9/9/93 STMT BEFORE VOTING ON BOXER AMDT. (#783) TO FY94 NDAA (S. 1298)

Mr. LEVIN. I thank the Chair and I thank the Senator from California.

I support her amendment because I think it is generally unwise to legislate detailed military personnel matters because of the inflexibility which would be produced as a result. Congress has the right to do that, but it should not exercise every right that it happens to have.

(TEXT OF AMDT. FOLLOWS)

It would be one thing if the Congress disagreed with the President. Then there would be a need for legislation to change the policy. Legislation would be the only way to do it. But the committee report on this bill states that:

The standards and procedures set forth in the committee's recommendation are consistent with the policy of the Department of Defense as set forth in DOD directives and the policy memorandum issued by the Secretary of Defense on July 19, 1993.

The President's policy regarding gays in the military is based on the fact that many gays and lesbians are currently serving in the military with distinction, and have in the past.

The President's policy is based on the fact that certain conduct, be it homosexual or heterosexual, can be incompatible with military service. Nothing in the current bill language changes that.

The President's policy is based on the belief that military commanders should have the capability to deal with homosexual conduct that represents a threat to unit cohesiveness. Nothing in this language changes that.

It is unwise to put into statutory form, with its needless legislative inflexibility, a detailed personnel practice which has traditionally been left to the executive branch and the uniformed military's directives.

The military is capable of enforcing standards of conduct and policies regarding the acceptable conduct of gays and lesbians and non-gays, without pursuing separation from the military of individuals in the absence of objectionable conduct.

The President's policy, articulated on July 19, 1993, reflects that approach, and was devised by a military working group in careful consultation with the Joint Chiefs of Staff, the Secretary of Defense, the DOD General Counsel and other Pentagon officials. It has been reviewed and endorsed by the Attorney General. This policy replaces previous regulations that stated `homosexuality is incompatible with military service.'

The President's policy also comments to treat investigations of violations of the Uniform Code of Military Justice `in an even-handed manner, without regard to whether the conduct alleged is heterosexual or homosexual or whether it occurs on base or off base.' DOD will not conduct investigations that are based solely on suspicion that a person has a homosexual propensity.

The President's policy is based on the belief that homosexual orientation in the absence of unacceptable conduct is compatible with military service. The fact that many homosexuals have served with distinction is inscribed in white marble at Arlington National Cemetary and in black granite at the Vietnam Veterans Memorial.

For these reasons, I urge the adoption of the amendment.

AMENDMENT NO. 783.

Mrs. BOXER. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. **Boxer**] proposes an amendment numbered 783.

Strike out section 546 (page 139, line 20, through page 148, line 8) and insert in lieu thereof the following:

SEC. 546. 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 advisors to the President and Secretary.

The result was announced--yeas 33, nays 63, as follows:

Rollcall Vote No. 250 Leg.

[Rollcall Vote No. 250 Leg.]

YEAS--33

- Akaka
- Biden
- Bingaman
- Boxer
- Bradley
- Campbell
- Chafee
- D'Amato
- DeConcini
- Dodd
- Feingold
- Feinstein
- Harkin
- Inouye
- Jeffords
- Kennedy
- Kerrey
- Kerry
- Lautenberg
- Leahy
- Levin
- Lieberman
- Metzenbaum
- Mikulski
- Moseley-Braun
- Moynihan
- Murray
- Pell
- Riegle
- Robb
- Sarbanes
- Simon
- Wellstone

NAYS--63

- Baucus
- Bennett
- Bond

- Boren
- Breaux
- Brown
- Bryan
- Bumpers
- Burns
- Byrd
- Coats
- Cochran
- Cohen
- Conrad
- Coverdell
- Craig
- Danforth
- Daschle
- Dole
- Domenici
- Dorgan
- Durenberger
- Exon
- Faircloth
- Ford
- Gorton
- Graham
- Gramm
- Grassley
- Gregg
- Hatch
- Hatfield
- Heflin
- Helms
- Hollings
- Johnston
- Kassebaum
- Kempthorne
- Kohl
- Lott
- Lugar
- Mack
- Mathews
- McCain
- McConnell
- Mitchell
- Nickles
- Nunn
- Packwood
- Pressler
- Pryor

- Reid
- Rockefeller
- Roth
- Sasser
- Shelby
- Simpson
- Smith
- Specter
- Stevens
- Thurmond
- Warner
- Wofford

NOT VOTING--4

- Glenn
- Hutchison
- Murkowski
- Wallop

So, the amendment (No. 783) was rejected.