

Euro-Atlantic community that is united by democracy, free markets and the rule of law.

In the past 12 years, Ukraine's transition to democracy and capitalism has been a difficult process marked by success and failure. The successes are many: Ukraine has given up nuclear weapons, peacefully changed power from Leonid Kravchuk to Leonid Kuchma, partnered with NATO's Partnership for Peace program, and has stationed roughly 1,600 troops in Iraq—one of whom, Private Ruslan Androshchuk paid the ultimate price for his service.

Yet, in spite of these achievements, Ukraine faces a stark choice of leadership as it seeks to shape its second decade of freedom from communism. Those who would seek to forge a new and open Ukrainian identity aligned with the community of democratic nations stand in contrast to those who seek to return the nation to its repressive past by establishing a more authoritarian regime that avoids the needed reforms it must undertake.

The choices facing the Ukrainian people are clear, and the upcoming October 2004 presidential election will play a critical role in determining the course that this proud and important nation will take. It is my hope that the presidential election will draw Ukraine closer to the West by cementing a strong and stable democracy. Unfortunately, a number of recent events and actions by the Ukrainian government have provided supporters of a democratic Ukraine with reason for concern.

In the lead up to the fall's election, Ukrainian president Leonid Kuchma has pursued constitutional changes that would shift substantial powers from the presidency to the Ukrainian parliament, the Verkhovna Rada, on the eve of the presidential election in which a strong opponent of the President is currently leading in the polls. In response to concerns expressed by many nations, President Kuchma dropped the most egregious provision, which would have replaced the direct election of the president with an election by the Ukrainian parliament. Deliberations on constitutional reforms, especially reforms that would alter the political landscape and structure of the nation, should be discussed in a full and open parliamentary debate with the broad participation of the Ukrainian population. Yet, the proponents of this measure primarily relied on backroom maneuvering to push through their changes. Although President Kuchma argued that he was not advocating these changes to strengthen his position, since he has said he will not run for reelection, many concerns existed that he was doing so to fortify the position of his allies in the legislature.

In a sign that true democratic aspirations in Ukraine are still alive, those changes to the Ukrainian constitution failed by six votes earlier this month. I am hopeful that President Kuchma will permit the election to go forward with-

out further attempts to undermine Ukraine's constitution.

The constitutional changes advocated by President Kuchma are just one facet of an increasingly authoritarian trend in Ukraine. Media repression that threatens the safety of Ukrainian journalists also limits the ability of citizens to obtain fair and accurate reporting prior to the October elections. A free press and open media are essential foundations for any open, democratic society. Yet the ability of the media to operate freely has been threatened in the past several years.

The commercial FM Dovira network removed Radio Free Europe/Radio Liberty, RFE/RL, Ukrainian-language programs from its schedule in February of this year. This move came after the takeover of the network by a political supporter of President Kuchma. The network had previously served as the RFE/RL major affiliate, reaching roughly 60 percent of Ukraine's population. Apparently RFE/RL programming did not "fit the envisioned new format of the radio network," despite the fact that these programs were the most popular shows on the station.

When Radio Kontyent, an FM commercial station in Kyiv, started airing RFE/RL programming a couple of weeks later, the station was raided and closed by Ukrainian authorities. The station's transmission equipment and three employees were briefly detained. The former owner of the station fled to Poland fearing for his life and is awaiting political asylum.

This action was not an isolated event, unfortunately. According to the Broadcasting Board of Governors, Ukrainian authorities continue an ongoing campaign against the independent media, including the harassment of journalists and the suppression of fact-based news and information and investigative reporting. Several journalists have been murdered and others have been killed in suspicious "accidents." We must do more to support efforts in Ukraine by journalists and media organizations that fight for fundamental rights.

Political repression and harassment apparently influenced the election for the mayor of Mukachevo, a town in southwestern Ukraine. Exit polls for this election indicated that Our Ukraine's candidate received 62.4% of the vote, yet a subsequent recount indicated that his opponent won by 5,000 votes. Reports trickling out after the election indicated that some of the election stations were raided and damaged by "criminal elements" and other ballots were summarily destroyed or ignored. Four members of the parliament were beaten and an election observer was hospitalized after being assaulted. In addition to this, prior to the election the Our Ukraine candidate temporarily was taken off the ballot and a theater director that allowed Our Ukraine to use his venue for a meeting was severely beaten.

The Organization for Security and Cooperation in Europe, OSCE, ex-

pressed its concerns about this election, as well as recent legislation that bars domestic non-partisan observers from monitoring elections. Without the assurances of a free, open, and transparent election, there is little to hope that the fall election will, in fact, uphold true democratic values. The events in Mukachevo and the barring of domestic observers are reasons for great concern. Recent actions, such I described, raise the fear that this election will be stolen from the Ukrainian people.

Ukraine has taken some positive steps toward the creation of democratic institutions and a free-market economy, though much more remains to be done. This is why a free and fair presidential election in October 2004 remains so important to determining the future path of Ukraine. Who emerges victorious from this election is a matter to be decided by the Ukrainian people. What is of concern to the United States is how these elections will be conducted. Both the election day and the pre-election period must meet international standards for a free and fair electoral process, including ensuring that candidates have unimpeded access to media outlets, citizens are guaranteed the opportunity to exercise their civil and political rights, free from intimidation and interference, and domestic and international monitors are allowed to observe the electoral process and report their findings. The numerous problems in Ukraine noted in elections in 1999 and 2002 by election observers only intensify everyone's concerns.

Ukraine, if it is to realize its considerable potential, must take action now to protect the fundamental human rights of its citizens. There have been some achievements in the past twelve years, but much more remains to be done. I know that my Senate colleagues share my concerns about the upcoming presidential elections and stand ready to support the Ukrainian people as they continue with efforts to make their nation more free and democratic.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

Three employees of the Office of Diversity and Dialogue in Scottsdale, AZ, were injured on February 26, 2004, when a bomb delivered through the mail exploded in their office. The Office of Diversity and Dialogue offers community training and outreach programs and handles various complaints from city employees and citizens, including racial and sex discrimination grievances.

The explosion occurred when Don Logan, the director of Scottsdale's Office of Diversity and Dialogue, opened a notebook sized package addressed to him that was carrying a bomb. The blast left a 3½ inch-wide hole in Logan's desk and shot shrapnel into the walls, ceiling and floor. Logan, 48, suffered serious burns on his hands and arms.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

A CREDIBILITY GAP ON NEW NUCLEAR WEAPONS

Mrs. FEINSTEIN. Mr. President, I rise today to address what I consider a large and serious issue—U.S. nuclear weapons policy—and update the Senate on what has been happening.

In particular, I am concerned about the apparent reopening of the nuclear door by the United States and the further research and development of a new generation of nuclear weapons.

I serve as a member of the Senate Appropriations Committee, on both the Energy and Water and Defense Subcommittees, and have had an opportunity to participate in the committee and conference debates on this issue.

Despite earlier claims to the contrary, by all appearances the Bush Administration is seeking to develop a new generation of nuclear weapons.

This includes both the Robust Nuclear Earth Penetrator, which is a 100-kiloton "bunker buster", and so-called Advanced Concepts, which translate into low-yield battlefield nuclear weapons, below 5 kilotons.

The first hints of this policy came in the administration's 2001 Nuclear Posture Review—which was leaked to the press in early 2002.

The review cited the need to develop a new generation of tactical nuclear weapons, blurring the lines between conventional and nuclear forces.

According to press reports, it named seven countries against which it would consider launching a nuclear first strike: North Korea, Iraq, Iran, Syria, Libya, China, and Russia.

And it proposed a "new triad," in which nuclear and conventional weapons co-exist along the same continuum.

This blurs the distinction between nuclear and conventional weapons and suggests that they could be used as offensive weapons.

Subsequently, in the Defense Authorization Bill last year the Administration sought, and ultimately obtained permission, to repeal the 10-year old Spratt-Furse Amendment, which prohibited research to develop a low-yield, less than 5 kiloton, nuclear weapon.

Spratt-Furse has served as a "brake" on nuclear weapons development for the past decade. Now, it is gone.

I argued against the repeal of Spratt-Furse on the floor, and working with Senator KENNEDY, I offered an amendment to maintain it. Unfortunately, we did not prevail.

What really concerns me is that, throughout all of this, the Administration continues to deny their intention to develop new nuclear weapons.

For example, Secretary of Energy Spencer Abraham, in a Washington Post op-ed on July 21, 2003, stated: "... we are not planning to develop any new nuclear weapons at all."

And Secretary of Defense Donald Rumsfeld, in response to a question I asked him at a Defense Appropriations Subcommittee hearing on May 14, 2003, stated that the work the Administration was undertaking was "just a study", and that there were no plans to build new weapons.

This defies credibility.

Well, if one really wants to know what is happening, the best thing to do is to track where the Administration is asking for and spending money.

And when you do, you find that the administration is putting major resources into researching new nuclear weapons.

For instance, last year's budget request included: \$15 million for the study of the development of the Robust Nuclear Earth Penetrator; \$6 million in funding for Advanced Nuclear Weapons Concepts, including the study for development of low-yield, battlefield weapons; \$24 million to increase the Nevada Test Site's time-to-test readiness posture from the current 36 months to 18 months; and, \$22 million for site selection for the Modern Pit Facility, which is a facility to build nuclear triggers for our Nation's stockpile of nuclear weapons.

This would be a \$4 billion plant to make up to 450 new "pits" per year, some of which could be designed for new weapons.

Four-hundred-and-fifty pits is larger than China's entire nuclear arsenal, so this production capacity raises questions about the number of weapons the Administration wants in the U.S. arsenal.

Currently, the United States has approximately 15,000 warheads. Under the Moscow Treaty, the U.S. is to decrease its strategic nuclear force to 1,700 to 2,200 warheads by 2012.

To maintain a 2,200 warhead nuclear force at replacement level, we would only need to build 50 pits a year, not 450. Fifty pits a year can be handled at Los Alamos. So why build a new facility, with a production capacity of 450 pits a year?

This country doesn't need that much production unless plans are underway to increase the size of our nuclear arsenal, including a new generation of nuclear weapons.

Last year, those of us opposed to developing tactical nuclear weapons did have some success in limiting these programs.

Working with others in the House and Senate, we managed to: cut the

funding for the Robust Nuclear Earth Penetrator in half, to \$7.5 million; condition \$4 million of the \$6 million for Advanced Concepts on further reporting and planning on Stockpile Stewardship; and contain spending on the Modern Pit Facility to \$10 million, a \$12 million reduction.

Critically, we also managed to win passage of a requirement that any move to develop a Robust Nuclear Earth Penetrator further than the 6.2A phase require a specific congressional authorization.

As many of my colleagues know, there is a formal set of phases by which new and modified nuclear weapons move through research, development, production, deployment, and retirement.

As a recent CRS report states, "The Key phases for Robust Nuclear Earth Penetrator are: phase 6.2, feasibility study and down select; phase 6.2A, design definition and cost study; phase 6.3, development engineering in which the nuclear weapons labs produce a completed warhead design; and phase 6.4, production engineering, in which the design is adopted for production and a system to manufacture the weapon is created."

So when the administration wants to move beyond 6.2A to 6.3 and into the development engineering phase, they need specific Congressional authorization.

Continuing its efforts, the administration came back this year and asked for significantly more funding for research into new nuclear weapons.

Indeed, the administration's budget requests before Congress this year total some \$96.5 million, and makes it clear that there are those in this administration who are deadly serious about the development and deployment of a new generation of nuclear weapons.

The administration's FY 2005 budget request calls for: \$27.5 million for the Robust Nuclear Earth Penetrator; \$9 million for Advanced Concepts Initiative, which includes so-called "low yield" weapons (under 5 kilotons); and \$30 million for the Modern Pit Facility.

This is just the tip of the iceberg. The Congressional Research Service now reports that the administration's own long-term budget plans, including \$485 million for the Robust Nuclear Earth Penetrator between 2005 and 2009, "cast doubt" on the contention that the study of new nuclear weapons are, in fact, only a study.

This ramp-up in funding can mean one thing: the administration is determined to develop and deploy a new generation of nuclear weapons.

Yes, the administration is seeking to re-open the nuclear door and is seeking more "usable" nuclear weapons:

The Robust Nuclear Earth Penetrator, for use in launching first strikes to reach deeply embedded command bunkers; and

Tactical nuclear weapons, for possible use on the battlefield.