

**ROUTING AND RECORD SHEET**

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SUBJECT: (Optional)

FROM:   
 Office of Congressional Affairs

EXTENSION

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 - 30 AUG 1989  
 DATE 26 Jul 1989

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OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.  D/OS      8/2    8/2      JN

2. Registry

Attached is a copy of the text from the Congressional Record dealing with the Helms Amendment striking Section 133 of the State Authorization Act. The amendment which was passed, has the effect of reinstating the 1987 provision which took a hardline approach to the Soviet bugging of the Moscow Embassy and requires the President to withdraw from the Soviet-American Embassy agreement if he cannot certify certain conditions. Thought you might be interested in the floor exchange on this issue.



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S 8448

## CONGRESSIONAL RECORD — SENATE

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(1) Prime Minister Manley of Jamaica is to be commended for his proposal and for his commitment to the war on drugs; and

(2) The United States should work if possible through multilateral organizations to determine the feasibility of such force and assist in the establishment of this force, if it is found to be feasible and consistent with the United States Constitution.

(c) **AUTHORIZATION OF FUNDING.**—Funds authorized to be appropriated under this bill for any United Nations program, may be reallocated for a program to establish an international strike force for international narcotics control under multilateral auspices. Such reallocation may occur only if the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, are notified at least 15 days in advance of the obligation of funds in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

**AMENDMENT NO. 355**

(Purpose: To strike the provision of the bill concerning Moscow Embassy, thereby maintaining current law)

Mr. HELMS. Mr. President, I call up amendment No. 355, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposed amendment No. 355.

On page 31, strike line 10 through line 24 on page 32.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

This amendment strikes section 133 of S. 1160. It is still a pressing need for the United States to have a secure, safe Embassy in the capital of the Soviet Union. The United States does not have a safe and secure Embassy. The fact remains that most of the experts believe that the new Moscow Chancery is riddled with Soviet bugging technology and ought to be bulldozed.

Unfortunately, an opposition opinion is held by the State Department. Mr. President, as I understand it, the State Department is not contending that the new U.S. Embassy complex in Moscow is safe and secure.

What the State Department is contending is that it does not matter whether it is or not. The pending amendment returns us to current law, which was approved by the Senate in an amendment offered by Senator SYMS during consideration of the State Department authorization bill back in 1987. The overwhelming will of Congress at that time was not to

open or occupy the new but insecure embassy. I believe that was also the will of the overwhelming majority of the American people.

Mr. President, there is no convincing evidence that the situation has improved in the past 2 years. In fact, according to the New York Times on July 16, 1989, a report of the Senate Intelligence Committee strongly supports the concept of current law. Namely, the Intelligence Committee report says there is no hope to fix or otherwise make the new embassy complex in Moscow safe and secure.

The amendment strikes section 133 of the bill before us today. It calls for the United States not to move into the heavily bugged Moscow Embassy compound. It also provides that the Soviets cannot use the extraordinarily desirable facilities granted them by the State Department on Mount Alto in Washington, DC, until the United States has a new and secure facility to use in Moscow.

The situation has not improved to allow us to rethink the 1987 position. Earlier this year the State Department merely recommended another study of the Embassy—bugs and all.

In the committee bill, section 133 provides new language on the Moscow Embassy that some Senators might think is an improvement over just another study. Unfortunately, the provisions of S. 1160 do nothing that makes this Senator believe it will solve the Moscow Embassy-Mount Alto mess.

Section 133, as reported, claims to keep the Soviets from occupying Mount Alto until the President, certifies that there is a safe, secure Embassy in Moscow. The certification also requires that all feasible steps be taken, now and in the future, to eliminate damage to national security due to electronic spying from Mount Alto.

Mr. President, the fact is that the Soviets are already occupying Mount Alto, and microwaves are bombarding all of us at this very moment.

A second part of section 133 before us today conditions the embassy agreement between America and the Soviets on whether Mount Alto poses a significantly greater threat to United States national security than the potential or actual threat from the Soviets at their old Embassy on 16th Street. It seems to me that you would need a smart lawyer or an astrologer to make such a determination.

One final and puzzling element that troubles this Senator is the provision of section 133 that the President can waive any of his findings about an insecure embassy or the Mount Alto KGB headquarters if he determines it is in the vital national security interest of the United States to do so.

Let's consider that a moment, Mr. President. Suppose President Bush makes such a determination—agreeing with the report sent to him by the Senate's own Intelligence Committee—that the Moscow Embassy is hopelessly insecure.

He can still make a finding to permit the United States to move into a bugged embassy in Moscow and if he determines that Mount Alto is an excellent Soviet listening post, he can still permit the Soviets to move into Mount Alto.

Now I ask all Senators to consider that provision of the law—which is also in current law. The Congress must give the President the ability to be prudently responsible. Conditions may change—although in this matter it is hard to imagine how they would change that would make a bugged embassy or a new Soviet spy headquarters acceptable.

Perhaps some Americans who are swept up in the euphoria of Mr. Gorbachev's international propaganda campaign believe that assuring a secure Embassy in Moscow or limiting Soviet spying in this country might offend the Soviet President and his associates.

Decisions in the Senate—and throughout representative government—often involve hard choices. Mr. President, I ask Senators whether—in the short and the long run, the United States is better off holding its anger and doing nothing? I think not.

I think Senators will see the wisdom of the amendment to strike section 133 and return to current law.

The language in section 133, as reported, is practically as permeable as the walls and ceilings of the new Embassy compound in Moscow. It is maybe slightly better than another study, but it has the same result: America might be stuck with an unsafe, insecure embassy while Soviet moving vans are permitted to roll into Mount Alto.

Let's live in the real world. The Senate was right to approve the current law language in 1987, and the Senate must act again to make sure that an international security scandal is stopped.

Mr. President, for reasons that are not especially clear to this Senator, the State Department is prepared to move into the new Embassy site in Moscow in spite of the bugs that are crammed into every corner of the building.

An article in the New York Times of July 16, 1989, page 11, entitled, "Bush is Warned on Bugged Moscow Embassy" should be enough to make all Senators share my worry about the State Department's position.

The article refers to "unusually blunt language" in a report of the Senate Intelligence Committee to President Bush that "any decision against-tearing down the new American Embassy building in Moscow invites 'security disaster' for which President Bush would be responsible."

As all Senators know, S. 1160, the State Department authorization bill, contains language so vague and confused that it would make it very difficult for President Bush to continue in

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the tradition set by President Reagan, who ordered the Embassy building to be torn down.

It is for this reason that the best course of action is to return to current law, enacted in 1987 but suspended by the Appropriations Committee at the request of the State Department before it could come into effect.

Returning briefly to the Intelligence's Committee report, as cited in the New York Times, it is quoted as saying that to permit the United States to move into the new Embassy complex would "confirm signs that the executive branch is incapable of effective action in this field."

Not surprisingly, Mr. President, the Intelligence Committee report lashes out at the State Department for its failure to cooperate with the newly created Security Evaluation Organization to examine eavesdropping techniques and correct them. The Times article quotes an unnamed State Department official as saying they are not cooperating because it would cut into their turf.

In other words, Mr. President, the State Department is still playing games on diplomatic security questions—most especially regarding the Embassy complex in Moscow.

The Senate can choose one of two courses of action: Either we go along with the vague and contradictory language in S. 1160—which is described clearly and well in the Additional Views filed with this bill—or we return to current law enacted in 1987.

## WHAT CURRENT LAW PROVIDES

Section 151 of the State Department authorization bill, enacted 2 years ago, has eight findings which I think the Senate must consider today. Have conditions improved? Here are the findings, in a brief form, and I ask Senators to consider this question for themselves.

First, that the Soviet regime "has intentionally and substantially violated international agreements . . . concerning the establishment and operation of a new United States Embassy." Mr. President, that situation remains the same.

Second, Mr. President, "the Soviet Government's actions constitute a material violation of international law and a substantial default in performance under the contract for construction" for the new Embassy, and that the United States "is entitled to claim appropriate compensation." This is the same too.

Third, that because of Soviet actions, United States personnel "cannot pursue their official duties in confidence." And this is certainly the meaning of the Intelligence Committee's report to President Bush.

Fourth, that the Soviet regime has "taken steps to impair the full and proper use of the present United States Embassy in Moscow."

Fifth, that because of Soviet violations, "the United States is entitled to terminate, in whole or in part," the

United States-Soviet Embassy Agreement. I believe this is still the case.

Sixth, that termination of these agreements may affect "rights and privileges [regarding] . . . a new Soviet Embassy" in Washington.

Seventh, that the new Soviet Embassy complex on Mount Alto in Washington, DC, "creates serious concerns with respect to electronic surveillance and potential damage to the damage to the national security of the United States." Mr. President, I am sure that few Senators would deny this.

And lastly, the current law found that it was essential to protect vital national security interests by terminating "Embassy agreements in view of substantial and international Soviet breaches thereof, unless the threat to the national security posed by adherence to those agreements can be overcome."

Mr. President, let me put it clearly, the American people, based on its track record on this topic, cannot trust the State Department on this score—and that is the message of the Intelligence Committee report.

And so, Mr. President, current law directs the President to withdraw from the Soviet-American Embassy Agreement unless he can certify to the following conditions.

Once again, let me tick off the conditions that the President must certify in order to waive current law.

No. 1 is that the President must determine that "it is vital to the national security of the United States not to withdraw from the agreement."

Next, that "steps have been or will be taken that will ensure that the new chancery building . . . in Moscow can be safely and securely used . . ."

Finally, that steps "have been or will be taken to eliminate" within 2 years after enactment—in other words, now—"damage to the national security of the United States due to electronic surveillance from Soviet facilities on Mount Alto."

Mr. President, the issue could not be clearer. In the light of our experience regarding the Moscow Embassy question, and in light of the Intelligence Committee report, I ask all Senators to look carefully at section 133 of S. 1160, found on pages 31 and 32 of the legislation before us.

I would be tempted to say this wording is silly, except that the topic of the Moscow Embassy and Mount Alto is deadly serious.

As we did with current law, Mr. President, let us examine what S. 1160 would have us do unless it is stricken.

First, it says the Soviets cannot move into Mount Alto unless and until the President certifies to two things: That there is a safe and secure chancery in Moscow and that all feasible steps have been or will be taken to eliminate the damage to the national security of the United States due to spying from Mount Alto.

This is pretty neutral language, Mr. President, not nearly as tough as cur-

rent law. But then part (b) of section 133 adds that the President may permit the Soviets to use Mount Alto that, "Soviet use of the facility on Mount Alto does not pose a significantly greater threat to the national security of the United States than the actual or potential threat from Soviet use for espionage of existing Soviet facilities in Washington, DC."

I have tried and tried to figure out what this qualification means, Mr. President. For the life of me, it looks as if this provision of S. 1160 is saying that unless there is a huge difference in the spying the Soviets can conduct from Mount Alto, the President may permit them to move in.

How do you measure this capacity and how would the President determine this? It is confusing and vague—and current law is much more solid.

Then we get to the most bizarre provision of section 133, at the bottom of page 32, Mr. President.

It states, as this Senator reads it, that even if the President finds the Moscow Embassy complex is insecure and even if Mount Alto's spying is extremely dangerous, he can determine that it is in the "vital national security interests of the United States" to move in anyway, or to let the Soviets use Mount Alto.

Mr. President, there is no sensible alternative to current law. Section 133 of S. 1160 must be stricken from this legislation so that we can turn back to it. We may not be able to control what the Appropriations Committee wants to do on the Moscow Embassy question, but the Senate must be clear and firm—Moscow is not secure, Mount Alto is a threat and the time for action was 2 years ago, not now.

Think what benefits there would have been if current law had been carried out. But thanks to the State Department's evasion and a weak position by some members of the Appropriations Committee, there is no alternative.

Mr. President, I ask unanimous consent that the article from the New York Times of July 16, 1989, be printed in the RECORD.

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

(From The New York Times, July 16, 1989)

BUSH IS WARNED ON BUGGED MOSCOW EMBASSY

(By Stephen Engelberg)

WASHINGTON, July 15.—In unusually blunt language, the Senate Intelligence Committee has warned the Bush Administration that any decision against tearing down the new American Embassy building in Moscow invites a "security disaster" for which President Bush would be responsible.

President Reagan ordered the demolition of the building last year after concluding that American intelligence could not be certain of neutralizing the eavesdropping system implanted during its construction. Secretary of State James A. Baker Jr. has told Congress that the Bush Administration is reassessing the issue. State Department

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officials have said that options under study include rebuilding the top stories of the building or limiting the nearly completed structure to unclassified activities.

#### IMPACT ON BUSH DELIBERATIONS

The Intelligence Committee's views, in a report accompanying the 1990 intelligence budget authorization, add a significant element to the Administration's deliberations.

Under a law enacted last year, no money can be spent on Moscow embassy construction without permission from House and Senate appropriations committees. While the Senate intelligence panel is adamant that the building be torn down, Representative Neal Smith, the Iowa Democrat who is chairman of the House appropriations subcommittee, opposes demolition.

State Department officials said they could not comment on the report because they had not read it.

The committee's report said a reversal of President Reagan's decision would "confirm signs that the executive branch is incapable of effective action in this field.

"The President and the National Security Council, as well as the Secretary of State, would share responsibility."

On a separate issue, the committee's report includes legislation requiring that the Federal Bureau of Investigation handle espionage investigations involving American officials assigned to embassies abroad. The provision appears in part to be a reaction to the widely assailed inquiry by the Naval Investigative Service into espionage by Marine guards in Moscow.

#### CONCERN ON EMBASSY SECURITY

The committee's report is also sharply critical of the State Department's efforts to improve embassy security, disclosing that the department has failed to implement any of the measures proposed by the Reagan Administration in 1987.

A panel headed by former Defense Secretary James R. Schlesinger issued a report on the new Moscow embassy that said the listening devices could be combatted if the top floors were destroyed and a six-story annex was constructed at a cost of \$35 million.

The Senate Intelligence Committee's report says these reviews produced a consensus within the Reagan Administration in 1987 for reforms, none of which have yet been implemented.

The report was most critical of the State Department's response to the newly created Security Evaluation Organization, which reports directly to the Director of Central Intelligence on embassy matters.

The organization was to be a place where a select group of State Department officials with the highest security clearances would be given full access to American techniques for eavesdropping and other black arts.

The report says the State Department has refused to assign the necessary personnel to the office or to coordinate its own security work with it.

#### DISTRIBUTING THE BLAME

According to the report, the failure of the office to achieve its objectives can also be attributed to intelligence officials, who have refused to meet "legitimate State Department concerns on certain matters." A Government official said this included the State Department officials' refusal to undergo the C.I.A.'s polygraph, or lie detector, exam on so-called life style questions.

State Department officials have said they are not fully cooperating with the new office because they think it encroaches on the Secretary of State's authority to handle embassy security.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I wish to praise the distinguished ranking Republican on the committee, Senator HELMS, for this amendment, I concur with what he is trying to accomplish in the amendment.

I might just say to my colleagues that the Intelligence Committee, according to the New York Times on July 16, has urged that the bugged Embassy in Moscow not be occupied, and I do believe that all Senators here are aware of what the security risks at the Moscow Embassy are to this country.

It seems that the prudent careful course of action to take tonight would be to accept the amendment of the Senator from North Carolina and see where we are next year.

The articles refers to "unusually blunt language" in a report of the Senate intelligence Committee to President Bush that "any decision against tearing down the new American Embassy building in Moscow invites 'security disaster' for which President Bush would be responsible."

As all Senators know, S. 1160, the State Department authorization bill, contains language so vague and confused that it would make it very difficult for President Bush to continue in the tradition set by President Reagan, who ordered the embassy building to be torn down.

It is for this reason that the best course of action is to return to current law, enacted in 1987 but suspended by the Appropriations Committee at the request of the State Department before it could come into effect.

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In other words, Mr. President, the State Department is still playing games on diplomatic security questions—most especially regarding the Embassy complex in Moscow.

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Third, that because of Soviet actions, United States personnel "cannot pursue their official duties in confidence." And this is certainly the meaning of the Intelligence Committee's report to President Bush.

Fourth, that the Soviet regime has "taken steps to impair the full and proper use of the present United States Embassy in Moscow." This continues to be the case, so far as this Senator can determine.

Fifth, that because of Soviet violations, "the United States is entitled to terminate, in whole or in part," the United States-Soviet Embassy Agreement. I believe this is still the case.

Sixth, that termination of these agreements may affect "rights and privileges [regarding] . . . a new Soviet Embassy" in Washington.

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the Appropriations Committee wants to do on the Moscow Embassy question, but the Senate must be clear and firm—Moscow is not secure, Mount Alto is a threat and the time for action was 2 years ago, not now.

Think what benefits there would have been if current law had been carried out. But thanks to the State Department's evasion and a weak position by some members of the Appropriations Committee, there is no alternative.

Mr. President, the Senate must strike section 133.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. HELMS. Will the Senator yield a moment? There is a time limitation on this amendment. Would the Chair state it?

The PRESIDING OFFICER. Sixty minutes equally divided.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, bear in mind that this administration very strongly opposes the Helms amendment. I think the administration, while opposing the Helms amendment vigorously, considers the committee position too tough but preferable still to the Helms position.

The committee bill imposes tough conditions that must be met before the Soviets may use their facility on Mount Alto. First, the United States must have a secure chancery in Moscow. Second, the President must take all feasible steps to eliminate the Soviet espionage threat from Mount Alto. Third, the committee bill requires the President to remove the Soviets from Mount Alto unless the President certifies their presence does not pose a significantly greater espionage threat than that which exists from their current facilities.

The Helms amendment would repeal these tough conditions.

The Helms amendment would force the Soviets off Mount Alto. Because of the principles of reciprocity the United States would have to give up its new facility in Moscow. While our chancery is not usable, the new facility houses several hundred U.S. families.

Given the housing situation in Moscow, these diplomatic families would either be forced into substandard, KGB-accessible Soviet housing or, more likely, forced to come home. The result would be a major reduction in our ability to do business in Moscow.

With all that is going on in the Soviet Union, there is a desperate need for more, not fewer, American personnel. To cite one example, most Senators believe we should take advantage of loosened Soviet emigration requirements to facilitate the exit of Soviet

Jews, dissidents, and evangelical Christians.

Adoption of this amendment would make it impossible for the United States to process visas and thus bring the emigration to a halt just at the time we have succeeded in changing Soviet policy on emigration. It would be a grotesque tragedy for those who have suffered so much for the opportunity to move to a free country.

The administration shares those thoughts and strongly opposes this Helms amendment.

The Moscow Embassy mess was created by sloppily-crafted agreements by the Nixon administration and the lax attitude toward security by the State Department. President Bush is now working to resolve this mess. He deserves our support.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, if no other Senator wishes to speak I am willing to yield back the remainder of my time, if the distinguished chairman is willing to yield back his.

Mr. PELL. Looking around I am trying to see if there is anyone. The Senator from Indiana I would like to recognize.

Mr. LUGAR. Mr. President, how much time does the Senator from Rhode Island have?

The PRESIDING OFFICER. Twenty-seven minutes and sixteen seconds.

Mr. LUGAR. Will the Senator yield 10 minutes.

Mr. PELL. I am glad to yield 10 minutes to the Senator from Indiana and also 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, as Senators know, the problems with regard to our Embassy in Moscow and problems with the Soviet Embassy at Mount Alto present a huge number of difficulties for all of us. That point is very clear.

No one here would praise the way in which our Government went about the construction of the chancery building in Moscow. It was obviously bugged. That problem has been with us now for several years. The State Department and the administration tried to deal with it.

Let me just say as opposed to rehashing those mistakes, we really ought not to make another one and, in my judgment, the striking of section 133 of the act this year would be a very bad mistake.

The administration has been very clear on this point. The President of the United States, the Secretary of State, and the Under Secretary of State have all indicated that in the



The Senate tonight strikes section 133 and we go back to the existing law of 1987, that there will be no flexibility left to the administration with regard to this.

The House bill does not mention this subject. Therefore, it is not conferenceable and in the event that section 133 is struck, we are back to a certification that no President of the United States will find it easy to make, and in my judgment this President might find it impossible to make; namely, no building is of necessary vital security to the United States of America and no building can be secured with regard to bugging or interference completely with absolute assurance.

The President of the United States does not want to be in the position of having to make a statement which is either manifestly false or very likely to be interpreted that way.

But, Mr. President, if the President of the United States did not make such a dubious statement, it is very probable that the agreement with the Soviets would be abrogated, which means we would not be able to build our Embassy in Moscow, to be relegated to the ancient Embassy that we have with all of its faults and difficulties for Americans who have to serve in that situation. Other buildings that are now being utilized in Moscow by our people could no longer be utilized.

Mr. President, I have no doubt, and I think Senators make judgments for themselves, that our relationships with the Soviet Union would be rather severely damaged by this situation.

Senators may not realize the implications of the simple striking of section 133, but I hope my colleagues even at this late hour will understand the very grave problem of American foreign policy that is at stake at this point.

The President of the United States, the Secretary of State, and others are not ambiguous about the fact that they need latitude to deal with this problem. The current bill that came out of the Foreign Relations Committee gives that kind of latitude. It is a very tough section in my judgment.

The Senator from North Carolina has sought to strike that, to move to what I believe is inflexible language that the President really cannot deal with satisfactorily.

So, Mr. President, I am hopeful this amendment will not be adopted. It is a serious item. There is really no more that can be said, it seems to me, that will lead to any other conclusion than that the adoption of this amendment will be a very severe setback for the foreign policy of our country.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island is recognized.

Mr. PELL. I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois, Mr. SIMON, is recognized.

Mr. SIMON. Mr. President, I say to my colleagues here in the Senate, back when I was in the State legislature in Illinois I observed the closer we got to midnight, the more foolish we became in what passed that legislative body, and what was true of the State legislature in Illinois, I have observed is also too frequently true in the United States Senate.

Here we are talking about something that could have all kinds of consequences, and I do not know that we are ready to move in this direction.

I would simply underscore what Senator PELL and Senator LUGAR have said. The administration strongly opposes this amendment.

In all of human history there are only two nations who have the ability to destroy the world, and that is the Soviet Union and the United States.

When we deal with relations between these two countries, let us deal with a scalpel, not with a meat ax. With all due respect to my friend from North Carolina, this is a meat ax approach. This is not wise.

Now, if you take a look at the bill itself, and it is on page 31, you will see that the Foreign Relations Committee came out with a bill that really is tough.

The Soviets are doing things that we applaud, having elections, though they are not like ours, but they are having elections, people are getting up in their Congress and denouncing the KGB. They are printing things in the Soviet Union that we used to have to sneak in. They are permitting more emigration of Jews, of Germans, Pentecostals. They are doing the things that we have said you ought to do.

For us now to pass this kind of an amendment, I say to my friends, just does not make sense.

Let us not do something imprudently at 11:50 at night here on the floor that can cause major problems for this administration, major problems between our two countries.

I hope we will use common sense and not hold our finger to the wind and say what might be most popular back home immediately. Let us reject this amendment. Let us support the President of the United States in this particular amendment and defeat the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Let me tell you, Mr. President, what is really at stake here. The Soviet Embassy is still bugged. Everybody agrees that nothing has improved and only this pending amendment can protect the national security of the United States.

The Senate has spoken time and time again on this issue. It has approved an amendment even tougher than current law by an overwhelming vote of 71 to 26. That was in July of 1987, a couple years ago.

The committee language which I propose to strike does nothing to solve the problem because it may force the United States to occupy an unsafe, insecure Embassy in the Soviet Union.

If that is playing to the folks back home, so be it.

I do not mind disagreement when you start talking about stupidity and cynicism at some time.

Mr. SIMON. Mr. President, can we have order?

The PRESIDING OFFICER. The Senate will come to order.

The Senator may proceed.

Mr. HELMS. Let us be sure we know what the facts are. This Senate has passed judgment several times on this. The Foreign Relations Committee was wrong in its provision and it ought to be struck, and that is what the amendment does.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, will the Senator yield me 1 minute?

Mr. HELMS. Any time the Senator wants.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 1 minute.

Mr. SYMMS. Mr. President, I appreciate the Senator yielding. I would like to just share with my colleagues an article and then I will ask unanimous consent that it be printed in the RECORD.

The article was published by one of our distinguished colleagues who carries the rank of Ambassador. He was Ambassador to the United Nations and Ambassador to India. He has worked in several administrations. He is the distinguished senior Senator from New York.

The article was about how the Soviets are bugging America, and I just give you the punchline of what our distinguished colleague said. He said:

My solution: Throw the bastards out if they are listening to our microwave signals. Nothing technical about it. On three occasions I have introduced legislation requiring the President to do just that, unless in doing so, he might compromise an intelligence source.

Nothing has changed, as the Senator has said.

I ask unanimous consent that the article printed in the April 1987 Popular Mechanics, by Senator DANIEL PATRICK MOYNIHAN which I just quoted from be printed in the RECORD.

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

HOW THE SOVIETS ARE BUGGING AMERICA

(By Senator Daniel Patrick Moynihan)

Soviet agents may be listening to your personal telephone conversations. If you're involved in the government, in the defense industry or in sensitive scientific activity, there is a good chance they are.

In fact, a recent unclassified Senate Intelligence Committee report on counterintelligence indicates more than half of all telephone calls in the United States made over

distance are vulnerable to interception. Every American has a right to know this. You should also know that the Reagan administration has recognized this threat for a long time now, but so far, the bureaucratic response has been piecemeal, and at times reluctant.

Consider this as background: In 1975, when I was named permanent U.S. representative to the United Nations, Vice President Nelson Rockefeller summoned me to his office in the Old Executive Office Building. There was something urgent he had to tell me. The first thing I must know about the United Nations, he said, is that the Soviets would be listening to every telephone call I made from our mission and from the ambassador's suite in the Waldorf Towers. I thought this a very deep secret, and treated it as such. Only later did I learn that Rockefeller had publicly reported this intelligence breach to the president in June 1975. The Rockefeller "Report to the President on CIA Activities Within the United States" notes:

We believe these countries (communist bloc) can monitor and record thousands of private telephone conversations. Americans have a right to be uneasy if not seriously disturbed at the real possibility that their personal and business activities, which they discuss freely over the telephone, could be recorded and analyzed by agents of foreign powers.

The Soviets conduct this eavesdropping from their "diplomatic" facilities in New York City; Glen Cove, Long Island; San Francisco; and Washington. By some estimates, they have been doing so since 1958. President Reagan knows this well. He sat on the Rockefeller Commission and signed its final report concluding that such covert activities existed.

If we had any doubts about this eavesdropping effort, Arkady Schevchenko dispelled them when he came over in 1975 and subsequently defected in 1978. As you will recall, Schevchenko was, at the time, the second-ranking Soviet at the United Nations and an up-and-comer in the Soviet hierarchy. He describes the listening operation in New York City in his book "Breaking With Moscow": "The rooftops at Glen Cove, the apartment building in Riverdale, and the Mission all bristled with antennas for listening to American conversations."

But we have to worry about more than just parabolic dish antennas tucked behind the curtains in the Soviet "apartment" building in Riverdale, New York.

There are also those Russian trawlers that travel up and down our coast. They are fishing, but fishing for what? Communications. And now the Soviets have taken their eavesdropping a step further and have built two new classes of AGI, or Auxiliary Gathering Intelligence vessels. From the hull up, these new vessels are floating antennas, I suppose.

Most dangerous of all, perhaps, is the Soviet listening complex in Lourdes, Cuba, just outside Havana. This facility is the largest such Soviet listening facility outside its national territory. According to the president, it "has grown by more than 60 percent in size and capability during the past decade."

Lourdes allows instant communication with Moscow, and is manned by 2100 Soviet technicians, 2100!

By comparison, our Department of State numbers some 4400 Foreign Service Officers—total.

Again, to cite the recent Senate Intelligence Committee report: "The massive Soviet surveillance efforts from Cuba and elsewhere demonstrate . . . that the Soviet intelligence payoff from interception of unsecured communications is immense." Intel-

ligence specialists are not prone to exaggeration, they do not last long that way. You can be assured that "massive" and "immense" are not subtle words as used in this context.

There are, however, two things you should know.

First, our most secret government messages are now protected from interception or are scrambled, and all classified message and data communications are secure. In addition, protected communications zones are being established in Washington, San Francisco and New York by rerouting most government circuits and by encrypting microwave links which continue to be vulnerable to intercept. But there are still communications links which carry unclassified, but sensitive, information that we need to protect.

Second, it is a truism in the intelligence field that while bits of information may be unclassified, in aggregate they can present a classified whole. The Senate Intelligence Committee informs us, "Due to inherent human weakness, government and contractor officials, at all levels, inevitably fail to follow strict security rules. . . . Security briefings and penalties were simply not adequate to prevent discussion of classified information on open lines." If the Soviets can piece it together, you must assume that they will, given the resources they invest toward this effort.

But the intelligence community needs no reminder that we are up against a determined and crafty opponent. In 1983, for example, a delegation of Soviet scientists were invited to tour a Grumman plant on Long Island. No cameras. No notes. All secure, right? Wrong. The delegation had attached adhesive tape to the soles of their shoes to gather metal fragments from the plant floor for further study at home. The Soviets are pretty good at metallurgy—probably the best in the world—and we don't need to help them any further.

But concern is not always translated into budgetary action, at least not in the realm of communications security. Let us take a look at the technical problem confronting us.

As you know, there are two basic ways voice can be transmitted over telephone media: digital and analog. Analog refers to voice waves which are modulated (amplified) up to a very high frequency (HF). That is, they are increased in speed from hundreds of cycles per second to thousands of cycles per second. This facilitates their passage over distance.

Nevertheless, because analog radio waves diminish rapidly over distance; it's necessary to periodically amplify, or boost, the signal either at a microwave relay tower repeater or satellite transponder. (Actually, the signals are diminished in frequency to voice quality and then brought back up to high frequency.)

Digital transmissions are voice or data vibration signals which are converted into a series of on-and-off pulses, zeros and ones, as in a computer. Like analog telephone calls, digital calls go through a process of modulation and demodulation.

For the purposes of this discussion, we need only remember two things about analog and digital telephony.

First, analog telephony is fast being replaced by digital telephony because it better translates computer language. But, more importantly, after a high initial overhaul cost, it's possible to send thousands of digital calls (bundles) over a single conduit. Therefore, as we expand our digital capacity, we must ensure that both our analog and digital communications are protected from Soviet eavesdropping.

Second, sending bundles over a single conduit is the base block at which we introduce the encryption I am talking about.

When you place a long-distance telephone call from point A to point B, there are three communications paths, or circuits, over which your call might travel: microwave, satellite or cable.

Cable is the most secure. However, it is the least practical and economical method for bulk transmission over long distances. As a result, 90 percent of our long-distance telephone traffic is sent by microwave or satellite, and that which is in the air can be readily intercepted.

As your signal travels along the cable from your home to the local switching station and then on to a long-haul switching station, it is combined (stacked and bundled might better describe the process) with as many as 1200 other signals trying to get to the same region of the country.

This system of stacking and bundling signals is called multiplexing and it's how the telecommunications industry gets around the problem of 7 million New Yorkers all trying to call their senator at the same time on the same copper wire or radio frequency.

If you use a common carrier, that is, if you have not rented a dedicated channel from a telecommunications company, a computer at the long-haul switching station will select the first available route to establish a circuit over which your call signals may travel.

Therefore, calls that the caller believes to be on less vulnerable circuits may be automatically switched to more vulnerable ones. All this takes place in 1 to 3 seconds.

So let's follow your call as it goes by either microwave or satellite.

If your call goes via microwave, it will be relayed across the country as a radio wave in about 25-mile intervals from tower to tower (watch for the towers the next time you drive on an interstate route) until it eventually reaches a distant switching station where it is unlinked from the other signals, passed over cable to your friend's telephone, and converted back into voice.

The problem with this system: Along these microwave paths there is what we call "spill." This measures about 12.5 meters in width and the full 25 miles between towers. This is where the microwave signal is most at risk. Using a well-aimed parabolic dish antenna (located, let's say, on the top of Mount Alto, one of the highest hills in the District of Columbia, and site of the new Soviet embassy) you can intercept this signal and pull it in. And that is just what the Soviets are doing.

My solution: Throw the bastards out if they are listening to our microwave signals. Nothing technical about it. On three occasions I have introduced legislation requiring the president to do just that, unless in doing so, he might compromise an intelligence source. On June 7, 1985, this measure was adopted by the Senate as Title VII to the Foreign Relations Authorization Bill, but it was dropped in conference with the House of Representatives at the urging of the administration.

Nevertheless, I think the administration accepted the simple logic behind the proposal when at the end of October, 55 Soviet diplomats were ordered to leave the country, including *The New York Times* tells us, "operatives for intercepting communications." Now, let's not let the Soviets just replace one agent with another.

The process is much the same for a satellite telephone call. Today, approximately eight telecommunications carriers offer satellite service using something like 25 satellites. Let's suppose your signal has traveled

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to a long-haul switching station and all microwave paths are filled. The carrier's computer searches for an alternative path to send the signal and picks out a satellite connection. At the ground station, your call is sent by a transponder up to a satellite and then down again to a distant ground station.

Using an array of satellite dishes at Lourdes, the Soviets can seize these signals from the sky just as a backyard satellite dish can pull in television (and telephone) signals. High-speed computers then sort through the calls and identify topics and numbers of particular interest. And if the information provided is real time intelligence, the Soviets have the ability to transmit it instantaneously to Moscow. And yes, the Soviets have the range at Lourdes to grasp our satellite transmissions as they travel from New York to Los Angeles or Washington to Omaha.

Here, too, there is a solution: Develop and procure cryptographic hardware for use at the common-carrier long-haul switching stations. This hardware will encrypt the multiplexed telephonic signals (that is, approximately 1200 calls at a time) before they are transmitted as radio waves from ground station to ground station, a technique analogous to the cable networks scrambling their signals. This can be done for under \$1 billion. If we start by encrypting just those unclassified signals we categorize as sensitive, those having greatest impact on the national defense or foreign relations of the U.S. government, it would cost us about half as much. It would cost us so much more not to do so.

Communications security has no constituency. There is no tangible product and the public can never really be sure that we have done anything. But National Security Decision Directive 145 says it is a national policy and national responsibility to offer assistance to the private sector in protecting communications. It's time to make communications security (ComSec is the lingo) a true national security priority supported with resources as well as rhetoric. This was certainly the conclusion of the comprehensive Intelligence Committee report.

I agree, and have suggested a way to get on with it. If someone has a better idea—if you have another idea—I would be happy to know it. The important thing is that we stop this massive leak of sensitive information and protect your privacy.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I would like to yield as much time as the distinguished Senator from Oklahoma [Mr. BOREN] may desire. Mr. BOREN, as all Senators know, is chairman of the Senate Intelligence Subcommittee.

Mr. BOREN. Mr. President, I thank the Senator from North Carolina for yielding to me. I am in support of the amendment of the Senator from North Carolina, as I understand it, because I think that the language adopted by the Foreign Relations Committee would allow Presidential certification which would make it possible for the Soviets to occupy the Mount Alto site prior to us having a satisfactory conclusion of a new site or a new location, new facilities provided for us in Moscow.

We all know this is a matter that has been thoroughly gone into by many Members of the Senate, certainly by the members of the Intelligence

Committee, that the site that we now have, the Moscow Embassy facility, the new facility which has been built, creates a grave security risk. The Intelligence Committee has publicly stated that we should never occupy that facility.

For us to allow the possibility of the Soviets to occupying the Mount Alto site prior to a satisfactory conclusion or decision about a new site for us in Moscow would, in my opinion, be a grave security risk for the United States.

I will not go into all the details, but let me say administrations of both parties over the last 20 or 30 years bear joint responsibility for a series of serious mistakes that have been made which allowed the Soviets to, in essence, build, under their own terms, facilities here in which they inspected everything as small as a grain of sand which was brought on location here when they constructed the Mount Alto site, while, at the same time, we foolishly allowed them to bring large prefabricated sections of the building for us in Moscow on to location, constructed where we had no opportunity to observe what kind of construction techniques or let me say what kind of eavesdropping techniques would have been applied during the time that the Embassy was being constructed.

So I think it would be wrong for us to open the door to the possibility, as this language would do, that would allow the President to certify that he was now satisfied with the Moscow Embassy location, without a decision for a new location and a new facility there and which would allow them, the Soviets, the advantage of moving into the Mount Alto site. I simply do not think we should open the door to the possibility and I am afraid that the language that is now in the committee bill would open the door to that possibility.

Mr. SIMON. Will my colleague yield?

Mr. BOREN. I am happy to yield.

Mr. SIMON. Let me just say I have great respect for my colleague from Oklahoma who is doing a superb job as the chairman of the Intelligence Committee. But the language in the bill right now says: "The Soviet Union shall not be permitted to occupy the new chancery building on Mount Alto in Washington, District of Columbia, unless and until the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that, No. 1"—and I will just go over the first step here—"that there is completed a new chancery building for use by the United States Embassy in Moscow which can be safely and securely used for its intended purpose."

I think that does precisely what the Senator from Oklahoma wants.

Mr. BOREN. Well, I would answer my good friend, I understand how he is interpreting that. I am simply fear-

ful—and I do not aim this comment at this President as an individual. There have been those who avoided a decision about tearing down the current facility in Moscow, which I clearly believe should be torn down. We must start all over again to try to come up with some kind of plan to say that that facility could somehow be made secure.

I am fearful this language would open the door to a President in the future to say that he is now satisfied that we could occupy that facility, which we have built there under less than rigorous conditions as far as protecting our own security, and then allow the Soviets the right to go ahead and move into Mount Alto.

Mr. SIMON. If my colleague will yield again, the language in the bill is that "there is completed a new chancery building," not the present one.

I think the bill itself is very, very clear. I think it does what the Senator from Oklahoma intends without causing harm to the ability of the President of the United States to do what he should do for our country.

Mr. BOREN. I think, unfortunately, Presidents have avoided a decision on this matter, Presidents of both parties, because they have not wanted to admit the serious security mistakes that have been made by their administrations. I am simply fearful that they would decide to add a few stories on to the existing building and attempt to seal it off and say it could be made secure when many of us are convinced it could not be made secure and declare that sufficiently a new chancery building that would allow the Soviets to move into Mount Alto.

I think I understand what the Senator is saying. If I felt the language had the import of saying exactly what he is interpreting it to mean, I would not be alarmed. Perhaps we are being alarmed at a possibility that would never arise. I find it difficult to believe that this President would ever make such a certification, but I do not think we ought to open the door to that possibility.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I yield the Senator from Massachusetts 5 minutes.

Mr. HELMS. Mr. President, how much time remains?

The PRESIDING OFFICER. The time for Senator HELMS is 21 minutes and 31 seconds and for Senator PELL, 19 minutes and 16 seconds.

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I am struck by the inconsistency of the position of the distinguished Senator from Oklahoma who this afternoon attached an amendment to this bill, along with Senator DANFORTH, in which he criticized the micromanagement of the Foreign Relations Committee and indeed the Senate in its efforts to dictate to a President what he



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ought to and ought not to do with respect to foreign policy. In fact, he spoke eloquently about the need for the Senate to step back from that micromanagement, requiring that the Senate Committee on Foreign Relations, upon consultation with the Secretary of State on the appropriate relationship between the legislative and executive branches with respect to foreign policy.

Now, here is a situation where the President of the United States and the Secretary of State have clearly said that, in the interest of this new relationship with the Soviet Union, they feel this would be adverse to the foreign policy of our country.

What is more, the administration does not like the language of the Foreign Relations Committee. They think it is too tough, but they find it far preferable to the disruption which will occur as a consequence of the language which the Senator from North Carolina is proposing.

There is nothing discretionary in the language that the Foreign Relations Committee has inserted here. The distinguished chairman of the Intelligence Committee is wrong on the facts with respect to what the President can and cannot do.

The Soviet Union cannot, cannot, be permitted to occupy the new chancery building unless the President has certified to the Speaker and the chairman of the Committee on Foreign Relations of the Senate that there is completed, that is, finished and available to move into, a new chancery building in Moscow which can safely and securely be used for its intended purpose. In other words, a condition precedent to their proceeding to the Mount Alto position is the completion of a new chancery. And there is no waiver as to that, Mr. President, none whatsoever.

In addition, all feasible steps have to be taken to eliminate damage to the United States national security due to electronic surveillance facilities on Mount Alto.

If that does not require the Soviet Union to adhere to a tough standard and give the President the ability to make the determination which he is entrusted with, I really do not know what does. There is no discretion there. There is no waiver. There is no ability to vary.

And the chairman of the Intelligence Committee has adequate capacity and he has often spoken of his faith in the President to be able to make these kinds of determinations.

So I would suggest that at this late hour a Senate that has more often than not supported the President of the United States on those requests, ought to do so once again.

Mr. BOREN. Will the Senator yield?

Mr. KERRY. The Senator will gladly yield.

Mr. BOREN. Is my colleague aware of the fact that the amendment of the Senator from North Carolina does not

add any language, it does not place any restrictive language in the bill? It is striking language adopted by the Committee on Foreign Relations?

Mr. KERRY. I am aware of that, but what it does is have the effect thereby to take us back to the old section 151.

Mr. BOREN. Which has been adopted by the Senate. Is my colleague further aware that in spite of the fact that the Senate has over and over again expressed itself about Mount Alto and the demolition of the existing embassy, that the State Department which has been delaying a decision on this matter for years under both administrations, is once again delaying a decision about what to do?

Mr. KERRY. The Senator is well aware of the problem and in fact I have voted along with both Senators, I believe, to voice our concern about what has happened in Mount Alto. This is not the issue here.

The question is: Does what the Foreign Relations Committee put in the legislation, and does the President's desire and the Secretary of State's desire to have that language in their interests in the carrying out of our foreign policy, supersede whatever impact the changes that the Senator from North Carolina seeks?

That is really the decision we have to make. Is the Senate of the United States, in the interests that we have expressed with respect to security, adequately protected by the language of the Foreign Relations Committee? And I would respectfully suggest that the President having found yes, the Secretary of State having found yes, and I think the Foreign Relations Committee in its judgment having found yes, that there is no compelling showing as to why we should vary from that.

The final comment I would make is that, No. 1, the Secretary of State and the President find that if we revert to the original language of section 515, that will impose constraints on their ability to further the relationship with the Soviet Union at this point in time; No. 2, it will require dislocation of families that are currently housed in the facilities in Moscow; and, No. 3, it will greatly interrupt the processing of visas and of the normal course of business where they have already lost personnel.

I think we ought to lead the President on this as the distinguished chairman so eloquently suggested we ought to do this afternoon by amending this legislation.

THE PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, we are going to shut this off in just a minute if Senators are willing.

Let me say that DAVE BOREN, in my judgment, knows more about the Moscow Embassy than, I think, probably any other Senator; certainly more than I do. I thank him for his comment.

Of course, he cannot tell us on this floor tonight all he knows because it is classified. But I think Senators in their heart of hearts know exactly what is going on. I thank the Senator again for his comments and contribution, and I yield 1 minute to the Senator from Wyoming.

THE PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. I thank the Senator from North Carolina and thank the Senator from Oklahoma, and I will not belabor this issue much farther except to say that from the very beginning, State Departments and Presidents have opposed the responsibility that this body has undertaken to bring them to. Were it not for the actions of previous Senates, we would not have ever found the nature of the security risks that exist in the building that has been constructed in Moscow today.

I would respectfully say to those who think that the language on pages 31 and 32 is complete, that it rests only on the opinion that can be stated, that it can be safely and securely used for its intended purpose; they would have certified that a long time ago. And, in fact did, and tried, continually, to make us yield to that proposition.

Second, I suggest to my colleagues that the end of it contains a waiver proposition that, were it to be factual that this was binding upon the President of the United States, he could still waive it. And would. Because the State Department views it as our responsibility to buy Soviet elections with the lack of our security.

I do not think that is a wise position for the Senate of the United States to take, and I compliment the Senator from North Carolina on his amendment which returns us to current law, which this Senate has voted for in the past with real good reason.

Mr. HELMS. I thank the Senator. I am perfectly willing to yield back the remainder of my time if the chairman will yield his.

THE PRESIDING OFFICER. The offer has been tendered by the Senator from North Carolina to yield his time back if the Senator will.

Senator PELL.

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. HELMS. I yield the remainder of my time.

THE PRESIDING OFFICER. The majority leader is recognized.

## ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request regarding the disposition of Senator SPECTER's death penalty amendment.

After I complete the reading of the request, and before I present it to the Chair, I am going to ask Senator BIDEN to address the Senate and specifically Senator THURMOND on the subject of Senator THURMOND's death penalty legislation.