

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994 (House of Representatives -
September 28, 1993)**

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The SPEAKER pro tempore. Pursuant to House Resolution 254 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2401.

[TIME: 1311]

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2401) to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1994, and for other purposes, with Mr. Durbin (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Monday, September 13, 1993, amendment No. 6 printed in House Report 103-236 had been disposed of.

Pursuant to House Resolution 254, no further amendment to the committee amendment in the nature of a substitute is in order except the amendments printed in House Report 103-252 and amendments en bloc described in section 3 of House Resolution 254. Pro forma amendments for purpose of debate may be offered only by the chairman or ranking minority member of the Committee on Armed Services.

Except as specified in sections 2 through 4 of House Resolution 254, each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment except as specified in House Report 103-252 and shall not be subject to a demand for a division of the question.

It shall be in order at any time to consider the amendments printed in part 1 of House Report 102-252 in the order printed. Such consideration shall begin with an additional period of general debate, which shall be confined to section 575 of the committee amendment in the nature of a substitute and the amendments printed in part 1 of House Report 103-252.

Debate time shall not exceed 1 hour, equally divided and controlled among the chairman and ranking minority member of the Committee on Armed Services and the gentleman from Missouri [Mr. Skelton].

If more than one of the amendments printed in part 1 of House Report 103-252 is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House.

It shall be in order at any time for the chairman of the Committee on Armed Services, or his designee, to offer amendments en bloc consisting of amendments printed in House Reports 252 or 236 or germane modifications thereof. Amendments en bloc shall be considered as read, except that the modifications shall be reported.

Amendments en bloc shall be debatable for 290 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, shall not be subject to amendment and shall not be subject to a demand for a division of the question.

For the purpose of inclusion in amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken.

The original proponent of an amendment included in amendments en bloc may insert a statement in the Congressional Record immediately before disposition of the amendments en bloc.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by House Resolution 254.

The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

The Chairman of the Committee of the Whole may recognize for the consideration of an amendment printed in the report out of the order printed, but not sooner than 1 hour after the chairman of the Committee on Armed Services announces from the floor a request to that effect.

The Chair will announce the number of the amendment made in order by the rule and the name of its sponsor in order to give notice to the Committee of the Whole as to the order of Recognition.

Pursuant to House Resolution 254, it is now in order to debate the subject matter of section 575.

The gentleman from California [Mr. Dellums] will be recognized for 20 minutes, the gentleman from South Carolina [Mr. Spence] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. Skelton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Dellums].

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Mr. DELLUMS. Mr. Chairman, I would like to indicate that it is my intention to yield myself 4 minutes and then to yield the balance of my time to the gentleman from Massachusetts [Mr. Meehan] in order that he may control that time. The gentleman from Massachusetts is the author of an important amendment in the context of this discussion.

The CHAIRMAN pro tempore. Without objection, the gentleman from Massachusetts will control the remainder of the time of the gentleman from California.

There was no objection.

Mr. DELLUMS. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, we arrive at this debate today on the status of gay men and lesbians in the military services after much discussion and controversy. While the rule governing today's debate presents a narrow range of choices, I want to reiterate my unequivocal belief that we should permanently and completely lift any restrictions to military service based on sexual orientation. Specifically, I believe we should allow gay men and lesbians to serve in the military--as they have for decades--and to allow them to do so honestly and openly, the only position truly consistent with the military's excellent code of honor.

Mr. Chairman, I believe it is possible to undertake such a commitment to equality and human dignity, while at the same time protecting legitimate privacy interests of our uniformed personnel, and while preserving good order and discipline within the ranks.

While the military cannot be asked to lead the way in every effort to improve our society, it has made significant contributions to such efforts in the past: Including efforts to integrate our society, to provide expanded opportunities to persons with disabilities, and to provide new employment vistas for women. It seems to me that the military could also aid in our society's effort to end the violence and bigotry against gay men and lesbians.

Everyone acknowledges that gay men and lesbians serve in the military, some with the knowledge of their peers, many with great distinction. This does not in my humble opinion, destroy unit cohesion. Time permitting, I would like to explode that cruel myth. Examples from other nations show that it would not do so if we were to embrace this policy.

I wish we were addressing, Mr. Chairman, this fundamental issue today. I offered an amendment in committee that would have lifted the ban; it is what I believe we should do and should do now. I was prepared to seek a rule allowing me to offer such an amendment again today. However, leaders of organizations keenly interested in this issue have chosen, for reasons of their own, to make today's fight one that focuses on whether the Congress should codify its views or leave it to the President to act in this matter. I defer to their judgment.

Mr. Chairman, because today we face only the choices before us on the floor, I rise to urge my colleagues to accept the Meehan proposal. By not codifying our actions today, we would allow the President the flexibility to work with the Joint Chiefs and the service leadership over the coming months and years to find a more comprehensive and equitable solution to expand opportunities for all.

In conclusion, Mr. Chairman, let me reiterate my view that we should choose the goal that will best move toward achieving equal opportunity for all our citizens. All my experiences--as a marine, as a psychiatric social worker, and as a Member of this august body for nearly 3 years, and a Member of its Committee on Armed Services--lead me to believe that we could do so, and do so successfully. Therefore, I urge my colleagues to support the Meehan proposal.

Mr. SPENCE. Mr. Chairman, I yield myself such time as I may consume.

(Mr. SPENCE asked and was given permission to revise and extend his remarks.)

[TIME: 1320]

Mr. SPENCE. Mr. Chairman, today we will consider three amendments related to the issue of service by homosexuals in the military: One offered by Mr. Meehan, one offered by Mr. Hunter, and one offered by Mr. Skelton.

I support the Hunter and Skelton amendments and strongly oppose the Meehan amendment.

I oppose Mr. Meehan's amendment which would strike the existing bipartisan committee language, in turn guaranteeing that Congress will revisit this highly disruptive, controversial issue year after year after year.

Mr. Chairman, H.R. 2401 codifies a policy regarding homosexuals in the military which protects and preserves military readiness. I strongly support that policy for many reasons, but principally because it reflects:

The overwhelming judgment of the professional military from the ranks of the most junior enlisted personnel up through general officers;

The weight of evidence gathered by the Armed Services Committee after aggressively analyzing and debating, in an open and comprehensive manner, the wide range of views expressed by all concerned with this issue;

American public opinion, and certainly the views of the vast majority of my constituents;

A proper exercise of Congress exclusive constitutional authority to prescribe policies regulating the Armed Forces, and

My own personal, moral and religious beliefs that the homosexual lifestyle is unnatural and immoral, as well as being illegal in some States, and should not be legitimized by a cloak of acceptability in our society.

In other forums I have already addressed the moral issues that this issue has forced my colleagues and me to confront. So, I will not elaborate today. Let me just say, however, that any advocacy of a broader societal acceptance of the homosexual lifestyle is contrary to my fundamental beliefs. A lifetime of experience has only reinforced my position on this issue. Nothing in all the testimony that I have heard in the past year has convinced me that my moral values need to be changed.

However, the evidence that was presented to both the full committee and Mr. Skelton's subcommittee did convince me that:

The ban on homosexuals serving in the military is not a question of civil rights, equal rights, or gay rights. The courts have consistently upheld the military's right to discriminate based on the unique nature of what the military is and what the military does.

Homosexuality is incompatible with military service. Lifting the ban would have a negative impact on readiness, discipline, and morale.

Despite the testimony of homosexuals who had served in the military that they wanted nothing more than to serve with honor, political activism to promote the gay agenda subsequent to lifting the ban promised

to turn the military into a legal, social and cultural battleground for years to come unless Congress acted to legally protect the military by codifying a policy governing homosexual service.

Today, Mr. Meehan and his supporters will present a number of arguments against codifying the Clinton-endorsed Nunn compromise. Many supporters of the Meehan amendment will argue that we ought not to interfere with the executive branch's discretion in this matter. As you evaluate such arguments, consider that:

It was the President's own response to the political activism of the homosexual community that helped to precipitate this highly contentious and disruptive debate that occupied too much time already this last 8 months.

Just prior to marking up this bill, the committee held several days of hearings on the policy proposed by the President and the Secretary of Defense and found it deficient in several key areas. Consistent with the Senate language, H.R. 2401 simply corrects those deficiencies.

As indicated in the President's own August 4 statement of administration policy, the President supports H.R. 2401 as reported by the Committee on Armed Services because and I quote, 'the bill would support many of the administration's key defense programs, including the administration's policy regarding homosexuals in the military.' And I repeat, in the words of our President 'including the administration's policy regarding homosexuals in the military.'

Finally, I need not remind my colleagues that under article 1, section 8 of the Constitution, only Congress has the mandate to regulate the personnel of the Armed Forces.

For these reasons, I urge you to protect military readiness and vote `no' on the Meehan amendment.

Mr. Chairman, I reserve the balance of my time.

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Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, regarding the issue of homosexuals in the military, I stand shoulder to shoulder with the men and women who serve in our Armed Forces. I stand with General Powell and the other Joint Chiefs of Staff. I stand with the senior noncommissioned officers from each of the services. Each has said that the Nunn/Skelton language can work! Each strongly endorsed what we have done in this bill. If my colleagues care about the people in the military, they will support the Skelton amendment which is the Nunn/Skelton language.

I rise today to say clearly that enough is enough. The issue of homosexuals in the military has been far too divisive, has consumed far too much of the Nation's energy, and has robbed this body of far too much of our legislative agenda. We must put this issue behind us, we must do so immediately. It is my hope that we will do so today.

I am happy to announce that a solution to the problem is available. There is a provision in the bill that codifies a workable policy, and my amendment codifies a workable policy, but does so in a manner that protects the combat capability of the Armed Forces.

Mr. Chairman, it is supported by the President, the Secretary of Defense, and General Powell and the other Joint Chiefs of Staff. Perhaps most importantly, the language in this provision is identical to that adopted by the Committee on Armed Services of the other body by a vote of 17 to 5 with all the committee Republicans voting to adopt. Your vote to turn back amendments to the language that currently resides in the bill will keep it identical to the language in the other body and will put the issue to rest in conference; it will not be a conference item. Rather, it will be a law that the Attorney General, the General Counsel of the Department of Defense, and a panel of constitutional lawyers agree can withstand the challenges in the courts. In short, it is a solution that will stand the test of time. A solution that cannot be altered without coming to the elected representatives of the American people, to us, Members of Congress of the United States.

What does this provision do in the Skelton amendment?

The provision would set out the fundamental difference between military and civilian life and makes clear the importance of preserving high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability. It does this with 15 congressional findings that reflect the results of our hearings here in the Armed Services Committee as well as in the other body.

The provision would require the Department of Defense to issue regulations within 90 days which direct separation if the member has:

Engaged in, attempted to engage in, or solicited another to engage in a homosexual act.

States that he or she is a homosexual or bisexual, or words to that effect.

Married or attempted to marry a person known to be of the same biological sex.

The provision would require the Secretary of Defense to establish enlistment and appointment policies that are consistent with the policy and to conduct briefings upon entry, and periodically thereafter upon reenlistment, that address sexual conduct of members of the Armed Forces, to include the policies prescribed in especially in this bill.

The provision would include the sense of Congress that the Secretary of Defense should reinstate the procedure for asking applicants for enlistment and candidates for appointment about their sexual orientation, if at some time in the future the Secretary of Defense considers it necessary.

[TIME: 1330]

Mr. Chairman, based on the testimony of the Secretary of Defense, the Joint Chiefs, the General Counsel of the Department of Defense, and the services senior enlisted members during recent hearings before the Subcommittee on Military Forces and Personnel, which I chair, I am convinced that the heart of the pre-January 1993 policy has been preserved in the Nunn/Skelton language. The result is a policy that will change very little of the day-to-day life of service members. It is clear to me that the bottom line remains the same as it always has been, homosexuals will be separated if they demonstrate conduct that is disruptive to morale and unit cohesion. The language in the bill would place that `heart' of the policy permanently in the law.

As I have stated before, I have long been committed to codifying the solution to the debate.

By codifying, we mean putting it into the law, the statute books of this country.

In my view, codification is an essential step if we hope to put this divisive issue behind us. If we decline to codify the policy, we will substantially erode the ability of the Department of Justice to defend the policy against challenge in the courts and we will have effectively invited litigation from people who perceive that the policy lacks the committed support of the Congress.

Mr. Chairman, I have elected to support the men and women of the Armed Forces on this issue, and I believe the language in the bill does exactly that. The polls I have seen would indicate that servicemembers are overwhelmingly in favor of continuing the ban on homosexuals conduct in the military. Two different surveys indicated that over 75 percent of the men and women in the military believe the ban that existed prior to January 1993 should be continued. In one of those surveys, a remarkable 45 percent indicated that they would leave the military if the ban was lifted. Such a hemorrhage of trained and educated talent is simply a risk to our defense capability that I am unwilling to assume. In addition to the views of the troops, there are two other surveys that reveal that retired flag officers oppose the service of homosexuals at an alarming 90 percent plus rate.

I recently received a letter from retired Gen. Maxwell R. Thurman, a figure well known to this body as an extraordinary leader and the general who led our forces to victory in Panama. He is a man I greatly respect. His view echoes the testimony of the Joint Chiefs and other distinguished retired officers to include Gen. Norman Schwarzkopf and Lt. Gen. Calvin Waller. General Thurman says:

My own view is that overt homosexuality in the Armed Forces, if permitted, will be devastating to unit morale, cohesion and, ultimately, unit effectiveness in combat.

Those are the words of General Thurman.

I, like these other highly respected leaders, am very cautious about any change that potentially threatens the morale and cohesion of our fighting force. We must not risk fundamentally undermining the best military force in our Nation's history. Second place does not count on the battlefield.

For me personally, the President's initiative has been a disturbing issue. My family background is deeply rooted in traditional religious values, and many of my constituents have sent a clear signal that they believe the service of open homosexuals is wrong. Accordingly, we must not forget that this policy focuses on the issues of greatest concern to service members and carries forward key elements of the former policy that protects those interests.

I feel we have achieved our objective of a policy that protects the combat capability of our military forces and the welfare of our men and women in uniform, while allowing the services to stop asking the question of recruits and to exercise greater control in curbing wasteful inquisition.

Mr. Chairman, I strongly urge that this body vote against the two other amendments and vote for this Skelton amendment.

The CHAIRMAN pro tempore (Mr. Obey). The Chair recognizes the gentleman from Massachusetts [Mr. Meehan].

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Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, after months of heated debate, we are finally going to have this issue boiled down to three choices. Let me take a moment to try to explain the implications of each choice.

If you vote for my amendment, you are voting for the compromise produced by Les Aspin and the Joint Chiefs of Staff. The amendment leaves this issue to the executive branch, and that is all it does. Unlike the committee language offered by Mr. Skelton, my amendment does not dictate the military's personnel policy.

The Secretary of Defense will continue to have the authority to implement his directive. That is the same way this issue was handled under George Bush, Ronald Reagan, and every other President since the founding of the Republic, and I do not think the Congress should begin intervening in these matters now.

To attempt to write a law that codifies this compromise is absurd. How in the world are we going to codify something like defining when military personnel show 'the propensity to commit a homosexual act.'

The Congress should not be attempting to codify this at all.

If you vote for the Hunter amendment, you are voting to add insult to injury. The committee language is already stacked against civil rights, and by requiring the armed services to ask the question, the Hunter amendment just rubs it in.

The Skelton amendment offers a tiny fig-leaf of 'don't ask' in a policy that amounts to a ban-plus. Is that my assessment? No. Those are the words of my friend from Orange County, Mr. Dornan, in Committee. If you vote for the Skelton amendment, you are writing discrimination into law.

We have never attempted to codify this issue before. I would submit that if we codify it now, each and every year we will be back here debating this issue to change the amendment, to change it again if society changes.

Let us leave it to the Joint Chiefs of Staff and the President as Commander in Chief.

My amendment offers the only graceful exit from an extremely contentious debate. It does not lift the ban at all. In fact, it makes no judgment about the wisdom of any policy on gays in the military except to say that no policy on gays in the military should be written into law.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. Bartlett].

Mr. BARTLETT. Mr. Chairman, I read from the Constitution of the United States:

The Congress shall have power to make rules for the government and regulation of the land and naval forces.

To determine whether or not gays and lesbians serve in the military is clearly the prerogative of the Congress, because there is no way to argue that this is not a rule or a regulation.

The Meehan amendment would give the authority to the President to determine this issue.

This is not the will of the American people and it is not the will of this Congress.

Mr. Chairman, I urge defeat of the Meehan amendment.

Mr. SPENCE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Hunter].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, every month a phenomenon occurs in this country, and that is that thousands of American families send their children to serve in the Armed Forces of the United States. They do that knowing that it may be very difficult, it may be very dangerous, and at the least is most inconvenient compared with domestic life.

I think those families do that because they believe in duty, honor, and country, and they believe that the armed services of the United States uphold a moral code that is derived from basic values that this country has had since its beginning that they believe in.

You know, it is interesting, the other night when General Schwarzkopf was questioned on a national television show, that every caller that called in started out or prefaced his remarks with, 'It's an honor to talk to you, General Schwarzkopf.'

[TIME: 1340]

Mr. Chairman, I think it is interesting for us, as Members of Congress, to see that when members of our community pass away, their families want them to be buried with a military funeral in many, many instances because they believe that is a valuable thing that has been given to their country by that particular person in serving in uniform, and we see that in the homes of our constituents where they put up the pictures of their loved ones on the wall in uniform. They believe that the moral code that the military presently holds, and has held for 200 years, is right, and that is why President Clinton hit such a firestorm when he tried to change this policy, not just because of a few generals in the Pentagon, but because of the American people.

I want to remind my colleagues that this moral code has persisted since 1778, when Gen. George Washington ordered, after homosexual activity by one of his officers, that that officer be drummed out of the Army the next day by all the fifers and drummers in the U.S. Army with abhorrence and detestation. I guess we could not expect General Washington to be at the gay parade. The point is that that policy has persisted from General Washington through General Schwarzkopf.

Now the amendment that I am going to offer, Mr. Chairman, says, 'Let's ask the question.' The Reagan administration instituted the question, not because of some vague philosophical notion, but because in 1981 homosexual activities that were bad for the young men and women serving in the military, 84 percent of whom were unconsenting victims, was on the dramatic rise. It is going up at the rate of about

10 percent a year. It had gone up from about 1,000 a year to about 2,000 a year in 1981. When the Reagan administration instituted the question where they asked this question up front, as unpleasant as it was, homosexual acts against young people in uniform went down dramatically, went down from about 2,000 a year to about 900 a year.

So, Mr. Chairman, I do not ask my colleagues to vote for the Hunter amendment because of the moral concern, unit cohesion and all the other things that have come about in hearing, but it is because of the duty of trust we owe to our constituents to protect their children in uniform.

Mr. MEEHAN. Mr. Chairman, I yield 1 minute to my good friend and colleague, the gentleman from Florida [Mr. Hastings].

Mr. HASTINGS asked and was given permission to revise and extend his remarks.)

(Mr. HASTINGS. Mr. Chairman, I rise today to proclaim my support for the amendment offered by Mr. Meehan.

Historically, the U.S. Armed Forces have been a symbol of excellence throughout the world. It is imperative that our military maintains that trademark, and I would never advocate a policy which would affect the superiority of our forces or the safety of our personnel.

However, sexual orientation should not be a factor in determining whether or not one should be able to serve his or her country. Professional relationships should be asexual in the office, in the classroom, and in the Armed Forces. A person's sexual orientation is a private matter and should be treated as such. Personal, professional, and sexual conduct rather than sexual preference must be the foundation of any policy.

The current ban on gays and lesbians from the military is parallel to the racial bigotry that African-Americans faced in the 1940's and 1950's. In the 1940's, two army studies showed more than 80 percent of white soldiers opposed racial integration. Now, the military argues that 74 percent of the enlisted personnel oppose lifting the ban. We must learn from the mistakes and blind judgments of the past. We cannot repeat them. We, in the Congress, cannot go into the business of writing discrimination into the law.

Just as during the civil rights movement I could not accept an offering of liberty to one group and the denial of liberty to another, I cannot accept it now. Our Nation is one of vitality, diversity, and equality. Our Armed Forces must not be too timid to reflect these strengths.

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Mr. MEEHAN. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. Nadler].

Mr. NADLER. Mr. Chairman, I rise to speak for the amendment offered by the gentleman from Massachusetts [Mr. Meehan] and against the amendments offered by the gentleman from California [Mr. Hunter] and the gentleman from Missouri [Mr. Skelton].

The gentleman from Missouri has indicated that his amendment would take us back to the situation that existed with respect to gay men and lesbians in the military last year. Indeed it would. It does not simply codify the President's policy. The Meehan amendment would leave undisturbed the so-called don't-ask, don't-tell policy adopted by the President, which, although it retained the unacceptable presumption that homosexuality makes one unfit for military service, at least did take some steps to lessen the degree to which lesbians and gay men in the military are subject to harassment by military authorities. The willful indifference to evidence displayed by those determined to see that homophobia continues to be enshrined in our military policy is striking. They ignore not only the evidence of outstanding military

service by lesbians and gay men, but also the clear evidence that other nations' armed forces have adopted nondiscrimination policies without any adverse consequences whatsoever for morale and unit cohesion. The arguments for the Skelton and Hunter amendments are the same arguments used to justify racial segregation of the armed services, and they are just as wrong and deeply prejudiced now.

Mr. Chairman, for my part I will not vote for a Defense authorization bill that includes the Hunter or Skelton language any more than I would vote for a Defense authorization bill that proposed to move to restore racial segregation of the Armed Forces.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK of Massachusetts. Mr. Chairman, I hope that the amendment offered by the gentleman from Massachusetts [Mr. Meehan] is adopted.

What we are talking about here is the extent to which we believe that the people of this country are prejudiced against gay men and lesbians, and they understand the perception that the mere presence of a gay man or a lesbian in the midst of a predominantly straight group would be disorienting. I think that is wrong. I think the American people have, in fact, a greater capacity to deal with differences than people here give them credit for.

No one is talking about untoward behavior. No one is talking about anyone who makes undue advances. That is a problem across the lines of sexual orientation, and in fact we all want the military to be much together in protecting people against unwanted sexual advances than they have been.

What we are talking about is the argument that the mere presence of an entirely well-behaved, wholly decent young man or woman who happens to be gay or lesbian would somehow, by that very fact, regardless of any misbehavior, cause problems, and I understand why people think that. But I must tell my colleagues that the experience that I have had as a gay man who acknowledged some years ago, with great reluctance, but finally, the fact that I am gay, the experience that the overwhelming majority of gay men and lesbians have had is that those in the straight majority, to whom we have been honest, have, in fact, accepted that difference without the kind of panic reaction that I think is being unfairly attributed to others.

The question is whether people who are entirely well-behaved, and no one here argues for the right to misbehave, but whether people who are entirely well-behaved will, by being honest about themselves, cause a problem. That has not been the case in police departments, in private corporations, in State that have passed these laws. Time and again we have had the predictions that there would be serious negativism. It has not happened, and it will not happen here.

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona [Mr. Kyl].

Mr. KYL. Mr. Chairman, I thank my colleague for yielding this time to me and would begin by acknowledging what was earlier acknowledged; and that is, through his leadership, I think we were able to take a very difficult issue, get it resolved with a minimum of difficulty by the members of the subcommittee, and later the full committee; and I again applaud him for his efforts and commend him for the bipartisan manner in which he approaches the leadership of our subcommittee.

Mr. Chairman, I strongly support the policy adopted by the Committee on Armed Services and contained in the committee bill, and I oppose amendments to the bill.

First, let me note that the policy adopted by the House Committee on Armed Services is the product of an extensive, full, and open debate which focussed on military readiness issues. That was our charge. We sought, and we received, full input from all sides of the issue, from pro-ban, anti-ban, military, civilian,

academic, police, fire, religious, officers, NCO's, legal people, the full range of opinions, and our subcommittee began to formalize a position when Senator Nunn announced his proposal in the Senate. It coincided with our views. We adopted it with consistent, but different, report language. Our committee policy on homosexuals has the support of the President, of the Secretary of Defense, of the Chairman of the Joint Chiefs and of the service chiefs.

The full committee rejected previous efforts to modify bill provisions. Specifically two amendments were offered, one by Chairman Dellums, an amendment to lift the military ban, which was rejected on a 43 to 12 vote, and one by the gentleman from California [Mr. Hunter] which was rejected on a vote of 38 to 18.

[TIME: 1350]

Regarding the Hunter amendment, it is my view, Mr. Chairman, that it is not necessary. I fully support the intention of the Hunter amendment to ensure that recruits know of the policy of the law. As a matter of fact, recruiters must advise recruits that they cannot serve in the military if they are homosexual.

Mr. Chairman, I would like to quote from the bill itself on page 203, a section under the title 'Required Briefings,' which reads as follows:

. . . The briefings that members of the armed forces receive upon entry into the armed forces and periodically thereafter under section 937 of this title (article 137 of the Uniform Code of Military Justice) shall include a detailed explanation of the applicable laws and regulations governing sexual conduct by members of the armed forces, including the policies prescribed under subsection (b).

Mr. Chairman, it is clear that the people who are recruited will be required to be informed fully of the law's provisions, including the fact that if they are homosexual, they cannot serve.

Regarding the Meehan amendment, our colleague makes the point that never before have we codified this principle and asks, why do it now?

The answer, of course, Mr. Chairman, is because up to now no President has sought to change the policy. But when President Clinton decided to change the previous policy, contrary to the views of the Joint Chiefs and the majority of the Members of Congress and of the American people, it was believed necessary to codify this so that we could resolve the issue without having to have it come up time and time again.

Congress is exercising its constitutional authority to regulate personnel policies for the military. That is critically clear. The Meehan amendment would have Congress abrogate that responsibility and leave Congress open to reexamining this issue year after year until this body would have to take action in any event.

Finally, Mr. Chairman, we will hear discussion regarding the Rand study for the Department of Defense, and I want to just reiterate a couple of points that Senator Nunn made in Senate debate regarding this Rand report.

Mr. Chairman, that report did not examine the issue of whether the ban should be lifted; rather, it sought data on how to implement a new policy. In that context, I think its value is somewhat limited in the debate before us, but it will be cited.

Mr. Chairman, the Rand study did not examine whether the existing DOD policy served the national security interests or whether the President's proposed policy served the national interests.

Finally, I would note that it did examine the experience of foreign military, police, and fire departments, as did the Committee on Armed Services. But, unlike the House Committee on Armed Services, while

acknowledging many dissimilarities between these organizations and the U.S. military, the Rand report drew very heavily upon these organizations, and we did not think that was appropriate.

So, Mr. Chairman, the policy regarding homosexuals in the military has been exhaustively examined by the committee. The committee bill protects military readiness. It is time, I think, to finally resolve the issue, so we can move on to a whole range of fundamental national security issues that face this Nation.

Mr. Chairman, adopting the committee bill without amendment will be consistent with the Senate position. It will resolve the issue. Therefore, I urge my colleagues to adopt the committee position without amendment.

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Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Dornan].

Mr. DORNAN. Mr. Chairman, I will have an opportunity to speak again on this subject. But let me rush my words just a bit, because I have an awful lot I want to cover and not much time to do it in.

We have had a long string of people, with no military experience whatsoever, but experience in some other areas comment on this issue today. To have this House lectured about well-behaved homosexuals by some Members with, shall we say, behavioral problems of their own is too much. In the 17 years that I have been on this Hill I have only known, in either Chamber, two openly homosexual Members.

One of them was chastised for pedophilia, seducing a page; and the other one was forced to reveal details of his private life by a loathsome male homosexual, with whom the Member claimed, he was in love with for a time.

The CHAIRMAN. The Chair would state that the rules clearly prohibit such references to disciplinary procedures involving sitting Members.

Mr. DORNAN. Really Mr. Chairman? I forgot that. The jury will disregard my remarks, but I know they cannot forget them.

Now, here is a current article in Air Force magazine, written by their congressional editor, Brian Green. He correctly states there is a lot of confusion. He says contributing to the confusion is the prohomosexual spin that Clinton put on his remarks at Fort McNair. Clinton said he was deeply impressed by the devotion to duty and country exhibited by homosexuals who have served with distinction.

We keep hearing that, but there is the evidence of all this distinction?

Then Clinton said there is no study showing homosexuals to be less capable or more prone to misconduct than heterosexual soldiers. He thanked all those, including all the gay activist groups, who lobbied for change. Mr. Green gave an incomplete

description of a main provision of the policy, saying,

An open statement by a service member that he or she is a homosexual will create a rebuttable presumption that he or she intends to engage in prohibited conduct, but the service member will be given an opportunity to refute that presumption.

The subtitle of Mr. Green's article is,

A declaration of homosexuality can be refuted, but the standard of proof is difficult. No one has ever met it. In all the history of our military, nobody has ever been able to back up from this.

In my military experience, I served on active duty at 10 bases across the country. On eight of those bases there were instances of homosexual activity, each with dishonorable conduct and dishonorable discharges.

Read the case law on this, which we never discuss. Read the case law. There are no witch hunts. The people are put out for dishonorable conduct.

Mr. Chairman, to be continued.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to say I am very proud to serve with my colleagues from Massachusetts on the committee.

Mr. Chairman, I yield 1 1/2 minutes to my friend, the gentlewoman from Maryland [Mrs. Morella].

(Mrs. MORELLA asked and was given permission to revise and extend her remarks.)

Mrs. MORELLA. Mr. Chairman, I rise in support of the Meehan amendment and in opposition to the Hunter amendment.

No person who meets the Armed Forces physical and intellectual standards should be denied the opportunity to serve our country based solely upon sexual orientation. The recently released Rand report makes clear that gays and lesbians are entirely capable of honorably serving their country without any disruption of military effectiveness or unit cohesion. The Rand report flatly contradicts the bill's report language stating that 'homosexuality is incompatible with military service.'

The Hunter amendment reinstating the policy of asking recruits about their sexual orientation would strike the only aspect of the new policy announced by the President incorporated in this bill. It was rejected by the committee by a vote of 38 to 18. I hope that my Republican colleagues will take note that 11 committee members of our party, half of the Republicans on the committee, voted against the Hunter amendment. A Wall Street Journal/NBC news poll in June found 78 percent opposed to asking recruits about their sexual orientation.

While preferable to the Hunter amendment, the committee language would still undo the policy announced by the President, with the support of the Joint Chiefs of Staff, in July. There is no strict provision codifying don't-ask; rather, the bill allows for possible reinstatement of the policy of asking recruits about orientation. Nor does the bill pay heed to the President's pledge that existing regulations regarding both homosexual and heterosexual conduct will be evenly enforced and applied.

The Meehan amendment would leave the President's directive intact. Rather than allowing for congressional micromanagement of personnel policies, the members of our Armed Forces will be best served by leaving the issue of gays in the military to the President and the Joint Chiefs of Staff.

I urge Members to reject the Hunter amendment and to support the Meehan amendment.

The CHAIRMAN pro tempore. The Chair would advise Members that the gentleman from Missouri [Mr. Skelton] has 6 minutes remaining and has the right to close, the gentleman from Massachusetts [Mr. Meehan] has 7 1/2 minutes remaining, and the gentleman from South Carolina [Mr. Spence] has 8 minutes remaining.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. Sam Johnson].

Mr. SAM JOHNSON of Texas. Mr. Chairman, I think we have to talk more about the Hunter amendment, which seeks to reinstate the ban on homosexuals.

Mr. Chairman, it has been stated earlier that we do not do what other nations do. I would respectfully say, other nations do not win wars. Other nations are not the leader of the world, or so-called leader of the world. It is a position that I think we have to protect, at least I hope we do.

Mr. Chairman, I think it is important to make this matter very clear. When I was a commander in the Air Force, I spent more time than I needed to dealing with these sorts of issues. And I have to tell you, it was a waste of time. What happened in the end was those people were drummed out of the service and got out with a bad name.

Well, all the gentleman from California [Mr. Hunter] is trying to do is say let us ask first. Let us let them off without having to go through the harangue of being drummed out of the service.

Furthermore, we have got a lot of innocent kids in the service nowadays, guys that do not understand the world. Really. Until they are out in the military and taken all across the world to the many countries that we try to defend, then, and only then, do they come in contact with society for real.

[TIME: 1400]

I think it is important that we protect those kids in our service. I think it is something we owe the parents of this Nation. I think that it is just our responsibility as a nation, as the sole leader in foreign policy. We have got to act to ensure the strength, morale and discipline of our armed services as the only surviving superpower and guardian of freedom in America.

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Mr. MEEHAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. Unsoeld].

(Mrs. UNSOELD asked and was given permission to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Chairman, since there is not before us an amendment to lift the ban, which the former chairman of the Senate Committee on Armed Services, Barry Goldwater, termed 'un-American discrimination,' I rise in support of the Meehan-Fazio amendment to the DOD authorization.

- The issue of whether or not to lift the ban on homosexuals serving in our Nation's Armed Forces has proven to be one of the most contentious we have faced this year--in a year chock full of hot-button issues.
- I oppose the ban. I see absolutely no justification for a ban which denies patriotic homosexual men and women the right to openly serve this country because of some misplaced belief that homosexual soldiers are somehow less capable of controlling their sexuality and performing as good soldiers than their heterosexual colleagues. The stellar military careers of thousands of homosexual troops throughout our Nation's history demonstrate the fallacy of that argument. Former Senator and Senate Armed Service Committee Chairman Barry Goldwater was right when he termed the ban 'un-American discrimination.'
- I am deeply sorry that the ban has been largely retained in the compromise don't-ask, don't-tell policy. This only slightly altered policy continues to view homosexuality as incompatible with military service. However, the compromise adopted by the Joint Chief of Staff does make some incremental changes that do move in the right direction. Unfortunately, the Nunn/Skelton language would reverse some of these modest steps and codify that retreat into statute.

- The Nunn/Skelton language makes no mention of President Clinton's directive that commanders and agencies should not begin investigation solely to determine an individual's sexual orientation. Are we to return to the witch hunts of the very recent past?
- The Nunn/Skelton language fails to require an even-handed enforcement of the Code of Military Justice, as ordered in the President's directive. Are we to return to a policy that says the CMJ is to be enforced against one class of soldiers, but not against another?
- Finally, while the President's directive orders an end to asking the question about a recruit's sexuality, the Nunn/Skelton language would permit its reinstatement at some future time.
- I ask my colleagues to adopt the Meehan/Fazio amendment, which would simply leave these questions to the President. His compromise don't-ask, don't-tell policy is acceptable to the Joint Chiefs of Staff. Let us not retreat from the few modest steps we have taken to protect a group of our citizens who are merely seeking the very same opportunity to serve their Nation and be judged on their dedication to their country, their ability, and their performance--just as any other soldier.

Mr. MEEHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. Gunderson].

(Mr. GUNDERSON asked and was given permission to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Chairman, the debate over allowing gay people in the military raises many difficult issues. Some are legitimate to the debate. Others are not. Some are the result of our Nation's ignorance regarding homosexuality. Others, unfortunately, are the result of blatant homophobia. Today, I ask you to walk with me to clarify the thicket by examining what our history, our institutions, our heritage, and finally our own consciences can teach us. I believe this exercise can infuse some perspective and reason to our efforts to grapple with this emotional and complex situation.

Morality is one of the most intense and most difficult issues. This is because it pits one value system against another in claiming ownership of a single truth for everyone that does not in fact exist. Nonetheless, we are a nation founded on Judeo-Christian principles, and many, many sincere constituents have written to me and my colleagues asking us, in reference to those principles, not to legalize a lifestyle condemned by the Bible. Their concerns raise thorny issues for which there are no clear answers. But because they are raised and are deeply felt, they deserve a response.

The implicit questions are whether, indeed, the Bible literally condemns homosexuality and, if it does, whether that condemnation is applicable to our society in 1993.

The Bible is a living document. It has attributes that are constant and attributes that evolve with time and necessarily also with societal change. What is constant in that document are the fundamental values of love and tolerance it teaches, such as the command of Jesus to do justice, and love thy neighbor.

What evolves, on the other hand, are the social laws and mores, from generation to generation. The ways in which the Bible guides us thus must also adjust; it must accommodate the changes and growth within our society. Certainly none of us would seek, in 1993, to implement all the laws of Biblical times. After all, it is the same book and the same chapter of Leviticus, in the Old Testament, so often quoted on this issue of homosexuality that also prohibits divorce, men shaving, clothing made of more than one fiber, or women wearing slacks. What then of these Biblical mandates?

Even for those who would insist still on drawing and then transposing to law a more literal interpretation, does the Bible actually literally condemn homosexuality? John Boswell, in his book, 'Christianity, Social Tolerance, and Homosexuality,' points out that a precise review of Biblical translation discovers there

actually is no such word as homosexual in either the Hebrew or Greek languages. The closest correct translation is boy prostitute. Thus, what they actually condemn is the fulfillment of uncontrolled sexual desires through the use of young boys--certainly a perversion in our own time and culture as well. As to homosexual orientation or relations per se, however, Biblical scholars also argue that homosexual relations were very common in Greek and Roman times. Biblical writings thus do not literally, clearly endorse or condemn such orientation or relations per se. Simply, the Bible, written at a particular time and reflecting a specific culture, provides no specific judgment one way or the other on this issue, then or now.

Finally, any attempts to draw literal or even general judgments about homosexuality from the Bible and apply them to our national laws are violating a fundamental fact of our national life. This Government is not and should not be the church. It thus cannot reflect--and certainly it cannot legislate--one version of morality associated with church or any similar institution over any other.

The recent Supreme Court opinion of Justice Souter on the school prayer issue speaks to the clear separation of church and state in this country. Souter scrutinized the debate among our Founding Fathers to clarify their intentions regarding the separation of church and state. Not only was there not to be a preference for the particular precepts and values of any one church, but also the Constitution guaranteed the total freedom of religion, and the separation of church and state. Therefore, even if the church were clear on this issue--which it is not--our Government cannot base its laws simply upon Biblical, or any other, scripture, or upon implications that one sect or another might draw from it.

The Bible's basic message of love and tolerance do give us enduring guidance for our personal relations with other human beings. And we are all entitled to hold and live our individual lives by those or any other precepts we draw from Scriptures. But the religious arguments about homosexuality echo the evolving scientific debate regarding the genetic origins of homosexuality: Both strive for an easy answer, but neither can provide it. The effort to interpret Biblical phraseology in a way that supports

one specific judgment as a basis for lawmaking is no more than a fig leaf for moralism; it is an exercise in holding a mirror to personal precepts, rationalizing them with a Biblical charter that does not in fact exist, and then attempting to impose those on society at large. This is unconstitutional; it is wrong; and it is an inappropriate construct for this debate.

A second framework for this debate is the historical commitment of our national institutions to equality and justice for all--a commitment that inherently recognizes the rich diversity of our society. This framework is the proper contest for our discussion. Throughout history, our military has always struggled between the history of heroic contributions by gay and lesbian soldiers and the premise that homosexuality could not be allowed in the military setting. The results have been a policy applied inconsistently and capriciously.

For example, when in need of manpower during the Vietnam war, the military consistently accepted recruits and draftees despite their acknowledgment during questioning of their homosexuality. Unfortunately, after the war was over, many of its heroes were then kicked out of the military, denied the benefits of their service because of their sexual orientation--despite official knowledge of this from the beginning.

Further capricious has been the military's use of a lesbian charge as a vehicle against the advancement of women in the military. On a per capita basis, women in the military were four times more likely to face a charge of homosexuality than a man. In case after case, women have been forced to bring their fiances before a military tribunal to describe in detail their sexual activities as a way of defending against such charges. And even in cases where innocence was proven, the potential for military advancement was eliminated.

In fact, this situation strongly parallels the struggles and debates regarding blacks or women in the military, and it is worth a brief diversion to recall those struggles in terms of how they apply to the compromise we are reviewing today.

Here I appeal especially to my Republican colleagues to consider the foundation and history of our party. No one is a better expert on the issue of equal opportunity than Abraham Lincoln.

While never writing directly on the issue of homosexuality, how many writings make clear his convictions. Lincoln wrote in 1854, most foreign governments had been based `on the denial of equal rights of men.' Ours, on the other hand, began `by affirming those rights by giving all a chance.'

When the Union Army attempted to dismiss from its ranks soldiers of the Jewish faith, Lincoln personally revoked the order and demanded the reinstatement. But his most telling commitment to equal opportunity for all comes in his response to friends who sought to enlist him in the anti-Catholic Know-Nothing Party. Lincoln said:

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As a nation, we began by declaring that `all men are created equal.' We now practically read it `all men are created equal, except negroes.' When the Know-Nothings get control, it will read `all men are created equal, except negroes, and foreigners, and Catholics.' When it comes to this I should prefer emigrating to some country where they make no pretence of loving liberty--to Russia for instance, where despotism can be taken pure and without the base alloy of hypocrisy.

From Randy Shilts' exhaustive study, `Conduct Unbecoming,' we read:

When pressed about why black soldiers were not allowed into combat, for example, Secretary of War Henry Stimson told congressmen that military studies had found that `many of the Negro units have been unable to master efficiently the techniques of modern weapons.' Perhaps no soldier was as outspoken about segregation as Major General Thomas Holcomb, commandant of the Marine Corps, who maintained it would be `absolutely tragic' if blacks were integrated into the services. `If it were a question of having a Marine Corps of 5,000 whites or 250,000 Negroes, I would rather have the whites,' he said.

The brass of every service adamantly insisted that military efficiency, good order, and morale demanded segregation. The Army Air Force's exclusion of black pilots, for example, resulted from the fact that pilots were officers, and integrated squadrons would mean that black officers might be giving orders to white enlisted men, a situation that, it was presumed, most white soldiers would find intolerable. It was believed that not only would white soldiers refuse orders from black soldiers, but that no white GI would want to be in the same foxhole as a black man. To buttress their arguments, the Army conducted surveys that showed 88 percent of whites favored segregated armed forces, as did 38 percent of blacks.

The Navy convinced President Franklin Roosevelt, a former assistant Secretary of the Navy, that it must be segregated because Navy personnel had to live and work under close conditions affording minimal privacy. As Roosevelt wrote Secretary of War Stimson, `If the Navy living conditions on board ship were similar to the Army living conditions on land, the problem would be easier but the circumstances * * * being such as they are, I feel that it is best to continue the present system at this time.'

Finally, in a speech before the Conference of Negro Editors and Publishers, Colonel Eugene Householder of the Adjutant General's Office explained, `The Army is not a sociological laboratory; to be effective, it must be organized and trained according to principles which will ensure success. Experiments to meet the wishes and demands of the champions of every race and creed for the solution of their problems are a danger to the efficiency, discipline, and morale and would result in ultimate defeat.'

It is especially ironic to note that the end to segregation had little to do with the military. It had everything to do with politics. And it was the Republican Party, with pressure from its candidate for President, Tom Dewey, that forced the Roosevelt administration to take the steps necessary to order complete integration.

Although unfortunately racial discrimination is not yet completely behind us, Black Americans' struggles for equal opportunity during the past four decades at least has progressed to the point where society at large recognizes the injustices that have prevailed. We have evolved to the point where at least the blatant prejudice behind the Army's surveys about Black integration, the stereotypes obvious in Major General Holcomb's assessment, or the dire predictions of Colonel Householder would be seen differently than at the time they were uttered. They now generally would be viewed as an anachronism to a different time, and an embarrassment for an otherwise and justifiably proud institution. The error and societal costs of those policies require no further explanation and are now plain to us all.

American military history is also filled with examples of gay soldiers providing exemplary service. Randy Shilts' 'Conduct Unbecoming' provides many historical examples beginning with Baron Von Steuben, one of Europe's leading military strategists enlisted by Benjamin Franklin and George Washington to upgrade the quality of troops and their military strategy.

Yet for gay citizens, who now are at an earlier stage in a similar struggle, the words used by the Army to describe the likely dire effects of their integration frequently are the very same rationalizations as those used earlier to discourage integrating blacks and women. The difference now is this:

Society at large is only beginning to recognize the blatant prejudice against gay people that lies behind such scientific proof of preordained failure. The destructiveness to society of how such proof is applied is not yet so self-evident. It will become so in time, if we do not act to forestall it.

The costs of discriminating against gay soldiers already have had an added dimension that goes beyond the personal trauma that blacks and victims of racial or religious prejudice have had to face. This is the witchhunt. Military investigation units, armed with often spurious rumor or malicious intent, continue to pursue investigations to determine sexual orientation without any evidence whatsoever of public misconduct.

Recently, a young man from rural Pennsylvania was referred to me by friends. He had quickly moved up the ranks to become a senior deputy missile combat crew commander for ICBM missiles. He had a top security clearance--granted to him at considerable cost to the Government--and had received an outstanding performer rating. The Navy had discovered that he had electronically communicated with an Air Force officer who was being investigated for child pornography. Having nothing to hide, he readily allowed the investigators full access to his unaccompanied officer quarters. For 7 hours six agents searched his home. They found nothing relating to the other officer's child pornography activity.

However, 2 weeks later they returned to charge him with being homosexual. In their first search, though totally unrelated to the basis of the search, they had discovered personal correspondence and magazines indicating he was gay. Thus, unrelated to the original complaint, with no filed charges against him, with no evidence of public homosexual activity, a young man's brilliant career was destroyed.

And while the military claims all discharges resulting from witchhunts are honorable today, that is simply not the case. On the discharge papers, on line 28 explaining the reason for separation, it states: 'Involuntary discharge--misconduct, moral or professional dereliction: Homosexual acts.' This is not an honorable discharge; it is framed in terms, as a matter of official record, as a stigma for life.

The invasion of privacy and personal trauma for individual soldiers is not the only cost of these witchhunts. The General Accounting Office study indicated the cost to the Government for replacing a

soldier, discharged for the sole crime of his sexual orientation, was \$28,000 for enlistees, and \$120,000 for an

officer. These, after all, are often highly trained and educated military members, often with records of exemplary military service. The accomplishments of these members simply evaporate in the face of a single question pertaining to their private life that is unrelated to their potential--whether or not they are gay. So not only are citizens who yearn to pay back society for the fruits of freedom they enjoy cruelly denied their full rights of citizenship to serve in the military, but also the military and society--both of which have paid a lot of money for their training and education--are denied the continuing contribution of those members. Truly, the history of such incidents remains an insult to the military and to our Nation. The means by which some elements of the military have disregarded any rule of law in the pursuit of private sexual orientation has no justification, and must not continue. We cannot put a price on traumas imposed on gay soldiers and their loved ones for careers spuriously truncated. By the best estimate for the taxpayer costs of these military witchhunts is \$28 million per year.

Our choice today is this: Do we accept the don't-ask, don't-tell compromise as announced by the President, endorsed by the Joint Chiefs of Staff, and written by Senator Nunn; or do we reject that to enact into statute a total Federal ban on any service by homosexuals at any time, under any circumstances? In a country premised on equal opportunity and justice, this is not much of a choice, but it is all that is before us.

Former Senator Barry Goldwater, the icon of the conservative movement put it best when he wrote:

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What would undermine our readiness would be a compromise policy like 'don't-ask, don't-tell.' That compromise doesn't deal with the issue--it tries to hide it. We have wasted enough precious time, money and talent trying to persecute and pretend. It's time to stop burying our heads in the sand and denying reality for the sake of politics. It's time to deal with this straight on and be done with it. It's time to get on with more important business. The conservative movement, to which I subscribe, has as one of its basic tenets the belief that government should stay out of people's private lives. * * * Legislating someone's version of morality is exactly what we do by perpetuating discrimination against gays.

I agree with the Senator.

No--this is not a perfect compromise. I regret the narrow definitions allowed in the legislation defining the difference between status and conduct. If I read the language correctly, a soldier who has an impeccable record, has followed all military

codes, but informs his/her family that he/she is a homosexual, risks separation from the military purely on these grounds. In practice we are telling gay people who want to serve their country that they can only do so by denying who and what they are not only publicly and professionally, but also personally and privately. We are telling them that their military careers require them to be celibate even in their homes and to pretend they are something they are not even among close friends and family. In effect, we are telling them they must continue to lie or risk losing their careers.

I also recognize that discretion will allow future Secretaries of Defense to reinstate the question. However, I have no doubt that history will so clearly show the wisdom of not asking such a question, that even the most conservative among us would not perpetuate this nightmare of intimidation, inquisition, and false security.

These reservations notwithstanding, the progress that this compromise represents on several important fronts leads me to rise in its support. For the choice is not between this and something better, but rather between this and the more insidious choice of not addressing the issue at all, and allowing the current and blatantly discriminatory ban to remain in place. We thus must evaluate this choice not for where it

leads us to, which runs short of fully ending discrimination against gay people in the military, but rather for the distance it covers from where we have been, which has been a society insulated from the traumas and costs it has been imposing on itself. We therefore must grasp and invigorate this first, small step for the following reasons.

Under this policy, first, we make clear the Secretary does not have to ask the question of one's orientation at time of induction. To those who continue to advocate asking such a question, may I suggest that in doing so, you simply misunderstand sexual orientation. Most young people do not know, and if they do know they certainly do not accept, the reality of a homosexual orientation until at least their mid-twenties. Some fight what they are longer, arriving at full realization and acceptance even later in life, if ever. As evidenced by the number of even just the admitted gay people who have been serving in the military, asking this question did nothing to keep homosexuals from the military. Under the current policy, when self-discovery occurs for many of these members, it brings the traumatic dilemma of whether or how to continue their successful military career and to proudly serve their country, against the new knowledge that their very existence per se is a

violation. They now must live each day with the terrifying risk of a humiliating public exposure of that violation--of what is and should remain a private matter unrelated to their right to serve. Such psychological torture benefits no one in return for the damage it causes. On that issue, the compromise therefore steps, albeit gently, in the right direction.

Second, this policy moves toward defining conduct, not status, as the basis for separation from the military.

Four years ago, the issue of discrimination based upon one's sexual status or orientation centered upon controversies with ROTC programs on our college campuses. I restate what I did then: Conduct should be the standard in the military. Both professional and personal conduct on base should be regulated fairly and equitably regardless of sexual orientation.

To those who think this policy goes too far, recall that the Catholic Church, and most main line protestant churches, do not deny entrance into the ministry simply because of sexual orientation. Bishop Herbert Chilstrom of the Evangelical Lutheran Church and the bishop of my personal church, said, 'We do not ban gay and lesbian persons from becoming pastors in our church. We judge them by their behavior rather than the basis of sexual orientation.' So this compromise does not ask the military to become a laboratory for social experimentation as some have claimed. Instead it is asking the military to merely reflect the same tenets of equal opportunity guaranteed not only in the constitution as noted earlier, but also codified and exemplified in some of our most conservative social institutions, our churches.

Third, this policy represents in practice if not in language progress on the key issue of witchhunts used to harass and remove people from the military. While committee language rejects the concept of quotas to determine equal enforcement between heterosexual and homosexual violations of the military code, it is clear fair and impartial investigations are intended regardless of whether a homosexual or a heterosexual is involved. Perhaps most encouraging here, Attorney General Reno has made it clear her department will not be a party to using limited and valuable resources to pursue discriminatory policies.

I recognize that progress on human rights for all people in our Nation has occurred slowly, one step at a time. This particular compromise in effect probably will toss many aspects of the issue back to the courts. That done, it is only a matter of time before our courts will establish once and for all that

just as a person cannot be denied the chance to serve because of their race or religion, neither can a person be separated from the military solely on the basis of their sexual status or orientation. That eventual result is an inevitable one given the tenets of fairness that underlie our democracy. I believe that what also makes that result inevitable is the ardent belief of Americans in those tenets, and the fundamental, overriding desire of Americans to get along, to work out our differences, to respect our

diversity, and to go forward as a nation with equality and justice for all. This compromise is one small step in the direction of that inevitable, correct result.

Many who have spoken on this issue have recalled their service experience. I deeply respect them for it. What few have acknowledged, however, is that they almost inevitably did serve with colleagues who were gay. Why didn't it pose a big problem for them then? Perhaps bearing in mind commonly held stereotypes of gay people, they probably just did not know they stood and perhaps fought beside gay colleagues who chose to keep their private lives to themselves. Thus they had no basis upon which to judge what it might be like to serve with gay soldiers.

Here I must note parenthetically but with some concern comments made during Col. Fred Peck's heartfelt testimony about the gay ban a few weeks ago, wherein he notes his concerns about his gay son's joining the Marines. Colonel Peck, who clearly, deeply loved and respected his son, worried that if his son did join the Marines and his orientation came to light, he stood to be harassed, beaten, or worse, by his colleagues. For an institution that so prides itself on leadership, good order, and discipline, I was shocked and dismayed at what he said. His comments suggested that such order, impeccable and essential to effective military operations, stands to disintegrate in the face of a factor that has no relevance to performance, team spirit, or esprit de corps. The implied disintegration of training and order in the face of what can only be raw prejudice underlines a potentially serious problem of military leadership rather than any shortcoming of a gay soldier or the community from which he comes.

I have not been a member of the military, and I cannot speak directly from that experience. But I have experienced what it feels like to have my life--who I am, what I am, and what I have accomplished--reduced to and judged by a single, irrelevant factor.

As some of you recall, 2 years ago I was the target of an attempted outing. People who had never talked to me before, who did not know me personally, attacked me. The weeks that followed were hell for me, those close to me, and my staff. Talking about, explaining, or defending one's personal and private life under a public microscope is a violation of our guaranteed right to privacy. It is intrusive and painful, especially when the weapons hurled are bullets of ignorance and prejudice encased in stereotypical labels. Labels, after all, are a handy way to tap our worst fears and gain energy out of the fog of emotionalism so stirred. Against charges so configured, there can be no rational defense. And not the least of that incident for me was that an 11-year congressional record, and almost 20 years in public office, stood to be blown apart. My accomplishments stood to become totally irrelevant next to the single question of whether or not I was gay.

I ask you how many people, how many brilliant military careers, how much taxpayer investment will we waste before learning from the struggles of blacks, Jews, and other minorities the value of integrating the gifts of our diversity into our national life? How much longer will we instead allow our biases, prejudices, and discriminatory policies to bleed our national energy?

To ignore history dooms us to repeat its cruel mistakes and tragic costs. Indeed a powerful new museum now stands on the mall as a monument to just how offensive and destructive prejudices against minorities can become. In the microcosm of their twisted society, Nazis were not performing atrocities against Jews, gypsies, blacks, homosexuals, and other nonsuper race minorities. Rather they dutifully were performing actions mandated by official directives. The horrifying results of their actions recall the powerful extremes to which emotional prejudice can transport an entire society and rule its actions if left unchecked. The very existence of the Holocaust museum declares 'never again.' It declares further, 'and certainly never here in the US.' We, after all, are unique in how we strive to celebrate our diverse citizenship and how we codify equal treatment for that diversity. The museum declares the latter with particular poignancy, standing as it does just a few blocks away from where we now stand to debate an issue in which blatant prejudice against a minority still threatens to rule our actions. Let us stand together to check that raw impulse, that concession to ignorance and emotionalism.

Were this debate occurring under President Reagan or Bush I suspect every Republican would stand and say, 'let the Commander in Chief work this out with the Joint Chiefs of Staff.' That my friends, is what the Meehan amendment is all about. It is the Clinton-Powell compromise--nothing more, nothing less.

It is as conservative as you can get:

It gives the authority to the Commander in Chief and Pentagon to do what they think best.

It endorses the concept of less government in the personal lives of our citizens.

It eliminates the wasteful spending of \$28 million a year on witchhunts of our soldiers.

It is the strict interpretation of our Constitution.

Today, I ask my colleagues to dig deep inside your conscience. Leadership demands that we do what is right, not what is politically easy.

My pastor put this all in proper perspective when he said recently, 'On the question of sexual orientation, the Bible is clear on one thing; Do justice, and love thy neighbor.'

Today, I ask just that. Do justice.

I submit that it is time to recognize our current bloodletting for what it truly is. Let us stop repeating the cruel, destructive mistakes of history but instead use their lessons as a springboard for showcasing our better instincts. Let us apply the tolerance and rules of fairness that previous minorities' struggles have shown to be the only enduring, effective treatment of our society from the malignancies of prejudice. The coalition of our traditions, our laws, our institutions, and our inbred sense of fairness leave no doubt about what we must do here. We must not only learn from history, but we must teach by example those who will follow. So we must now take the first step that this compromise offers for gay participation in military service, and build on it inch by inch toward a new level of fairness and equality of opportunity. Let us in taking this step respect our differences, broaden our awareness about the diversity that comprises our national fabric awareness about the diversity that comprises our national fabric and, in so doing, enrich our lives individually and collectively.

[Page: H7074]

Mr. SPENCE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I neglected, a minute or so ago, to mention that the gentleman from Texas [Mr. Sam Johnson], who spoke to this body from that podium, knows something about the military because he served as a fighter pilot in the Air Force during Vietnam.

He was shot down, and was a POW for over 6 years.

He knows of the conflicts which arise among people living and serving in close quarters and how it can affect the readiness of our military.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. Buyer].

Mr. BUYER. Mr. Chairman, I rise in strong support of the Hunter amendment.

I also would like to compliment the gentleman from Missouri [Mr. Skelton] for his fine work.

Many of us on the committee and full committee have truly exhausted many hours working on this issue. There is not anybody who supports more open debate than myself. And while I say, why are we doing it on the House floor, I think it ought to be proper and we will continue it through the duration of the issue.

But I also, as well as many others in this body, worked hard to codify the ban on homosexuals in the military. While some of us wish we had some stronger language, we eventually came to accept the Nunn-Skelton compromise. However, some of us still have concerns about one omission in the bill.

I am referring to the section that states that there will be a `suspension of questioning concerning homosexuality as part of the processing of individuals into the Armed Forces.'

Under the pre-January 1993 policy, self-identification as a homosexual or bisexual, a history of homosexual activity, and an intent to engage in conduct were considered relevant indicators of the propensity for prohibited activity. The history of past homosexual conduct is now held to be irrelevant by not asking the question.

This policy is in direct contradiction of the personal views of some of the top officers and enlisted leaders of this country.

In testimony before the subcommittee, the Commandant of the Marine Corps and all four of service senior staff NCO's stated that in their personal opinion, they would prefer to continue to ask the question about homosexuality during the accession process.

The reason is clear. It clearly signals that the military is serious about the idea that homosexuality is incompatible with service life. With the question, the Government's policy is consistent that there is no effort to screen out those who exhibit suspect behavior

prior to enlistment and a clear policy of immediate discharge if this behavior or orientation is discovered after enlistment. Without the question, the message seems to be `You can come on in, just don't get caught.'

[Page: H7075]

Mr. SKELTON. Mr. Chairman, I yield 2 1/2 minutes to the gentleman from Mississippi [Mr. Montgomery].

(Mr. MONTGOMERY asked and was given permission to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Chairman, under the king of the hill rule, I will support the Skelton amendment, which is already in the committee bill, and I will oppose the other two amendments.

The Skelton amendment is the same language that is in the Senate bill and is known as the Nunn amendment. The provision in our bill is in effect now in the military services. Mr. Chairman, I am told it is working well.

Six months ago, the Chiefs of the Army, Navy, Air Force, and Marines implemented this policy on homosexuals with the support of Secretary Aspin and also General Powell. Actually, the Nunn-Skelton proposal is tougher on homosexuals once they get into the military than the Hunter amendment.

The amendment I support spells out what homosexuals can and cannot do in the service. Also, our amendment makes it easier on a commander. It tells that commander what he can or cannot do or what she can or cannot do in that different unit.

Under the Hunter amendment, it requires a person to state his or her sexual preference. Now, we know that in the past that these young recruits have not told the truth in filling out the forms. So why make them lie?

In the Skelton amendment, it is optional, if the Secretary of Defense wants to go back and ask new recruits their sexual preference.

[TIME: 1410]

Mr. Chairman, the homosexual issue has really, in my opinion, quieted down in this country. The policy in force has been accepted by most as the best way to handle the issue. Why change something that is working?

I urge my colleagues to support the so-called Nunn-Skelton amendment and oppose the so-called Meehan and Hunter amendments.

Mr. MEEHAN. Mr. Chairman, I yield 45 seconds to my friend and colleague, the gentlewoman from California [Ms. Eshoo].

Ms. ESHOO. Mr. Chairman, I rise today in support of the so-called Meehan amendment to strike the Defense authorization bill's provision regarding gay and lesbian Americans in the military, and in opposition to the Hunter amendment. By striking the language in the bill presented to the House today, we are accomplishing the bare minimum of what this Congress can do to protect the thousands of men and women in our Nation's Armed Forces. We should not codify discrimination.

On July 16 of this year, I sent a letter to the President asking him to end the ban on gays and lesbians in the military. I asked him to be steadfast and courageous in the pursuit to end discrimination and committed myself to help him face the political risk and social prejudice that surround this issue. I now ask the House to do the same.

I urge all Members to reach deep into their conscience and ask themselves what the right thing is to do today. Are we going to permit the codification of discriminatory language in this body, or are we going to leave decisions about the Armed Forces to this country's Commander and Chief?

On issues of civil rights, our Nation's history reflects that the long march for justice is one step at a time. The champions and the leaders are those who recognize that on some issues one simply must do what is right and lead our people to the truth. This is one of those times.

I urge my colleagues to vote `yes' on the Meehan amendment. History will thank them.

Mr. MEEHAN. Mr. Chairman, I would ask how much time I have remaining.

The CHAIRMAN pro tempore. The Chair would advise the gentleman from Massachusetts that he has 3 3/4 minutes remaining.

Mr. MEEHAN. Mr. Chairman, I yield 45 seconds to my friend, the gentlewoman from California [Ms. Pelosi].

Ms. PELOSI. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Massachusetts, [Mr. Meehan] and a bipartisan group of our colleagues which would strike the bill's provision regarding lesbians and gay men in the military, because clearly, this issue is best left to our President and the Department of Defense.

As Barry Goldwater recently stated:

When the facts lead to one conclusion, I say it is time to act, not to hide. The country and the military know that eventually the ban will be lifted. The only remaining questions are how much muck will we be dragged through and how many brave Americans * * * will have their lives and careers destroyed in a senseless attempt to stall the inevitable.

Now, only the House can stop the attempt to codify officially sanctioned bias and injustice. I urge my colleagues to support the Meehan amendment and reject the Hunter amendment.

Congress would best serve our national interest by finding the courage to rally the troops in support of ending this un-American discrimination.

Mr. MEEHAN. Mr. Chairman, I yield 30 seconds to my friend, the gentleman from Illinois [Mr. Gutierrez].

Mr. GUTIERREZ. Mr. Chairman, the debate on gays and lesbians serving in the military is certainly a debate about choosing unity over division, tolerance over hatred, fairness over exclusion.

But it is something more than that. It is a debate about patriotism. We talk a lot about patriotism and country and serving our Nation here on this floor.

I believe we all at times feel a bit disappointed that we do not see more patriotism in our Nation, that we do not see more people with a desire to serve their country.

But apparently some of my colleagues disagree. Patriotism--the desire to serve your country--the hope that you can contribute to making our Nation a better, safer place to live--are only desirable, admirable qualities if Members of this Congress approve of what you do in your bedroom with your body, in your private life.

You see, if we disagree with how you behave in your private life, well then, your patriotism is something to be ashamed of, something to hide from.

Well, I believe this Congress has a lot to be ashamed of here today if we say to Americans who want nothing more than to serve their country that we do not really want them and we do not really need them.

Let us be reasonable today. Let us be fair today. Let us put an end to the hatred that is filling this room today. Let us say to every American--to every American--that we admire and respect and honor--that we need--your patriotism.

I urge my colleagues to vote for fairness, to vote for tolerance, to vote for patriotism, and pass the Meehan amendment.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Florida [Mr. Stearns].

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Chairman, I rise today in support of the so-called Hunter amendment to the 1993 Department of Defense Authorization Act to require the armed services to continue to ask recruits whether or not they are homosexuals.

The crux of this debate was whether homosexuality is compatible with military service. To the satisfaction of Congress, the Secretary of Defense, and the Joint Chiefs of Staff, it was determined that the current policy is correct and homosexuality is incompatible with unit cohesion.

I have one concern about the details of the compromise proposal that has been reached, however. The don't ask component of this policy would formally condone a degree of deception for both military recruits and the services themselves.

The policies of this Nation should not condone or encourage deception. It is a disservice for all parties to allow a recruit into the Armed Forces who is an active homosexual while the Code of Conduct forbids homosexual activities.

We should not give a young recruit who is a homosexual a wink and a nod to enter the military when we know that he will be discharged if he or she engages in these acts. That is not fair to those individuals and it is not fair to the taxpayers of this Nation who would train and equip our Armed Forces.

But, most of all, it moves Congress one more step away from a recognition that what we do here is the law of the land. The compromise policy blurs the line between laws and lawbreaking, rules and rule breaking. And that is a message that is much larger than this debate and much more important than this policy.

I believe that as long as we maintain the exclusion on homosexuals in the military we should ask recruits if they are active homosexuals. This is a more fair and more honest approach for all involved and one that preserves the integrity of our Armed Forces and our laws. Vote yes on the so-called Hunter amendment.

[Page: H7076]

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from Nevada [Mr. Bilbray].

Mr. BILBRAY. Mr. Chairman, as a member of the committee, I came in with an open mind. I originally supported the President's policy and believed in a ban against any discrimination against any segment of our society.

However, as the tens of hours of testimony was taken by this committee, in listening to what the military had to say and what those who had served in the military, some that were gays, some that were lesbians, and some, of course, heterosexuals who had served with those types of individuals, we listened to that testimony hour after hour after hour. We listened to the Joint Chiefs, we listened to the senior enlisted men of our country.

At that time I came to the conclusion, at the end, that the policy as advocated by Senator Nunn and the gentleman from Missouri [Mr. Skelton] was the only possible policy that will work for the military in this time and day. It is a compromise, we believe, that has been carefully worked out over the whole year. It is one that can work.

I ask everybody to turn down the so-called Hunter amendment, to accept the language of the committee, so we can move forward on other important matters that face our country.

Mr. MEEHAN. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, I really hope we can put this type of energy and this type of inquiry into the whole Tailhook scandal, because we really need to talk about sexual behavior, and it is in the Tailhook report.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. Barton].

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, back in January President Clinton announced his intention to repeal the ban against homosexuals serving in the military. The next day I held a press conference and

announced my intention to introduce legislation to codify the ban as it existed under the previous administration.

Subsequently, myself and the gentlemen from California, Mr. Hunter and Mr. Dornan, and the gentleman from Texas [Mr. Johnson] introduced such legislation. That legislation currently has over 100 cosponsors.

Later today we will vote on three amendments, dealing with homosexuality in the military. Of these, only one amendment maintains the total ban, and that is the Hunter amendment. If Members have told their constituency that they support the

ban on homosexuals serving openly in the military, the only vote they can make is to vote yes on Hunter.

If Members have sent out letters to their veterans' group, to their church groups, to their retired military groups, and said, 'I am for the ban on homosexuals serving in the military,' they must vote yes on Hunter.

The CHAIRMAN pro tempore. The gentleman from Massachusetts [Mr. Meehan] has 2 minutes and 20 seconds remaining.

Mr. MEEHAN. Mr. Chairman, I yield my 2 minutes and 20 seconds remaining to my friend and colleague, the gentleman from Massachusetts [Mr. Studds].

(Mr. STUDDS asked and was given permission to revise and extend his remarks.)

Mr. STUDDS. Mr. Chairman, I would like, in the spirit of the words of the gentleman from Wisconsin who spoke a few moments ago, to try to put this in a slightly broader perspective. Why do we have an armed forces? It is not, surely, simply to defend the piece of geography known as the United States of America. It is to defend and preserve and protect a document known as the Constitution, which enshrines the rights and liberties of all of our people.

History teaches us that the promises of that Constitution have taken a very long time to fulfill. It was written 206 years ago by white men, many of whom owned slaves. President Lincoln signed the Emancipation Proclamation 130 years ago. President Truman signed the Executive order ending racial discrimination in the Armed Forces 45 years ago. President Johnson signed the Civil Rights Act of 1964 29 years ago. And less than 1 year ago, this country elected the first President of the United States committed to helping us write the last chapter in the long history of civil rights, which is the history of this country.

[TIME: 1420]

Mr. Chairman, history gives us perspective, and it teaches us patience. But it is hard to counsel patience and perspective to someone who has lost his job simply because of who he or she is, or to someone who has lost his home simply because of who he or she is, or to someone who has lost a distinguished military career simply because of who he or she is. Mr. Chairman, it is virtually impossible to counsel patience to someone who is sick and to someone who is dying.

But we are holding this debate, and we have never done that before. And this country is debating this, and we have never done that before. And the President has asked us to act, and no President has ever done that before.

We will not win this battle here today. The fundamental question is not even before us today. But these struggles are never won quickly or easily. And the ultimate outcome is in no doubt whatsoever.

This country, in the words of Martin Luther King, will rise up and live out the true meaning of its creed, and we will write a happy ending to this, the last chapter in the long history of civil rights, which in some very fundamental ways is the history of this country.

- Mr. Chairman, I rise in support of the amendment offered by my friend, Mr. Meehan of Massachusetts. I join him and many of our colleagues in a final plea to this House not to enact into law a policy of State-sanctioned inequality. If, as appears likely, the Members of this House enact the language contained in section 575 of the committee report, they will be committing themselves to a policy of overt discrimination supported by nothing more than naked prejudice.
- Whatever action we take on the bill before us, the ban on lesbians and gay men in the military will remain. The DOD directive issued in July at the President's behest was far from the result for which I had hoped and worked for so many years. Under the directive, lesbians and gay men will continue to be subject to investigation and separation from the military merely for speaking privately about their sexual orientation or engaging in private consensual relationships. This perpetuates a situation in which gay men and lesbians are denied the security, dignity, and openness in their private lives which their comrades in arms take for granted.
- Nevertheless, I believe that the policy announced in the directive, if left in the hands of the President and the Joint Chiefs, would make life slightly more tolerable for those who are prepared to abide by the rules of silence and social isolation that the policy lays down. It would delete the current presumption that homosexuality per se is incompatible with military service; it would eliminate the practice of asking recruits their sexual orientation; and it would guarantee fair and uniform enforcement of the Uniform Code of Military Justice. It is a disappointingly small step, but it is a beginning.
- The language presented by the committee not only eliminates most of these modest improvements, but attempts through codification to ensure that any hope for further progress is stillborn. It seeks to micromanage a personnel policy best left to those with the expertise to apply it humanely and flexibly. For all these reasons, the Meehan amendment offers the better approach.
- The committee's conclusions fly in the face of a mountain of objective evidence--much of it assembled at the behest of the military itself--that stands uncontradicted on the record.
- On January 29, 1993, President Clinton directed the Secretary of Defense to draft an executive order ending discrimination on the basis of sexual orientation in the armed forces. On April 1, the Secretary commissioned the Rand National Defense Research Institute to prepare a \$1.3 million analysis that would assist in the formulation of the new policy. The Rand report, 'Sexual Orientation and U.S. Military Personnel Policy: Options and Assessments,' is a thorough, objective, 518-page study that concluded that sexual orientation, as such, is not germane to military service. Moreover, Rand determined that a standard based on conduct rather than status could be implemented with minimal disruption to military life and without extensive revision to military rules, provided that the policy change were communicated clearly and consistently from the top and reinforced throughout the chain of command. In other words, the answer is leadership. And sadly, leadership remains in short supply.
- The Rand report represents the fifth instance in the last several years that an independent agency has called into question the rationality of our country's military ban. In fact, every study undertaken at the direction of Congress or the Pentagon has come to similar conclusions.
- On June 25 of this year, the General Accounting Office released a report requested by Senator Warner which confirmed once again what every previous Government-commissioned study has shown--that the presence of lesbians and gay men does not disrupt discipline or morale in a

military setting. The report, 'Homosexuals in the Military: Policies and Practices of Foreign Countries,' GAO/NSIAD-93-215, June 1993, focused on the experience of four countries, three of which have dropped all restrictions based on sexual orientation. According to the report, military officers in Canada, Israel, and Sweden confirm that 'the inclusion of homosexuals in the military is not a problem and has not adversely affected unit readiness, effectiveness, cohesion, or morale.' Even in Germany, where homosexuals serve but still face some restrictions, officials consider homosexuality a nonissue.

- One year earlier, in a report which I had requested together with my friend Mr. Conyers and out late colleague, Ted Weiss, the GAO concluded that the Government wastes \$27 million each year simply to recruit and train replacements for gay men and lesbians who are discharged from military service. That report, 'Defense Force Management: DOD's Policy on Homosexuality,' GAO/NSIAD-92-98/98S, June 1992, examined the practices of analogous paramilitary institutions such as police and fire departments, and found no evidence that the inclusion of homosexuals disrupted the ability of these institutions to perform their mission.
- In 1988 and 1991, a pair of studies by the Defense Personnel Security Research and Education Center [PERSEREC] concluded that sexual orientation is irrelevant to an individual's suitability for military service. Theodore R. Sarbin and Kenneth E. Karols, 'Nonconforming Sexual Orientations and Military Suitability,' Defense Personnel Security Research and Education Center, PERS-TR-89-002, Dec. 1988; Theodore R. Sarbin,
- 'Homosexuality and Personnel Security,' Defense Research and Education Center, October 1991. Indeed, the 1988 report stated that sexual orientation is as unrelated to job performance as left- or right-handedness.
- Taken together, these reports tell a consistent story--there simply is no evidence that the performance of the military mission is improved by discharging individuals with distinguished records of service to their country solely on this basis of a personal characteristic they are powerless to control.
- Yet the findings presented in the reports were ignored by the Defense Department and, in some instances, suppressed. The handling of the PERSEREC reports is instructive. Only after the reports were released by my office did DOD even acknowledge their existence. Rather than questioning the conclusions of the reports, the Department tried to dismiss them on the ground that the researchers had addressed a question they had not been asked.
- Nor did these reports--the only independent, objective studies on record--have any effect on the subcommittee's deliberations. The authors were never invited to testify at the hearings, nor were the studies cited in the committee report. The sole references to any of them appear in the additional views of committee members who disagree with the committee's conclusions.
- By their own admission, the proponents of the committee report base their conclusions on a single unproven assertion: that the mere presence of lesbians and gay men in the military setting will provoke such hostility against them as to destroy unit cohesion and morale. The evidence provided for this assertion by committee witnesses was purely speculative and anecdotal. It was flatly contradicted by military witnesses who testified that any disciplinary problems that might occur over the short term could be fully addressed through the system of command. The committee has offered no reasoned explanation for its decision to accept one set of testimony while disregarding the other.
- What is most troubling about the committee's rationale is that it is an accommodation to prejudice. It is precisely this readiness to defer to the prejudices of the majority that makes this a civil rights issue. Much has been said by those seeking to perpetuate the ban about the

differences between the discrimination endured by gays in the military and the discrimination suffered by racial and ethnic minorities. Yet it was Coretta Scott King who equated the accommodation of homophobia in the military to the accommodation of customer preferences by businesses seeking to justify their refusal to hire African-American employees.

- When President Truman ordered the desegregation of the Armed Forces, there were Members of Congress who made the very arguments heard in this Chamber during the last several months-- that white troops would not accept intimate contact
- with black troops and would refuse to take orders from them; that integration would undermine cohesion and increase the prevalence of violence, sexual misconduct, and disease; that recruitment and retention would be adversely affected. Then, as now, there were military leaders like Gen. Omar Bradley, who argued that the Armed Forces are not the place for social experimentation.
- Yet despite these misgivings, the integration of the military was achieved. The issue was framed as a matter of social justice, and its implementation as a matter of leadership. Once the order was given, the military took on the job of getting it done.
- Today it is inconceivable that the Congress would defer to prejudice against African Americans-- or members of any other racial or ethnic group. Indeed, the Supreme Court has held that catering to the prejudices of others is not a legitimate governmental objective. *Cleburne v. Cleburne Living Center*, 473 U.S. 432, 1985; *Palmore v. Sidoti*, 466 U.S. 429, 1984. This is as true in regard to sexual orientation discrimination as it is when other minority interests are at stake. It will now be up to the Court to say so.
- In so doing, they will have the blessing of scores of professional, civic, labor, and religious organizations who joined together in opposition to the ban--groups as diverse as the American Psychological Association and the American Bar Association, the NAACP and the AFL-CIO, the YWCA and People for the American Way, the United Church of Christ and the Union of American Hebrew Congregations. This is the first time that such a broad coalition has come together in support of the civil rights of lesbian and gay Americans, and I have every confidence that that support will continue to grow.
- I would also note that some Members of Congress who have worked to retain the ban have gone out of their way to assert their willingness to respect the civil rights of gay men and lesbians in a civilian context. They have done this in an effort to show that their readiness to condone discrimination is based not on prejudice but on the peculiar requirements of military life. I am prepared to be persuaded of the sincerity of these assertions, and I challenge those Members of Congress to give their support to H.R. 431, the Civil Rights Act of 1993, which my good friend Mr. Waxman of California has introduced and which is now pending before us.
- I know that many of my colleagues will agree that the debate on this issue has exhibited some of the worst features of our political life. Rational discussion has been swept aside by slogans and caricatures; calm deliberation preempted by the ability of lobbyists to orchestrate a chorus of instant reactions from constituents. Is it any wonder that the Rand report and its precursors could not be heard above the din?
- Nevertheless, while the debate has not always been as thoughtful or edifying as one might have hoped, it has provided a forum for the most sustained, frank, and
- open discussion in our history of what it means to be a gay person in America. If the debate has laid bare the extent of popular hostility, it has also facilitated a large measure of public education.

- Members of Congress and the public have been challenged to confront the contradictions in their own thinking. Indeed, many have been forced to think about this issue for the first time. They have stood face to face with brave, patriotic men and women who have served their country honorably and well, answering insults and hysteria with quiet dignity and pride.
- These are truly remarkable people--and yet, as Colonel Cammermeyer said in her Senate testimony, they are also ordinary human beings. More than anything else, the debate has helped to demonstrate that gay men and lesbians are just like everybody else. We belong to every family and community, every vocation and walk of life. We are doctors and lawyers and farmers and factory workers; we are Members of Congress and the clergy. We are your children, your parents, your friends and neighbors.
- What is not ordinary about the lesbians and gay men in the military is their courage. They have made untold sacrifices for the right to serve their country with honor and pride. I have waged this battle together with them for many years, and I share their pain and anguish at this difficult moment.
- I also salute the first President in the history of the United States who cared enough to try to make their dreams--and ours--a reality. In accepting this challenge President Clinton showed a degree of courage and leadership that is all too rare in politics. Gay people everywhere--and those who care about them--will feel anger and pain at the President's inability to fulfill his pledge. I share such feelings. Nevertheless, it is important at such times to see that our understandable feelings of anger and betrayal are not misdirected. In raising this issue to the forefront of the national agenda, the President has stood for reason and decency in a political environment that was supercharged with hysteria and the most cynical opportunism. He must not be condemned for the bigotry and intransigence of others.
- We must also not lose sight of what the struggle has been all about. This is the last great unfinished chapter in the long history of civil rights in this country. We will lose some battles, as we have today, but we must never doubt our ultimate victory in the struggle for justice. We will continue to fight on--in Congress and the courts--until the final chapter has been written and all Americans are free.

[Page: H7078]

Mr. SPENCE. Mr. Chairman, I yield my remaining 1 minute to the gentleman from California [Mr. Cunningham], a top gun fighter pilot, the only Vietnam ace in this country, having shot down five MiGs, and nominated for the Congressional Medal of Honor.

Mr. CUNNINGHAM. Mr. Chairman, what this whole issue should wrap around is, is homosexuality compatible with military service. We are not competing for six gold medals, or even a Super Bowl, but we are dealing with the lives of men and women in combat.

Any degradation of training that combat unit cuts back the capability of that unit to survive. Pilots in the U.S. Navy, Air Force, and Army up to a high percentage are killed in training. We do everything we can to tie that unit together, to make sure that everybody is pulling in one direction.

It was mentioned that homosexuals are all around us. This is true, not in as great a numbers as they would like us to believe, but if they are allowed in the military, then that disruption will take place, and it will affect the combat-readiness of this military.

The military is sworn to uphold the Constitution. It was discussed by my colleague from Massachusetts. Any degradation in the ability to defend that Constitution should be eliminated.

I support both the Hunter amendment and the Nunn-Skelton amendment.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. Harman].

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Chairman, today the House will have the opportunity to take an incremental step forward--or a big step backward. As a member of the Military Forces and Personnel Subcommittee. I commend my chairman for his effort to focus us on coming together, not pulling apart.

As I have stated on this floor, I think the gay ban is unconstitutional and violates the equal protection clause of the 14th amendment. This is why I voted to lift the ban in the Armed Services Committee. Last month, a second Federal court reached that verdict, in the case of Dahl versus Secretary of the U.S. Navy. Clearly, given this decision--and given the determination of many patriotic gay and lesbian Americans to serve their country--this debate is far from over. I think and hope that the courts will strike the ban down.

Mr. Chairman, I take my responsibilities as a member of the Armed Services Committee extremely seriously. It is not easy to look the Joint Chiefs in the face and tell them how you think they should organize their forces and enforce the military chain of command. I respect our military leaders enormously, and I think Congress should give them flexibility to manage this issue and to move on with the business of defending our country. The best way we can do that is to vote against codification, and so I will support the Meehan-Gunderson amendment, and vigorously oppose the Hunter amendment. We must hold the fragile ground we have gained.

Mr. SKELTON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I know that we are all very anxious to put this issue behind us. We are anxious to get on with many challenges ahead for our country and for the defense of our Nation.

I believe the language in this bill allows us to achieve that purpose. I would ask my colleagues to keep in mind that this issue has been fully debated in the committee. I am asking Members to support the committee position, which is the same as the Skelton amendment, which is the Nunn-Skelton language, and that this debate end because the language is identical to the language in the other body.

Mr. Chairman, this is not a matter of civil rights. This is a matter of winning on the battlefield. Second place does not count on the battlefield. Unit cohesion is uppermost.

The Meehan amendment causes serious problems concerning unit cohesion. The Hunter amendment raises serious constitutional problems, and this will be carried on down through the courts ad infinitum, so that must be defeated.

The Skelton amendment is one that codifies the law and has a tough, workable policy that helps keep unit cohesion so that when the time comes in the face of an enemy, victory will be there because there will be strong unit cohesion among the troops.

I sincerely urge the other two amendments be defeated and that the Skelton language be adopted.

- Mr. BROWN of California. Mr. Chairman, the past 6 months of debate concerning lesbians and gays in the military have made at least one thing very clear, and that is that stereotypes and myths about lesbians and gays continue to flourish. Perhaps one of the most noxious myths that persists is the idea that these individuals have chosen their sexual orientation.

- Indeed, Chairman of the Joints Chiefs of Staff, Gen. Colin Powell, said that part of the reason that he felt that the racial integration of the military was not analogous with the current efforts to lift the ban on gays and lesbians is that they believed homosexuality was a chosen behavior. General Powell is an intelligent man who has rendered great service to our country, but I would question how he came to this particular conclusion.
- Likewise, Col. Margarethe Cammermeyer, a woman with an impeccable and distinguished military service record who was discharged for acknowledging that she is a lesbian, was asked by Senator Strom Thurmond in hearings before the Senate Armed Services Committee whether she had sought psychiatric treatment for her lesbianism.
- On a commonsense level, this question of choice of homosexuality was perhaps expressed best by columnist Molly Ivins in the Ft. Worth Star-Telegram on January 30, 1993. She said, and I quote:
- Of all the odd misperceptions current about homosexuality, perhaps the oddest is that it is a choice, that people choose to be homosexuals. That strikes me as patently silly. Did any of us who are straight choose to be straight? When? Did we wake up one morning when we were 15 and say, 'Gosh, I think I'll be heterosexual.' For Heaven's sake, how can anyone believe that people choose to be homosexual. I think it would be fun to be called 'Queer' and 'Sissy' for the rest of my life, so I think I'll be gay.
- I agree with Ms. Ivins. It is utter nonsense to think that people would somehow choose to lead a life in which discrimination and degradation are heaped upon them at every turn when the alternative would also be freely available.
- If the idea that people choose to be gay is insupportable from the standpoint of common sense, it is also insupportable from the empirical and scientific standpoint, and this is the aspect that interests me most as chairman of the House Committee on Science, Space, and Technology.
- For over 20 years now, psychological and psychiatric research has concluded that sexual orientation is a core part of an individual's identity that develops very early in his or her personal life and is not readily subject to external manipulation.
- Dr. Gregory Herek, who recently testified before the House Armed Services Committee, summed up these conclusions in an article appearing in Law and Sexuality (summer, 1992):

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- The assertion that homosexuality is a choice is erroneous for the vast majority of lesbians and gay men. Although the origins of sexual orientation are not well understood, neither heterosexuality nor homosexuality appear to represent a conscious choice for most people.
- John C. Gonsiorek, perhaps the foremost authority on sexuality and choice agrees. In his introductory chapter to 'Homosexuality: Research Implications For Public Policy,' he states:
- It might appear to outsiders that individuals going through this process have 'chosen' their homosexuality. We suggest that the term 'sexual preference' is misleading as it assumes conscious or deliberate choice and may trivialize the depth of psychological processes involved. We recommend the term 'sexual orientation' because most research findings indicate that homosexual feelings are a basic part of an individual's psyche and are established much earlier than conscious choice would indicate.

- Chandler Burr in his recent article in the Atlantic Monthly (March 1993) came to the same conclusion. He stated that:
- Psychiatry not only consistently failed to show that homosexuality was a preference, a malleable thing susceptible to reversal, it also consistently failed to show that homosexuality was a pathology.
- The American Psychological Association recently set forth its position on sexuality and choice in an amicus brief filed before the Supreme Court of Texas in the case of Texas versus Morales. The APA said that:
 - Sexual orientation generally is a characteristic over which individuals lack a substantial degree of control. To punish an individual for an essentially `immutable' characteristic, based on false stereotypes, when that characteristic is in no meaningful sense detrimental or harmful to society is arbitrary. * * * Sexual orientation is acquired at an early age, and thus it makes little sense to argue that the trait is voluntarily acquired. * * * Once established homosexual orientation is highly resistant to change. Researchers generally agree that the majority of gay people are unable to change their sexual orientation, even if they wished to do so.
 - Further, the APA's fact sheet on reparative therapy says that `No scientific evidence exists to support the effectiveness of any conversion therapies that try to change sexual orientation.' Bryan Welch of the APA has stated that `Research findings suggest that efforts to `repair' homosexuals are nothing more than social prejudice garbed in psychological accoutrements.'
 - Where does sexual orientation come from? The answer to this question is not clear, but more and more scientific research suggests that sexual orientation is genetic or otherwise biological in origin. The most recent and most compelling of this research was reported by Hamer et al. in the July 16, 1993 edition of the highly respected journal Science, published by the American Association for the Advancement of Science. A team of researchers at the National Institutes of Health has done a thorough study that clearly indicates that at least some examples of male homosexuality are inherited as a expression of a gene locus on the x chromosome, which in males can only be inherited via the mother. In fact, the observation that male homosexuality often--but not always--is more frequently found on the female side of inheritance was the beginning point of their study.
 - This builds on a developing body of research in the biology of sexuality and sexual orientation. The Science article notes, as have numerous other studies, that it is more likely that both sons of identical twins will both be gay than is the case with fraternal twins or nontwin siblings. The correspondence is highly significant from a statistical point of view. And the study follows on the heels of reports showing that homosexuals and heterosexuals have differences in certain brain structures. As well, there seems to be an association of homosexuality with lefthandedness, and handedness has been established to be largely biologically determined.
 - What does all this mean? It probably does not mean that all expressions of homosexuality derive from the same origin. But it certainly does indicate that sexuality is clearly more a matter of biology than of environment. And sexual orientation of any kind is certainly not a matter of choice or preference.
 - Thus, it is absurd for General Powell to suggest that homosexuality is a chosen behavior. And it is equally absurd for Senator Thurmond to suggest that lesbians and gays seek psychological treatment for their sexuality. It is unfortunate that neither of these prominent persons has any expertise on this subject since so many in our society are liable to look to them as leaders for guidance in the formation of opinion.

- So today as we consider the additional restrictions placed on President Clinton's policy on lesbians, gays, and bisexuals in the military as found in the Senate version of the fiscal year 1994 Defense authorization bill, I hope that we will have the good sense and moral fiber to reject those restrictions and any House amendments that are in the same vein. These efforts to keep gays, lesbians, and bisexuals out of the Armed Forces are in my opinion derived from prejudice. They are certainly not based on science or for that matter on reason. The scientific evidence is that sexual orientation is not a matter of choice and that homosexuality is not pathological. Homosexuality like heterosexuality is simply an expression of the great complexity of human biology.
- To me, to exclude persons from service in the Armed Forces on the basis of sexual orientation makes as much sense as excluding persons on the basis of eye color or handedness. Service in the Armed Forces of the United States should be based on high standards of ability and conduct. I repeat: ability and conduct. And the standards and requirements that apply to any should apply to all, regardless of their sexual orientation.
- Ms. LONG. Mr. Chairman, I rise to express my support for the President's policy regarding the service of homosexuals in our Nation's Armed Forces.
- The legislation we are considering today will codify the President policy toward homosexuals' service in the military. This compromise policy establishes criteria from which the Defense Department is to pattern its recruiting and investigating processes in the future as it relates to prospective or current military service members. This compromise, negotiated with Defense Secretary Les Aspin, Joint Chiefs of Staff Chairman Colin Powell, and chairmen of the Senate and House Armed Services Committees, will ensure an effective military in the future while respecting service members' basic freedoms.
- Serving in our Nation's Armed Forces is a unique calling--one that comes with a great deal of responsibility. In carrying out one's duties in the military, a service member must exhibit a commitment to discipline, order, and proper conduct. In every day civilian life, individuals may decide whether incorporating these principles on the job will ensure success. In the military, however, it is incumbent upon service personnel to strictly adhere to these principles due to the sensitive nature of the objectives that the military seeks to achieve; it requires the most effective military force.
- Mr. Chairman, the President's policy that we are considering here today as part of the Defense Authorization Act recognizes these unique characteristics which are inherent in military service. It also reaffirms the importance of maintaining a strict code of conduct as outlined in the United States Code of Military Justice [USCMJ]. However, this policy will require military commanders to distinguish, in the future, between an individual service member's conduct and his or her orientation. Furthermore, disciplinary action will be regarded to be appropriate when a service member's conduct is in question as it relates to the USCMJ, rather than a service member's orientation.
- I believe the President's policy, as drafted in consultation with Secretary Aspin and Chairman Powell, has made a fair assessment of this important, yet controversial, issue. It provides an acceptable compromise which recognizes the rights of all service members.
- Mr. Chairman, the successful implementation of this policy clearly rests upon the proper supervision, active participation, and forthright leadership by our military leaders. The confidence that I have in the abilities of our military leaders, therefore, gives me confidence that this policy will be properly administered, preventing any perceived undermining of unit cohesiveness.

The CHAIRMAN pro tempore. All time for general debate has expired.

It is now in order to consider amendment No. 1 printed in part I of House Report 103-252 relating to the subject matter of section 575.

If more than one of the amendments is adopted, only the last to be adopted shall be considered as finally adopted.

AMENDMENT OFFERED BY MR. MEEHAN

Mr. MEEHAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. [Mr. Durbin]. The Clerk will designate the amendment.

The test of the amendment is as follows:

Amendment offered by Mr. Meehan:

Strike out section 575 (page 198, line 7, through page 206, line 11) and insert in lieu thereof the following:

[Page: H7080]

SEC. 575. SENSE OF CONGRESS CONCERNING HOMOSEXUALITY IN THE ARMED FORCES

It is the sense of Congress that the policy of the Government concerning the service of homosexuals in the Armed Forces is a matter that should be determined by the President, as chief executive officer of the Government and commander-in-chief of the Armed Forces, based upon advice provided to the President by the Secretary of Defense and the military advisers to the President and Secretary.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. Meehan] will be recognized for 5 minutes, and the gentleman from South Carolina [Mr. Spence] will be recognized in opposition for 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Meehan].

Mr. MEEHAN. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Connecticut [Mr. Shays].

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me the time.

Barry Goldwater is right. It is not the Government's business what one's sexual preference is. What matters is their conduct.

If Americans want to serve their country and give their lives to their country, they should be allowed to do so.

I urge my colleagues to allow the President and Chiefs and Staff to decide this issue and not codify it into law.

Mr. MEEHAN. Mr. Chairman, I yield 45 seconds to my friend, the gentlewoman from New York [Mrs. Maloney].

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Chairman, I rise in strong support of the Meehan amendment.

This amendment represents our best hope to do the right thing--end discrimination against lesbians and gays in the military.

Already, thousands of gay men and lesbian women are buried beneath gravestones adorned with American flags.

They fought and died for freedom--the dearest of American principles--even while their freedom was being suppressed in the very ranks in which they served.

That is true heroism. That is true love of country.

But as Randy Shilts documented in his book 'Conduct Unbecoming,' purges of gay men and lesbian women have taken place only in peacetime, never during war.

If they are willing to give their lives in war, they should also enjoy the benefits of military service during peace.

Our armed forces fight for American ideals.

Discrimination is most certainly not an American ideal.

End discrimination. Support the Meehan amendment.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. Hansen].

(Mr. HANSEN asked and was given permission to revise and extend his remarks.)

Mr. HANSEN. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Massachusetts and in support of the committee position.

The House Armed Services Committee held extensive hearings earlier this year on this issue and arrived at what I consider to be a sound policy compromise to a difficult issue.

It is not perfect. It did not make everyone happy. But that is the definition of a compromise.

What the committee approach does is ensure that we not throw overboard the sound principle that military readiness and unit cohesion must be the principle criteria in determining what type of behavior is allowed within the military.

The Meehan amendment, on the other hand, says it is not the business of Congress to determine such policy matters. That such matters are best left to the President and the executive branch.

Rather than tell you what I think, let me read a brief passage from the U.S. Constitution that should settle any question on who has the responsibility to determine such matters.

Article 1, section 8 of the Constitution reads:

The Congress shall have the power * * * to raise and support Armies * * * provide and maintain a Navy * * *
* . Make rules for the government and regulation of the land and naval forces.

It should be obvious then, that the Meehan amendment is not only bad policy, but it also would put Congress in the position of relinquishing its role under the Constitution to make rules for the regulation of military forces.

Regardless of where we may individually stand on the question of homosexuals in the military, Congress has a right and an obligation to speak on this issue of critical importance to the future and readiness of our armed forces.

Vote `no' on the Meehan amendment and vote `yes' on the Skelton amendment.

[TIME: 1430]

Mr. MEEHAN. Mr. Chairman, I yield 1 1/2 minutes to my friend, the gentleman from California [Mr. Edwards].

Mr. EDWARDS of California. Mr. Chairman, I rise in enthusiastic support of the Meehan amendment. Mr. Chairman, I would have hoped that by this time in our history, discrimination would only be a bad dream of the past and that we would judge people in this country by their conduct and not by their personal and private inclinations.

Fifty years ago when I joined the Navy and sailed for 5 years, black Americans were discriminated against and they could not hold very good jobs at all in the Navy. And yet when President Truman came along, by a stroke of the pen he eliminated discrimination in the Navy and in the Armed Forces and made major improvements.

When I was sworn in here in January 1963, black Americans were discriminated against in 11 States so that they had no personal liberties whatsoever. We passed the civil rights laws, and our country has been far, far better off.

The subcommittee that I chair has jurisdiction over the FBI. In the last 20 years we have worked to eliminate discrimination against African-Americans and Hispanic-Americans and women. We are doing that. The FBI is a far, far better place than it has ever been before.

One of these days it will stop discriminating against people of a different sexual preference, too, like all of the major police departments of this country who must have the magic word, `readiness.' They have readiness, and they do not discriminate.

We have done so much for civil rights in this country in this century; let us not end the century by a step backwards.

- The view that homosexuals cannot, or should not, serve in the military reflects an intolerance that has no place in American society. Gay men and lesbians deserve our respect and thanks for serving their country with honor and patriotism.
- The measure of a soldier's worth is his or her conduct and skill, not his or her sexual orientation. The President, recognizing this, took an important step forward earlier this year by proscribing the military witch hunts that cost taxpayers millions of dollars and so many valuable servicemembers their careers. But `Don't Ask, Don't Tell, Don't Pursue' is only a beginning--much more remains to be done before lesbians and gay men are treated justly.
- Much the same as our military, we expect our police officers to be of the highest caliber. In 1991, more than 130 men and women in blue lost their lives in the line of duty, almost as many fatalities as Americans suffered in the Persian Gulf war. Yet most every major metropolitan police force and fire department explicitly permit homosexuals to serve and protect and none prohibit them.

- Now is the most opportune time in our history to secure the right of every American to serve in defense of the Nation. I am confident that the prejudices that keep homosexuals from serving openly can be overcome. This will require flexibility on the part of Congress and responsiveness from the administration. Rather than freeze an anachronistic policy in legislative stone, it is imperative that we preserve the President's authority to act. Support the Meehan amendment.

Mr. SPENCE. Mr. Chairman, I yield 1 1/2 minutes to the gentleman from Missouri [Mr. Skelton], who is chairman of the Subcommittee on Personnel and Military Forces of the Committee on Armed Services.
[Page: H7081]

Mr. SKELTON. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Massachusetts.

In my view, the most likely result of the gentleman's amendment is that the debate does not end. In the immediate future, the issue would become a conference issue as our language would no longer be identical to that in the other body's bill. Over the long run, if the Congress were to remove the codification language from the bill, our perceived lack of resolve would encourage both sides of the argument to continue the struggle, to continue to attempt to shape the policy in their favor. Ultimately, the uncertainty and controversy would cause combat readiness in the armed services to suffer. I would ask my colleagues to avoid such a result by preserving the language in the bill, the language supported by the President, the Joint Chiefs of Staff, and the men and women in uniform.

I would suggest that my colleagues also not overlook two very practical advantages of codifying the policy on homosexuals. First, codification of the policy ensures that this very divisive issue is always managed by the elected representatives of the people, the Congress. It appears to me we are long past the time when the Congress would agree to allow this emotional issue to be resolved by the executive branch alone. It is also clear to me that enacting the policy in law is essential because the American people want their elected officials in the Congress to play a role in the resolution of such controversial issues.

Second, codification will limit the latitude of lower courts to render decisions that are inconsistent with the President's policy. Such a limitation will stabilize the policy and reduce controversial decisions. Why is that important? Because the combat readiness of our military forces is at risk when the people who serve are confused and uncertain about important policies.

Mr. Chairman, I ask my colleagues to vote for stability. To vote for an end to the divisive debate. To vote for a policy that will work. Vote 'no' on Mr. Meehan's amendment.

Mr. MEEHAN. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Georgia [Mr. Lewis].

Mr. LEWIS of Georgia. Mr. Chairman, I rise today in support of the Meehan-Fazio amendment. The words we hear today sound like the words we heard in 1963. We heard the same words in 1964. We heard the same words in 1965. Back then, we debated over the rights, whether black Americans would have the right to sit at a lunch counter with white Americans; whether they would have the right to vote and participate fully in our political process.

Mr. Chairman, this Member of Congress fought too hard to guarantee the rights of all Americans, to stand here today and see us vote to deny the rights of other Americans.

We should be more concerned about what is going on in the Constitution, what our Constitution is all about, rather than what is going on in private in people's bedrooms.

Gays and lesbian Americans are citizens like all other Americans and deserve the same rights as all other Americans. That includes the right to serve their country.

I say, Mr. Chairman and to my colleagues, pass the Meehan-Fazio amendment.

Mr. SPENCE. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. Dornan].

Mr. DORNAN. I thank the gentleman for yielding this time to me.

Mr. Chairman, every military unit is a walking blood bank.

The other day I came across one of my dog tags, which has a B positive on it. If someone screens for B positive, if a person with B positive is injured in a missile attack, a bombing attack, or is on the battlefield, we have to make sure that they can get the blood they need and that it won't kill them. We simply cannot risk polluting the blood supply by allowing practicing homosexuals in the military.

Now, 120,000 male homosexuals have died since I returned to this Chamber in 1984, 120,000! We are pressing 200,000 overall.

That death toll has not encroached on the military, because 'Cap' Weinberger and Ronald Reagan cleaned up the blood supply, requiring that everyone take an HIV test and asking the question of military recruits.

Mr. MEEHAN. Mr. Chairman, I yield 45 seconds to my friend, the gentleman from California [Mr. Fazio].

Mr. FAZIO. I thank the gentleman for yielding this time to me.

Mr. Chairman, what the New York Times calls the military's favorite think tank, the Rand Corp., has done a definitive study that shows that heterosexuals and homosexuals can successfully serve together in the military. They have done so in foreign military services they have done so in the police and fire departments, of cities and counties all across our country.

By simply allowing the executive branch to do what President Truman did in desegregating the armed services, I think we move the cause forward, the cause that says that people ought to be able to serve their country regardless of their sexual orientation, that people ought not to have to deny the very essence of who they are, in order to serve their country.

I think this amendment offered by the gentleman from Massachusetts [Mr. Meehan] is the best approach we could take to demonstrate that we are a tolerant nation, to say that we will accommodate change as it occurs in the hearts of the American people. Let's not codify this language today but allow flexibility on this issue overtime.

Mr. MEEHAN. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Rhode Island [Mr. Reed], a graduate of West Point.

[Mr. REED addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. SPENCE. Mr. Chairman, I yield the balance of our time to the gentleman from Texas [Mr. Barton].

Mr. BARTON of Texas. Mr. Chairman, I rise in respectful opposition to the Meehan-Gunderson amendment.

With all due respect, this is not a question of civil rights. The military is an institution tasked with defending this Nation against all enemies, foreign and domestic.

It is a discretionary privilege to serve in the Armed Forces of the United States. Court after court has upheld that it is a discretionary privilege to serve in the military. It is not a civil right.

The military Joint Chiefs oppose relaxation of homosexuals serving in the military. The American people oppose it. Every opinion poll that has been taken of people currently serving in the military and those who have retired have opposed repealing the ban.

The Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, an African-American, has said that is not a question of civil rights.

What we should try to do is vote on what is the best policy for the military readiness of the United States of America. The way to do that is to vote no on the Meehan-Gunderson amendment and vote yes on the Hunter amendment.

- Mrs. SCHROEDER. Mr. Chairman, I rise in strong support of the Meehan amendment and in strong opposition to the Hunter and Skelton amendments.
- In the year and a half since I first introduced the Military Freedom Act to end discrimination on the basis of sexual orientation in the military, the entire Nation has vigorously debated the role of gay men and lesbians in the military. This fact, in and of itself, is a victory for those of us who, for years, have struggled to get the Department of Defense and Congress to recognize, let alone change, a 50-year-old policy that criminalizes the service of patriotic gay and lesbian servicemembers.
- I strongly reject the policy concerning homosexuality in the Armed Forces that has been included in the 1994 Department of Defense Authorization Act and encourage my colleagues to vote for the Meehan amendment to remove it. The Nunn-Skelton language in the defense bill disregards much of the testimony from the full House Armed Services Committee hearings, the original intent of the President to judge individuals based on their conduct rather than on their status, and codifies a policy that is unconstitutional.
- As a senior member of the Judiciary Committee Civil and Constitutional Rights Subcommittee, I am most greatly concerned with constitutional questions raised by the Nunn-Skelton language in this year's defense bill. The courts are already moving swiftly to challenge the ban, either in its original form, as Secretary of Defense Aspin recrafted it, or as it is codified by Congress.
- On September 22, U.S. District Judge Terry J. Hatter, Jr., ordered the Secretary of Defense and senior military officials to appear in court to explain their continuing disparate treatment of
- Moffett Naval Air Station petty officer Keith Meinhold. Mr. Meinhold, who acknowledged his homosexuality on television the same day I introduced the Military Freedom Act, was reinstated by the U.S. District Court for the Central District of California in January. As the Department of Defense will find itself extensively grilled about the basic constitutionality of the ban, I offer the following comments on the legislative findings of section 1177 of the defense bill:
- Though article 8 of the Constitution clearly confers broad powers to Congress, Congress has traditionally delegated to the President, contrary to findings 1 and 3, broad discretion in enacting rules for the Armed Forces. In codifying the principles of the Secretary of Defense's July 19 directive, Congress is removing the Commander in Chief's flexibility in regulating and maintaining the Armed Forces.
- If Congress is willing to codify the Secretary's directive on homosexual conduct, it should also codify other personnel directives, particularly those that pertain to heterosexual sexual

misconduct. In codifying the July 19 directive, the Congress sends a signal that it considers the fear of homosexual sexual harassment more important than the reality of heterosexual sexual harassment, an issue vividly exemplified by the Tailhook incident, that we have scrutinized in far more detail and which, in my opinion, is a far greater problem for the military.

- The second finding that there is no constitutional right to serve in the Armed Forces may or may not be valid. However, whether or not there is a constitutional right to serve is irrelevant to the question of whether a ban on service in the military by homosexuals is constitutional. Furthermore, as gay men and lesbians, both acknowledged and unacknowledged, have served their country with distinction for years, the burden of proof should rest on those opposed to their service to explain why they cannot serve.
- Granted, the military discriminates against the nearsighted, the flatfooted, and those who are incapable of the physical and mental demands of military service. However, the continuing presence, with or without a ban, of gay men and lesbians who offer to die for their country while their country reviles them is not only the supreme act of courage but also evidence that they are indeed capable of such service. If we allow the military to discriminate against classes of individuals because there is no constitutional right to serve, there must be just cause. There is none for gay Americans, other than tired old stereotypes.
- Findings 4 through 12 are true but imply that military service is so unique that homosexuals will be destructive to unit cohesion. Dr. David H. Marlowe, Department of Military Psychiatry at Walter Reed Army Institute of Research, testified at the full committee hearings that the impact of a homosexual on cohesion depends on whether or not the individual brought overly homosexual behaviors into the group. In other words, the impact of a gay individual on cohesion depended on both the gay individual's conduct--not her status--and the tolerance of those in the unit. A conduct-based policy that proscribes public affirmations of either heterosexual or homosexual orientation, as well as leadership that demands cooperation and tolerance, would be all that is necessary to preserve findings 4 through 12.
- Finding 13 is particularly misleading. Though a ban on military service by homosexuals is longstanding practice, the rationale for the exclusion has changed over the years. In fact, the ban has been arbitrarily enforced. The finding implies that the prohibition against homosexual conduct has a longstanding record of reason, which has remained unchanged through the decades and continues to be necessary today because of the unique needs of the military. There is no empirical evidence to support this claim.
- For instance, advocates of the ban claim that gay men are at higher risk for HIV infection. This was not true during the first 40 years of the ban's existence, when the human immunodeficiency virus did not exist, and, more important, we have never denied individuals enlistment because they might develop a medical condition. Should smokers be excluded? How about drinkers or those ethnic groups more susceptible to hereditary diseases?
- Finding 15 disregards the findings of two reports undertaken by the Department of Defense itself, 'Non-Conforming Sexual Orientations and Military Suitability' and 'Homosexuality and Personnel Security,' two GAO reports, 'Defense Force Management: DOD's Policy on Homosexuality' and GAO's June 25, 1993 report on gays in foreign militaries. The recent GAO report concluded, after studying 25 countries and 4 of our allies in detail, 'the military leadership's support of the new policy--of nondiscrimination against gays and lesbians--and the military's ability to keep a low profile on this issue' made the successful integration of gays and lesbians possible. Unfortunately, such was not the case in the United States, as senior military leaders opposed the President's intentions within 1 week after his election.

- Finding 15 also disregards the conclusions of the \$1.3 million Rand report, which, as I suspected when I first called for its release on June 23, advocates a complete rescission of the ban. Rand's recommendations were all but ignored by the Secretary of Defense's working group and the Joint Chiefs of Staff, but its conclusions are inescapable:

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- In light of this research, the [RAND] team examined a range of potential policy options. Most of the options were judged to be either inconsistent with the President's directive, internally contradictory, or both. Only one policy option was found to be consistent with the findings of this research, with the criteria of the Presidential memorandum, and to be logically and internally consistent. That policy would consider sexual orientation, by itself, as not germane to determining who may serve in the military. The policy would establish clear standards of conduct for all military personnel, to be equally and strictly enforced, in order to maintain the military discipline necessary for effective operations. The option requires no major changes in other military personnel policies and no change in current law. The 'not germane' option could be implemented without any changes to the administrative guidelines for prosecutions under the Uniform Code of Military Justice (UCMJ). However, several considerations lead to the conclusion that the policy would be more legally defensible and less costly and cumbersome to implement if the guidelines were revised to exclude private sexual behavior between consenting adults.
- Understanding Unit Cohesion: The principal conclusion from an extensive review of this literature is a commonsense observation: It is not necessary to like people in order to work with them, so long as members share a commitment to the group's objectives.
- The Rand report also goes on to challenge the arguments of the ban's proponents, ranging from fear of increased HIV transmission to antihomosexual violence. I encourage my colleagues to read these sections, in particular. With respect to antihomosexual violence, Rand concluded:
- The experience of foreign militaries and police and fire departments suggests that if leaders make it quite clear that violence will not be tolerated and stern action will be taken, violence can be kept to a minimum.
- Section 1177(b) of the bill all but mirrors the preexisting Department of Defense Directive 1332.14 of January 28, 1982. The policy, including the entry standards, required briefings, and rule of construction are, in my opinion, unconstitutional, and the courts should move swiftly to overturn them, as Members of Congress and the President, at the present time, do not have the courage to do it themselves.
- The policy violates the Constitution's promise of equal protection guaranteed in the fifth and fourteenth amendments because it treats lesbians and gay men differently from their heterosexual colleagues. It violates first amendment guarantees of free speech for gay individuals, who wish to disclose even to their closest friends something elemental to their being. It also violates first amendment guarantees of freedom of religion because a gay individual who attends a metropolitan community church service, the largest gay organization in the United States, could meet the credible information standard necessary for investigation.
- The Joint Chiefs assured the committee that this would not occur unless there was 'a pattern of such behavior.' Unfortunately, as the Subcommittee on Military Forces and Personnel Members insisted on reducing gay men and lesbians to hyperpoliticized sexual predators who only attend parades and bars, there was little incentive for uniformed leaders to explain what, in reality, constitutes such a pattern or how such a standard would respect the privacy and integrity of the individual.

- I am also displeased that, in our rush to codify a policy concerning homosexuality in the Armed Forces, we have made no provisions to require that the Uniform Code of Military Justice be uniformly and equally enforced against heterosexuals and homosexuals, that witch hunts and Department of Defense money used to carry them out be suspended, and that the suspension of the question concerning sexual orientation during accession be codified.
- Therefore, I urge my colleagues to support the Meehan amendment to strike the Nunn-Skelton language in the Defense bill because it will give the President, the Secretary of Defense, and the Joint Chiefs of Staff the flexibility to issue regulations that reflect the fundamental elements of the President's announced policy. In our rush to micromanage military personnel policy with respect to gays and lesbians, the Aspin directive is infinitely better than what the House and Senate Armed Services Committees have crafted and certainly better than the amendment offered by Mr. Hunter to essentially codify the original ban.
- The great irony of the Nunn-Skelton language in the Defense bill is that it ignores the valor of thousands of gay men and lesbians who served and fought in Operation Desert Storm. Some Reserve units even directed that all actions against gays and lesbians be suspended while Desert Storm was underway. What kind of policy is it that allowed and will, in reality, continue to allow gays and lesbians in the military during war as long as they are cashiered in times of peace? Such an arbitrary policy mocks the integrity of our outstanding military forces, the service of gay Americans, and the Constitution they are sworn to defend.

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- Mr. MINETA. Mr. Chairman, during the debate over ending discrimination against gays and lesbians in the U.S. military, some have questioned whether discrimination against gays and lesbians in the military is a civil rights issue. To me, there is no question that it is.
- The civil rights movement, at its heart, is about the right of all Americans to be judged on their individual merits--not on the basis of whatever stereotype is currently attached to the population group to which they belong.
- Make no mistake about it. That is what we are debating today, and to those of us who have been the targets of discrimination this debate is very familiar.
- During the Second World War, when the United States Government decided that all Japanese-Americans were a categorical threat to the security of the United States, my family and I, along with 120,000 other Americans of Japanese ancestry, were forced from our homes and into internment camps. The fact that I was an American citizen made no difference.
- Our loyalty to this country made no difference, our contributions to our communities made no difference, our rights under the Constitution made no difference--simply because by accident of birth we were of Japanese ancestry.
- More than 50 years after that decision, this House is considering a bill that would send a similar message to gay and lesbian Americans. That message says this:
- We do not care how qualified you are. We do not care how dedicated you are. We don't care how loyal you are to this Nation. Those things don't matter--because we do not want your kind here.
- Mr. Chairman, as an American of Japanese ancestry, that policy sound hauntingly familiar to me. I know it will sound familiar to many of my colleagues who have themselves faced this kind of injustice.

- I also know that such a policy should have no place in the laws of this Nation. I urge my colleagues to join me in voting to remove it by supporting the Meehan amendment.
- Mr. FOGLIETTA. Mr. Chairman, I rise in favor of the Meehan-Fazio amendment and in opposition to the Hunter amendment.
- I served for 12 years on the House Armed Services Committee. Stereotypes about the men and women in the military were destroyed--they are strong, smart, and loyal people. As they have in the past, they will accept the law as we state it--and I believe they want to put this issue behind them.
- The issue is not whether gays and lesbians serve in the military. They have. They do. They will. They have done so honorably and with distinction. Many have served as heroes.
- The issue is that the existing policy--and the policy of the Skelton and Hunter amendments--demands that these men and women hide their identities. It is basic public policy to use the truth as a tool in making law. The do-tell, do-pursue policy turns that policy on its head. It makes lying and deceit the law.
- That is not the way we do things in America. Let us break down more barriers; let us stop discrimination; I urge my colleagues to vote in favor of the Meehan-Fazio amendment.

The CHAIRMAN pro tempore [Mr. Durbin]. Under the rule, all time for debate on this amendment has expired.

The question is on the amendment offered by the gentleman from Massachusetts [Mr. Meehan].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MEEHAN. Mr. Chairman, I demand a recorded vote. A recorded vote was ordered.

The vote was taken by electronic device, and there were--ayes 169, noes 264, not voting 5, as follows:

Roll No. 460

[Roll No. 460]		
AYES--169	NOES--264	NOT VOTING--5
<ul style="list-style-type: none"> • Abercrombie • Ackerman • Andrews (ME) • Applegate • Bacchus (FL) • Barca • Barrett (WI) • Becerra • Beilenson • Berman • Blackwell • Boehlert 	<ul style="list-style-type: none"> • Allard • Andrews (NJ) • Andrews (TX) • Archer • Arney • Bachus (AL) • Baesler • Baker (CA) • Baker (LA) • Ballenger • Barcia • Barlow 	<ul style="list-style-type: none"> • Conyers • McDade • Owens • Rose • Underwood (GU)

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<ul style="list-style-type: none"> • Hastings • Hilliard • Hinchey • Hoagland • Hochbrueckner • Horn • Hoyer • Huffington • Inslee • Jefferson • Johnson (CT) • Johnson, E. B. • Johnston • Kennedy • Kennelly • Kildee • Kleczka • Kopetski • Kreidler • Lantos • LaRocco • Leach • Levin • Lewis (GA) • Lowey • Maloney • Manton • Margolies-Mezvinsky • Markey • Martinez • Matsui • McCloskey • McDermott • McKinney • Meehan • Meek • Menendez • Mfume • Miller (CA) • Mineta • Minge • Mink • Moakley • Moran • Morella • Nadler • Neal (MA) • Norton (DC) • Oberstar • Obey • Olver • Pallone • Pastor 	<ul style="list-style-type: none"> • Dreier • Duncan • Dunn • Edwards (TX) • Emerson • English (OK) • Everett • Ewing • Fawell • Fields (TX) • Fish • Fowler • Franks (CT) • Franks (NJ) • Frost • Gallegly • Gallo • Gekas • Geren • Gilchrest • Gillmor • Gingrich • Glickman • Goodlatte • Goodling • Gordon • Goss • Grams • Greenwood • Hall (OH) • Hall (TX) • Hamilton • Hancock • Hansen • Hastert • Hayes • Hefley • Hefner • Herger • Hobson • Hoekstra • Hoke • Holden • Houghton • Hughes • Hunter • Hutchinson • Hutto • Hyde • Inglis • Inhofe • Istook • Jacobs 	
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<ul style="list-style-type: none"> • Payne (NJ) • Pelosi • Penny • Pickle • Rangel • Reed • Reynolds • Richardson • Rostenkowski • Roybal-Allard • Rush • Sabo • Sanders • Sawyer • Schenk • Schroeder • Schumer • Scott • Serrano • Sharp • Shays • Shepherd • Skaggs • Slaughter • Smith (IA) • Stark • Stokes • Strickland • Studds • Swett • Swift • Synar • Thompson • Torkildsen • Torres • Torricelli • Towns • Tucker • Unsoeld • Velazquez • Vento • Visclosky • Washington • Waters • Watt • Waxman • Wheat • Woolsey • Wyden • Wynn • Yates 	<ul style="list-style-type: none"> • Johnson (GA) • Johnson (SD) • Johnson, Sam • Kanjorski • Kaptur • Kasich • Kim • King • Kingston • Klein • Klink • Klug • Knollenberg • Kolbe • Kyl • LaFalce • Lambert • Lancaster • Laughlin • Lazio • Lehman • Levy • Lewis (CA) • Lewis (FL) • Lightfoot • Linder • Lipinski • Livingston • Lloyd • Long • Machtley • Mann • Manzullo • Mazzoli • McCandless • McCollum • McCrery • McCurdy • McHale • McHugh • McInnis • McKeon • McMillan • McNulty • Meyers • Mica • Michel • Miller (FL) • Molinari • Mollohan • Montgomery • Moorhead • Murphy 	
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	<ul style="list-style-type: none">• Murtha• Myers• Natcher• Neal (NC)• Nussle• Ortiz• Orton• Oxley• Packard• Parker• Paxon• Payne (VA)• Peterson (FL)• Peterson (MN)• Petri• Pickett• Pombo• Pomeroy• Porter• Portman• Poshard• Price (NC)• Pryce (OH)• Quillen• Quinn• Rahall• Ramstad• Ravenel• Regula• Ridge• Roberts• Roemer• Rogers• Rohrabacher• Romero-Barcelo (PR)• Ros-Lehtinen• Roth• Roukema• Rowland• Royce• Sangmeister• Santorum• Sarpalius• Saxton• Schaefer• Schiff• Sensenbrenner• Shaw• Shuster• Sisisky• Skeen• Skelton• Slattery	
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	<ul style="list-style-type: none">• Smith (MI)• Smith (NJ)• Smith (OR)• Smith (TX)• Snowe• Solomon• Spence• Spratt• Stearns• Stenholm• Stump• Stupak• Sundquist• Talent• Tanner• Tauzin• Taylor (MS)• Taylor (NC)• Tejeda• Thomas (CA)• Thomas (WY)• Thornton• Thurman• Traficant• Upton• Valentine• Volkmer• Vucanovich• Walker• Walsh• Weldon• Whitten• Williams• Wilson• Wise• Wolf• Young (AK)• Young (FL)• Zeff• Zimmer	
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[TIME: 1501]

Mr. DICKS changed his vote from `no' to `aye.'

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2 printed in part 1 of House Report 103-252.

AMENDMENT OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Hunter:

In section 575, at the end of subsection (c) of section 654 of title 10, United States Code, as proposed to be added by subsection (a) of that section (page 203, after line 15), insert the following new paragraph:

`(3) As part of the process for enlistment or appointment of a person as a member of the armed forces, the Secretary concerned shall, before the enlistment or appointment, ask the person (1) whether the person is a homosexual or bisexual, and (2) whether the person engages in homosexual acts or intends to engage in, or has a propensity to engage in, homosexual acts.'

In section 575(d), strike out `sense of Congress that--' (page 205, beginning on line 18) and all that follows through `(2) the Secretary' (page 206, line 5) and insert in lieu thereof `sense of Congress that the Secretary.'

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from California [Mr. Hunter] will be recognized for 5 minutes, and the gentleman from Missouri [Mr. Skelton] will be recognized for 5 minutes in opposition.

The Chair recognizes the gentleman from California [Mr. Hunter].

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. Hall].

(Mr. HALL of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Chairman, I have agonized over this vote now for some time, and I have searched my conscience and gone back and forth, and have tried to decide what is the right way to deal with this issue and how to vote on the issue of gays and lesbians in the military.

I wish we did not have to vote on an issue like this. But the fact is, that is what we are elected to do. Some people in this country can duck this issue, but we cannot.

Mr. Chairman, what I want to say is I care about homosexuals as a people, and I detest the hate and the meanness and the polarization that surrounds them and the issue and issues like this that are related to them. But I cannot support their lifestyle and their agenda, and I think that is what you and I are being asked to do today.

Mr. Chairman, I believe that lifestyle is not compatible with the military life, and for that reason I support the Hunter amendment.

Mr. Chairman, I do not want to compromise. I do not want to accommodate an agenda that I disagree with. I say that if we cave in on this one, if we compromise on this issue, I wonder what is next.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. McCurdy].

(Mr. McCURDY asked and was given permission to revise and extend his remarks.)

Mr. McCURDY. Mr. Chairman, I rise in opposition to the Hunter amendment. This has not been an easy decision for any of us who sit on the Committee on Armed Services and have, through personal reflections and discussions with a wide range of people and their views, including our pastors and others, about the issue of gays in the military. But I believe the Nunn-Skelton amendment is the proper approach. It is a very carefully crafted amendment that will stand legal scrutiny. It does eliminate the screening question of sexual orientation, and, therefore, discrimination. But it is one that puts conduct, not preference, as the standard by which we judge. There is bipartisan support for this amendment.

The Hunter amendment undermines the bipartisan consensus that we have achieved, and, in my opinion, will invite a successful legal challenge.

Mr. Chairman, if you want to end this ugly and divisive debate, I would urge my colleagues to support the Skelton-Nunn amendment.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon [Ms. Furse].

(Ms. FURSE asked and was given permission to revise and extend her remarks.)

Ms. FURSE. Mr. Chairman, I rise today in opposition to the Hunter amendment. We should never, never support discrimination.

I want to read from a letter from a constituent of mine who is a senior ranking officer in the Air Force, the U.S. Air Force:

Gay people are in our families, our churches, our schools, and our neighborhoods. They have the right and they have the duty to defend their country alongside their brothers and sisters. You know someone who is gay, you love them, or respect them, or both. Do this for them and the military and because Americans should stand up against discrimination against any group.

I keep hearing that homosexuality is incompatible with military service. Well, my constituent is an officer who

has served with distinction. She has been promoted by her superiors. She is a credit to the uniform. And she is a lesbian.

What if my constituent had been required to announce her sexual orientation, as with the Hunter amendment? This country would have lost a soldier of great value.

I am proud of her. I am proud of all the members of our armed services. We know that gays and lesbians are serving in these forces, and we know that we have the most capable armed service in the world. Let us keep it that way. Today we have an opportunity to vote yes for justice by voting no on Hunter.

- Mr. SPRATT. Mr. Chairman, I rise in strong support of the amendment offered by Ms. Furse. For those of you not familiar with this issue, let me recap the committee's actions.
- About the time the military application of nuclear energy panel, on which Ms. Furse serves and I chair, was completing its mark up of the Department of Energy Defense Budget, press reports surfaced that DOE labs had spent some \$2 million in fiscal year 1993 on Phase I studies--

conceptual, paper studies--for low-yield nuclear weapons, so-called mini-nukes. During the Acquisition Subcommittee mark up of the panel's work, Mr. Dellums offered an amendment on behalf of Ms. Furse to prohibit future spending on the design of low-yield nuclear weapons. The amendment defined a low-yield weapon as one with a yield lower than the lowest existing yield weapon in the current stockpile. After full committee mark up, staff discovered that this yield was far lower than anyone on the committee anticipated because of a technical oversight. You see, many of our nuclear weapons have variable yields, and the low end of the spectrum of these dial-a-yield weapons is very, very low.

- This amendment simply clarifies the definition of a low-yield nuclear weapon to realize the committee's intent. The amendment prohibits the design of a weapon with a yield of less than 5-kilotons. A 5-kiloton yield nuclear weapon is a very small nuclear weapon that is surely tactical; it has virtually no strategic value. The United States has wisely decided to retire our tactical nuclear weapons--this amendment is consistent with the policy.
- Let me stress that this amendment will in no way interfere with maintaining any weapon currently in our inventory--even those with yields that can be set below 5-kilotons. If a problem develops with one of these weapons, our weapons designers can work to fix it. The amendment will also not prohibit the design of strategic weapons, and it will not impede the design of nuclear testing devices with a yield of less than 5-kilotons.
- I urge my colleagues to support this amendment.

[TIME: 1510]

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Dornan].

Mr. DORNAN. Mr. Chairman, let me state very clearly and very succinctly why it is the ethical thing to do to ask military recruits if they are homosexual and why I support the Hunter amendment.

There are a lot of confused young people in this country. I read on the front page of the Washington Post that high school kids in the Commonwealth of Virginia are opting for bisexuality because it is 'trendy.' It is cute; it is in vogue.

In my nacent city, the Big Apple, there is a high school for only children who have expressed that they are lesbians or male homosexuals.

This is an age of confusion. If our Armed Services' language says that homosexuality is incompatible and the gentleman from Missouri [Mr. Skelton], his well-thought-out views based on hours and hours of hearings, says the exact same thing, we owe it to these young people to tell them, 'We don't want you in the military.'

And some of them will say, 'I didn't know that. I thought the President said it was cool. Thank you. I will go elsewhere.'

But if we shave their heads, put them in baggy fatigues and, 6 weeks after they are in, tell them, 'We don't want you,' then they have to ask for an administrative discharge which happens all the time. And our taxpayers pay the money to kick them out after the fact.

Ask. It is the moral thing to do.

[Page: H7085]

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. Barton].

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, this is not a vote about civil rights. The Chairman of the Joint Chiefs of Staff, who is an African-American, has disavowed that issue. It is not a vote about whether homosexuals can, or could serve ably in the military. I would stipulate that they have in the past, and they could in the future.

This is a vote about what is best for the military. Military necessity says that we should not allow homosexuals to openly serve in the military. Every military leader has said that, most on the record, all off the record. Poll after poll that has been taken of the military indicates that.

I do not think that we can compromise, as the gentleman from Missouri [Mr. Skelton] is attempting to do, on issues of principle and morality.

Homosexuality is an abomination. We should vote to codify the ban against homosexuals serving in the military. We should vote for the Hunter amendment.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. Edwards].

Mr. EDWARDS of Texas. Mr. Chairman, sometimes common sense needs to win out over political posturing. Now is one of those times. This is why I urge my colleagues to vote no on the Hunter amendment.

This amendment is unnecessary for a simple reason. It would be totally ineffective. If one is a homosexual and wants to serve in the military, they are filling out the application, would they say they were a homosexual? Absolutely not.

The Hunter amendment would not only be ineffective, it would be counterproductive.

The Joint Chiefs of Staff, under the leadership of Colin Powell, has said as much.

Members, if we want to spend more tax dollars on lawsuits defending this policy and this law, vote yes on the Hunter amendment. If we want to spend our tax dollars providing for military manpower and training to save lives, I urge my colleagues to vote no on the Hunter amendment.

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore (Mr. Durbin). The gentleman from California [Mr. Hunter] is recognized for 2 minutes.

Mr. HUNTER. Mr. Chairman, this amendment asks the question. It is directly against President Clinton's new policy, 'Don't ask, don't tell.'

It does no injury to the Nunn-Skelton language. It is exactly the Nunn-Skelton language with the question asked.

Let me just rebut the last speaker. This thing was put into effect by President Reagan because it was necessary and because it did work, because we had homosexual activities with nonconsenting young people in the military going up at a rapid rate.

If Members look at this chart, they can see that. The tip of that peak is 1981, when the policy was put in place by President Reagan. And homosexual events, many of them against young people in the military, went straight down hill.

Very simply, my colleagues, this policy was put in place because it worked. If we want to accommodate President Clinton, then vote no on the Hunter amendment. If we want to protect the children of the families who sit around the breakfast table and send their kids to serve in the Armed Forces of the United States, vote yes.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia [Mr. Gingrich].

Mr. GINGRICH. Let me say that I rise in very strong opposition to my good friend from California.

Senator Nunn, from my State, spent a long time looking at this issue. The Committees on Armed Services in both Houses spent a long time looking at this issue.

It is a painful, difficult, and an emotional issue that goes to the heart of human lives.

A very tough, very specific policy was adopted. It is in the base of this committee bill for which I commend the chairman and the ranking member. It was adopted by the Senate overwhelmingly. To go beyond that position strikes me as radically too far, unnecessary, and inappropriate.

I think that the militarily correct thing to do and the correct thing to do for this country is to vote no on the Hunter amendment and to vote for the gentleman from Missouri [Mr. Skelton], when that time comes.

Mr. SKELTON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this amendment would create a direct conflict and a distinction between conduct on the one hand and orientation on the other. Leading constitutional scholars, the Attorney General, the Justice Department feel that it would raise a serious constitutional question.

If Members want to put this debate to an end, if they want to have no constitutional question involved, the Skelton language is what we should adopt. And we should reject this.

In addition, this will prove to be a delay, because it will be dragged through the courts for time immemorial. This amendment also suggests that homosexual men and women will only understand that homosexual conduct is prohibited in the military if they are asked about their sexual orientation.

I urge a no vote on this, the Hunter amendment.

- Mr. PACKARD. Mr. Chairman, I support the amendment offered by Duncan Hunter to reverse the military's current 'don't ask' policy.
- I am very pleased that the Armed Services Committee included language in the bill to codify the ban against homosexuals in the military. However, I am disappointed that the committee failed to include a provision codifying the Pentagon's previous policy to ask recruits, at the time of enlistment, if they are homosexual.
- Since the committee has so conclusively determined that homosexuality is not compatible with military service, it doesn't make sense to toss aside part of the ban while retaining the major portion of it.

- Extensive hearings have proven what I have always held, that homosexuality has no part in our Armed Forces. I strongly encourage my colleagues who support the ban to support this amendment. We must retain the whole ban, not just part of it.
- Mr. Chairman, I would also like to submit a copy for the Record of a statement I made earlier on this issue:

Statement of Hon. Ron Packard, August 4, 1993

Mr. Speaker, I rise today in strong support of a provision in the Defense Authorization Act to codify the ban on homosexuals serving in the military.

Our military is under attack from the liberals in Congress and from the Clinton administration, seriously undermining the morale and readiness of our Armed Forces.

Service in the Armed Forces is unique and unparalleled in civilian society. More than any other single factor, military unit cohesion is paramount to the success or failure of America's defense. But there are those among our country's leadership who would destroy that cohesion.

Combat ability is unalterably tied to mutual trust and confidence among servicemembers. Extensive hearings and studies have decisively proven that the presence of known homosexuals within a unit will undermine that trust and confidence, endangering the entire unit and compromising our military mission.

From the lowest grunt to the highest commander, our military men and women have expressed time and time again that homosexuality is in no way compatible with military service.

The ban on homosexuals must remain intact for the military to maintain combat readiness in defense of our country. We can not allow the radical gay and lesbian activists to use the military as a lab to conduct their social experiments. I strongly urge my colleagues to support language in the defense authorization bill that codifies the ban.

The CHAIRMAN pro tempore. Pursuant to the rule, all time has expired on the amendment offered by the gentleman from California [Mr. Hunter].

The question is on the amendment offered by the gentleman from California [Mr. Hunter].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

[Page: H7086]

RECORDED VOTE

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were--ayes 144, noes 291, not voting 3, as follows:

Roll No. 461

[Roll No. 461]

AYES--144	NOES--291	NOT VOTING--3
<ul style="list-style-type: none">• Allard• Andrews (TX)• Archer• Armey• Bachus (AL)• Baesler• Baker (CA)• Baker (LA)• Barcia• Barlow• Barrett (NE)• Bartlett• Barton• Bateman• Bentley• Bereuter• Bevill• Bilirakis• Bliley• Boehner• Bonilla• Brewster• Browder• Bunning• Burton• Buyer• Callahan• Camp• Canady• Coble• Collins (GA)• Combest• Cooper• Cox• Cramer• Crane• Crapo• Cunningham• de la Garza• DeLay• Derrick• Diaz-Balart• Dickey• Doolittle• Dornan• Duncan• Emerson• English (OK)• Everett• Ewing	<ul style="list-style-type: none">• Abercrombie• Ackerman• Andrews (ME)• Andrews (NJ)• Applegate• Bacchus (FL)• Ballenger• Barca• Barrett (WI)• Becerra• Beilenson• Berman• Bilbray• Bishop• Blackwell• Blute• Boehlert• Bonior• Borski• Boucher• Brooks• Brown (CA)• Brown (FL)• Brown (OH)• Bryant• Byrne• Calvert• Cantwell• Cardin• Carr• Castle• Chapman• Clay• Clayton• Clement• Clinger• Clyburn• Coleman• Collins (IL)• Collins (MI)• Condit• Conyers• Coppersmith• Costello• Coyne• Danner• Darden• de Lugo (VI)• Deal• DeFazio	<ul style="list-style-type: none">• McDade• Olver• Underwood (GU)

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- Royce
- Sarpalius
- Schaefer
- Sensenbrenner
- Shaw
- Skeen
- Smith (NJ)
- Smith (OR)
- Smith (TX)
- Snowe
- Solomon
- Spence
- Stearns
- Stenholm
- Stump
- Sundquist
- Talent
- Tanner
- Tauzin
- Taylor (MS)
- Taylor (NC)
- Tejada
- Thomas (WY)
- Valentine
- Volkmer
- Vucanovich
- Walker
- Wilson
- Wolf
- Young (AK)
- Young (FL)
- Zeliff
- Zimmer

- Hayes
- Hefner
- Hilliard
- Hinchey
- Hoagland
- Hobson
- Hochbrueckner
- Hoke
- Horn
- Houghton
- Hoyer
- Huffington
- Hughes
- Inslee
- Jacobs
- Jefferson
- Johnson (CT)
- Johnson (GA)
- Johnson (SD)
- Johnson, E. B.
- Johnston
- Kanjorski
- Kaptur
- Kasich
- Kennedy
- Kennelly
- Kildee
- Kim
- Kleczka
- Klein
- Klink
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- Kolbe
- Kopetski
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- Machtley
- Maloney

	<ul style="list-style-type: none">• Mann• Manton• Margolies-Mezvinsky• Markey• Martinez• Matsui• Mazzoli• McCloskey• McCrery• McCurdy• McDermott• McHale• McKinney• McNulty• Meehan• Meek• Menendez• Meyers• Mfume• Michel• Miller (CA)• Mineta• Minge• Mink• Moakley• Molinari• Mollohan• Montgomery• Moran• Morella• Murphy• Murtha• Nadler• Natcher• Neal (MA)• Neal (NC)• Norton (DC)• Nussle• Oberstar• Obey• Orton• Owens• Oxley• Pallone• Pastor• Payne (NJ)• Payne (VA)• Pelosi• Penny• Peterson (FL)• Peterson (MN)• Pickett• Pickle	
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	<ul style="list-style-type: none">• Pomeroy• Porter• Poshard• Price (NC)• Pryce (OH)• Ramstad• Rangel• Reed• Regula• Reynolds• Richardson• Ridge• Roemer• Rohrabacher• Romero-Barcelo (PR)• Rose• Rostenkowski• Roukema• Rowland• Roybal-Allard• Rush• Sabo• Sanders• Sangmeister• Santorum• Sawyer• Saxton• Schenk• Schiff• Schroeder• Schumer• Scott• Serrano• Sharp• Shays• Shepherd• Shuster• Sisisky• Skaggs• Skelton• Slattery• Slaughter• Smith (IA)• Smith (MI)• Spratt• Stark• Stokes• Strickland• Studds• Stupak• Swett• Swift• Synar	
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	<ul style="list-style-type: none">• Thomas (CA)• Thompson• Thornton• Thurman• Torkildsen• Torres• Torricelli• Towns• Traficant• Tucker• Unsoeld• Upton• Velazquez• Vento• Visclosky• Walsh• Washington• Waters• Watt• Waxman• Weldon• Wheat• Whitten• Williams• Wise• Woolsey• Wyden• Wynn• Yates	
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[TIME: 1537]

Mr. RANGEL changed his vote from `aye' to `no.'

Mr. COOPER and Mr. de la GARZA changed their vote from `no' to `aye.'

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 3 printed in part 1 of House Report 103-252.

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. Durbin). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Skelton: Strike out section 575 (page 198, line 7, through page 206, line 11) and insert in lieu thereof the following:

SEC. 575. POLICY CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.

(a) Codification: (1) Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

654. Policy concerning homosexuality in the armed forces

(a) Findings: Congress makes the following findings:

(1) Section 8 of article I of the Constitution of the United States commits exclusively to the Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(2) There is no constitutional right to serve in the armed forces.

(3) Pursuant to the powers conferred by section 8 of article I of the Constitution of the United States, it lies within the discretion of the Congress to establish qualifications for and conditions of service in the armed forces.

(4) The primary purpose of the armed forces is to prepare for and to prevail in combat should the need arise.

(5) The conduct of military operations requires members of the armed forces to make extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.

(6) Success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion.

(7) One of the most critical elements in combat capability is unit cohesion, that is, the bonds of trust among individual service members that make the combat effectiveness of a military unit greater than the sum of the combat effectiveness of the individual unit members.

(8) Military life is fundamentally different from civilian life in that--

(A) the extraordinary responsibilities of the armed forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and

(B) the military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.

(9) The standards of conduct for members of the armed forces regulate a member's life for 24 hours each day beginning at the moment the member enters military status and not ending until that person is discharged or otherwise separated from the armed forces.

(10) Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the armed forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.

`(11) The pervasive application of the standards of conduct is necessary because members of the armed forces must be ready at all times for worldwide deployment to a combat environment.

`(12) The worldwide deployment of United States military forces, the international responsibilities of the United States, and the potential for involvement of the armed forces in actual combat routinely make it necessary for members of the armed forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.

`(13) The prohibition against homosexual conduct is a longstanding element of military law that continues to be necessary in the unique circumstances of military service.

`(14) The armed forces must maintain personnel policies that exclude persons whose presence in the armed forces would create an unacceptable risk to the armed forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

`(15) The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

`(b) Policy: A member of the armed forces shall be separated from the armed forces under regulations prescribed by the Secretary of Defense if one or more of the following findings is made and approved in accordance with procedures set forth in such regulations:

`(1) That the member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are further findings, made and approved in accordance with procedures set forth in such regulations, that the member has demonstrated that--

`(A) such conduct is a departure from the member's usual and customary behavior;

`(B) such conduct, under all the circumstances, is unlikely to recur;

`(C) such conduct was not accomplished by use of force, coercion, or intimidation;

`(D) under the particular circumstances of the case, the member's continued presence in the armed forces is consistent with the interests of the armed forces in proper discipline, good order, and morale; and

`(E) the member does not have a propensity or intent to engage in homosexual acts.

`(2) That the member has stated that he or she is a homosexual or bisexual, or words to that effect, unless there is a further finding, made and approved in accordance with procedures set forth in the regulations, that the member has demonstrated that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

`(3) That the member has married or attempted to marry a person known to be of the same biological sex.

`(c) Entry Standards and Documents: (1) The Secretary of Defense shall ensure that the standards for enlistment and appointment of members of the armed forces reflect the policies set forth in subsection (b).

`(2) The documents used to effectuate the enlistment or appointment of a person as a member of the armed forces shall set forth the provisions of subsection (b).

`(d) Required Briefings: The briefings that members of the armed forces receive upon entry into the armed forces and periodically thereafter under section 937 of this title (article 137 of the Uniform Code of Military Justice) shall include a detailed explanation of the applicable laws and regulations governing sexual conduct by members of the armed forces, including the policies prescribed under subsection (b).

`(e) Rule of Construction: Nothing in subsection (b) shall be construed to require that a member of the armed forces be processed for separation from the armed forces when a determination is made in accordance with regulations prescribed by the Secretary of Defense that--

`(1) the member engaged in conduct or made statements for the purpose of avoiding or terminating military service; and

`(2) separation of the member would not be in the best interest of the armed forces.

`(f) Definitions: In this section:

`(1) The term `homosexual' means a person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts, and includes the terms `gay' and `lesbian'.

`(2) The term `bisexual' means a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual and heterosexual acts.

`(3) The term `homosexual act' means--

`(A) any bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires; and

`(B) any bodily contact which a reasonable person would understand to demonstrate a propensity or intent to engage in an act described in subparagraph (A).'

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

`654. Policy concerning homosexuality in the armed forces.'

(b) Regulations: Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall revise Department of Defense regulations, and issue such new regulations as may be necessary, to implement section 654 of title 10, United States Code, as added by subsection (a).

(c) Savings Provision: Nothing in this section or section 654 of title 10, United States Code, as added by subsection (a) may be construed to invalidate any inquiry, investigation, administrative action or proceeding, court-martial, or judicial proceeding conducted before the effective date of regulations issued by the Secretary of Defense to implement such section 654.

(d) Sense of Congress: It is the sense of Congress that--

(1) the suspension of questioning concerning homosexuality as part of the processing of individuals for accession into the Armed Forces under the interim policy of January 29, 1993, should be continued, but the Secretary of Defense may reinstate that questioning with such questions or such revised questions as he considers appropriate if the Secretary determines that it is necessary to do so in order to effectuate the policy set forth in section 654 of title 10, United States Code, as added by subsection (a); and

(2) the Secretary of Defense should consider issuing guidance governing the circumstances under which members of the Armed Forces questioned about homosexuality for administrative purposes should be afforded warnings similar to the warnings under section 831(b) of title 10, United States Code (article 31(b) of the Uniform Code of Military Justice).

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. Skelton] will be recognized for 5 minutes, and a Member in opposition, the gentleman from Massachusetts [Mr. Frank], will be recognized for 5 minutes.

The Chair recognizes the gentleman from Missouri [Mr. Skelton].

[Page: H7087]

[TIME: 1540]

Mr. SKELTON. Mr. Chairman, in offering this amendment I seek to reaffirm the language on homosexuals in the military that was reported by the Committee on Armed Services.

In offering this amendment, I and the Committee on Armed Services seek to finally close the door on this painful issue. It is a matter of conduct, it is a matter of unit cohesion, it is a matter that strikes at the very heart of success in combat. Second place does not count on the battlefield.

It is my hope that we will be able to put an end to this debate and the issue today, this afternoon.

Mr. Chairman, for purposes of debate, I yield 1 minute to the gentleman from California [Mr. Cunningham].

Mr. CUNNINGHAM. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Nunn/Skelton amendment. We had vast committee hearings on this particular issue. Colin Powell, the chairman of the Joint Chiefs of Staff made a statement to the chairman that I did not feel that this language was in his heart. And the chairman looked at me and said, 'Duke, believe it, this is.'

It mandates that recruits be given clear statements that any homosexual activity is not tolerated. The Joint Chiefs of Staff also told me that to make sure this is not a progressive amendment; we do not issue homosexual marriages in the military. No commissary, medical privileges for homosexuals; not a foot in the door. And that is the key.

The liberals will try and take this one step further. I do not believe that this amendment allows for that.

Mr. Chairman, I rise in support of my colleague, the gentleman from Missouri, Mr. Skelton, and the gentleman from Georgia, Senator Nunn.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the delegate from the District of Columbia [Ms. Norton].

(Ms. NORTON asked and was given permission to revise and extend her remarks.)

Ms. NORTON. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Meehan amendment because only this amendment is defensible. I did not support the Clinton compromise with the Joint Chiefs on gays and lesbians in the military now in effect. The Meehan amendment, however, at least blocks action that would take the services back in the direction from which they have just come.

The cold war is over, but I assumed that, with downsizing, military personnel had more than enough to keep them busy. The Hunter amendment and the Nunn/Skelton amendment still allow the sexual orientation question to be asked and scarce resources to be spent chasing gays and lesbians for private consensual acts and speech.

If the military wants to get into the sex business, let the military police chase the documented, widespread sexual harassment that pervades much of its ranks.

In the military, personnel matters almost never are pursued through statute but are treated like the President's Executive order or through regulations. In a free society, personal, consensual, adult conduct should not be pursued at all.

This issue has been tortured enough. It adds insult to torture to codify Hobson's choices for people whose generosity and patriotism lead them to volunteer to serve their country.

Enough damage has been done. Leave it alone. Enact the Meehan amendment.

[Page: H7088]

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from the State of Washington [Mr. Dicks].

(Mr. DICKS asked and was given permission to revise and extend his remarks.)

Mr. DICKS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to rise here today in strong support of the amendment that has been crafted by Congressman Ike Skelton and the chairman of the Committee on Armed Service in the other body.

I want to commend the Committee on Armed Services for the job that they have done on this issue. I think on both sides of the aisle we have had cooperation in drafting this language. And I want my colleagues to remember that this is supported by the President of the United States; by our former colleague, Les Aspin, the Secretary of Defense; by the Joint Chiefs of Staff. And I know there are people who have very strong views on this, as we have heard earlier in the debate, honest, well-intentioned views. This obviously is a compromise.

But I think it is a good one, and I want to commend my friend, the gentleman from Missouri [Mr. Skelton] for the hours and hours and hours that he worked on trying to fashion this compromise. He has done a good job for all of us today in this body.

The CHAIRMAN pro tempore (Mr. Durbin). The gentleman from Massachusetts [Mr. Frank] has 4 minutes remaining; the gentleman from Missouri [Mr. Skelton] has 2 1/2 minutes remaining and has the right to close.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, I want to begin by expressing my respect and admiration for the very hard work and very sincere work done by the gentleman from Missouri [Mr. Skelton] on this, the gentleman from California [Mr. Dellums] also, the chairman of the full committee, and the chairman of the subcommittee. I have not agreed with the gentleman from Missouri, but I admire the work he did.

Now, to explain the parliamentary situation, which may be a little complicated: If this amendment is agreed to, it will be the language of the bill. On the other hand, if this amendment is defeated, it will be the language of the bill.

This is the language that is already in the bill. It is an amendment to put into the bill the language that is already there. So you can defeat it and have the language that is in there, or pass it and have the language that is in there.

There are reasons that many Members have for wanting to have the vote, and I support those reasons and I think it is appropriate.

I want to make a case for the negative vote.

Those who voted for the amendment offered by my colleague from Massachusetts [Mr. Meehan] should vote against this. We are talking here about what the opinion of the House is. Let us be very clear what we are talking about. Those of us who want the ban lifted agree even more than many of the Joint Chiefs, I will tell you, that inappropriate sexual behavior ought to be banned by the U.S. armed services. Many of us feel that they have erred on the side of too little in that regard, not too much.

This is not a request that anyone be allowed to impose himself or herself sexually on another. We insist that, particularly in the close quarters in the armed services, strict respect be enforced.

The question is this: Take a young gay man or a young lesbian who wants to serve his or her country, who is motivated by the same patriotism, the same desire for self-improvement, the same love of country and love of adventure and willingness to sacrifice that any other individual has, and let that individual have the same opportunity that anyone else has and subject him or her to the same rules. If he or she behaves inappropriately toward any other, kick him out. But if that individual is prepared to come into the military and put on the uniform and abide by every rule of conduct while on duty, is prepared to be wholly scrupulous in his or her respect for the rights of others, and then on leave, off the base, on his or her time, which is free, decides in the privacy of her home, in the quietude of his social gathering place to express love for another individual that some people here do not approve of, let us kick him out; let us declare that anyone who dare express affection for another human being discreetly, privately, consensually, on private property on a weekend in his or her own home, let us punish that person by degrading them and kicking them out of the armed services of the United States no matter how patriotic, no matter how committed to country, because that is the policy you are being asked to approve.

[TIME: 1550]

That is indisputable. We are not talking about allowing anyone to behave inappropriately. We are talking about those young people who want to behave appropriately, who are prepared, in fact, to make a sacrifice, to confine their own expression of their sexual orientation to moments of privacy away from others, and they are being denied even that.

I tell those of you who say that you underestimate the commitment of the American people to the principles of fairness and acceptance of others, and I say that, as I said before, from personal experience. I hesitated a long time before acknowledging that I am gay. I feared an automatic negative reaction, and I am proud to be able to tell you on behalf of my fellow citizens that I have not had it. People no less judge me by who I am today than they did before I made that acknowledgement.

Do not deny patriotic young people the same opportunity I had.

Mr. SKELTON. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, let me refresh the memory of this body as to what is contained in this amendment. The provision would set out the fundamental difference between military and civilian life and make clear the importance of preserving high standards and moral, discipline and unit cohesion.

The provision would require separation if the Member has engaged in, attempted to engage in or solicited another to engage in a homosexual act.

It states that he or she as a homosexual or bisexual who marries or attempts to marry a person known to be of the same biological sex.

This is codifying what the law should be.

This is an important issue that has captured the time and minds and imagination all across this land.

Now is the time to put an end to this debate.

Mr. Chairman, there is no constitutional right to serve in the Armed Forces.

Mr. Chairman, the primary purpose of our Armed Forces is to prepare for and prevail in combat.

Mr. Chairman, the conduct of military operations requires members of the Armed Forces to make extraordinary sacrifices. Success in combat requires military units that are characterized by high morale, good order, discipline and unit cohesion.

As of this moment, the Armed Forces of the United States are as fine as they have ever been, and they are the finest in this world. Let us not split them asunder. Let us keep them strong. Let us not have the possibility of tearing their unit cohesion apart. We cannot afford that.

Mr. Chairman, I stand shoulder to shoulder with the Joint Chiefs of Staff, their Chairman Colin Powell, our Secretary, our President; but most of all, I stand with the young men and the young women who feel very strongly about this issue that homosexual conduct has no place in the uniform of the United States of America.

Mr. Chairman, I urge a yes vote on my amendment.

[Page: H7089]

- Mrs. LLOYD. Mr. Chairman, when the President first presented the country and Congress with his proposal to open service to homosexuals, I clearly stated my opposition. I remain opposed to this policy change.
- Over the past 8 months, the House Armed Services Committee wrestled with the President's proposal. We sought testimony and expertise from the Joint Chiefs, from the Secretary, and from the individual servicemember. We further sought outside testimony from doctors, psychologists, retired military, and gay and lesbian activists. No stone was left unturned in our quest for a complete understanding of the compatibility of homosexuality and military service.
- The committee concluded, and very rightly so, that homosexuality is incompatible with military service. The U.S. military offers unique opportunities for men and women who want to serve. But at the same time, the environment, both social and professional, is equally as unique and commands special attention. Unit cohesion and morale are perhaps the two most important elements of a successful fighting force. While advanced, high-quality equipment definitely contributes to overall capability, the ability of the men and women who serve to conduct themselves with dignity and bravery is most vital.
- Every servicemember I have spoken with has expressed uneasiness over any changes to the policy banning service by homosexuals. The slightest distraction to any serviceperson in any military situation could be fatal. As a member of the committee who oversees our military, I cannot expose our troops to that risk. At the same time, I am respectful of the fact that there are many who do not share my opinion and who believe that the ban should be eliminated.
- The Skelton-Nunn amendment which we are voting on today, should put this tired, divisive issue to rest. I feel in many ways that this language improves upon the old ban. The intent of the old ban, to remove known homosexuals from the military, remains intact. With the passage of the Skelton-Nunn language, if a servicemember is found out to be homosexual, that person will be separated. Also, while not mandating it, the amendment allows the Secretary to reinstate the

questioning of one's sexual orientation, if deemed appropriate. Most importantly, the Joint Chiefs of Staff have told us that these changes are workable and enforceable.

- The amendment clears up the question of constitutionality and the ban. There is no constitutional right to serve in the military. The Skelton-Nunn language offers clear outlines as to what is considered homosexual behavior. The gray area has been removed. Conduct is the sole basis for judgment and with the guidelines in this legislation, the courts will have the necessary guidance to rule appropriately on contested cases.
- Mr. Chairman, the Hunter amendment, should it be adopted, reopens the months of debate on this very divisive issue. It undermines all the tireless efforts of Representative Skelton and Senator Nunn in developing this workable proposal. For too long, the future shape of our national defense has been held up by this issue. The attention of the country has been distracted from more pressing matters. Let us put this matter behind us, approve the tough Skelton-Nunn language, pass the bill and move on to other things.

The CHAIRMAN pro tempore (Mr. Durbin). The question is on the amendment offered by the gentleman from Missouri [Mr. Skelton].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SKELTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were--ayes 301, noes 134, not voting 3, as follows:

Roll No. 462

[Roll No. 462]		
AYES--301	NOES--134	NOT VOTING--3
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<ul style="list-style-type: none">• Traficant• Upton• Valentine• Volkmer• Vucanovich• Walker• Walsh• Weldon• Whitten• Wilson• Wise• Wolf• Wynn• Young (AK)• Young (FL)• Zeliff• Zimmer		
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[TIME: 1611]

Messrs. HILLIARD, SYNAR, BERMAN, and RUSH, Ms. SLAUGHTER, and Mrs. KENNELLY changed their vote from `aye' to `no.'

Mr. FAWELL changed his vote from `no' to `aye.'

So the amendment was agreed to.

The result of the vote was announced as above recorded.