nuclear, chemical and biological weapons.

In summary, H.R. 4653 contains serious and unacceptable flaws that would hamper our efforts to prevent the proliferation of weapons of mass destruction and to ease restrictions on the legitimate sale of dual-use goods to acceptable users. Rather than sign this bill, I have chosen to take a series of steps under existing authorities to ensure that mutually shared objectives are met in a timely and effective manner. I will work with the Congress, upon its return, to enact an appropriate extension of the Export Administration Act.

GEORGE BUSH.

THE WHITE HOUSE, *November 16, 1990.*

H.R. 3134—MEMORANDUM OF DISAPPROVAL

In the closing days of the 101st Congress, two bills were passed providing for somewhat different benefits for the surviving spouses of assassinated Federal judges. These survivors have suffered profound and tragic losses, and they have our deepest sympathies. I am pleased that the Congress has passed legislation allowing these individuals to receive additional benefits.

One bill—H.R. 5316, the "Judicial Improvements Act of 1990"—has not yet been presented to me for approval. Upon its presentation to me, I plan to approve H.R. 5316, which contains provisions that would increase the benefits, subject to certain limits, for surviving spouses of all assassinated Federal judges on an equitable basis.

My approval of H.R. 5316 makes the approval of another bill—H.R. 3134—unnecessary. Therefore, I am withholding my approval of H.R. 3134, a bill which would have provided somewhat different benefits for Mrs. Joan R. Daronco. This action, in conjunction with my planned approval of H.R. 5316, will ensure that Mrs. Daronco and all such surviving spouses receive their benefits in an equitable manner.

GEORGE BUSH.

THE WHITE HOUSE, *November 16, 1990.*

S. 321—MEMORANDUM OF DISAPPROVAL

I am withholding my approval of S. 321, the "Indian Preference Act of 1990." S. 321 would establish, among other things, a program to provide preferences to qualifying Indian enterprises in the award of Federal grants or contracts using funds appropriated for the benefit of Indians. The bill would impose new, expensive, and often duplicative program responsibilities on the Secretary of the Interior that would be difficult to implement. It would also likely result in Federal agencies assuming new, unfunded liabilities related to Indian preference enterprises.

My Administration strongly supports the goals of S. 321 and is committed to helping alleviate the widespread unemployment and underemployment on Indian reservations. Moreover, the Administration supports efforts to prevent companies from misusing Federal Indian preference programs. Accordingly, amendments are needed to the "Buy Indian Act" to increase Indian economic self-sufficiency and employment opportunities and to prevent utilization of preference provisions by non-qualifying companies. However, S. 321 is seriously flawed and would create more problems than it would solve.

I am withholding my approval of S. 321 to allow further review of the issues in the 102nd Congress. Many of the issues raised by S. 321 are complex and deserve a full airing in both Houses of Congress. The House passed S. 321 in the final days of the 101st Congress without sufficient consideration of these complex issues.

In the interim, I am directing the Secretary of the Interior to take the necessary steps to address the contracting problems identified in the November 1989 report of the Special Committee on Investigations of the Senate Select Committee on Indian Affairs.

In particular, I am directing the Secretary to issue guidelines that set forth specific procedures to govern Bureau of Indian Affairs field contracting officers in conducting pre-award reviews of grants and contracts. I am also directing the Secretary to develop and submit proposed regulations to implement the "Buy Indian Act" for Executive review within 90 days.

GEORGE BUSH.

THE WHITE HOUSE, *November 16, 1990.*

S. 2834—MEMORANDUM OF DISAPPROVAL

I have withheld my signature from S. 2834, the proposed "Intelligence Authorization Act, Fiscal Year 1991," thereby preventing it from becoming law. I am compelled to take this action due to the bill's treatment of one highly sensitive and important issue that directly affects the Nation's security, although there also are several objectionable elements of the bill that trouble me.

I cannot accept the broad language that was added in Conference to the definition of covert action. Section 602 of the bill defines "covert action" to include any "request" by the United States to a foreign government or a private citizen to conduct a covert action on behalf of the United States. This provision purports to regulate diplomacy by the President and other members of the executive branch by forbidding the expression of certain views to foreign governments and private citizens absent compliance with specified procedures; this could require, in most instances, prior reporting to the Congress of the intent to express those views.

I am particularly concerned that the vagueness of this provision could seriously impair the effective conduct of our Nation's foreign relations. It is unclear exactly what sort of discussions with foreign governments would constitute reportable "requests" under this provision, and the very possibility of a broad construction of this term could have a chilling effect on the ability of our diplomats to conduct highly sensitive discussions concerning projects that are vital to our national security. Furthermore, the mere existence of this provision could deter foreign governments from discussing certain topics with the United States at all. Such a provision could result in frequent and divisive disputes on whether an activity is covered by the definition and whether individuals in the executive branch have complied with a statutory requirement.

My objections to this provision should not be misinterpreted to mean that executive branch officials can somehow conduct activities otherwise prohibited by law or Executive order. Quite the contrary. It remains Administration policy that our intelligence services will not ask third parties to carry out activities that they are themselves forbidden to undertake under Executive Order No. 12333 on U.S. intelligence activities. I have also directed that the notice to the Congress of covert actions indicate whether a foreign government will participate significantly.

Beyond this issue, I am also concerned by the treatment in the Joint Explanatory Statement accompanying the Conference Report of notification to the Congress of covert actions. I reached an accommodation with the Intelligence Committees on the issues of notifying the Congress of covert actions "in a timely fashion," as required by current law, and have provided letters to the Intelligence Committees outlining how I intend to provide such notice. I was consequently dismayed by the fact that language was inserted in the Joint Explanatory Statement accompanying the Conference Report that could be construed to undercut the agreement reached with the Committees. This language asserts that prior notice may be withheld only in "exigent circumstances" and that notice "in a timely fashion" should now be interpreted to mean "within a few days" without exception. Such an interpretation would unconstitutionally infringe on the authority of the President and impair any Administration's effective implementation of covert action programs. I deeply regret this action.

Additionally, I am concerned that there are several legislatively directed policy determinations restricting programs of vital importance to the United States that I do not believe are helpful to U.S. foreign policy. This bill, like its predecessor last year, also contains language that purports to condition specified actions on the President's obtaining the prior approval of committees of the Congress. This language is clearly unconstitutional under the Presentment clause of the Constitution and the Supreme Court's decision in *INS* v. *Chadha*, 462 U.S. 919 (1983). I again urge the Congress to cease including such unconstitutional provisions in bills presented to me for signature.

This Administration has had a good relationship with the Intelligence Committees. I am willing to work with the Congress to address the primary issue that has prompted my veto as well as other difficulties with the bill. I will also continue to work with the Congress to ensure there is no change in our shared understanding of what constitutes a covert action, particularly with respect to the historic missions of the armed forces. I am confident that these issues can be resolved quickly in the next Congress through mutual trust and a good-faith effort on the part of the Administration and the Congress.

GEORGE BUSH.

THE WHITE HOUSE, *November 30, 1990.*

MESSAGES AND COMMUNICATIONS RECEIVED FOLLOWING THE SINE DIE ADJOURNMENT OF THE 101ST CONGRESS AND FOLLOWING THE PUBLICATION OF THE FINAL ADDITION OF THE CONGRESSIONAL RECORD OF THE 101ST CONGRESS

COMMUNICATION FROM THE CLERK OF THE HOUSE

The text of the communication from the Clerk of the House of Representatives dated November 2, 1990, is as follows:

WASHINGTON, DC,
November 2, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following messages from the Secretary of the Senate:

1. Received at 1:17 a.m. on Sunday, October 28, 1990: That the Senate passed without amendment, H.J. Res. 687;