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United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510

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August 18, 1986

The Honorable William J. Casey
Director
Central Intelligence Agency
Washington, DC 20505

Dear Bill:

Last week Senator Roth offered an amendment to the Defense Authorization Bill amending the Foreign Missions Act. (A copy is enclosed.) This amendment would require the Secretary of State to impose on the personnel of communist embassies in the United States the same restriction that applies to personnel of the Soviet Embassy here. I believe that such a measure, if enacted, could have adverse consequences for U.S. intelligence.

Such arguments were inappropriate for the floor of the Senate. Therefore, the Armed Services Committee accepted the amendment, but also agreed to name Senator Pell and me as conferees on this issue. As we prepare for the Conference, it would be helpful to have your views before the end of August. I have also written to George Shultz asking for his opinion on how this amendment affects foreign policy.

Sincerely,



Richard G. Lugar
Chairman

RGL/dst

Enclosure

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made for the Department of Defense to sell certain lands. This is a change. Currently this is a responsibility of the GSA.

I hope that we reach some kind of agreement that this would be a matter looked at immediately by the Senator's committee as well as the Governmental Affairs Committee because I think this is a significant change of policy that should not be in this particular piece of legislation.

Mr. GOLDWATER. I believe the Senator from South Carolina understands what the Senator is saying on this issue.

Mr. THURMOND. Yes. I know exactly what the Senator is talking about.

Mr. BYRD. Mr. President, I have the floor.

The PRESIDING OFFICER. The Democratic leader has the floor.

Mr. BYRD. I would be glad to yield to the distinguished Senator from South Carolina if he wishes to speak at this moment without losing my right to the floor.

Mr. THURMOND. Mr. President, in some cases the Defense Department can lease certain pieces of property, and provided in this bill is the procedure where it is recommended by the Assistant Secretary of Defense that we follow this procedure. They can dispose of certain property and use that money for facilities in other places, and turn the rest of the money back to the Treasury. We think it is good for the Government, we think it is good economy, and it should pass.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. BYRD. I will be brief. I cannot commend too highly the manager and the ranking manager on this bill. I cannot commend too highly the Members of the Senate who have called up their amendments. We have had good debates. This is what the Senate is here for. We have seen some substantive deliberations. We have not had a lot of quorum calls just chewing up time. It has been a very orderly procedure here in connection with this bill. There has been a great deal of progress.

I must say that I have been getting to bed at 2 or 2:30 in the morning every day this week. I am one of the leaders who has to stay around here and help to kind of close up the Senate. We have been working hard, trying to get some time agreements on the Contra aid and South Africa matters. These are tough agreements. They are very complex. They deal with highly emotional issues. They are not easy by any means.

The distinguished majority leader and I have met, and other Senators have met back and forth. We keep exchanging proposals—which is perfectly proper. But in exchanging these proposals, sometimes he does not get our proposal until 6 o'clock, we get his back at 10 o'clock, and we agree then

to go over to the next morning. But when I get agreements like that, it takes time to look at those agreements and determine what it all means. It is much worse than a game of checkers or a game of chess. I have never played chess, but I have played checkers. You have to figure what is this move, what is the next move, what is his move, and what can be opened up here or there. It is pretty dull, but it is quite time consuming.

I just hope that we do not stay in tonight. If it means coming in tomorrow, let us do it. We do not have to begin the August recess next Saturday. There is entirely too much talk about an August recess here. We were out in July for 2 weeks. Now we are talking about a 3-week recess in August. This is an important bill. If we do not finish today, and we do not finish it tomorrow, then let us cancel as much of that August recess as necessary to finish this bill and these two other issues. This is not a popular thing to say here. I do not say it to be popular. But I must say, we have to have some rest. I do not mind a late night once or twice a week.

Mr. BROYHILL. Some of us are running.

Mr. BYRD. What was that, running what? I am not running this year. Running for office is important, but the people's business comes first. There is such a thing as keeping one's health. That is important to the people, too, whom we represent in the Senate here.

I am not in favor of going on night after night after night grinding away when we do not have to do it. We do not have to be out tomorrow. We do not have to be out the next Saturday. I would hope we would consider that. I do not say it to imply anything concerning the good work, the good intentions of all Senators on this matter. I just think we ought to stay right here, though, and if we are not going to finish this today by 6 or 7 o'clock, we should go home tonight and come in tomorrow.

I yield the floor.

AMENDMENT NO. 3648

(Purpose: To amend the Foreign Missions Act regarding the treatment of certain Communist countries, and for other purposes)

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator from Delaware ask consent to set aside the amendment of the Senator from California?

Mr. ROTH. I make that unanimous-consent request, Mr. President.

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

Mr. LEVIN. Mr. President, reserving the right to object, I wonder if we know what the amendment is before that is set aside—whether we might

have a description of that before that unanimous-consent request.

Mr. ROTH. The amendment involves the Foreign Mission Act.

Mr. LEVIN. I thank my friend from Delaware.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) (for himself, Mr. DIXON, Mr. DENTON, Mr. HATCH, Mr. NICKLES, and Mr. RIBBLE) proposes an amendment numbered 3648.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

That (a) the Foreign Missions Act is amended by adding at the end thereof the following new section:

"APPLICATION TO CERTAIN COMMUNIST COUNTRIES"

"Sec. 214. (a) Notwithstanding any other provision of this title, the Secretary shall apply to each foreign mission in the United States of the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Rumania, and Cuba the same terms, limitations, restrictions, and conditions which are applied under this title to the foreign mission in the United States of the Soviet Union unless the Secretary determines and so reports to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that national security and foreign policy circumstances require that this section be waived in specific circumstances with respect to such country.

"(b) The Secretary shall prepare and transmit to the Select Committee on Intelligence and Committee on Foreign Relations of the Senate and the Permanent Select Committee on Intelligence and Committee on Foreign Affairs of the House of Representatives a report describing—

"(1) not later than thirty days after date of the enactment of this section, the plans of the Secretary for implementing this section; and

"(2) not later than six months thereafter, the actions taken pursuant to these plans."

(b) Section 202(a)(4) of the Foreign Missions Act is amended—

(1) in the text above clause (a) by inserting "including Government activities involving international trade," after "governmental activities"; and

(2) in clause (A), by inserting "or any instrumentality thereof" after "foreign government".

□ 1140

Mr. ROTH. Mr. President, the purpose of this amendment is to deal with the problem of theft of valuable, technical information.

Mr. President, at the close of this debate, we will be asked to vote on the authorization of many billions of dollars for the Department of Defense. That sum often appears appallingly high. Unfortunately, it is the price we must pay if we are to fulfill our pri-

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The PRESIDING OFFICER. The Senator from Delaware.

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The PRESIDING OFFICER. Does the Senator from Delaware ask consent to set aside the amendment of the Senator from California?

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Mr. ROTH. The amendment involves the Foreign Mission Act.

Mr. LEVIN. I thank my friend from Delaware.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] (for himself, Mr. DIXON, Mr. DENTON, Mr. HATCH, Mr. NICKLES, and Mr. RIGGLE) proposes an amendment numbered 2648.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

That (a) the Foreign Missions Act is amended by adding at the end thereof the following new section:

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Mr. ROTH. Mr. President, the purpose of this amendment is to deal with the problem of theft of valuable technical information.

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when it will be back again before the Senate.

So we have invested 5 days of good, hard work, with barely a quorum call all week long. I commend the managers and all those who have been participating. There has been no wasted time.

It is a very serious bill. It is a very important piece of legislation. We are talking about nearly \$300 billion so it is very, very significant.

So I would hope that all of us could cooperate with the managers and maybe some of these amendments may not be offered. But I yield the floor so the managers can indicate their desires. And, from what I can understand, rather than stay all night tonight, it might be better for everyone to come back tomorrow, but maybe that is not necessary.

I am happy to yield to the managers. Mr. GOLDWATER. Mr. President, as the leader has said, we have been on this bill nearly 5 days. We have about 58 amendments left. In the way of floor work, we have the labor provisions discussion that will take place today.

I would ask that my colleagues get their amendments on the floor and bring them up. I am going to insist on time agreements if we can on the remaining amendments. But we are faced, this committee is faced with a conference next week. And it is going to be almost impossible for us to continue debating this bill and try to have a conference at the same time.

So, Mr. President, I have no compunction about lateness. I think we ought to go today as long as it takes. If it takes all night, fine. And if we have to come back tomorrow, I am going to recommend to the leader that we come back tomorrow. This bill has to be finished and we have many amendments left. We have amendments that frankly have nothing to do with the defense of this country. And I would appreciate it if my colleagues would sift these amendments carefully so that we have only ones that apply to the defense of our country. We have had very few that actually do that, and that is the job of this committee.

So that is all I am going to say, Mr. President. I think our colleagues have had the warning. I will do all I can see that that warning is carried out.

Mr. NUNN. Mr. President, first let me thank the majority leader, the minority leader, and all of our colleagues for making this much time available. Earlier this week, it did not look like we were going to have this much time. We have taken up most of what I considered, to begin with, major amendments. We have made, I think, as much progress as we could. Everyone has cooperated. We have done it in good faith. I do not know of any delay on either side of the aisle.

But we are faced with a reality, and the reality is we are either going to finish this bill tonight or tomorrow or we do not get a defense bill this year,

in my view. Because if we do not finish it now, we know what the schedule is next week. The majority leader is not going to find much, if any, time next week. If we do not get through this bill next week, we are going to be here in September and the schedule is going to be full.

We are bound to have at least 2 weeks of conference on this bill, bound to have 2 weeks.

We are bound to have 2 weeks. I have never seen a defense authorization bill without 2 weeks. What we have right now is we have to finish it today or tonight or tomorrow. The managers are perfectly willing to stay here tomorrow and tomorrow night. I hope we do not go until midnight tomorrow night. I hope we can finish. But the way I count amendments, we think there are about 79 amendments left. Nine amendments we believe we can accept from what we know of them. We have 37 amendments that we think we will have to oppose—37 amendments. We think there are about 20 of those that will be withdrawn. I am hoping on those amendments we think are going to be withdrawn we do not have to have a speech before they are withdrawn because if we have 20 amendments and it takes 10 minutes for each, or 15 minutes for each before you withdraw them, you can compute the number—hours.

So if you are going to withdraw amendments, I urge you to do it quietly. Slip up at the desk and take it back. We would not say anything. We will agree to any unanimous consent to withdraw amendments.

[Laughter.]

I hope those amendments that you know are going to be opposed you would find some other bill to put these on unless they really relate to defense. If they do, we have no quarrel.

So I thank my colleagues for the cooperation thus far. I was hoping we could today get through at 4 or 5 o'clock this afternoon. Right now, it looks like afternoon, tonight, and all of tomorrow. Something will have to change before that could be.

Mr. KENNEDY and Mr. STEVENS addressed the Chair.

Mr. NUNN. I am glad to yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I appreciate the comments of my good friend from Georgia. But I say this to him, and to the distinguished chairman, and to other Members. I have never seen a defense bill before that engaged so many other areas of jurisdiction. For instance, we have some very serious amendments coming with regard to civilian employees in the Department of Defense. This bill encompasses now all of the civilian employees of the DOD. It puts them under a different system than the other civilian employees of the Federal Government. There are several labor provisions in this bill that are going to take a long time.

Mr. NUNN. I say to the Senator from Alaska I did not favor putting the labor provisions in this bill. When you put labor provisions in this bill, you are asking for what we are getting. That will be a major obstacle. If we can get over that obstacle, I think we can get on with the others. The Senator from Alaska is correct on that.

Mr. KENNEDY. Will the Senator yield on that point? The Senator from Alaska in entirely correct about the areas of the labor provisions which are outside the jurisdiction of the Armed Services Committee. I will offer an amendment to strike those different provisions.

But I want to give the assurances both to the floor manager, to the majority and minority leaders, and the Democratic floor manager that we will be more than glad to enter into a time agreement of an hour, or even less. We have debated these issues. We know what they are. But we have been unable to get that kind of agreement. I want to give the assurance to the majority leader that we would from our point of view be quite prepared to enter into a time agreement of an hour evenly divided. This legislation absolutely is entirely inappropriate to be on this defense authorization. The chairman of the committee understands it. The membership understands it. We can take whatever time we want to debate it.

But I would hope since these issues are well known, we can get a time limit. But we have been unable to. I have been unable to get an agreement from the Senator from Texas on these particular provisions, but the Senator from Alaska and others are right. This has absolutely nothing to do with our defense authorization. I am hopeful we can get a time agreement. I will continue to work with the floor managers to do so.

Mr. GOLDWATER. Mr. President, the Senator from Massachusetts has been most agreeable on this matter. We have been working with the Senator from Texas in an effort to get him to agree to an agreement but he has not yet agreed. So we will keep after it, though, and I hope shortly we will be able to announce that there is an agreement.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. ROTH. I would like to ask a question if I might of the manager.

Mr. BYRD. Mr. President, I have the floor, do I?

The PRESIDING OFFICER. The Democratic leader has the floor.

Mr. BYRD. I yield the floor for that purpose with the understanding I will retain my right to the floor.

Mr. ROTH. I thank the Democratic leader.

What was said about personnel or labor policy also is true in the area of real estate. Under this act provision is

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mary duty of protecting the national security of this great Nation.

However, I must point out to my colleagues that there is little point in voting for sensitive, classified projects such as the strategic defense initiative, the Stealth bomber and the Midgetman missile if the highly classified technology associated with those projects is not secure from the attention of hostile, prying eyes.

The past 18 months have brought before our eyes a plethora of espionage cases. Ronald Pelton, Jerry Whitworth, John Walker, John Walker, Jr., Arthur Walker, and the infamous duo, the "Falcon and the Snowman" all betrayed to the Soviet Union major military-technological secrets. Last year, an employee of Northrop Co., was even apprehended trying to sell blueprints of Stealth bomber technology to the Soviets.

Mr. President, the technological secrets which these traitors sought to sell cost the U.S. taxpayer billions of dollars to research and develop.

We cannot, in all conscience, keep asking the taxpayer to dig into his/her pocket for highly sensitive, expensive projects if we cannot first assure the taxpayer that every effort has been made to prevent the leakage of this technology to our enemies.

Failure to act in this regard constitutes nothing less than a diversion, of U.S. taxpayer funds into the pockets of the Soviet military. If anyone believes that I am exaggerating, let me refer them to Jane's analysis of the new Soviet Flanker fighter-bomber. According to that auspicious publication, the Flanker constitutes one of the very best aircraft aloft today, comparable with the front line aircraft of the U.S. Air Force.

The Flanker is a fine plane because it was built with the very best aeronautical technology—U.S. technology, technology subsidized, and often paid for, by the taxpayers of Delaware, Arizona, Georgia, and every other of the 50 States and District of Columbia.

I hope every Member in the Chamber will agree with me when I state that we should build no more planes for the Soviet Union. The question is now—how do we stem this outflow of our vital national security secrets?

The senior Senator from Georgia and I have been trying, through the permanent Subcommittee on Investigations, to promote major cutbacks in the number of security clearances issued, the number of permanent documents classified while calling for regular reviews of security clearances.

These measures are directed against those Americans who would betray their country for financial gain or ideological motivation. But this constitutes only one half of the security problem; it takes two to pass a secret. What are we doing to clamp down on those foreign nationals who traverse the United States buying and stealing classified information? The answer, I fear is, not enough.

The State Department originally used the authority granted it under the Foreign Missions Act only to restrict the movements of Soviet diplomats. They may only move more than 25 miles from their base of operations after first notifying State's Office of Foreign Missions. In addition, they may not enter certain restricted areas such as Newport News, Virginia Beach, Silicon Valley containing sensitive military or technical facilities.

A series of hearings in the Permanent Subcommittee on investigations quickly revealed that these regulations have had little or no beneficial effect. Judge Charles Webster, Director of the FBI testified that the Soviets have circumvented the restrictions of the Foreign Missions Act by farming out their espionage activities to the intelligence services of their East block satellites. Those services, incidentally, are controlled directly by the KGB and GRU, not by the national governments of Eastern Europe. Judge Webster's testimony was underwritten by the chairman and vice-chairman of the Senate Select Committee on Intelligence, by the senior Senator from New York, who enjoys a distinguished record in this field, and by the Department of Defense.

Unfettered by the restrictions placed upon their Soviet masters, East European spies, posing as diplomats and trade representatives, have traveled the length and breadth of the Nation, purloining national security data and even going so far as to set up permanent so-called "trade missions" in areas such as Silicon Valley. In case any Member was wondering, this probably explains why we always seem to find Polish so-called business representative involved in most of our own spy scandals.

The Permanent Subcommittee on Investigations decided that this situation simply could not be allowed to continue. Senator NUNN, COHEN, GLENN and I joined together in an effort to draw up bipartisan legislation to deal with the Eastern Bloc Espionage Program. The product of that consultation was S. 1901, which was reported out by the Governmental Affairs Committee on December 1985. I am now offering S. 1901 as an amendment to the DOD fiscal year 1987 authorization bill.

The purpose of S. 1901 is clear and simple. It takes all restrictions currently placed upon the Soviet Union and places them with equal force upon the Governments of the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Rumania and Cuba. The bill provides for the usual flexibility by allowing the Secretary of State to allow any National Government or Government agency to be exempted from these restrictions provided that the reasons for such exemptions are reported to the House and Senate Select Committees on Intelligence.

Together with S. 1900 and S. 1947, both of which have already been incorporated into the intelligence authorization bill, this legislation will greatly restrict the Eastern bloc's ability to steal U.S. classified military information and technology.

Mr. President, I am happy to say that the 4 original cosponsors of S. 1901 have since been joined by 31 of our colleagues: Senators EXON, HART, WALLOP, SYMMS, BOREN, MATTINGLY, RUDMAN, CHILES, RIEGLE, SPECTER, KENNEDY, HECHT, DOLE, BUMPERS, BURDICK, FORD, DIXON, WARNER, WILSON, KASTEN, PROXMIER, QUAYLE, MITCHELL, ARMSTRONG, BOSCHWITZ, HEINZ, MOYNIHAN, GORE, BINGAMAN, DENTON, and HATCH all have entered their names as cosponsors of this legislation.

The State Department sought to preempt our legislative effort by implementing some limited restrictions upon East Germany, Poland, Bulgaria and Czechoslovakia, making them subject to the 25-mile rule. These measures are inadequate. First, State can remove them wholesale, whenever it wishes without consulting the Congress or even its Intelligence Committees. Second, the deletion of Rumania and Hungary from the list has no acceptable intelligence rationale and will only place them under heavy Soviet pressure to take up the slack by expanding their espionage activities. Third, State's new regulations allow all East European diplomats, business representatives and so forth, to move freely in and out of all restricted areas. Thus, they will remain Moscow's eyes and ears wherever sensitive military and technical research is taking place.

In closing, Mr. President, let me point out that the State Department asserts that enactment of this legislation could damage our diplomatic relations with Eastern Europe. I reject this reasoning on three grounds: First, espionage is not the price of diplomacy. Second, it makes a false equation between the United States and Eastern Europe; we have far more to lose to espionage than does Bulgaria or Cuba; we are not spying on their hi-tech facilities; they do not have any. Third, we all know the price of espionage, and when I say "We," I am referring to Eastern Europeans as well as Americans—they have had a good run at American secrets and classified technology and like any rational being they knew that the party had to end some day. I propose that the Senate vote and that that day be today.

Mr. President, I will say that this is an important piece of legislation, important to our defense effort to protect American secrets and classified information. I urge that the Senate adopt this amendment.

Mr. GOLDWATER. Mr. President, I am very happy to announce there has been an agreement reached between the Foreign Relations Committee and the Armed Services Committee over

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this piece of legislation. I have to say, Mr. President, after having served on the Intelligence Committee for so long, that this is long, long overdue.

I know the figures that I might use today are not as accurate as I could have used a few years ago, but when we think of the Russian Embassy on one of the highest hills in this town, with over 1,200 people, when we look at San Francisco with about 1,400 people, they have the ability to intercept telephone conversations, not just official conversation but any.

□ 1150

Also, there has been a part of our law that says that we can limit the number of people in a foreign embassy to the number of our people who are allowed in their own countries. This has not been accomplished.

So, Mr. President, I am very happy to accept this amendment. I speak, I am sure, for the Senator from Georgia, who told me before he left that it is agreeable to him also.

Mr. LEVIN. Mr. President, first, let me ask unanimous consent that I be listed as a cosponsor of this amendment.

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

Mr. LEVIN. I understand that Senator PELL is on his way over and I would like to reserve some time for him. I do not know if we are on a time limit or not. I understand he would like to speak on this amendment. If there is nobody else who wants to speak, I wonder if we could temporarily lay it aside and take up another amendment or put in a quorum call until he can be here.

Mr. President, I understand now that Senator PELL does not intend to come. Therefore, without objection on this side, we accept this amendment. I think it makes a very valuable, long-overdue contribution. I congratulate my friend from Delaware for his leadership in this area.

Mr. ROTH. Mr. President, I appreciate that statement on the part of the Senator from Michigan.

I ask unanimous consent to add Senator DeCONCINI's name as a cosponsor.

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

Mr. ROTH. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

~~The amendment (No. 2648) was agreed to.~~

Mr. ROTH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. GOLDWATER. Mr. President, the bill is open for further amendment.

Mr. GRAMM. Mr. President, I am sorry I was not on the floor when the Senator from Massachusetts was here

to discuss his amendment to spend over \$1 billion in savings. There seems to be some confusion about an inability to get a time agreement. That inability stems from an unwillingness on the part of the distinguished Senator from Massachusetts to divide the amendment so we might vote on one set of reforms related to an antiquated law that forces the Federal Government to spend as much as a 30-percent premium to purchase labor. Another provision of law forces high wages upon the service industry that services the Defense Department and, in the process, costs the Federal Government \$961 million over a 5-year period, according to CBO.

Let me assure my colleagues that I am willing to enter into a unanimous-consent agreement to limit debate if these two issues are separated so we can debate both savings so that Members of this body can look at savings and decide whether or not they want to undertake them.

Should the distinguished Senator from Massachusetts seek to divide the two issues so they may be voted as free-standing, I shall enter into any time agreement within reason that he deems prudent. Failing that, I do not intend to enter into a time agreement, though I am ready when the distinguished Senator from Massachusetts is ready to debate the issue.

Mr. GOLDWATER. Mr. President, the Senator from Massachusetts is not here. Did I understand the Senator from Texas to say that he has changed his mind and is willing to agree? I do not think I did but I do not hear well.

Mr. GRAMM. No, Mr. President, what I said is that the Senator from Massachusetts has an amendment that strikes two separate provisions of our bill at once. That amendment is nondivisible. If the distinguished Senator from Massachusetts would divide it and offer two amendments, one on one section, one on the other, I would happily agree to a time limitation. Failing that, I am certainly willing to begin debate on it, but I am not willing to give a time limitation given some question as to our ability to vote on these two important saving measures independently of one another.

Mr. GOLDWATER. I thank my friend.

Mr. President, the bill is open to further amendment. Does the Senator from Delaware have another amendment?

Mr. ROTH. Yes, Mr. President.

ESPIONAGE—DEATH PENALTY

Mr. ROTH. Mr. President, the great Roman statesman, Cicero, said a nation can survive its fools, and even the ambitious. But it cannot survive treason from within. An enemy at the gates is less formidable, for he is known and carries his banners openly. But the traitor moves among those within the gate freely * * * he speaks in accents familiar to his victims * * * he appeals to the baseness that lies

deep in the hearts of all men. He rots the soul of a nation, a murder is less feared.

Though these words have warned great civilizations down through history, and while we have even learned the lessons of republics that have fallen in the past, espionage continues to grip our Nation's political and defensive infrastructure and threaten our security.

Last year, 1985, was called "the year of the spy" by our national media. Twelve Americans and one foreign national were charged with conducting espionage against the United States. In comparison, only eight individuals were arrested for similar crimes in 1982 and 1983 combined.

It might be said that America is seeing a new breed of spy, one whose evolution was described when I held hearings on the activities of hostile foreign intelligence officers in the United States. It was then that my Permanent Subcommittee on Investigations heard from convicted spy James Harper, a man who sold highly classified military secrets to the Soviet Union through a Polish go-between.

Unlike the common criminals in any society, the spy, as Harper testified, is cunning and intelligent. His acts are born not of passion or ignorance, but of avarice and cold-blooded disregard for the safety of his countrymen. Easily, his betrayal could place the lives of literally hundreds of millions of Americans in extreme danger. And what's even more horrible is that those actions are almost always premeditated. He knows the consequences to his countrymen before he turns his back on his country.

Mr. President, with these facts in mind, it is incumbent upon this distinguished body to act in the defense of our countrymen, in the defense of our liberty, and in the defense of our Constitution and empower our courts with the possible sentence of death upon the conviction of espionage.

To this end I am proposing an amendment that delineates several categories of classified information of which betrayal would render the convicted spy liable to the imposition of the death penalty. These categories include: nuclear weaponry, military spacecraft or satellites, early warning systems, war plans, communications, intelligence, cryptographic information, sources or methods of intelligence or counterintelligence or any other major weapons system or major element of defense strategy.

It must be clear that I am not proposing to make the imposition of the death penalty mandatory in all cases where this classified information is betrayed. Rather, I am proposing that we give our courts the power to impose such a penalty upon persons convicted in any one of these areas. The decision rests entirely with our judicial system.

However, the crime of espionage is so serious that Congress should man-