U.S. 478,488 (1960). The Court has also said:

> It has long been recognized that the First Amendment needs breathing space and that statutes attempting to restrict or burden the exercise of First Amendment rights must be narrowly drawn and represent a considered legislative judgment that a particular mode of expression has given way to other compelling needs of society. *Broadrick* v. *Oklahoma*, 413 U.S. 601,607 (1972).

I regret that this distinguished body has departed from these principles in passing H.R. 4. This bill does not take the narrower path. Nor does it allow the press the breathing space that is so vital to its effectiveness.

In closing, Mr. President, I must admit that I did consider the possibility of voting for passage on the theory that the judicial branch would save us from mischief that might be done in the enforcement of section 601(c). I suspect that many of my colleagues have predicated their "aye" votes on just this rationale. However, I think we serve the Republic best when we are mindful of the teaching of Justice Oliver Wendell Homes that "legislatures are ultimately guardians of the liberties and welfare of the people in quite as great a degree as the courts."

Mr. LEAHY. Mr. President, the Senate is about to finish one of the most difficult tasks which it has undertaken in the last several years. We have been called upon to strike a careful balance between the very real needs of the men and women who are serving our country in the intelligence services and the stringent dictates of the first amendment.

We have before us a conference report which, I believe, strikes that balance in a proper and constitutional way. The debate over this bill has always been a debate over a handful of words. But this handful of words have the most important implications for a free press and free speech in this country of any I have debated since I have been in the Senate.

The joint explanatory statement of the Committee on Conference provides the crucial piece of legislative history which underscores the Congress commitment to preserving legitimate first amendment rights. As the conference report notes, both those who argued for the "reason to believe" language, as well as those of us who argued for the intent standard, sought to proscribe the same scope of conduct. Both sides were seeking to reach only those individuals engaged in the business of "naming names," the intentional "blowing" of cover. The conference report makes clear that Congress did not intend to invade the province of legitimate commentary by newspapers or scholars.

The focus of the report concerns section 601(c) of the bill. Section 601(c) established three elements of proof not found in section 601(a) or (b). The United States must prove: First, that the disclosure was made in the course of a pattern of activities, that is, a series of acts having a common purpose or objective; second, that the pattern of activities was intended to identify and expose covert agents; and third, that there was reason to believe that such activities would impair or impede the foreign intelligence activities of the United States.

The conference report makes quite clear that the Government must prove that the defendant engaged in a pattern of activities both intended to identify and intended to expose a covert agent. In my view, it is the latter element which limits the reach of this bill to those individuals not engaged in legitimate first amendment activity. The process of exposing covert agents must involve the deliberate exposure of information identifying the agents. In other words, it must involve the intentional "blowing" of intelligence identities. As the Judiciary Committee report states, this intentional "blowing of cover" implies a design to neutralize a covert agent or to damage an intelligence agency's ability to carry out its functions.

The conference report, thus, narrows the scope of coverage of section 601(c), and, I trust, the courts will seize upon this report to give a narrow, constitutional construction to this act.

Finally, I want to commend my distinguished colleagues, Senator CHAFEE and Senator BIDEN, as well as their staffs, for the countless hours they have devoted to this vital legislation.

Mr. CRANSTON. Mr. President, I want to express my deep appreciation to the distinguished Senator from Rhode Island (Mr. CHAFEE), the ranking minority member of the Judiciary Committee (Mr. BIDEN), and the other Senate conferees for their efforts in achieving a satisfactory resolution of the differences between the House bill and the Senate amendment relating to section 603 of H.R. 4. Section 603 of the House-passed bill contained provisions requiring, in essence, cooperation by Federal agencies in providing "cover" for intelligence agents. Because of the concern that I and other Members of the Senate expressed regarding the potential adverse implications such a policy might have on the

Peace Corps and its historic policy of complete and total separation from intelligence activities, the Senate Judiciary Committee voted to provide an explicit exception from this requirement for the Peace Corps, thus reaffirming once again congressional support for the complete and total separation of the Peace Corps from intelligence activities.

When the Senate amendments to H.R. 4 were considered on the floor, the distinguished Senator from Rhode Island, author of the Senate bill, S. 391, offered an amendment to delete the entire section 603 with the understanding, expressed in a colloquy between myself and the Senator from Rhode Island, and a number of members of the Judiciary Committee, that the Senate conferees would insist that if section 603 was retained in the conference bill, it would include the express exemption for the Peace Corps that had been approved by the Senate Judiciary Committee.

I am pleased to report that this understanding was fully adhered to in conference. The conferees worked out an agreement which substituted, for the original House version of section 603, a provision providing merely for a report on measures taken to protect the identity of intelligence agents. This, along with language in the conference report joint explanatory statement reiterating the strong congressional support for the maintenance of the historic separation of the Peace Corps from intelligence activities, was a totally satisfactory resolution with respect to the concerns which I and other friends of the Peace Corps had regarding the House version of H.R. 4.

I greatly appreciate the adherence of the Senate conferees to their commitments and their achieving full vindication of the Senate's very strong views on this issue. I am also grateful to the House conferees for their cooperation in resolving this matter in a manner that would protect the Peace Corps from even the slightest appearance of connection to intelligence activities. I wish also to acknowledge gratefully the great courtesy of the Senators from Rhode Island and Delaware and of their staffs—especially Rob Simmons of the Intelligence Committee staff—in consulting fully with me and my staff throughout the weeks of efforts to reach a conference agreement. Their cooperation was truly remarkable and of great value to me.

Mr. President, I ask unanimous consent that excerpts of the conference report joint statement relating to the disposition of the difference between the House and Senate relating to section 603 of the House version of H.R. 4, along with a copy of a letter I sent to several of the House conferees be reprinted in the RECORD at this point.

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

SECTION 603

The House bill contained section 603 which deals with procedures for establishing cover for intelligence officers and employees. This section required the President to establish procedures to ensure the protection of the identities of covert agents. Such procedures were to include provision for any federal department or agency designated by the President to assist in maintaining the secrecy of such identities.

The Senate struck section 603 by unanimous consent.

The conference report contains a substitute section 603 requiring an annual report from the President on measures to protect the identities of covert agents. The conferees expect such report to include an assessment of the adequacy of affirmative measures taken by the United States to conceal the identities of covert agents.

The conferees stress, however, as was made clear during consideration of this measure in both bodies, that nothing in this provision or any other provision of H.R. 4 or in any other statute or executive order affecting U.S. intelligence activites in any way diminishes the 20-year old Congressionally-sanctioned Executive Branch policy of maintaining the total separation of the Peace Crops from intelligence activities. The importance to the effectiveness of the Peace Corps of maintaining this policy and its essential components was spelled out in detail in the reports of the Senate Judiciary Committee and the House Permanent Select Committee on Intelligence and in the debate on this measure in both bodies and the conferees wish to reemphasize this point and call attention to the strong views of both bodies as set forth in that legislative history.

U.S. SENATE,
OFFICE OF THE DEMOCRATIC WHIP,
Washington, D. C., April 20, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR PETE, I'm writing to you in your capacity as a conferee on H.R. 4, the "Intelligence Identities Protection Act of 1981". Enclosed is a copy of a note I recently sent to John Chafee regarding section 603 in the House bill and the matter of the Peace Corps' being in any way connected with the concept of United States intelligence-cover activities. Also enclosed are copies of a March 1 colloquy I had with a number of Senators and of a May 4, 1981, letter from Dean Rusk on this point.

The long and the short of it is that I feel very strongly that enactment of H.R. 4 with section 603 in it (without a specific Peace Corps exception) could be potentially very damaging to the future effectiveness of the Peace Corps program. Congress has just taken steps to reinvigorate the Peace Corps by restoring its independence as a separate agency. An integral part of that independence is the maintenance of the historic, total separation of the Peace Corps from intelligence activities. In the opinion of Dean Rusk, Ed Muskie, and Cyrus Vance as well as the Senate Judiciary Committee, enacting section 603 without a Peace Corps exception would undermine that historic policy at the very time that it most needs reemphasis.

The Senate agreed to Senator Chafee's amendment to drop section 603 from the bill only with the express understanding that either that result or a section 603 with an explicit Peace Corps exception would be an acceptable result in conference. I remain fully committed to that principle, and I believe that will be the firm posture of the Senate conferees on H.R. 4.

With regard to the necessity of having a section 603 in the bill, I think it is significant that the recent Executive Order No. 12333 (section 1.6(a)) on intelligence operations deals with the obligations of Federal agencies to support intelligence activities and that the CIA does not see the need for a statutory provision to that effect. It seems to me that a statement of the conferees in the Joint Explanatory Statement accompanying the conference report on H.R. 4 (to the effect that the conferees recognize the existence of this intelligence-support provision in the Executive Order—at the same time making clear Congress' understanding that the Order in no way alters the fundamental Peace Corps separation from intelligence activities) would be a reasonable way to accommodate the differing positions of the conferees on the section 603 question.

Peter, I very much hope that you will give this matter your close personal attention and will support either deleting section 603 from the conference report (with language in the Joint Explanatory Statement along the lines I've suggested) or amending it to include a Peace Corps exception in the form reported by the Senate Judiciary Committee.

I will greatly appreciate any help you can provide.

With warmest regards.

Cordially,

ALAN CRANSTON.

Mr. BIDEN. Mr. President, I have carefully reviewed the conference report on H.R. 4 the agent's identities legislation and am pleased with the result. As a conferee on the bill I worked for the narrowest possible construction of the so-called reason to believe language. We largely achieved that goal in the conference by incorporating the so-called Durenberger colloquy into the joint statement of the managers. Therefore I signed the report but I do not feel that that obligates me to vote for passage of the bill in its final form.

In essence what we accomplished in the joint statement of the managers was to incorporate into the bill the language that Senator BRADLEY attempted to have adopted on the Senate floor requiring that the main direction of the reporter's pattern of activities must be toward naming names. It would not be sufficient under this interpretation to prove that the reporter intended to name the names by writing the story with the names or that the reporter should have known that the naming of the names in the article would jeopardize their cover.

Therefore, the conference attempted to make the reason to believe language into the intent standard. For now the Government must prove that the reporter really intended to harm the intelligence collecting apparatus of our Government by the fact of disclosure which is exactly what my amendment of the bill was intended to accomplish. Unfortunately, the Senate rejected my amendment. Furthermore, I am concerned that neither the Justice Department nor the courts will feel constrained to follow the language in the joint statement since it is mere legislative history and indeed appears to be

inconsistent with prior action by both Houses in rejecting the intent standard.

I was strongly tempted to vote for the conference report because we had accomplished so much in conference and because I feel that the provisions of the agent identities legislation that do not cover the legitimate media ought to be enacted. However, upon reflection I have decided to cast my vote against the report and the bill. I fear that the Justice Department and the courts will not comply with the legislative history set out in the joint statement.

Continued intransigence on the part of the advocates of the reason to believe language not only raises grave doubts in my mind but is short-sighted. To the extent that the major media organizations of this country fear that the bill will be used as a device for censoring their coverage of intelligence and foreign policy the Department of Justice and the intelligence community can be assured of a serious legal confrontation in the courts. From experience in reviewing the way past administrations and in particular the Department of Justice deal with enforcement of espionage and leak statutes when faced with serious and sophisticated legal challenges, I predict that the agent identities legislation may become dead letter as has its predecessor section 893 of title 18 which creates a similar strict liability criminal sanction for leaking communications intelligence.

When I was chairman of the Secrecy Subcommittee of the Intelligence Committee, I learned that there were numerous explicit and undisputed violations of section 898 brought to the attention of the Justice Department since that statute was enacted in the 1950's that were not prosecuted. They were not prosecuted because experienced prosecutors in the Department of Justice knew that they would face sophisticated and well financed challenges to their prosecutors that focused both on the gray-mail technique and direct constitutional challenges to the statute. The Department was never willing to have that issue put before the courts because of their own doubts about its constitutionality. Therefore serious leaks went unprosecuted.

To the extent that the impasse that stalled this bill for years in the Congress continues after its enactment, the statute may become dead letter because of a misguided insistence on covering the legitimate media. If this occurs we will have achieved the worst of all worlds. We will have sent a message to the intelligence community and to allied services abroad that our secrets are secure from deliberate efforts to name names by phony journalists, but the statute will remain unenforced because of these fears by experienced prosecutors. So that major leaks that violate this statute, like the violations of 898, will go unprosecuted. Furthermore, if a prosecution goes ahead and a serious test goes up to the Supreme Court the statute could well be held unconstitutional. If either of these developments occur we in Congress will have on the one hand given the impression that our intelligence secrets are secure and on the other laid the groundwork for a successful court challenge to the bill which might well obliterate the legal protections we purport to be giving.

In conclusion, I ask that a recent editorial in the Washington Post making many of these same points be printed at this point in the RECORD.

The editorial follows:

[Editorial from the Washington Post, June 6, 1982]

NICE TRY, BUT NO CIGAR

A bad piece of legislation made some progress on the road to enactment last week. The House accepted a conference report on a bill that makes it a crime to disclose information identifying certain American intelligence officers, agents, informants and sources. The prohibition applies to private citizens as well as government employees and even covers information that is not classified. Supporters intended to put a stop to the activities of a small band of individuals—former CIA agent Philip Agee among them—who have revealed the names of over 2,000 American agents with the express purpose of destroying the American foreign intelligence apparatus. But this bill goes far beyond that narrow objective by eliminating the element of intent from the crime.

Both House and Senate committees reported bills that would have required prosecutors to meet a standard proof that includes "intent to impair or impede the foreign intelligence activities of the United States." On the floor of each house, however, this was changed so that a person could be convicted simply because he had "had reason to believe" that damage to the intelligence apparatus would occur. In practical terms, this language will inhibit the publication of information on such matters as corruption and illegal or unauthorized activity by intelligence operatives even where there is absolutely no intention of disrupting legitimate intelligence activities.

Because there were minor differences between the House and the Senate versions of the bill—though not in the section described above—a conference committee was appointed to work out a compromise, which it quickly did. Then it did something quite unusual. It issued a conference report that dealt at great length with a matter that was not in controversy—the government's burden of proof in cases arising under the proposed statute. Both the House and the Senate had rejected the intent standard by record votes. Yet the conferees sought to minimize the meaning of these votes and to assure judges who will be faced with interpreting the statute that it should ve viewed narrowly.

"The standard adopted in section 601(c)" the conferees wrote, "applies criminal penalties only in very limited circumstances to deter those who make it their business to ferret out and publish the identities of agents. At the same time, it does not affect the First Amendment rights of those who disclose the identities of agents as an integral part of another enterprise, such as news media reporting of intelligence failures or abuses, academic studies of U.S. government policies and programs, or a private organization's enforcement of its internal rules." Would that it were so.

The conferees, apparently concerned that Congress had gone too far in eliminating the intent standard, made a well-intentioned effort to soften the clear language of the bill. Unfortunately, the courts have to work with the text of the law first. They only look at legislative history if the law is unclear. Even then, in this case they would look at the House and Senate votes to eliminate the intent standard and have a clear understanding of what Congress meant to do. A conference committee report that is at odds with both text and recorded votes is unlikely to be relied on by the courts.

The House has voted to accept the final version of the bill, and the Senate will act soon. Senators cannot duck the important constitutional question presented here by relying on the assurances of the conference report instead of confronting the plain language of the bill. Both should be rejected.

EXHIBIT 1

[From the Congressional Record, Sept. 24, 1981]

INTELLIGENCE IDENTITIES PROTECTION ACT

[Speech of Hon. John M. Ashbrook, of Ohio, in the House of Representatives, Wednesday, September 23, 1981.]

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources.

Mr. ASHBROOK. Mr. Chairman, I rise to support H.R. 4 with amendments. This bill is long overdue. For the past 8 years, a small group of anti-American extremists have been engaged in spying on Americans to identify those who are engaged in gathering intelligence for our country. Some, like Phillip Agee, are former employees of the CIA. Others, like Louis Wolf, come out of the New Left antiestablishment movement. They have united with the aim of disrupting our intelligence capabilities. As we know, without adequate intelligence, our policymakers will be blinded in a hostile environment.

In 1968, the KGB began the program of exposing American intelligence officers. The assignment to do this was given to the East German and Czech intelligence services. The product of their labors was a book called, "Who's Who In The CIA," by Julius Mader, printed in English in East Germany in 1968.

Ladislav Bittman, a former official of the Czech Intelligence Service who worked on the book, testified before the House Intelligence Committee on February 19, 1980, that only about half the names in the book were real CIA officers. The rest were put in to disrupt other U.S. Government activities.

When the Tupamaro terrorists murdered an AID employee, Dan Mitrione, the Cuban Communist newspaper "Granma" justified the murder on the grounds that he had been listed in the Mader book. The listing was one of the false identifications.

In 1973, the focus of the exposure activity shifted to the United States with the publication of the magazine "CounterSpy." Since then, much of the campaign to identify and expose U.S. covert agents has centered around Phillip Agee, a renegade former CIA officer who openly admits his close ties to the Cuban Government and Communist Party.

Agee is affiliated with a publication called "CovertAction Information Bulletin." He was formerly associated with the publication "CounterSpy." Both of these magazines are actively engaged in attempting to identify and expose U.S. covert agents.

They also are extremely active in promoting Soviet and Cuban propaganda lines. "CovertAction Information Bulletin," for example, reprinted a Soviet forgery of a purported U.S. Army document that pretended that the United States supports terrorism. Despite worldwide exposure by the United States of that document as a forgery, it was disseminated in our own country by Phillip Agee and his cohorts. "CounterSpy," in addition to naming alleged U.S. covert agents, has published a whole series of propaganda articles closely following the Soviet and Cuban line attacking not only the United States, but each of our allies such as Turkey, Israel, and so forth.

Although it has been 6 years since the CIA chief of station in Athens, Richard Welch, was murdered after his name was exposed in CounterSpy, we have done nothing to stop this kind of irresponsible naming of names. The House Intelligence Committee has been working on the bill for 2 years, but last summer's violence against American diplomats in Jamaica has called public attention to the urgent needs for this legislation. On July 2, 1980, Louis Wolf, Phillip Agee's associate in the CovertAction Information Bulletin, held a press conference in Jamaica in which he identified 15 Americans as CIA officers. He not only listed names, but home addresses, license plate numbers, and the descriptions of their cars. A number of his identifications were incorrect; however, gunmen attacked the homes of two of those named. Richard Kinsman, the victim of the first attack, is the first secretary of our Embassy in Kingston. Mr. Kinsman's home was attacked by persons using a submachine gun and grenades. Shortly thereafter, gunmen attacked the home of a young AID employee, Jesse Jones. The gunmen exchanged fire with police officers who have been assigned to protect the Jones' home after the attack on the Kinsman home. Mr. Jones, who is in no way connected with the CIA, has left the Government service, rather than risk his own life and the lives of his family in the light of the violence. Mr. Jones is now suing Louis Wolf and CovertAction Information Bulletin.

These are posters put up in Jamaica right after Louis Wolf named the American diplomats as alleged covert agents. You will notice on one poster we have the pictures of some of these people, including Kinsman and Jones. On the other poster, we have the home addresses, license plate numbers, and descriptions of cars. While Wolf disclaims responsibility for the posters they are identical to the press release that he distributed in Kingston, Jamaica.

Last year, the House Intelligence Committee unanimously reported out H.R. 5615 after careful consideration. However, now the bill has been considerably weakened by an amendment suggested by the ACLU and the Center for National Security Studies. As a result, I would prefer the Senate language in place of 601(c), which says it is sufficient for the defendant to have reason to know that it would impede or impair the intelligence activities of the United States.

It is my intention to offer an amendment to bring the House language closer to that of the Senate which I believe is a more appropriate solution to the problem and which protects constitutional rights while penalizing those who knowingly jeopardize the lives and effectiveness of our covert agents. I also intend to introduce an amendment that would make it a crime to knowingly jeopardize someone's life by identifying a person as a covert agent. This would protect real covert agents as well as those falsely identified.

Phillip Agee wrote in the introduction to the book, "Dirty Work," coauthored with Louis Wolf.

"Once the list is fully checked, publish it. Then organize public demonstrations against those named—both at the American Embassy and at their homes—and, where possible, bring pressure on the Government to throw them out. Peaceful protest will do the job. And when it doesn't, those whom the CIA has most oppressed will find other ways of fighting back."

This open invitation to violence against Americans both intelligence officers and other diplomats makes it imperative that we protect our overseas personnel from this kind of attack.

I urge my colleagues to support this bill's passage to assure both our intelligence personnel and our enemies that we intend to protect those whose jot it is to provide us with the vital information needed for American security.

Mr. CHAFEE. Mr. President, the yeas and nays having been ordered, I move passage of the conference report.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the conference report.

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 [after having voted in the negative]. Mr. President, I have a live pair with the Senator from Tennessee (Mr. SASSER). If he were here present and voting, he would vote "yea." I have voted "nay." I therefore withdraw my vote.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Florida (Mrs. HAWKINS), the Senator from Iowa (Mr. JEPSEN), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware (Mr. ROTH), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Vermont (Mr. STAFFORD), are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mrs. HAWKINS) and the Senator from Oregon (Mr. PACKWOOD) would each vote "Yea."

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Maine (Mr. MITCHELL), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

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

The result was announced—yeas 81, nays 4, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—81

Abdnor	Boren	Byrd, Harry F., Jr.
Andrews	Boschwitz	Byrd, Robert C.
Armstrong	Bradley	Cannon
Baucus	Brady	Chafee
Bentsen	Burdick	Chiles
Cochran	Heflin	Pell
Cohen	Heinz	Percy
D'Amato	Helms	Proxmire
Danforth	Hollings	Pryor
Denton	Huddleston	Quayle
Dixon	Humphrey	Randolph
Dodd	Inouye	Riegle
Dole	Jackson	Rudman
Domenici	Johnston	Sarbanes
Durenberger	Kassebaum	Simpson
Eagleton	Kasten	Specter
East	Kennedy	Stennis
Exon	Laxalt	Stevens
Ford	Leahy	Symms
Garn	Levin	Thurmond
Glenn	Long	Tower
Goldwater	Lugar	Tsongas
Gorton	Mattingly	Wallop
Grassley	McClure	Warner
Hatch	Melcher	Weicker
Hatfield	Metzenbaum	Zorinsky
Hayakawa	Nickles	
	Nunn	

NAYS—4

Biden	Mathias
Hart	Moynihan

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cranston, against.

NOT VOTING—14

Baker	Matsunaga	Roth
Bumpers	Mitchell	Sasser
DeConcini	Murkowski	Schmitt
Hawkins	Packwood	Stafford
Jepsen	Pressler	

So the conference report was agreed to.

Mr. CHAFEE. Madam President, I move to reconsider the vote by which the conference report was adopted.

Mr. HATCH. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTING RIGHTS ACT AMENDMENTS OF 1982

The PRESIDING OFFICER. The question recurs on the motion to proceed to the consideration of S. 1992, the Voting Rights Act Amendments of 1982.

Mr. HATCH. Madam President, I ask unanimous consent that Senator MATHIAS be designated at the floor manager on this side of the aisle for today.

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

The Senator from Alaska.

Mr. STEVENS. Madam President, I yield to the Senator from West Virginia.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Madam President, I would like to ask the acting majority leader what the schedule is for the rest of the day and the rest of the week.

Mr. STEVENS. Madam President, in response to the distinguished minority leader's question, I can say that we are now back on my motion to bring before the Senate for consideration the Voting Rights Extension Act. It is my understanding there will be some debate on that today.

We are still waiting to get an agreement on the military construction bill for Monday. If we can get that agreement to take up Calendar Order No.