(A) at least 30 percent shall be distributed on a per capita basis; and

(B) the balance shall be set aside and programmed to serve tribal needs, including funding for—

(i) educational, economic development, and health care programs; and

(ii) such other programs as the circumstances of the Menominee Indian Tribe of Wisconsin may justify.

Mr. FEINGOLD. Mr. President, I rise in support of the amendment to S. 606, a bill for the Relief of Global Exploration and Development Corporation, Kerr-McGee and Kerr-McGee Chemical, offered by my colleague from Wisconsin, Senator KOHL. In 1954, Congress enacted ''termination'' legislation eliminating the Menominee Indian Tribe of Wisconsin's federal trust status. At that time, the Menominee Tribe was ill-prepared to function outside of the federal trust system. The Tribe's lack of readiness became quickly apparent when, upon termination, the Tribe was plunged into years of severe impoverishment and community turmoil. Today, with this amendment, we seek to provide redress for some of that severe turmoil, and the mismanagement of tribal resources in the period following the enactment of termination legislation.

I am pleased that this issue is finally being resolved, in part. This Menominee Settlement claim has been an active issue throughout my tenure in the Senate. In the five years since the original legislative reference was referred by the Senate to the Court of Claims, the tribe and the federal government have engaged in extensive litigation and negotiation. Following documentation and negotiations by both sides, the United States, represented by the Department of Justice, and the Menominee Indian Tribe of Wisconsin agreed upon a settlement of the claims of the Tribe for a sum of $32,052,547, subject to passage of the necessary legislation by Congress. This amendment will legislatively complete that settlement.

This settlement cannot undo the suffering of the Menominee people. The reservation, the boundaries of which are entirely co-terminous with the boundaries of Menominee County, is acknowledged to be still experiencing some of the most significant levels of poverty and economic dislocation in my entire state. The compensation for the lack of management of forestry and other reservation resources provided in this settlement, though it cannot undo the past, can help the Menominee Nation to seek a bright future. I know the Menominee Nation looks forward to assisting its people and the surrounding communities through the use of these funds.

In conclusion, I also want to acknowledge the leadership of my colleague from Wisconsin on this issue. He has taken on significant responsibility in seeking to right this wrong and I commend him for it. Thank you.

Mr. GORTON. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 606), as amended, was considered read the third time, and passed.

S. 606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIMS AGAINST THE UNITED STATES.

(a) PAYMENT OF CLAIMS.—The Secretary of the Treasury shall pay, out of money not otherwise appropriated—

(1) to the Global Exploration and Development Corporation, a Florida corporation incorporated in Delaware, $9,500,000;

(2) to Kerr-McGee Corporation, an Oklahoma corporation incorporated in Delaware, $10,000,000; and

(3) to Kerr-McGee Chemical, LLC, a limited liability company organized under the laws of Delaware, $0.

(b) CONDITION OF PAYMENT.—

(1) GLOBAL EXPLORATION AND DEVELOPMENT CORPORATION.—The payment authorized by subsection (a)(1) is in settlement and compromise of all claims of Global Exploration and Development Corporation, as described in the recommendations of the United States Court of Federal Claims set forth in 36 Fed. Cl. 776.

(2) KERR-MCGEE CORPORATION AND KERR-MCGEE CHEMICAL, LLC.—The payment authorized by subsections (a)(2) and (a)(3) are in settlement and compromise of all claims of Kerr-McGee Corporation and Kerr-McGee Chemical, LLC, as described in the recommendations of the United States Court of Federal Claims set forth in 36 Fed. Cl. 776.

SEC. 2. CRIMINAL PROHIBITION ON THE DISTRIBUTION OF CERTAIN INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) UNLAWFUL CONDUCT.—Section 842 of title 18, United States Code, is amended by adding at the end the following:

''(p) DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'destructive device' has the same meaning as in section 921(a)(4);

''(B) the term 'explosive' has the same meaning as in section 844(j); and

''(C) the term 'weapon of mass destruction' has the same meaning as in section 2332a(c)(2).

''(2) PROHIBITION.—It shall be unlawful for any person—

''(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence; or

''(B) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.''.

(b) PENALTIES.—Section 844 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''person who violates any of subsections'' and inserting the following: ''person who—

''(1) violates any of subsections'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) violates subsection (p)(2) of section 842, shall be fined under this title, imprisoned not more than 20 years, or both.''; and

(4) in subsection (j), by striking ''and (i)'' and inserting ''(i), and (p)''.

SEC. 3. SETTLEMENT OF CLAIMS OF MENOMINEE INDIAN TRIBE OF WISCONSIN.

(a) PAYMENT.—The Secretary of the Treasury shall pay to the Menominee Indian Tribe of Wisconsin, out of any funds in the Treasury of the United States not otherwise appropriated, $32,052,547 for damages sustained by the Menominee Indian Tribe of Wisconsin by reason of—

(1) the enactment and implementation of the Act entitled ''An Act to provide for a per capita distribution of Menominee tribal funds and authorize the withdrawal of the Menominee Tribe from Federal jurisdiction'', approved June 17, 1954 (68 Stat. 250 et seq., chapter 303); and

(2) the mismanagement by the United States of assets of the Menominee Indian Tribe held in trust by the United States before April 30, 1961, the effective date of termination of Federal supervision of the Menominee Indian Tribe of Wisconsin.

(b) EFFECT OF PAYMENT.—Payment of the amount referred to in subsection (a) shall be in full satisfaction of any claims that the Menominee Indian Tribe of Wisconsin may have against the United States with respect to the damages referred to in that subsection.

(c) REQUIREMENTS FOR PAYMENT.—The payment to the Menominee Indian Tribe of Wisconsin under subsection (a) shall—

(1) have the status of a judgment of the United States Court of Federal Claims for the purposes of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and

(2) be made in accordance with the requirements of that Act on the condition that, of the amounts remaining after payment of attorney fees and litigation expenses—

(A) at least 30 percent shall be distributed on a per capita basis; and

(B) the balance shall be set aside and programmed to serve tribal needs, including funding for—

(i) educational, economic development, and health care programs; and

(ii) such other programs as the circumstances of the Menominee Indian Tribe of Wisconsin may justify.

MILITARY AND EXTRATERRITORIAL JURISDICTION ACT OF 1999

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 167, S. 768.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 768) to establish court-martial jurisdiction over civilians serving in the Armed Forces during contingency operations, and to establish Federal jurisdiction over crimes committed outside of the United

States by former members of the Armed Forces and civilians accompanying the Armed Forces outside the United States.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military and Extraterritorial Jurisdiction Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Civilian employees of the Department of Defense, and civilian employees of Department of Defense contractors, provide critical support to the Armed Forces of the United States that are deployed during a contingency operation.

(2) Misconduct by such persons undermines good order and discipline in the Armed Forces, and jeopardizes the mission of the contingency operation.

(3) Military commanders need the legal tools to address adequately misconduct by civilians serving with Armed Forces during a contingency operation.

(4) In its present state, military law does not permit military commanders to address adequately misconduct by civilians serving with Armed Forces, except in time of a congressionally declared war.

(5) To address this need, the Uniform Code of Military Justice should be amended to provide for court-martial jurisdiction over civilians serving with Armed Forces in places designated by the Secretary of Defense during a ''contingency operation'' expressly designated as such by the Secretary of Defense.

(6) This limited extension of court-martial jurisdiction over civilians is dictated by military necessity, is within the constitutional powers of Congress to make rules for the government of the Armed Forces, and, therefore, is consistent with the Constitution of the United States and United States public policy.

(7) Many thousand civilian employees of the Department of Defense, civilian employees of Department of Defense contractors, and civilian dependents accompany the Armed Forces to installations in foreign countries.

(8) Misconduct among such civilians has been a longstanding problem for military commanders and other United States officials in foreign countries, and threatens United States citizens, United States property, and United States relations with host countries.

(9) Federal criminal law does not apply to many offenses committed outside of the United States by such civilians and, because host countries often do not prosecute such offenses, serious crimes often go unpunished and, to address this jurisdictional gap, Federal law should be amended to punish serious offenses committed by such civilians outside the United States, to the same extent as if those offenses were committed within the special maritime and territorial jurisdiction of the United States.

(10) Federal law does not apply to many crimes committed outside the United States by members of the Armed Forces who separate from the Armed Forces before they can be identified, thus escaping court-martial jurisdiction and, to address this jurisdictional gap, Federal law should be amended to punish serious offenses committed by such persons outside the United States, to the same extent as if those offenses were committed within the special maritime and territorial jurisdiction of the United States.

SEC. 3. COURT-MARTIAL JURISDICTION.

(a) JURISDICTION DURING CONTINGENCY OPERATIONS.—Section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), is amended by inserting after paragraph (12) the following:

''(13) To the extent not covered by paragraphs (10) and (11), persons not members of the armed forces who, in support of a contingency operation described in section 101(a)(13)(B) of this title, are serving with and accompanying an armed force in a place or places outside the United States specified by the Secretary of Defense, as follows:

''(A) Employees of the Department of Defense.

''(B) Employees of any Department of Defense contractor who are so serving in connection with the performance of a Department of Defense contract.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply with respect to acts or omissions occurring on or after that date.

SEC. 4. FEDERAL JURISDICTION.

(a) CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES.—Title 18, United States Code, is amended by inserting after chapter 211 the following:

''CHAPTER 212—CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES

''Sec.

''3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States.

''3262. Delivery to authorities of foreign countries.

''3263. Regulations.

''3264. Definitions.

''§ 3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States

''(a) IN GENERAL.—Whoever, while serving with, employed by, or accompanying the Armed Forces outside of the United States, engages in conduct that would constitute an offense punishable by imprisonment for more than 1 year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, shall be guilty of a like offense and subject to a like punishment.

''(b) CONCURRENT JURISDICTION.—Nothing in this chapter may be construed to deprive a court-martial, military commission, provost court, or other military tribunal of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war may be tried by a court-martial, military commission, provost court, or other military tribunal.

''(c) ACTION BY FOREIGN GOVERNMENT.—No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval shall not be delegated.

''(d) ARRESTS.—

''(1) LAW ENFORCEMENT PERSONNEL.—The Secretary of Defense may designate and authorize any person serving in a law enforcement position in the Department of Defense to arrest outside of the United States any person described in subsection (a) if there is probable cause to believe that such person engaged in conduct that constitutes a criminal offense under subsection (a).

''(2) RELEASE TO CIVILIAN LAW ENFORCEMENT.—A person arrested under paragraph (1) shall be released to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in relation to conduct referred to in such paragraph unless—

''(A) such person is delivered to authorities of a foreign country under section 3262; or

''(B) such person has had charges brought against him or her under chapter 47 of title 10 for such conduct.

''§ 3262. Delivery to authorities of foreign countries

''(a) IN GENERAL.—Any person designated and authorized under section 3261(d) may deliver a person described in section 3261(a) to the appropriate authorities of a foreign country in which such person is alleged to have engaged in conduct described in section 3261(a) of this section if—

''(1) the appropriate authorities of that country request the delivery of the person to such country for trial for such conduct as an offense under the laws of that country; and

''(2) the delivery of such person to that country is authorized by a treaty or other international agreement to which the United States is a party.

''(b) DETERMINATION BY THE SECRETARY.—The Secretary of Defense, in consultation with the Secretary of State, shall determine which officials of a foreign country constitute appropriate authorities for purposes of this section.

''§ 3263. Regulations

''The Secretary of Defense shall issue regulations governing the apprehension, detention, and removal of persons under this chapter. Such regulations shall be uniform throughout the Department of Defense.

''§ 3264. Definitions

''In this chapter—

''(1) a person is 'accompanying the Armed Forces outside of the United States' if the person—

''(A) is a dependent of—

''(i) a member of the Armed Forces;

''(ii) a civilian employee of a military department or of the Department of Defense; or

''(iii) a Department of Defense contractor or an employee of a Department of Defense contractor;

''(B) is residing with such member, civilian employee, contractor, or contractor employee outside the United States; and

''(C) is not a national of or ordinarily resident in the host nation;

''(2) the term 'Armed Forces' has the same meaning as in section 101(a)(4) of title 10; and

''(3) a person is 'employed by the Armed Forces outside of the United States' if the person—

''(A) is employed as a civilian employee of the Department of Defense, as a Department of Defense contractor, or as an employee of a Department of Defense contractor;

''(B) is present or residing outside of the United States in connection with such employment; and

''(C) is not a national of or ordinarily resident in the host nation.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part II of title 18, United States Code, is amended by inserting after the item relating to chapter 211 the following:

''212. Criminal Offenses Committed Outside the United States ..... 3621''.

AMENDMENT NO. 1226

(Purpose: To provide a complete substitute)

Mr. GORTON. Mr. President, I send an amendment to the desk on behalf of Mr. DEWINE and Mr. LEAHY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. SESSIONS, for himself, Mr. LEAHY, and Mr. DEWINE, proposes an amendment numbered 1226.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military and Extraterritorial Jurisdiction Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Civilian employees of the Department of Defense, and civilian employees of Department of Defense contractors, provide critical support to the Armed Forces of the United States that are deployed during a contingency operation.

(2) Misconduct by such persons undermines good order and discipline in the Armed Forces, and jeopardizes the mission of the contingency operation.

(3) Military commanders need the legal tools to address adequately misconduct by civilians serving with Armed Forces during a contingency operation.

(4) In its present state, military law does not permit military commanders to address adequately misconduct by civilians serving with Armed Forces, except in time of a congressionally declared war.

(5) To address this need, the Uniform Code of Military Justice should be amended to provide for court-martial jurisdiction over civilians serving with Armed Forces in places designated by the Secretary of Defense during a ''contingency operation'' expressly designated as such by the Secretary of Defense.

(6) This limited extension of court-martial jurisdiction over civilians is dictated by military necessity, is within the constitutional powers of Congress to make rules for the government of the Armed Forces, and, therefore, is consistent with the Constitution of the United States and United States public policy.

(7) Many thousand civilian employees of the Department of Defense, civilian employees of Department of Defense contractors, and civilian dependents accompany the Armed Forces to installations in foreign countries.

(8) Misconduct among such civilians has been a longstanding problem for military commanders and other United States officials in foreign countries, and threatens United States citizens, United States property, and United States relations with host countries.

(9) Federal criminal law does not apply to many offenses committed outside of the United States by such civilians and, because host countries often do not prosecute such offenses, serious crimes often go unpunished and,to address this jurisdictional gap, Federal law should be amended to punish serious offenses committed by such civilians outside the United States, to the same extent as if those offenses were committed within the special maritime and territorial jurisdiction of the United States.

(10) Federal law does not apply to many crimes committed outside the United States by members of the Armed Forces who separate from the Armed Forces before they can be identified, thus escaping court-martial jurisdiction and, to address this jurisdictional gap, Federal law should be amended to punish serious offenses committed by such persons outside the United States, to the same extent as if those offenses were committed within the special maritime and territorial jurisdiction of the United States.

SEC. 3. COURT-MARTIAL JURISDICTION.

(a) JURISDICTION DURING CONTINGENCY OPERATIONS.—Section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), is amended by inserting after paragraph (12) the following:

''(13) To the extent not covered by paragraphs (10) and (11), persons not members of the armed forces who, in support of a contingency operation described in section 101(a)(13)(B) of this title, are serving with and accompanying an armed force in a place or places outside the United States specified by the Secretary of Defense, as follows:

''(A) Employees of the Department of Defense.

''(B) Employees of any Department of Defense contractor who are so serving in connection with the performance of a Department of Defense contract.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply with respect to acts or omissions occurring on or after that date.

SEC. 4. FEDERAL JURISDICTION.

(a) CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES.—Title 18, United States Code, is amended by inserting after chapter 211 the following:

''CHAPTER 212—CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES

''Sec.
''3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States.
''3262. Delivery to authorities of foreign countries.
''3263. Regulations.
''3264. Definitions.

''§ 3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States

''(a) IN GENERAL.—Whoever, while serving with, employed by, or accompanying the Armed Forces outside of the United States, engages in conduct that would constitute an offense punishable by imprisonment for more than 1 year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, shall be guilty of a like offense and subject to a like punishment.

''(b) CONCURRENT JURISDICTION.—Nothing in this chapter may be construed to deprive a court-martial, military commission, provost court, or other military tribunal of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war may be tried by a court-martial, military commission, provost court, or other military tribunal.

''(c) ACTION BY FOREIGN GOVERNMENT.—No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval shall not be delegated.

''(d) ARRESTS.—

''(1) LAW ENFORCEMENT PERSONNEL.—The Secretary of Defense may designate and authorize any person serving in a law enforcement position in the Department of Defense to arrest, in accordance with applicable international agreements, outside of the United States any person described in subsection (a) if there is probable cause to believe that such person engaged in conduct that constitutes a criminal offense under subsection (a).

''(2) RELEASE TO CIVILIAN LAW ENFORCEMENT.—A person arrested under paragraph (1) shall be released to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in relation to conduct referred to in such paragraph unless—

''(A) such person is delivered to authorities of a foreign country under section 3262; or

''(B) such person has had charges brought against him or her under chapter 47 of title 10 for such conduct.

''§ 3262. Delivery to authorities of foreign countries

''(a) IN GENERAL.—Any person designated and authorized under section 3261(d) may deliver a person described in section 3261(a) to the appropriate authorities of a foreign country in which such person is alleged to have engaged in conduct described in section 3261(a) of this section if—

''(1) the appropriate authorities of that country request the delivery of the person to such country for trial for such conduct as an offense under the laws of that country; and

''(2) the delivery of such person to that country is authorized by a treaty or other international agreement to which the United States is a party.

''(b) DETERMINATION BY THE SECRETARY.—The Secretary of Defense, in consultation with the Secretary of State, shall determine which officials of a foreign country constitute appropriate authorities for purposes of this section.

''§ 3263. Regulations

''(a) IN GENERAL.—The Secretary of Defense, after consultation with the Secretary of State and the Attorney General, shall issue regulations governing the apprehension, detention, and removal of persons under this chapter. Such regulations shall be uniform throughout the Department of Defense.

''(b) NOTICE TO THIRD PARTY NATIONALS.—

''(1) IN GENERAL.—The Secretary of Defense, after consultation with the Secretary of State, shall issue regulations requiring that, to the maximum extent practicable, notice shall be provided to any person serving with, employed by, or accompanying the Armed Forces outside the United States who is not a national of the United States that such person is potentially subject to the criminal jurisdiction of the United States under this chapter.

''(2) FAILURE TO PROVIDE NOTICE.—The failure to provide notice as prescribed in the regulations issued under paragraph (1) shall not defeat the jurisdiction of a court of the United States or provide a defense in any judicial proceeding arising under this chapter.

''§ 3264. Definitions

''In this chapter—

''(1) a person is 'accompanying the Armed Forces outside of the United States' if the person—

''(A) is a dependent of—

''(i) a member of the Armed Forces;

''(ii) a civilian employee of a military department or of the Department of Defense; or

''(iii) a Department of Defense contractor or an employee of a Department of Defense contractor;

''(B) is residing with such member, civilian employee, contractor, or contractor employee outside the United States; and

''(C) is not a national of or ordinarily resident in the host nation;

''(2) the term 'Armed Forces' has the same meaning as in section 101(a)(4) of title 10; and

''(3) a person is 'employed by the Armed Forces outside of the United States' if the person—

''(A) is employed as a civilian employee of the Department of Defense, as a Department of Defense contractor, or as an employee of a Department of Defense contractor;

''(B) is present or residing outside of the United States in connection with such employment; and

''(C) is not a national of or ordinarily resident in the host nation.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part II of title 18, United States Code, is amended by inserting after the item relating to chapter 211 the following:

''212. Criminal Offenses Committed Outside the United States ..... 3621''.

Mr. LEAHY. Mr. President, I support S. 768, which was significantly improved during the Judiciary Committee mark up with a substitute amendment that I cosponsored with Senators SESSIONS and DEWINE. This important legislation will close a gap in Federal law that has existed for many years. S. 768 establishes authority for Federal jurisdiction over crimes committed by individuals accompanying our military overseas and court-marital jurisdiction over Department of Defense employees and contractors accompanying the Armed Forces on contingency missions outside the United States during times of war or national emergency declared by the President or the Congress.

Civilians accompanying the Armed Forces have been subject to court-martial jurisdiction when ''accompanying or serving with the armies of the United States in the field'' since the Revolutionary War. See *McCune* v. *Kilpatrick,* 53 F. Supp. 80, 84 (E.D. Va. 1943) It is only since the start of the cold war that American troops, accompanied by civilian dependents and employees, have been stationed overseas in peace time. Provisions of the Uniform Code of Military Justice provide for the court-martial of civilians accused of crimes while accompanying the armed forces in times of peace or war. The provisions allowing for peace time court-martial of civilians were found unconstitutional by a series of Supreme Court cases beginning with *Reid* v. *Covert,* 354 U.S. 1 (1957). With foreign nations often not interested in prosecuting crimes against Americans, particularly when committed by an American, the result is a jurisdictional ''gap'' that allows some civilians to literally get away with murder.

A report by the Overseas Jurisdiction Advisory Committee submitted to Congress in 1997, cited cases in which host countries declined to prosecute serious crimes committed by civilians accompanying our Armed Forces. These cases involved the sexual molestation of dependent girls, the stabbing of a serviceman and drug trafficking to soldiers. The individuals who committed these crimes against service men and women or their dependents were not prosecuted in the host country and were free to return to the United States and continue their lives as if the incidents had never occurred. The victims of these awful crimes are left with no redress for the suffering they endured.

This inability to exercise Federal jurisdiction over individuals accompanying our armed forces overseas has caused problems. During the Vietnam War, Federal jurisdiction over civilians was not permissible since war was never declared by the Congress. Maj. Gen. George S. Prugh said, in his text on legal issues arising during the Vietnam war, that the inability to discipline civilians ''became a cause for major concern to the U.S. command.''

More recently, Operation Desert Storm involved the deployment of 4,500 Department of Defense civilians and at least 3,000 contractor employees. Similarly large deployments of civilians have been repeated in contingency operations in Somalia, Haiti, Kuwait, and Rwanda. Although crime by civilians accompanying our armed forces in Operation Desert Storm was rare, the Department of Defense did report that four of its civilian employees were involved insignificant criminal misconduct ranging from transportation of illegal firearms to larceny and receiving stolen property. One of these civilians was suspended without pay for 30 days while no action was taken on the remaining three.

Due to the lack of Federal jurisdiction over civilians in a foreign country, administrative remedies such as dismissal from the job, banishment from the base, suspension without pay, or returning the person to the United States are often the only remedies available to military authorities to deal with civilian offenders. The inadequacy of these remedies to address the criminal activity of civilians accompanying our Armed Forces overseas results in a lack of deterrence and an inequity due to the harsher sanctions imposed upon military personnel who committed the same crimes as civilians.

I expect the deployment of civilians in Kosovo and elsewhere will be relatively crime free, but regardless of the frequency of its use, the gap that allows individuals accompanying our military personnel overseas to go unpunished for heinous crimes must be closed. Our service men and women and those accompanying them deserve justice when they are victims of crime. That is why I introduced this provision as part of the Safe Schools, Safe Streets and Secure Borders Act with other Democratic Members, both last year as S. 2484 and again on January 19 of this year, as S. 9.

I had some concerns with certain aspects of S. 768 that were not included in my version of this legislation, and I am pleased that we were able to address those concerns in the Sessions-Leahy-DeWine substitute. For example, the original bill would have extended court-martial jurisdiction over DOD employees and contractors accompanying our Armed Forces overseas. The Supreme Court in *Reid* v. *Covert,* 354 U.S. 1 (1957), *Kinsella* v. *Singleton,* 361 U.S. 234 (1960) and *Toth* v. *Quarles,* 350 U.S. 11 (1955), has made clear that court-martial jurisdiction may not be constitutionally applied to crimes committed in peacetime by persons accompanying the armed forces overseas, or to crimes committed by a former member of the armed services.

The substitute makes clear that this extension of court-martial jurisdiction applies only in times when the armed forces are engaged in a ''contingency operation'' involving a war or national emergency declared by the Congress or the President. I believe this comports with the Supreme Court rulings on this issue and cures any constitutional infirmity with the original language.

In addition, the original bill would have deemed any delay in bringing a person before a magistrate due to transporting the person back to the United States from overseas as ''justifiable.'' I was concerned that this provision could end up excusing lengthy and unreasonable delays in getting a civilian, who was arrested overseas, before a U.S. Magistrate, and thereby raise yet other constitutional concerns.

The Sessions-Leahy-DeWine substitute cures that potential problem by removing the problematic provision and relying instead on rule 5 of the Federal Rules of Criminal Procedure. This rule requires that an arrested person be brought before a magistrate to answer charges without unnecessary delays, and will apply to the removal of a civilian from overseas to answer charges in the United States.

Finally, S. 768 as introduced authorized the Department of Defense to determine which foreign officials constitute the appropriate authorities to whom an arrested civilian should be delivered. In my proposal for this legislation I required that DOD make this determination in consultation with the Department of State. I felt this would help avoid international faux pax. I am pleased that the Sessions-Leahy substitute adopted my approach to this issue and requires consultation with the Department of State.

I am glad the legislation which I and other Democratic Members of the Judiciary Committee originally introduced both last year and again on January 19 of this year, is finally being considered, and I urge its prompt passage.

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee amendment be agreed to, as amended, the bill be read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The amendment (No. 1226) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (S. 768), as amended, was read the third time, and passed.

S. 768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military and Extraterritorial Jurisdiction Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Civilian employees of the Department of Defense, and civilian employees of Department of Defense contractors, provide critical support to the Armed Forces of the United States that are deployed during a contingency operation.

(2) Misconduct by such persons undermines good order and discipline in the Armed Forces, and jeopardizes the mission of the contingency operation.

(3) Military commanders need the legal tools to address adequately misconduct by civilians serving with Armed Forces during a contingency operation.

(4) In its present state, military law does not permit military commanders to address adequately misconduct by civilians serving with Armed Forces, except in time of a congressionally declared war.

(5) To address this need, the Uniform Code of Military Justice should be amended to provide for court-martial jurisdiction over civilians serving with Armed Forces in places designated by the Secretary of Defense during a ''contingency operation'' expressly designated as such by the Secretary of Defense.

(6) This limited extension of court-martial jurisdiction over civilians is dictated by military necessity, is within the constitutional powers of Congress to make rules for the government of the Armed Forces, and, therefore, is consistent with the Constitution of the United States and United States public policy.

(7) Many thousand civilian employees of the Department of Defense, civilian employees of Department of Defense contractors, and civilian dependents accompany the Armed Forces to installations in foreign countries.

(8) Misconduct among such civilians has been a longstanding problem for military commanders and other United States officials in foreign countries, and threatens United States citizens, United States property, and United States relations with host countries.

(9) Federal criminal law does not apply to many offenses committed outside of the United States by such civilians and, because host countries often do not prosecute such offenses, serious crimes often go unpunished and,to address this jurisdictional gap, Federal law should be amended to punish serious offenses committed by such civilians outside the United States, to the same extent as if those offenses were committed within the special maritime and territorial jurisdiction of the United States.

(10) Federal law does not apply to many crimes committed outside the United States by members of the Armed Forces who separate from the Armed Forces before they can be identified, thus escaping court-martial jurisdiction and, to address this jurisdictional gap, Federal law should be amended to punish serious offenses committed by such persons outside the United States, to the same extent as if those offenses were committed within the special maritime and territorial jurisdiction of the United States.

SEC. 3. COURT-MARTIAL JURISDICTION.

(a) JURISDICTION DURING CONTINGENCY OPERATIONS.—Section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), is amended by inserting after paragraph (12) the following:

''(13) To the extent not covered by paragraphs (10) and (11), persons not members of the armed forces who, in support of a contingency operation described in section 101(a)(13)(B) of this title, are serving with and accompanying an armed force in a place or places outside the United States specified by the Secretary of Defense, as follows:

''(A) Employees of the Department of Defense.

''(B) Employees of any Department of Defense contractor who are so serving in connection with the performance of a Department of Defense contract.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply with respect to acts or omissions occurring on or after that date.

SEC. 4. FEDERAL JURISDICTION.

(a) CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES.—Title 18, United States Code, is amended by inserting after chapter 211 the following:

''CHAPTER 212—CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES

''Sec.

''3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States.

''3262. Delivery to authorities of foreign countries.

''3263. Regulations.

''3264. Definitions.

''§ 3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States

''(a) IN GENERAL.—Whoever, while serving with, employed by, or accompanying the Armed Forces outside of the United States, engages in conduct that would constitute an offense punishable by imprisonment for more than 1 year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, shall be guilty of a like offense and subject to a like punishment.

''(b) CONCURRENT JURISDICTION.—Nothing in this chapter may be construed to deprive a court-martial, military commission, provost court, or other military tribunal of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war may be tried by a court-martial, military commission, provost court, or other military tribunal.

''(c) ACTION BY FOREIGN GOVERNMENT.—No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval shall not be delegated.

''(d) ARRESTS.—

''(1) LAW ENFORCEMENT PERSONNEL.—The Secretary of Defense may designate and authorize any person serving in a law enforcement position in the Department of Defense to arrest, in accordance with applicable international agreements, outside of the United States any person described in subsection (a) if there is probable cause to believe that such person engaged in conduct that constitutes a criminal offense under subsection (a).

''(2) RELEASE TO CIVILIAN LAW ENFORCEMENT.—A person arrested under paragraph (1) shall be released to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in relation to conduct referred to in such paragraph unless—

''(A) such person is delivered to authorities of a foreign country under section 3262; or

''(B) such person has had charges brought against him or her under chapter 47 of title 10 for such conduct.

''§ 3262. Delivery to authorities of foreign countries

''(a) IN GENERAL.—Any person designated and authorized under section 3261(d) may deliver a person described in section 3261(a) to the appropriate authorities of a foreign country in which such person is alleged to have engaged in conduct described in section 3261(a) of this section if—

''(1) the appropriate authorities of that country request the delivery of the person to such country for trial for such conduct as an offense under the laws of that country; and

''(2) the delivery of such person to that country is authorized by a treaty or other international agreement to which the United States is a party.

''(b) DETERMINATION BY THE SECRETARY.—The Secretary of Defense, in consultation with the Secretary of State, shall determine which officials of a foreign country constitute appropriate authorities for purposes of this section.

''§ 3263. Regulations

''(a) IN GENERAL.—The Secretary of Defense, after consultation with the Secretary of State and the Attorney General, shall issue regulations governing the apprehension, detention, and removal of persons under this chapter. Such regulations shall be uniform throughout the Department of Defense.

''(b) NOTICE TO THIRD PARTY NATIONALS.—

''(1) IN GENERAL.—The Secretary of Defense, after consultation with the Secretary of State, shall issue regulations requiring that, to the maximum extent practicable, notice shall be provided to any person serving with, employed by, or accompanying the Armed Forces outside the United States who is not a national of the United States that such person is potentially subject to the criminal jurisdiction of the United States under this chapter.

''(2) FAILURE TO PROVIDE NOTICE.—The failure to provide notice as prescribed in the regulations issued under paragraph (1) shall not defeat the jurisdiction of a court of the United States or provide a defense in any judicial proceeding arising under this chapter.

''§ 3264. Definitions

''In this chapter—

''(1) a person is 'accompanying the Armed Forces outside of the United States' if the person—

''(A) is a dependent of—

''(i) a member of the Armed Forces;

''(ii) a civilian employee of a military department or of the Department of Defense; or

''(iii) a Department of Defense contractor or an employee of a Department of Defense contractor;

''(B) is residing with such member, civilian employee, contractor, or contractor employee outside the United States; and

''(C) is not a national of or ordinarily resident in the host nation;

''(2) the term 'Armed Forces' has the same meaning as in section 101(a)(4) of title 10; and

''(3) a person is 'employed by the Armed Forces outside of the United States' if the person—

''(A) is employed as a civilian employee of the Department of Defense, as a Department of Defense contractor, or as an employee of a Department of Defense contractor;

''(B) is present or residing outside of the United States in connection with such employment; and

''(C) is not a national of or ordinarily resident in the host nation.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part II of title 18, United States Code, is amended by inserting after the item relating to chapter 211 the following:

"212. Criminal Offenses Committed Outside the United States ..... 3621".

CONDEMNING ACTS OF ARSON AT SACRAMENTO, CA, SYNAGOGUES

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 136, introduced earlier today by Senators BOXER and FEINSTEIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 136) condemning the acts of arson at three Sacramento, CA, synagogues on June 18, 1999, and calling on all Americans to categorically reject crimes of hate and intolerance.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. FEINSTEIN. Mr. President, I rise today to join my friend and colleague, Senator BARBARA BOXER, to introduce a Sense of the Senate Resolution condemning the acts of arson at three Sacramento, California synagogues on June 18, 1999. The resolution also calls on all Americans to categorically reject crimes of hate and intolerance.

I believe this measure is important not only to the Sacramento community but also to all Americans who abhor intolerance.

I was shocked and saddened when I first heard the news that three synagogues in Sacramento had been targeted by arsonists. Committed just a few hours before dawn, this heinous attack was carried out over a 45 minute time span signaling to us that this was deliberate and premeditated act.

In that time, $1.2 million in damage was done to the Congregation B'nai Israel, Congregation Beth Shalom and the Kenessett Israel Torah Center. While the damage to the property was severe, no dollar amount can reflect the true damage done when hateful crimes such as these strike at the heart of a community.

Mr. President, I believe it is tragic that even though we have made significant progress to increase tolerance in this nation that such vicious hate crimes continue to be committed.

This resolution expresses our resolve to ensure that such acts of ignorance and bigotry will not be tolerated in this nation and those who commit them will face swift justice. While the resolution condemns these specific acts of arson in the Sacramento area, it also declares our collective abhorrence to all crimes of intolerance.

The resolution also says that the Senate is committed to using Federal law enforcement personnel and resources to identify the persons who committed these heinous acts and brings them to justice in a swift and deliberate manner. It also recognizes and applauds the residents of Sacramento area who have so quickly joined together to lend support and assistance to the victims of these despicable crimes, and remains committed to preserving the freedom of religion of all members of the community.

I believe that one of the most sacred rights we have as Americans is the freedom of religion. This country came to be because people wanted to be able to choose how they worshiped. I hope that in the wake of this sorrowful event, we are all reminded of the importance of this freedom.

Whatever the motive in these arsons, all people of faith in the Sacramento community and this nation must stand together to fight such hatred. The bottom line is that hatred, bigotry and racism all come from the same place—ignorance.

California's modern heritage is one in which diversity is to be respected, not scorned. As long as hate crimes continue to counter that heritage, we must work together to denounce intolerance and the protect the rights of all.

Mr. President, while we have made progress to increase tolerance in this nation, tragic events like these in Sacramento prove that we still need to do more. Together, we must send the strongest possible message that hate crimes will not be tolerated.

Mr. ABRAHAM. Mr. President, I join today with my colleagues, Senators BOXER and FEINSTEIN to introduce a resolution condemning the acts of arson against the three Jewish synagogues in Sacramento, California.

Our history is blessed with courageous acts of men and women who have refused to accept, and united against, ignorance, oppression and discrimination. It was their selflessness which, in large part, secured and protected the same freedoms and liberties so many Americans take for granted today.

On June 18th, 1999, in Sacramento, California, the Congregation B'nai Israel, Congregation Beth Shalom and Knesset Israel Torah Center were victims of malicious and cowardly acts of arson. Mr. President, these acts of intolerance and malice are a direct attack against all Americans and the ideals which are integral to a free and democratic society. The very liberties that allow America to prosper are directly undermined by such acts of blatant hatred and intolerance.

Mr. President, the United States owes much of its strength and greatness to the special uniqueness and diversity of its people. It is imperative that we unite, upholding our responsibility to honor and protect the basic, inalienable right to live without fear and violence. We must send a message to those individuals who would undermine our free and democratic society, that their acts, and any similar actions, will not be tolerated.

Mr. President, I would also like to take this time to commend the residents of Sacramento, and the larger California community, who have joined in solidarity with the Jewish congregations, demonstrating their continued commitment to preserving the freedom of all members of the community.

Mr. GORTON. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table and any statements be printed in the RECORD.

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

The resolution (S. Res. 136) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 136

Whereas on the evening of June 18, 1999, in Sacramento, California, the Congregation B'nai Israel, Congregation Beth Shalom, and Kenesset Israel Torah Center were victims of malicious and cowardly acts of arson;

Whereas such crimes against our institutions of faith are crimes against us all;

Whereas we have celebrated since our Nation's birth the rich and colorful diversity of its people, and the sanctity of a free and democratic society;

Whereas the liberties Americans enjoy are attributed in large part to the courage and determination of visionaries who made great strides in overcoming the barriers of oppression, intolerance, and discrimination in order to ensure fair and equal treatment for every American by every American;

Whereas this type of unacceptable behavior is a direct assault upon the fundamental rights of all Americans who cherish their freedom of religion; and

Whereas every Member of Congress serves in part as a role model and bears a responsibility to protect and honor the multitude of cultural institutions and traditions we enjoy in the United States of America: Now, therefore, be it *Resolved*, That the Senate—

(1) condemns the crimes that occurred in Sacramento, California, at Congregation B'nai Israel, Congregation Beth Shalom, and Kenesset Israel Torah Center on the evening of June 18, 1999;

(2) rejects such acts of intolerance and malice in our society and interprets such attacks on cultural and religious institutions as an attack on all Americans;

(3) in the strongest terms possible, is committed to using Federal law enforcement personnel and resources pursuant to existing federal authority to identify the persons who committed these heinous acts and bring them to justice in a swift and deliberate manner;

(4) recognizes and applauds the residents of the Sacramento, California, area who have so quickly joined together to lend support and assistance to the victims of these despicable crimes, and remain committed to preserving the freedom of religion of all members of the community; and

(5) calls upon all Americans to categorically reject similar acts of hate and intolerance.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations en bloc on the Executive Calendar: Nos. 15, 35, 70, 75, 97, 100 through 103, 131, 132, 134, 138, 139, 141 through 156, and all nominations on the Secretary's desk in the Foreign Service.

I finally ask unanimous consent that the nominations be confirmed, en bloc,