violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set forth in section 3592, including the aggravating factors set forth at (c) below, in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"(c) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section (b) above, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

Mr. D'AMATO. Madam President, I do not intend to spend a long time explaining this amendment. Indeed, we have considered it, or an amendment very similar to it, back in 1989; again in 1990; again in 1991. What it does is provide for the death penalty for major drug dealers. Major drug kingpins are killing and maiming Americans. What our amendment does is provide for the death penalty for major drug dealers or traffickers, whether there is a murder or not.

Make no mistake about it, as defined pursuant to this section of the law, anyone who deals with the quantities that we set forth, which are 600 times over that which is required to bring about a felony, will be contributing to the death of scores and scores of Americans.

In order for that death penalty to be applicable, that person has to be involved in the sale or distribution of 132 pounds of heroin in a year. If you are involved in the sale or distribution and you had that rank and are selling 132 pounds of heroin—and that is the minimum—you are responsible for the deaths of untold numbers of people either directly or indirectly, whether through HIV, or whether the heroin addict shoots up and overdoses, or the heroin addict who unfortunately, to support his habit, uses that gun that we speak about and kills an innocent bystander or robs that variety store at night and shoots down someone or was involved in a battle over turf and kills an innocent child. And 660 pounds of cocaine must be involved in order for this to meet the threshold; 13 pounds of PCP, 66 tons of marijuana, or 7 pounds of crack.

We talk about crack addiction. We talk about the crack-addicted babies who are born into addiction. I have to tell you something, the death penalty is too good for those who bring this situation about.

The major trafficker would also be defined as one whose enterprise has gross receipts of $20 million or more. Again, if you are dealing in that kind of drugs in those quantities, certainly you have been responsible for the death of people.

Our amendment also provides for the death penalty for the drug kingpin who engages in an attempted murder of a person with the purpose of obstructing justice, a principal leader who directs others to attempt to kill any public official, juror, witness, or member of such a person's family or household in order to obstruct the investigation or prosecution of the enterprise or an offense involved in that enterprise.

How often have we heard, unfortunately, in our urban centers today, the drug hits that are put out, the contracts that are put out by the drug kingpins. This amendment also provides for the death penalty for those members of the drug kingpin's organization that dispense, supply, or sell the stated amount of substance that directly causes the death of a person.

Drugs are one of the leading causes of crime today. I believe this amendment can make a difference. There have been some questions as relates to just how many people would be involved. According to a Justice Department study of this amendment, it is estimated that there are 50 to 75 offenders annually who will violate the drug kingpin category as it relates to the amounts—50 to 75. It is estimated that there would be 200 drug offenders satisfying the criteria of members of a continual criminal enterprise who engage in attempted murder to obstruct justice; a principal leader who directs others to kill. This comes from the Justice Department in their study. We are now saying there are at least 200 to 250 people annually who the Justice Department understands would fit this category. Let me suggest that when we talk about how many homicides come about as a result of the drug kingpins ordering assassination of other people, we are talking about 1,350.

I know Senator HATCH will speak to some of the underlying arguments. It has been said that this may be unconstitutional because there is not a death directly attributable as it covers certain of these sections. The United States has provided death penalties for cases where there is not a death actually attributable because we understand, for example in areas of espionage, that while you may not prove a direct correlation, there is that danger to the community, to the Nation. There are those people who are not killing great numbers of people through drug trafficking, but it seems to me they certainly are in an indirect way, and in a very direct way are killing our neighborhoods, our communities, and our youngsters.

Madam President, I ask unanimous consent Senator DOMENICI and my colleague from Virginia, Senator WARNER, be added as cosponsors.

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

Mr. D'AMATO. Madam President, I ask for the yeas and nays.

Mr. BIDEN. Has all time been yielded back?

The PRESIDING OFFICER. All time has not been yielded back.

Mr. BIDEN. I thank you.

Mr. D'AMATO. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. Madam President, I do not know whether or not Senator HATCH—I believe he is going to speak to the amendment for several minutes.

I have concluded my remarks.

Mr. WARNER. Madam President, if the Senator will allow me just about a minute and a half.

The PRESIDING OFFICER. Does the Senator from New York yield?

Mr. D'AMATO. Yes, I do.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. I thank the Chair.

Mr. WARNER. Madam President, I spent a good deal of the recess period this summer and well into the fall taking a series of unusual trips, in the sense that I went down into my State and visited with every single Federal judge in his or her chambers.

I found it to be a very rewarding experience. I do not wish to compliment myself, but several of the old-time judges who had been there some time said they have no recollection of a U.S. Senator doing this before. I urge other colleagues to do it because you have to go down and sit in the front lines of those judges' chambers and in their courtrooms and let them recount to you the experiences they have each and every day in the implementation of our Federal criminal statutes.

Time and time again, the subject which has been addressed by the distinguished colleague from New York, Mr. D'AMATO, was raised on the need to get to those individuals who have primary responsibility for so much of this drug trafficking.

The members of the judiciary are concerned about the gofers, as they are called, the young people who are roped into these nets, lured into the nets. The Senator from Virginia has included in this bill legislation, as has the Senator from Wisconsin, and others, to stop the transfer to these gofers of handguns as part remuneration for their participation in this lowly drug trafficking. All too often, the gofers are caught and they have not the faintest idea about the implication of the kingpin. I think this statute begins to focus the proper attention on the need to get to the kingpins, as well as the gofers, but get to the kingpins and hold them accountable in a way that I feel will be a deterrent for participation in such activities.

I compliment my colleague from New York. I compliment the distinguished ranking member of the Judiciary Committee, Mr. HATCH.

I yield the floor.

The PRESIDING OFFICER (Mr. MATHEWS). Who yields time?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am very sympathetic and empathetic with the effort of the Senator from New York. As a matter of fact, it was in 1988 the first drug kingpin law was passed. I wrote that law. It is now law, on the books; a drug kingpin death penalty law that is on the books, different than this. There is one on the books now.

To be honest with you, when I first wrote the law and I sought the help of constitutional scholarship available, I wanted to extend it to do exactly what the Senator from New York is doing. But after consulting with liberal and conservative constitutional scholars and Federal judges, the overwhelming consensus was that under the present rulings of the Supreme Court, unless there is an intent directly related to and able to trace the cause of death to the action of a drug kingpin, a death penalty would, in fact, in that circumstance be viewed as unconstitutional.

The Senator pointed out, I think he used the figure 1,300 assassinations ordered. All of those are covered now by the present law. In the Biden drug kingpin law that is now law, any drug kingpin who, in fact, directly orders and/or commits a murder by either standing there and administering an overdose of a drug and/or in a drug war, shooting, killing, or ordering the assassination of someone else, they are able to receive the death penalty under Federal law now.

The big difference with the proposal of the Senator from New York is, a drug kingpin who, in fact, does not directly, immediately identify the subject of the murder and his actions would still be covered. The theory being—I cannot improve on the explanation—but the theory being that any reasonable person would have to know that they are engaged in the business of running a criminal enterprise the size that is required to be a drug kingpin and/or distributing the tens, if not hundreds of pounds of potentially lethal controlled substances; that it is reasonable to assume someone will die as a consequence of that.

So the nexus the Senator from New York finds under the Constitution to make it constitutional to put someone to death for an action is that any—my words not his—any reasonable person would have to know that death would result. The analogy I made in 1988, but I could not get the consensus of the constitutional scholars, was anyone who takes out a loaded gun and indiscriminately, but nonetheless, fires into a crowd of individuals without the intent to kill anyone or anyone in particular, they should have reasonably known that death would likely result, ergo, when death results, they should be able to be held accountable for that by whatever penalty was on the books.

The same theory is proffered here. I think, unfortunately, it is a bit of a constitutional stretch. So I have in the past not moved to extend the present drug kingpin law to include what the Senator would argue are the reasonably anticipated deaths that would follow, as opposed to specifically intended damage done—death—that follows from an order of an assassination, for example.

So because I am still not convinced of its constitutionality, I will tomorrow at the appropriate time move to table the amendment. But I must say, of all the amendments being offered tonight—and my staff is not real crazy about me acknowledging this—my knowledge, my instinct about whether or not this is constitutional is that at least it is an even shot it is constitutional. My advice from people who are much more learned in the Constitution, notwithstanding I have the dubious distinction of being an adjunct professor of constitutional law in a law school these days, I know that does not qualify me as a constitutional expert. So I am going to continue, until I can make the case more strongly, to yield to the majority body of opinion among constitutional scholars that this is unconstitutional. That is why I will move to table it.

But quite frankly, I must acknowledge that I think it is a close call. Some of the other things that are up here from my perspective that I am arguing against I do not even think are close calls. This one I acknowledge is a close call. But I have made it a practice for this Senator, when I have been in doubt about the constitutionality of an action of the Senate, I have voted against that action when I have been in doubt, because I have erred on the side of not stretching the limits of the Constitution, notwithstanding it is perfectly within our rights as a body to decide we believe it is constitutional and then leave it to the courts to resolve in debate. It has been my practice for 21 years not to proceed that way, although I am in no way criticizing those who would otherwise proceed.

This is what you call tabling with faint praise. I think it is a close call. It would be more appropriate for someone who felt very strongly about it being unconstitutional to make the case. But I do think, on balance, it is probably unconstitutional. Therefore, I will move to table it tomorrow.

I am prepared—I see the Senator is on his feet—when he finishes his comments, when he yields back time, to yield back the remainder of my time as well.

I compliment the Senator. Believe me, emotionally, politically and close to substantively, I find it very hard to move to table this, but I will for the reasons I have stated.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I certainly appreciate Chairman BIDEN's feelings. I want to thank him for the graciousness of his remarks. I understand where he is coming from. We had this discussion in the past. Indeed, we worked together to develop the drug kingpin bill back in 1988.

I am not going to repeat the arguments. We know them. I think that the area of contention is one that reasonable people can disagree and, indeed, it may take the Supreme Court to set down a standard and to rule on this case as to whether or not we have the

ability to say that if you traffic in such large amounts of drugs that you risk the death penalty being imposed. I think that we send them a case or an opportunity of a case and we send a message out that says we are serious and will do everything possible to deter those who are engaged in this kind of activity because certainly they are sapping the strength and vitality and it does result in the death of so many. Whether or not we can prove directly and whether that cause and effect must be of necessity proof of the kind of directness that some might contend, I think that is a matter for the courts to decide. So I thank the distinguished chairman.

Mr. BIDEN. Before the Senator yields back his time, because I do not want to see him be put in a spot where he has no time left, if the Senator will yield to me just a moment on my time.

The PRESIDING OFFICER. Will the Senator yield?

Mr. D'AMATO. Certainly.

Mr. BIDEN. Mr. President, if we had a more flexible unanimous-consent agreement, what I would have done at this point, but I did not attempt to get an agreement because I respect the Senator's position—and quite frankly, because I respect the Senator has the votes on this, I have no doubt that a proposal that I entertain amending this amendment with, which would be minimum mandatory life in prison, no probation, no parole, is constitutional. I do not oppose the death penalty. The underlying Biden bill to which we are attaching all these things has 47 death penalties in it. I support the death penalty.

But I think the proper way to go here, so that we do not run the risk of it being ruled unconstitutional, would be to have minimum mandatory life imprisonment, no probation, no parole for a drug kingpin where you are not able to directly show the action taken by the kingpin resulted in the specific death of a specific person. I have no doubt that is constitutional, and I would prefer—and I am not asking the Senator to amend his amendment. I know he cannot do that this way.

But if in fact this passes and becomes law, it is declared unconstitutional, then I would invite the Senator to join me in taking the exact same language he has and changing the penalty to minimum mandatory life in prison, no probation, no parole, which means if you are sentenced you are there for the rest of your natural life, no matter what happens, unless you can be proven innocent at a later date as a consequence of evidence that was not available at the trial.

That is how strongly I feel about it. I just think constitutionally we are on very thin ice, and I would rather not skate on that ice.

So when the Senator from New York is prepared to yield back his time, I will yield back what remaining time I have.

Mr. HATCH. Mr. President, will the Senator yield a few minutes to me?

Mr. D'AMATO. I will be happy to yield.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I agree with the Senator from New York. I think this is a good amendment. I think it is a constitutional amendment.

The activities of drug kingpins pose perhaps the gravest risk that we face today to our health and well-being, both as individuals and as a nation. In my home State of Utah, the spread of drugs and its attendant violence is a growing problem. Death by violence and disease, destruction of minds and bodies, follow in the wake of these unseen crime barons.

Mr. President, the time has come that we punish these evil purveyors of death and destruction as they deserve to be punished, and no longer let them hide behind the hired guns who pull the triggers for them. This was the position of the prior Republican administration. The Clinton administration, however, has retreated from this position in the crime war, apparently on the view that the death penalty is unconstitutional as applied to these major drug dealers. As I will explain in a few minutes, the case for the constitutionality of this provision is very, very strong. Significantly, an amendment on the side of the American people and the victims of drug kingpins would support this provision and defend it in the Court. The drug kingpins will have high-priced lawyers—legal hired guns—arguing for them. That the Clinton administration feels it has to take the side of drug kingpins in this matter is a disturbing development.

In 1988, Congress passed legislation to provide the death penalty for murders by drug kingpins and for drug-related murders of law enforcement officers. By passing this important legislation as part of the Anti-Drug Abuse Act of 1988, Congress acknowledged that capital punishment is a needed and proper weapon in our Nation's effort to fight the drug war. This action on the part of the 100th Congress was a valuable first step.

However, we did not go far enough. Drug kingpins are currently not subject to the Federal death penalty where they themselves are not directly involved in committing murder. But their nefarious traffic in drugs causes untold deaths and, even if they are not directly involved, untold murderous violence attendant on drug trafficking. The death penalty for these drug kingpins contained in the Dole-Hatch Neighborhood Security Act (S. 1356) sends a signal that our Nation is prepared to punish appropriately those who cause so many deaths—major drug kingpins. These drug kingpins are responsible for untold deaths and are, in a real sense, responsible for many drug-related murders which occur on our streets every day.

S. 1356, the Dole-Hatch crime bill, provides that major drug traffickers—organizers, leaders, or administrators of continuing criminal enterprises—may be subject to the death penalty if the enterprise traffics in twice the amount of drugs which would qualify them for mandatory life imprisonment; that is, 300 kilograms of cocaine; 60 kilograms of heroin; or 70,000 kilograms of marijuana, or if the enterprise makes $20 million or more in gross receipts during any 12-month period. Additionally, kingpins who, in order to obstruct justice, attempt to kill any public officer, juror, witness, or member of the family or household of such person shall be eligible for the death penalty.

S. 1356 also limits the application of the death penalty in these cases by requiring the jury to find that at least one or more additional aggravating factors exist and that such aggravating factor outweighs mitigating factors, if any are found. Specifically, the defendant must have: a previous conviction or offense for which a sentence of death or life imprisonment was authorized; or two or more prior felony convictions; or a previous felony drug conviction; or used a firearm; or sold drugs to persons under 21 years of age, near a school, or used minors in selling drugs; or mixed the drugs with a lethal adulterant.

The imposition of the death penalty is constitutional for drug kingpins—even for those who do not themselves pull the trigger and in those cases where no death can be directly attributed to them. Opponents of this legislation will claim that it is unconstitutional to execute an individual where death has not resulted or where no particular death can be attributed to an individual kingpin. Mr. President, such critics are wrong for two reasons. First, Anglo-American law has a long tradition of imposing the ultimate sanction against those who pose an extremely grave risk to society, even where no death directly results. A few examples are treason, certain types of espionage, and airliner hijacking.

Second, because of the enormous magnitude of the public harm drug trafficking and related violence causes, applying the death penalty to these cases is wholly consistent with the proportionality requirement of eighth amendment's cruel and unusual punishment clause.

The eighth amendment's rule of proportionality requires that the severity of punishment be proportionate to: First, the gravity of the injury caused by the offense; and second, the moral culpability, or blameworthiness, of the offender. [See, *Tison* v. *Arizona*, 481 U.S. 137, 148–49 (1987); *Coker* v. *Georgia*, 433

U.S. 584, 598 (1977); *Gregg* v. *Georgia*, 428 U.S. 153, 173 (1976).] The death penalty for certain cases of large scale drug trafficking meets this burden.

As stated by former Assistant Attorney General Ed Dennis at a Senate Judiciary Committee hearing in 1989 on the death penalty, "Not since the dawn of the nuclear age, have we faced a threat more pernicious, more dangerous to the security and welfare of the Nation than the current crisis involving the large-scale importation and sale of narcotics." The cost of drug abuse to America in terms of lost lives, lost productivity, crime, and health care services is immeasurable.

In addition to the pernicious effects on the individual who takes illegal drugs, drugs relate to crime in at least three ways: First, a drug user may commit crime because of drug-induced changes in physiological functions, cognitive ability, and mood; second, a drug user may commit crime in order to obtain money to buy drugs; and third, a violent crime may occur as part of the drug business or culture. [See Goldstein, Drugs and Violent Crime, in Pathways to Criminal Violence 16, 24-36 (N. Weiner, M. Wolfgang eds., 1989).] Studies bear out these possibilities, and demonstrate a direct nexus between illegal drugs and crimes of violence. [See generally id., at 16-48.]

The connection between crime and drugs is unquestionable. For example, 57 percent of a national sample of males arrested in 1989 for homicide tested postive for illegal drugs. [National Institute of Justice, 1989 Drug Use Forecasting Annual Report 9 (June 1990).] The comparable statistics for assault, robbery, and weapons arrests were 55, 73 and 63 percent, respectively. [ibid.]

In New York City, in 1988, 90 percent of all male arrestees tested positive for drug use. During the last administration, the budget requests for drug related funding increased to $12.7 billion—a $6.1 billion—93 percent—over four years. A National Institute on Drug Abuse and Drug Abuse Warning Network, DAWN, study found that between the second quarter of 1990 and the third quarter of 1991, the number of cocaine overdoses increased dramatically from below 20,000 per quarter to over 28,000. This was cited in The President's Drug Strategy, Has it Worked?, Senate Judiciary Committee Study, Sept. 1992, p. xxi. During this same period, heroin overdoses increased. Senator BIDEN estimates that there are 6 million hard-core drug addicts. The DAWN and Emergency Room surveys show that hard-core use has become increasingly concentrated in inner-city and monthly neighborhoods. These figures reflect that the importation, manufacture, and abuse of illicit narcotics is indeed one of the greatest problems affecting the health, welfare, and security of our Nation.

Opponents of capital punishment may argue that *Coker* v. *Georgia*, 433 U.S. 584 (1976), applies to this legislation. In Coker, a plurality of the Supreme Court, ruled that the death penalty for rape is forbidden by the eighth amendment as cruel and unusual since it was grossly disproportionate and excessive punishment. The Court defined punishment as excessive if it: First, makes no reasonable contribution to acceptable goals to punishment and hence has nothing more than the purposeless and needless imposition of pain and suffering; or second, is grossly disproportionate to the severity of the crime. In determining proportionality, the Court in Coker noted society's failure to re-endorse legislatively the death penalty for rape in response to *Furman* v. *Georgia*, 408 U.S. 238 (1972). Prior to Furman 18 States authorized the death penalty for rape. Afterwards only three States attempted to provide the death penalty for rape.

Significantly, the Coker plurality opinion stated that "the rapist, as such, does not take human life." In a real sense, a drug kingpin does take human life and causes untold violence, and the American people know it. Moreover, the enactment of this law by Congress, by representatives from among all the States, would signify the broad national consensus that was lacking in Coker.

That is why the amendment by the distinguished Senator from New York is so important. And I hope our colleagues will vote overwhelmingly for this amendment because it sends a message that there is a broad national consensus, something that the justices did not find in the case of rape defined in the Coker case.

In *Tison* v. *Arizona*, 481 U.S. 137 (1987), the Supreme Court found that reckless indifference to the value of human life may be every bit as shocking to the moral sense as any specific intent to kill. The Court held "that the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment. * * * [481 U.S. at 157-58.] A specific intent to kill is not required in imposing a death sentence on an individual. The class of drug kingpins covered by S. 1356 do act with reckless disregard for human life and should be subject to the death penalty.

I agree with the Senator from New York.

Large scale drug traffickers threaten millions of people. They engage in this destructive behavior purely for pecuniary gain. The Supreme Court in Gregg versus Georgia determined that the issue of whether the defendant acted for pecuniary gain is a factor to be considered relevant in determining blameworthiness and the appropriate punishment. These cases support the argument that the death penalty is constitutional for major drug traffickers, even when they do not directly cause a death themselves.

Although the Supreme Court has not directly addressed this issue, in the context of upholding a sentence of life without parole for drug possession, a majority of the Court has recently expressed the opinion that the evils associated with drugs warranted the legislative imposition of "the second most severe penalty permitted by law." [*Harmelin* v. *Michigan*, 111 S. Ct. 2680 (1991) (opinion of Scalia, J., 2702) (opinion of Kennedy, J., 2705).] Harmelin, the defendant, was sentenced to life without parole for mere possession of 650 grams of cocaine. A plurality of the Court explained that possession, use, and distribution of illegal drugs represents "one of the greatest problems affecting the health and welfare of our population." *Treasury Employees* v. *Von Raab*, 489 U.S. 656, 668 (1989). Petitioner's suggestion that his crime was nonviolent and victimless * * * is false to the point of absurdity. To the contrary, petitioner's crime threatened to cause grave harm to society. Id. at 2705-06 (opinion of Kennedy, J.).

Mr. President, the death penalty is wholly proportional to the enormous danger drug kingpins pose to our society. As Justice Powell noted in Rummel versus Estelle, "A professional seller of addictive drugs may inflict greater bodily harm upon members of society than the person who commits a single assault." *Rummel*, 445 U.S. 263, 296, n. 12 (1980) (Powell, J., dissenting). I agree with Judge Gee of the fifth circuit that whereas most killers have a descreet and limited number of victims, drug kingpins are a cancer killing people across our entire country.

Writing for an en banc court, Judge Gee said that:

> Except in rare cases, the murderer's red hand falls on one victim only, however grim the blow; but the foul hand of the drug dealer blights life after life and, like the vampire of fable, creates others in its owner's evil image—others who create others still, across our land and down our generations sparing not even the unborn. *Terebonne* v. *Butler*, 848 F.2d 500, 504 (5th Cir. 1988), cert. denied, 109 S. Ct. 1140 (1989).

The link between the activities of large-scale drug enterprises and death is unquestionable. Rates of drug related murder continue to rise in cities across our Nation. Reports of bystander deaths due to drug related gun fights and drive-by shootings continue to climb. Intravenous drug use is a major source of HIV infections. Congress can and should broaden the category of offenses for which the death penalty can be applied to include those individuals who pose the greatest threat to our Nation's health and safety—drug kingpins.

I do strongly support the amendment of the distinguished Senator from New York.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from New York.

Mr. D'AMATO. Mr. President, I very simply thank my ranking member, Senator HATCH, for making these observations on the constitutional basis.

I also ask unanimous consent that Senator DECONCINI be added as an original cosponsor.

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

The Chair would note that the time of the Senator from New York has expired.

The Senator from Delaware.

Mr. BIDEN. Mr. President, one of the reasons why I think the amendment of the Senator from New York is arguably constitutional is that one of the things I teach in law school is the eighth amendment, and I think that the analogy to Tison v. Arizona is much more analogous and more controlling than the counter-arguments.

As I said I have, I have doubt about the wisdom of the body of constitutional scholarship to suggest that the principle stated in Tison would not in fact render his amendment constitutional as opposed to unconstitutional. But I am nonetheless going to engage in the futile exercise of attempting to table it tomorrow, knowing full well what the outcome is likely to be.

Mr. President, I also understand the Senator from New York is attempting to accommodate the unanimous-consent agreement which was not to alter the death penalty procedures in the underlying bill has sent to the desk an amendment that may in fact not be in order. Because he acted in good faith, I wish to make sure that we get the proper unanimous-consent language which I will proffer in a moment to make his amendment in order under the existing unanimous-consent agreement.

I do that now. I ask unanimous consent that the D'Amato amendment be in order notwithstanding the fact it amends the language already amended.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BIDEN. If the Senator from New York is, I am prepared to yield back the remainder of the time.

Mr. D'AMATO. I believe our time has expired.

Mr. President, if I might state, I would like to thank again our distinguished chairman for his graciousness and his courtesy in dealing with this matter.

The PRESIDING OFFICER. All time having been yielded back, the question is on the amendment. The vote will occur in sequence tomorrow morning.

Mr. HATCH. Are the yeas and nays ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BIDEN. Mr. President, for the information of our colleagues, I will tell them that the vote that will be in order tomorrow, I will move to table tomorrow at the appropriate time.

The PRESIDING OFFICER. The Senator has indicated he plans to offer that motion.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent for the yeas and nays to be ordered on the Smith amendment No. 1160.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. And that we place that in the appropriate order of the votes.

The PRESIDING OFFICER. Is there objection? Hearing none, it will be placed following the D'Amato amendment.

Mr. HATCH. Mr. KEMPTHORNE and I were permitted under the unanimous-consent agreement to offer an amendment at this time. However, we have worked out our differences on the community policing title. For this reason, Senator KEMPTHORNE and I—as I understand it, we have worked it out—will not offer that.

Mr. BIDEN. I believe that is correct, that has been worked out.

If the Senator will withhold for just a moment, I will check with my staff to see if that has been cleared.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Will the Senator from Utah yield for a question?

Mr. HATCH. I am happy to.

Mr. GRAHAM. Would the Senator indicate what has been the alteration again on the amendment?

Mr. HATCH. As I understand it, the Kempthorne amendment, the funding percentage, was not acceptable to the majority side of the floor. We had to work it out.

Mr. GRAHAM. As I understand, the underlying formula currently in the bill provides for 0.5 percent to be allocated to each State, and the balance to be allocated to States on a competitive basis. The effect of the original amendment was an increase in the State set-aside of 0.75 percent. I wonder if the Senator will indicate what is the alteration?

Mr. HATCH. The balance as I understand was 0.5 percent and it now goes up to 0.8 percent.

Mr. GRAHAM. I thought the original amendment was to raise it from 0.5 to 0.75.

Mr. HATCH. It may have been. I think we are now at 0.8.

Mr. GRAHAM. That means that 0.8 percent is allocated to every State and the balance is on a competitive basis.

Mr. HATCH. That is correct. That is my understanding.

Mr. GRAHAM. That means as between the underlying formula and this amendment there will be an additional three-tenths of 1 percent allocated to each State.

Mr. HATCH. That is my understanding.

Mr. GRAHAM. That will be 15 percent. What is the rationale of tabling 15 percent which otherwise would be distributed on a competitive basis and allocating it per State?

Mr. HATCH. The rationale is really that the House has a very low level, around 0.25, and this gives us some flexibility in working on it.

Mr. GRAHAM. We are already twice the House in the underlying bill, 0.5.

Mr. HATCH. That is right. But it gives us some ability to work with them. I have a feeling it will be worked out with a reasonable percentage.

Mr. GRAHAM. Frankly, Mr. President, at some point I would like to make some comments on the general movement that is occurring here in the formulas. That is the part of this bill that has not gotten much discussion. But I am concerned that this is a widening gap between the purpose of allocating these funds—that is, to fight crime—and how the money in fact is being allocated.

If you take 15 percent of the money beyond what is currently in the law and apparently we will now be some 30 to 40 percent above what the House level is in terms of allocation to individual States without having any competition or demonstration of need for the community policing dollar, we are going to be substantially diluting the capacity of that centerpiece program to have an impact that it is purported to have in terms of dealing with our most serious crime issue in our most serious sites afflicted by crime.

Mr. HATCH. If I could answer the Senator, we are trying to make sure that each State gets some allocation, especially some of the smaller States and some of the more rural States. But this is 15 percent of the $18.9 billion that is provided in grants by the attorney general to the various States. There is no question that what we are trying to do is handle this in the best way we can across the whole 50 States.

Mr. GRAHAM. Could the Senator provide for us before we take final action on this, some analysis based on reported crimes or other indicators of criminal activity, and dollars that would be allocated for community policing under the bill as reported by the committee, and under the amendment that is now being considered?

Mr. HATCH. I am not sure we can provide that kind of analysis. All I can say is that this is something that has been agreed upon. It is an effort to protect all States. It is an effort to be able to negotiate with the House, and it

makes a lot of sense in our eyes. Frankly, we are trying to get these matters resolved. This we think is the appropriate way to do it.

But I do not know that I can put my hands on those kind of statistics at this particular time or even by tomorrow. But we will try to do so between now and the time that we meet with the House in conference, should there be a conference on this matter.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, has the Senator from Utah yielded?

Mr. HATCH. Yes. I do. I yield the floor.

Mr. GRAHAM. What is the matter before the Senate at this time?

The PRESIDING OFFICER. Under the agreed order the Kempthorne-Hatch amendment is the next amendment in order to be offered.

Mr. HATCH. As I understand the distinguished Senator from Delaware is checking his side to make sure that what we have agreed to has been agreed to. Otherwise, we will have to have a vote on the amendment.

Mr. GRAHAM. Mr. President, if I could while we are waiting, I would like to make a few comments not about this specific amendment because it appears to be an amendment in flux and therefore we do not have the statistics. I hope we will have the statistical impact.

But I have been concerned about a general drift in this bill, and that is a drift toward allocating money in a way that seems to be towering to where the problem is.

As an example, in the juvenile drug trafficking and gang prevention grants, one of the grants in this legislation, there are 17 States which had last year 71.1 percent of the crime in the country. They have 68.9 percent of the juvenile population. Under the formula that is currently in the bill, they would get 50.8 percent of the Federal money. The remaining three States and the District of Columbia, which have 28.9 percent of the total crime, 31.1 percent of the population, would get 49.2 percent of the Federal money. There seems to be a mismatch as between where the people and the crime is, and where we are directing the resources.

To put this in more specific context, and admittedly somewhat of a parochial context, unfortunately, I am sad to say that my State of Florida last year had the dubious distinction of leading the Nation in its crime index. The crime index is the number of crimes per 100,000 people in the population. Florida had 8,358 of those crimes. California had 6,679. Texas had 7,057. There are relatively high rates of crime in those three big States. We picked three other States which had a relatively low rate of crime—Wyoming with 4,575; Idaho had 3,996; North Dakota, one of the safest States in the Nation, 2,903.

If we have a formula distributing money to assist States in dealing with their juvenile drug trafficking and gang activities, you would think you would want to relay the resources from the Federal level to where the problem was. Is that in fact what our formula has done?

We have distributed to Florida for each crime 77 cents. We have distributed to North Dakota for each crime $4.77 cents. California got 62 cents per crime. It has been the State which probably, particularly in terms of gang-related violence, has been one of the most high profile and a driving force behind this legislation. In contrast, Wyoming gets $5.44 cents.

I am concerned that this is not peculiar to the juvenile drug trafficking and gang-prevention grants, but is a recurring theme. And we have arrived at another chapter of that theme with the proposal that in the area of community policing dollars, which are by far the largest pool of funds that will actually put people out on the streets to deal with both preventing crime and effectively investigating and making arrests for crimes that have been committed, that we are now, in a relatively casual manner, about to take 15 percent of the money that otherwise would have been distributed by some standard and distribute it to each of the 50 States on an equal-share basis.

There may be a rationale in that, but I do not think that it is very persuasive to say that the only rationale is that the House is at 0.25, the Senate now is at 0.5, and the Senate needs to be at 0.8, so there will be the maximum difference between the Senate and House when they go to conference. That is not a compelling policy rationale for what we are about to do. I think that at least the Senate ought to know what are the similar statistics relative to community policing in terms of incidents of criminality and how funds will be allocated in order to deal with that criminality. I hope that at some point, before we complete action on this bill, we will have this type of an analysis of all of the formulas.

I am going to be using, for the purposes of an amendment that I will be offering later this evening, a letter from the Governor of Texas, Ms. Ann Richards, who, after discussing the amendment I am going to be offering, goes on to raise her concern relative to the formulas in this legislation. Mr. President, I will read and offer for the RECORD a letter from Governor Richards, dated November 9, 1993, to the Honorable JOSEPH R. BIDEN, chairman of the Judiciary Committee of the U.S. Senate, in which Governor Richards States:

I am particularly concerned with the formulas that are being considered in crime legislation to allocate funds to States. These formulas, as currently written, do not allow for equity in the distribution of funds. For example, under the current formula for substance abuse, treatment funds, in State prisons, Texas will receive $114 per inmate, while States with smaller prison populations will receive over $200 per inmate, with the greatest allocation $852 per inmate going to North Dakota. This disparity in funding will further the States' reliance on Federal Government assistance in the future.

I suggest that this is an important policy issue. It goes to the credibility of our utilization of scarce Federal dollars in order to impact on a nationwide problem, which is crime, a problem that is distributed disparately among the States. North Dakota ought to take great pride in the fact that it has such a relatively low incidence of crime. But our distribution of the funds for substance abuse treatment in State prisons would indicate that the relatively few people that commit crimes in North Dakota are excessively drug addicted, because we are going to be spending approximately seven times more money to treat the prisoner in North Dakota than we do the prisoner in Texas.

There may be some rationale that the prisoner in North Dakota requires that much more substance abuse treatment than the prisoner in Texas, but that is not an obvious or intuitive conclusion one would reach. I think at least the Senate ought to have a basis for the rationale that led to the discrepancy in the distribution under the juvenile drug trafficking and gang prevention grants and now the funds Governor Richards discusses for substance abuse treatment in State prisons and the proposed amendment relative to community policing.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, since there is a lull and they are waiting on another Senator to come to the floor, I would like to speak briefly on an unrelated subject in morning business.

Mr. BIDEN. Mr. President, I ask the Senator to withhold. We have people who have amendments on the bill who are here. What is the next order of business?

Mr. HATCH. Senator GRAHAM's amendment.

Mr. GRAHAM. Are we still on the Kempthorne-Hatch amendment?

Mr. BIDEN. The Kempthorne amendment has not been offered, but I can tell the Senator that it is the intention of the managers to accept that amendment in the managers' package.

Mr. GRAHAM. Mr. President, will the chairman of the committee yield for a question?

Mr. BIDEN. Surely.

Mr. GRAHAM. If we are going to accept it, could we have some statement of the rationale why we are proposing to move from what is currently in the

bill, which is one-half of 1 percent of the funds going to each State up to now what will be eight-tenths of 1 percent, which is more than the original amendment which was offered at 0.75? The effect of that is going to be, for instance—to give an example of what this formula at the 0.75 level is—and I would like to know what the number is at 0.8—but as I understand the basic formula, it is that after the minimum allocation is distributed, then the balance of the money is distributed on an arrest-based allocation, the number of arrests per State; is that correct?

Mr. HATCH. That is not correct. If I could just answer the Senator. I acknowledge what my colleague from Florida is saying. Let me just compare it to my State of Utah. Gang violence is on the rise. Drug trafficking is on the rise. It is becoming a drug transshipment State. While the rate of crime has decreased in cities like New York, Los Angeles, and the District of Columbia, the violent crime rate increased 3.7 percent last year. Utah had 6,673 drug-related arrests, and 20 percent of those were juveniles. Although Utah's population is three times greater than the District of Columbia, Utah has less police officers. We have 2,979 versus 5,212 in the District of Columbia.

The point I am making is that statistics do not make a lot of difference here. We are concerned about some of these smaller States being overrun, and we are concerned about making sure they have enough money and enough of these police officers to be able to stop this crime.

That is one reason that we went up to 0.8, in addition to the fact that we want to be able to make it clear to the House that we feel this has to be done.

So, I do not think the Senator's State is going to be harmed at all. We have taken that into consideration in the grants process and in the whole raft of other provisions in this bill. But there are small States like mine, just to use my State which I know more about, that clearly are having serious problems, and we are trying to solve those problems.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I say to my friend from Florida I am not crazy about this. Let me begin by saying that. Let me tell you how it came about as far as the original Kempthorne amendment would be reduced from the ability to apply under a certain set of circumstances from populations of 150,000 down to 100,000.

The end result of that original Kempthorne amendment would have been that 70 percent of the people who live in areas of 100,000 or above population centers would be competing for only 40 percent of the money, which I think is outrageous, notwithstanding I come from a rural State. The largest city in my State has 88,000 people. The next largest city has about 30,000 people. So I do not come from a State with large population centers. But I think it would be totally inequitable.

My concern was very bluntly that might pass. So, the Senator from Utah came along with a proposal that had two purposes—to move from a minimum formulation of 0.5 percent per State to 0.8 percent for two very basic reasons.

One, to get rid of the other Kempthorne amendment. He might not characterize it that way, but that is the way I characterize it.

And, two, to strengthen our negotiating position in the House when we got to the House. The House Members have a different view than we have as Senators representing entire States.

So those are the two purposes.

I believe that moving from 0.5 minimum allocation to 0.8 minimum allocation, notwithstanding that I come from the fifth smallest State in the Union in actual population, it was not motivated by that. It was motivated by the desire to make sure that the intention of the underlying Biden bill was not thwarted by having 70 percent of the population compete for 40 percent of the dollars. That is how we got to this point. That is why the Senator from Delaware is prepared to yield to the suggestion of the Senator from Utah to accept this amendment.

Mr. HEFLIN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. HEFLIN. I just wanted to get that straight.

The Senator asked me if I would withhold, and then we would get into another situation. I will be glad to withhold. What is the next amendment after Kempthorne?

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. What amendment is in order?

The PRESIDING OFFICER. The next amendment is the Kempthorne-Hatch amendment.

Mr. HEFLIN. What is after that if that has been accepted?

The PRESIDING OFFICER. The Graham amendment is in order after the Kempthorne amendment.

Mr. HEFLIN. I yield the floor.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Is the Kempthorne-Hatch amendment one of the amendments that is contained in the unanimous-consent order for which there is going to be, unless otherwise arranged, a vote on that amendment if the yeas and nays are asked for on the amendment.

The PRESIDING OFFICER. The Chair will state that if the amendment is offered and the yeas and nays are requested it will be in order to vote tomorrow.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. If the amendment is not offered, it is not before the Senate; is that correct?

The PRESIDING OFFICER. The Senator is correct. If the amendment is not offered, it is not before the Senate.

Mr. BIDEN. And the Kempthorne-Hatch amendment has not been offered; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. I ask for the regular order, that we move to the next item on the agenda if that is in order.

The PRESIDING OFFICER. If that be true, that amendment will no longer be in order.

Mr. BIDEN. All right. That is fine by me.

The PRESIDING OFFICER. Without objection, we will move to the next amendment.

The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

AMENDMENT NO. 1200

(Purpose: To make certain amendments relating to criminal aliens)

Mr. GRAHAM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] for himself, Mr. D'AMATO, and Mr. MACK, proposes an amendment numbered 1200.

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

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

The amendment is as follows:

At the appropriate place insert the following:

Subtitle —Criminal Aliens

SECTION . TRANSFER OF CERTAIN ALIEN CRIMINALS TO FEDERAL FACILITIES.

(a) DEFINITION.—In this section, "criminal alien who has been convicted of a felony and is incarcerated in a State or local correctional facility" means an alien who—

(1)(A) is in the United States in violation of the Immigration laws; or

(B) is deportable or excludable under the provisions of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et. seq.); and

(2) has been convicted of a felony under State or local law and incarcerated in a correctional facility of the State or a subdivision of the State.

(b) FEDERAL CUSTODY.—Subject to the availability of appropriations, at the request of a State or political subdivision of a State, the Attorney General may—

(1)(A) take custody of a criminal alien who has been convicted of a felony and is incarcerated in a State or local correctional facility; and

(B) provide for the imprisonment of the criminal alien in a Federal prison in accordance with the sentence of the State court; or

(2) enter into a contractual arrangement with the State or local government to compensate the State or local government for incarcerating alien criminals for the duration of their sentences.

Mr. GRAHAM. Mr. President, I thank the Senator from Delaware for allowing me the time to offer this amendment to the crime bill and Senators D'AMATO and MACK for their support on its behalf.

This amendment would authorize the Attorney General to take Federal custody of and imprison criminal aliens or to provide payment to State or local correctional facilities for criminal aliens. The legislation is very similar to the provision in the Immigration Reform and Control Act of 1986 that allowed for reimbursement to states of incarcerated aliens and Marielito Cubans. This amendment would, subject to appropriations, also allow reimbursement to localities.

While discussions of responsibility, federalism and unfunded mandates may not be as enthralling as many of the other amendments we have voted on in the last week, it is critical for the Federal Government to appropriately bear its responsibility and help improve its partnership with State and local governments to address the issue of crime as a partner and not a shifter of costs. This amendment would be an important signal and substantive help to State and local government in that effort.

Immigration policy is the sole responsibility of the Federal Government. However, while its strengths with respect to diversity are shared by the Nation, its costs in terms of impact of social, health and educational services are borne primarily by just a few States and localities.

FEDERAL RESPONSIBILITY

On January 31, 1993, the Governors of the States of Florida, California, Texas, New York and Illinois wrote President Clinton, just days after his inauguration, requesting that the Federal Government renew its partnership with States on the issue of immigration by honoring its responsibility and commitment to States for the unreimbursed costs associated with legalization, health and education programs and for prisons.

"This partnership," wrote the governors, "has broken down * * * because the Federal Government has failed to honor its commitment to provide reimbursement to which the States are entitled. States cannot be expected to pay the costs of policies which are fundamentally the responsibility of the Federal Government." They are right.

With respect to prison costs, they estimated the costs of incarcerating illegal alien felons in their State prisons at $524.2 million. This should be an expense borne by the Federal Government and we should be responsible and not continue to pass that buck on to them.

PRESENT LEGISLATION

Why? There has been a great deal of state bashing for their inability to keep prisoners behind bars and much questioning of their commitment to law and order. The Federal Government, despite lacking a national police force and being responsible for only a small percentage of arrests nationwide, seem to want to argue that we can do it better and will rush in to take over.

STATE SUPPORT FOR AMENDMENT

Governors and mayors across our Nation are probably quite cynical with a great deal of this debate on the crime bill. They can point to the Federal Government's inept attempts to control our nation's borders and the impact it has had on their communities. Texas Governor Ann Richards has written a letter to Senator Biden on criminal aliens. She writes, "* * * the Texas prison system houses some 2,000 criminal aliens who illegally crossed the United States border with Mexico permitted by weak efforts of the Federal Government to control its border. Certainly the States should not be expected to assume that responsibility abdicated by the Federal Government, although we do."

New York Governor Mario Cuomo adds, "It is the responsibility of the Federal Government to prevent illegal immigration. When the Federal Government fails at this task, the ensuing costs remain a Federal responsibility. In particular, the financial burden of incarcerating illegal alien felons have been borne exclusively by States, straining our criminal justice budgets and prison systems." Governor Cuomo estimates that 2,600 criminal aliens are housed in New York State prisons.

REGIONAL PRISONS

What has been the Federal Government's response? Aspects of the crime bill, unfortunately, have it all wrong. Despite the hard and good work put into this legislation by my colleagues, the provision relating to regional prisons concern me a great deal.

According to the Florida Department of Corrections, violent offenders have served less than 50 percent of their time on average in Florida this year. We must do something about that within our State and in the nation immediately.

In response, the Senate is preparing to pass in this bill a provision that would establish 10 regional prisons, after over 4 years of waiting, to which States can transfer prisoners, including criminal aliens, only if they meet sentencing guidelines and have served at least 85 percent of their time.

We have it backward. Rather than bearing our burden and responsibility for criminal aliens immediately and putting our own house in order by adequately controlling our Nation's borders, we promise to take a few small steps to bear our responsibility by taking some criminal aliens but only after at least 4 years and only when we feel the States are doing precisely what the Federal Government determines what it thinks they should so.

In Florida's circumstance, they would get a lot further along the road toward keeping prisoners behind bars and off the streets if the Federal Government would take responsibility for its criminal aliens in the State's prison system—approximately 6 to 7 percent of the prison population. More importantly, this could happen rather quickly and not 4 to 5 years from Now.

In fact, State and local government could potentially see some relief within the next year if the Congress would pass this amendment.

Consequently, this legislation is supported by the National Conference of State Legislators, the National Association of Counties and many of our Nation's Governors, mayors, State corrections officials and law enforcement personnel.

I urge its support and passage.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. GRAHAM. I yield.

Mr. HATCH. We have looked at the Senator's amendment. I am prepared to take the amendment on this side. I believe the distinguished Senator from Delaware would take it.

Mr. BIDEN. Mr. President, the Senator from Florida knows I was prepared to take his amendment awhile ago. I am glad to see we have agreement on it, and I congratulate the Senator on the passage of his amendment momentarily and I thank him for if he is inclined to yielding back the time and we are ready to move on.

Mr. GRAHAM. Mr. President, I appreciate the generous consideration of the managers of this legislation.

I ask unanimous consent to print in the RECORD letters from the Governor of Texas, the Governor of New York, the National Conference of State legislators, the attorney general of Florida, and a letter jointly signed by the Governors of California, New York, Florida, Texas, and Illinois to the President of the United States all in support of the concept of this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF TEXAS,
Austin, TX, November 9, 1993.

HON. JOSEPH R. BIDEN,
Chairman, Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: You are undoubtedly better informed than I about what all other states are doing but you are wrong about this Governor and the state of Texas.

Last week, the Texas taxpayers voted to pass a bond issue that provides an additional $1 billion for prison construction. Last session, Texas legislators appropriated $93 million of state funds for the largest incarcerated substance abuse treatment initiative in

the nation. All of these funds are in addition to the $1 billion bond issue for increased prisons construction that the Texas taxpayers passed two years ago.

Texas elected officials and taxpayers alike have assumed responsibility for the crime problem in this state and are requesting assistance from the federal government for a problem that is often beyond our control. For example, the Texas state prison system houses some 2,000 criminal aliens who illegally crossed the United States border with Mexico permitted by weak efforts of the federal government to control its border. Certainly the states should not be expected to assume that responsibility abdicated by the federal government, although we do.

I am particularly concerned with the formulas that are being considered in crime legislation to allocate funds to states. These formulas, as currently written, do not allow for equity in the distribution of funds. For example, under the current formula for substance abuse treatment funds in state prisons, Texas will receive $114 per inmate while states with smaller prison populations will receive over $200 per inmate with the greatest allocation of $852 per inmate going to North Dakota. This disparity in funding will only further states' reliance on the federal government for assistance in the future.

Senator Bob Graham will be introducing an amendment to the Violent Crime Control and law Enforcement Act of 1993 that would allocate funds to states based on a formula that better represents the ratio of crime across the nation.

I urge you to consider these changes to the formulas in the crime legislation currently being considered.

If I may be of any assistance, please do not hesitate to contact me.

Sincerely,

ANN W. RICHARDS,
Governor.

STATE OF NEW YORK,
Albany, NY, November 16, 1993.

Hon. BOB GRAHAM,
SH-524, Washington, DC.

DEAR SENATOR GRAHAM: I strongly support your amendment to the Violent Crime Control and Law Enforcement Act of 1993 to offset the fiscal impact of illegal alien criminals on state and local governments. Such assistance is sorely needed in New York and other states that are bearing the tremendous costs of incarcerating these aliens.

It is the responsibility of the federal government to prevent illegal immigration. When the federal government fails at this task, the ensuing costs remain a federal responsibility. In particular, the financial burdens of incarcerating illegal alien felons have been borne exclusively by states, straining our criminal justice budgets and prison systems.

The Congress recognized this responsibility when it enacted Section 501 of the Immigration Reform and Control Act of 1986: "Subject to the amounts provided in advance in appropriations Acts, the Attorney General shall reimburse a State for costs incurred by the State for the imprisonment of any undocumented alien . . . who is convicted of a felony by such state."

Unfortunately, for states such as New York, Texas, Illinois, California, and Florida that are disproportionately affected by this problem, no funds have ever been appropriated to fulfill the mandate of Section 501.

State prisons are presently facing unprecedented challenges posed by the rapid rise in their criminal alien populations. New York, for example, is now housing an estimated 2,600 individuals who entered the U.S. illegally and then committed some other crime for which they were convicted and incarcerated. Because it costs an average of $24,000 a year to house an inmate, New York is paying approximately $63 million annually in incarceration costs, not including the related costs of added prison construction and an overburdened judicial system.

The cost to state governments nationwide of incarcerating illegal alien criminals is close to a billion dollars annually.

Like many of my fellow governors, I believe it is patently unfair to impose this hardship on states when the problem is not one of their own making.

Federal immigration policy governs entry into this country, and often the initial destination of immigrants. In addition, the federal government is ultimately responsible for the flow of illegal immigrants as well. New York State and others are proud to serve as gateways for the nation, but we cannot shoulder the resultant burdens alone. The costs of undocumented alien felons are of particular concern, especially as they drain precious state resources from other crime-fighting efforts and beneficial programs for our residents.

I believe that your amendment to the 1993 crime bill helps to address the negative impacts of undocumented aliens on our communities. Although this amendment is "subject to the availability of appropriations," and does not guarantee funding to states for housing these prisoners, it is a step in the right direction by affirming that the responsibility for incarcerating illegal alien criminals belongs to the federal government.

I am grateful for your leadership on this important issue. I look forward to working with you and others in the future to restore an equitable balance of responsibilities between the federal government and the states with regard to illegal alien criminals.

Sincerely,

MARIO M. CUOMO,
Governor.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, November 4, 1993.

DEAR SENATOR: I am on behalf of the National Conference of State Legislatures to register our concerns about sections of S. 1607, "The Violent Control and Law Enforcement Act of 1993."

The purported purpose of habeas corpus reform is to streamline litigation. It is ironic that Section 310 is added as an enforcement mechanism subjecting states to suits in Federal court for failure to abide by new standards set by Congress with respect to the appointment of counsel. The abrogation of sovereign immunity should not be approached lightly. There has been no consideration of the potential harm to states by this section. We strongly object to using the threat of lawsuit to accomplish these congressional goals.

With respect to provisions relating to background checks for child care providers, Title VIII, we are most concerned that sufficient funds be authorized and appropriated in order for states to adequately meet the mandates of the act for disposition and automation. It is also important that states retain the flexibility to determine how the background checks may be used. Title VIII makes participation voluntary, but the restrictions binding participants may have the unintended consequence of limiting state participation in the program. We concur in the need for improving criminal history records, but see it as only a small part of providing a safer environment in day care settings. If the federal government has a different opinion about the priority for spending to improve the records, then it must undertake the primary responsibility for funding.

Because the states have no responsibility for the control of federal immigration policy, NCSL opposes all federal attempts to shift the cost of resettling newcomers to state budgets. NCSL supports an amendment to be offered by Senator Graham respecting criminal aliens because it requires the federal government to take responsibility for the fiscal consequences of its immigration policy—here, the cost of imprisoning undocumented alien felons. NCSL further opposes efforts to curtail federal funding for mandated programs for newcomers. States should not be solely responsible for the fiscal impact of court-driven mandates such as education for undocumented alien children.

Finally, I must reiterate NCSL's strong opposition to Senator Biden's amendment for a so-called "police officers' bill of rights," a provision that would federalize noncriminal police disciplinary procedures. This amendment would remove from localities issues related to personnel administration and implicitly community relations. I can think of no other issue that is so intensely local or beyond Washington's competence.

Sincerely,

WILLIAM T. POUND,
Executive Director, NCSL

STATE OF FLORIDA,
November 15, 1993.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: I was very pleased to receive a copy of the amendments to crime bills that are on the Senate floor and you have agreed to sponsor.

Your amendment to Senate Bill 1607 which allows for the transfer of convicted aliens to federal custody is long overdue. Illegal aliens who commit crimes should be the responsibility of federal authorities and not the responsibility of over-burdened state governments. The amendments that you and others have proposed for prison overcrowding suits is another long overdue reform. States have been periodically victimized by federal judges who have been much too indulgent with prison overcrowding complaints. Congress should set forth very clearly that the eighth amendment standard is what is enforceable by federal courts and no more.

Therefore, I am happy to land our strong support to your efforts this week on the crime bills.

Sincerely,

ROBERT A. BUTTERWORTH,
Attorney General.

JANUARY 31, 1993.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The United States was founded by immigrants seeking a better life for themselves and their families. America continues to offer a home to immigrants, as well as a safe harbor for those refugees fleeing oppression and persecution. If the federal government wishes to sustain a humanitarian foreign policy which fosters immigration and refugee admissions, then it must allocate the financial resources required to support this population once it has arrived.

Some immigrants and refugees have special needs which require government assistance in order to facilitate rapid assimilation. In setting immigration and refugee policy, the federal government has acknowledged these needs by mandating that both documented and undocumented immigrants be provided with medical, education, and other services. The federal government has formed a partnership with the states to deliver these services to the immigrant population. In forming this partnership the federal government recognized its responsibility to reimburse states for the costs of providing these federally mandated services.

This partnership has broken down, however, because the federal government has failed to honor its commitment to provide the reimbursement to which the states are entitled. States cannot be expected to pay the costs of policies which are fundamentally the responsibility of the federal government. This especially is the case at a time when so many states are struggling with long-term budget problems and are being forced to reassess state programs and expenditures.

We look to your Administration and the Congress to renew the federal-state immigration partnership—one that recognizes the financial strain imposed by federal mandates which are unaccompanied by fair compensation. Several steps should be taken to achieve this objective;

(1) The federal government must take immediate action to provide all reimbursement owed to the states for the provision of services to documented and undocumented immigrants and refugees.

(2) The federal government must recognize that its decisions to admit immigrants and refugees is strictly a federal one and therefore carries with it a firm federal commitment to provide full reimbursement to the states for services provided to the immigrant and refugee population.

(3) The federal government must work with the states to develop an effective federal mass immigration emergency plan.

We look forward to working with you to meet these objectives and to renewing the federal-state relationship in this vital policy area.

Sincerely,

PETE WILSON,
Governor of California.
MARIO M. CUOMO,
Governor of New York.
LAWTON CHILES,
Governor of Florida.
ANN W. RICHARDS,
Governor of Texas.
JIM EDGAR,
Governor of Illinois.

The PRESIDING OFFICER. Does the Senator urge adoption of the amendment.

Mr. GRAHAM. I do.

Mr. BIDEN. I second that.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1200) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, am I next?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mrs. BOXER. It is my understanding we had unanimous consent that we go down the order of amendments. As the Senator knows, I have been here since the very beginning and I am wondering if we can just stick with the order that was agreed to so I can dispose of this amendment as was requested in the unanimous-consent agreement.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I think unfortunately for the Senator, my friend from California, we are going in order and the next amendment in order in the Heflin amendment on funding for State judges and prosecutors.

Mrs. BOXER. I say to the chairman I will happily await my turn.

Mr. BIDEN. I truly do admire the patience and loyalty of my friend from California. She is the only one who has stayed here the entire time that we have been discussing this. I am flattered. Only my sister, mother, and father would be willing to do that. I thank her for her willingness to do it as well.

Let me say, as I understand it, the order in which the remaining amendments will be considered will be Heflin, Kerry of Massachusetts, and I believe there is a strong possibility that we may accept that, although I am not certain, and then the Boxer amendment.

I can say, Mr. President, that the managers are going to accept the Kerry amendment. So after Heflin, we will go to the Boxer amendment, with a brief interlude of accepting the Kerry amendment, and then we will go to the Levin amendment, which was a 1-hour time for debate, which I sincerely hope we will not use.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as I understand it, the Heflin amendment is pending.

The PRESIDING OFFICER. It has not been offered.

Mr. HATCH. Well, when it is offered, it will be pending.

As I understand it, the distinguished Senator from Alabama is offering an amendment to try to solve the problem that will naturally arise when 100,000 new police are placed in the field that will create millions of cases. He wants to make sure that State courts will be able to handle those cases, so he would like some money to go to the State courts. But, as I understand his amendment, it is subject to appropriations, not to exceed a half billion dollars.

Mr. HEFLIN. Over 5 years.

Mr. HATCH. Over 5 years. So you are not really asking for a half a billion dollars, just subject to whatever the Appropriations Committee decides to give you in the appropriations process, not to exceed one-half billion dollars.

Mr. BIDEN. Mr. President, I do not like this amendment. I love my friend from Alabama. I do not like this amendment.

I am so tired of paying for the States on things that they should be paying for.

I must tell you how strongly I feel. The rationale for this amendment is that we are doing what the States have asked us to do, and that is provide them 100,000 new cops; and we are doing what the States have asked us to do, providing them $6 billion in new money for State prisons; and we are doing what they asked us to do, and then the reward is, because we have done what they have asked us to do, they now are entitled for us to pay for additional State prosecutors and judges because we have given them more cops to arrest more State violators—not Federal violators, State violators—and now they say, but now, because of what you have done to us, giving us what we have asked for, we demand more money to hire more State judges.

I will accept the amendment. I think it is ridiculous, but I will accept it in a sincere hope that we do not ever have to pass it.

Mr. HEFLIN. I did not have any State people ask me for it. You have a situation where 100,000 new cops are created. If they make two arrests a day, that is 50 million new cases on a yearly basis, 5 days a week, 52 weeks a year.

Mr. HATCH. Will the Senator yield?

Mr. HEFLIN. Yes.

Mr. HATCH. I do not feel quite the same way as the distinguished chairman does.

I have to say, I do not think that the Federal Government can afford a half billion dollars, if that is what really is appropriated. But it has to be appropriated and the Senator from Alabama will have to make his case to the appropriators. If the appropriators decide that they could do it, I am prepared to accept it. I am prepared to accept the amendment. I think it is an intelligent amendment. I think it is a thoughtful one.

There is no question the distinguished Senator from Alabama is one of the most distinguished judges—justice, in fact—to ever serve in this body. He has been the chief justice of the Alabama Supreme Court and naturally is concerned about these matters.

So I am prepared to accept the amendment, if the Senator is willing to put his statement in the Record.

Mr. HEFLIN. I would like to have some legislative history behind it.

Mr. HATCH. Well, your statement will make that legislative history, plus

the fact we are going to accept your amendment.

Mr. BIDEN. Mr. President, if the Senator will yield, it is now an even clearer picture to me. Not only is the Senator from Alabama all that the Senator from Utah said, he is probably the most effective Senator in the body for his State. He gets more into Alabama than could fit into the entire State of Delaware. I admire the way he takes care of his State. I admire the fact that he is such an effective advocate for his State. All of our States should have someone as successful, although we might be bankrupt if we were all as successful as he is in helping his State and his constituency.

He says this will add 50 million new cases. There are only 14 million arrests made in all of America now with 600,000 police. We add one-sixth more and I will argue that maybe we will have one-sixth more arrests. Right now, there are 14 million arrests made with 600,000 cops. How we get, God bless us, from 14 million with 600,000 copies to 50 million with 700,000 cops is beyond me.

But I have known two things in my dealings with the Senator from Alabama. One, he almost always wins and, two, his State almost always gets the better of anything he tries to do.

And so, since this is on an authorization and I will have a chance to fight it out on an appropriations front, I am prepared to accept it, because there are some good aspects of the amendment.

But the principle of the Federal Government getting the money to pay for State court judges I think is going a little far.

But, like I said, I know if the Senator will put his statement in the RECORD, I will accept it. If he does not put it in the RECORD, I will debate it, although I know the effectiveness of the former chief justice on matters like this. Sometimes when you debate with him on things that affect the State of Alabama, you would think he was still the chief justice, because he is able to rule as autocratically as he did then. His State always seems to win when he is making the case for them. But I will yield if he will yield, and I will accept if he will cease.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. I appreciate the kind remarks, but I think the Senator is really misplacing it. He is talking about the Senator from Delaware on what he acquires for his State, rather than myself.

AMENDMENT NO. 1201

(Purpose: To authorize Federal assistance to ease the increased burdens on State court systems resulting from enactment of this act)

Mr. HEFLIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] proposes an amendment numbered 1201.

Mr. HATCH. 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:

At the appropriate place insert the following:

SEC. . FEDERAL ASSISTANCE TO EASE THE INCREASED BURDENS ON STATE COURT SYSTEMS RESULTING FROM ENACTMENT OF THIS ACT.

(a) IN GENERAL.—The Attorney General, acting through the Director of the Bureau of Justice Assistance (the Director), shall, subject to the availability of appropriation, make grants for States and units of local government to pay the costs of providing increased resources for courts, prosecutors, public defenders, and other criminal justice participants as necessary to meet the increased demands for judicial activities resulting from the provisions of this Act and amendments made by this Act.

(b) APPLICATIONS.—In carrying out this section, the Director is authorized to make grants to, or enter into contracts with public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in this section. The Director shall have final authority over all funds awarded under this section.

(c) RECORDS.—Each recipient that receives a grant under this section shall keep such records as the Director may require to facilitate an effective audit.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998, to remain available for obligation until expended.

(2) USE OF TRUST FUND.—Funds authorized to be appropriated under paragraph (1) may be appropriated from the trust fund established by section 1321C.

Mr. HEFLIN. Mr. President, I have offered an amendment that creates a grant program through which the Department of Justice may award State and local governments funds to assist in effectively handling the increased judicial activities which will result from enactment of this bill.

Given the vote by this Senate last week to increase by 100,000 the number of police officers on the street, coupled with a dramatic increase in the amount of prison space available to those convicted, my amendment will make grants available to participants in the justice system. I fully support the authorization of new police officers as well as new prisons, but I believe the entire crime bill will be greatly enhanced by the adoption of my amendment. The post-arrest, preconviction aspect of the fight against crime should not be overlooked.

It is a matter of fact that 100,000 new police officers and new prisons will result in more arrests. Consequently, prosecutors, public defenders, State and local court systems, along with every other facet of the due process afforded those charged with a crime, should have adequate resources to properly dispose of these new cases.

Mr. President, if you conservatively assume that these 100,000 new police officers arrest one person per day while working a 5 day work-week, 50 weeks per year, then our criminal justice system will have to handle 25 million new cases. In reality, if each new officer arrests five people per shift, the already over-burdened court system will have an additional 125 million cases in need of disposition. More cops on the streets is a great idea, but we must follow effectively through. I believe it is prudent to ensure that once the arrest takes place, proper adjudication follows as quickly as possible.

We have all heard stories of violent criminals being returned to the streets because the criminal justice system lacks the necessary resources to operate effectively. If my amendment is not agreed to, the Senate will be passing a huge unfunded Federal mandate with devastating consequences for State and local judicial systems. There is no doubt many more violent criminals will be arrested, but without more resources, many of these defendants will simply be free on bond, possibly committing more violent offenses, or else be in jail for long periods of time awaiting trial.

Mr. President, the current crime bill is structured like an hour glass. It is very large at the top with the addition of 100,000 new police officers. The measure is also well rounded at the bottom with the creation of many new prisons and boot camps. Yet, there is a dire need to expand the middle. Given that only a limited number of defendants can proceed through the judicial system at one time, this amendment can only strengthen the existing crime bill.

I urge its immediate adoption.

Mr. HATCH. I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment (No. 1201) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I believe that the order that was agreed on by the managers is that the Senator from California would proceed. I have joined her as a principal cosponsors, so I yield the floor.

The PRESIDING OFFICER. The Senator will suspend for one moment.

I believe that the regular order calls for the amendment by the Senator from Massachusetts, Mr. KERRY.

Mr. BIDEN. Mr. President, parliamentary inquiry. Is my distinguished friend from California the next order of business?

The PRESIDING OFFICER. According to the unanimous-consent agreement, the amendment of the Senator from Massachusetts is the next amendment.

Mr. BIDEN. Mr. President, I was about to inform the Senate that we are prepared to accept the Senator's amendment, as long as he does not talk about it. And if he has come to talk about it, then we will reconsider accepting the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. That is the best deal I have ever been offered, so I yield the floor.

Mr. HATCH. We are happy on this side to accept the amendment.

Mr. BIDEN. Why does the Senator not send the amendment to the desk? We will accept it right now.

AMENDMENT NO. 1202

(Purpose: To provide an additional authorization of $150,000,000 for fiscal year 1996 for the police corps)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 1202.

Mr. KERRY. 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:

At page 249, line 6 of the bill delete "each of fiscal years 1995 and 1996;" and insert the following: "fiscal year 1995 and $250,000,000 for fiscal year 1996;".

Mr. KERRY. Mr. President, I was intending to send an amendment tonight to the desk concerning the police corps, and to ask for its consideration under Order No. 260, and call for the yeas and nays under that order, as set forth in the Unanimous Consent agreement entered into tonight. But I have just been informed that my amendment will be accepted by unanimous consent. I am grateful for the support the amendment concerning the police corps has received from my colleagues on both sides of the aisle.

Let me briefly summarize the substance of the amendment that has been accepted.

This crime bill authorizes a police corps program at the level of $100 million for 1995, $100 million for 1996, and such sums as are necessary for future years. This is the same level for this program as we started with at the beginning of this process. It is inadequate for the program. The inadequacy was acknowledged from the beginning by many.

This amendment changes the crime bill to increase the authorized level for the police corps from $100 million in the second year of the program, 1996, to $250 million, subject to the decisions of the appropriators. The increase would permit an immediate increase in 1996 from 5,000 Americans graduating from the police corps to serve in police departments around the country to 10,000. The amendment would simultaneously allow an increase from 5,000 to 10,000 in the number of students receiving scholarship assistance and preparing to serve after graduation.

As conceived, a fully funded national police corps could ultimately put as many as 80,000 additional officers into local police departments. The police corps is modeled after the ROTC program, which awards college scholarships in exchange for a commitment of military service.

In the police corps program, students who accepted police corps scholarships would be obligated to spend 4 years working, for pay, in their local police departments. The students would benefit. The police departments would benefit. And law-abiding citizens would benefit.

As the New York Times editorialized last August:

At a time when there is bipartisan agreement on the need to put more cops on the beat, such a promising plan for adding to community policing strength surely deserves a much more ambitious launch. Beyond offering localities a well-educated pool of recruits—many of them minorities, which are still greatly underrepresented on many urban police forces—the Police Corps would also save money. Departments would pay Police Corps officers standard entry pay, but would be spared the costly pension and fringe benefits they pay their regular officers.

But even that is probably not as important as the less tangible value of engaging the energy and ideas of young citizens not traditionally involved in law enforcement. While many law enforcement officials support the idea, some police chiefs would prefer to stick with the kind of recruits they're used to. But by now it's also clear that the old way of doing things isn't working very well, especially in urban areas. The Senate Republican leader, BOB DOLE, says he favors spending $250 million over the next three years on the Police Corps, with a bigger buildup in the future. That's far more than President Clinton requests, though still less than what's desirable. But money is tight, and it's hard to say where the additional funds might come from. Mr. DOLE to his credit seems willing to help Mr. Clinton and Senate Democrats find it.

It is the credit of many Senators, including Senators BIDEN and HATCH, Senator SASSER, Senator DOLE, the minority leader, Senator SPECTER, Senator MITCHELL, the majority leader, Senator KENNEDY, Senator HEFLIN, Senator SIMON, and Senator FEINSTEIN, among others, that the police corps concept is finally on the road to becoming a reality. I thank my colleagues for their support of this amendment.

Mr. BIDEN. I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1202) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. I congratulate the Senator and thank him for his cooperation.

Now I believe our patient and capable colleague from California is next.

Mr. KERRY. I just want to ask the Senator from Delaware if he thinks that was the most eloquent statement I ever made.

Mr. BIDEN. It was not, because I have heard the Senator from Massachusetts speak. If I could speak from prepared remarks as well as he can extemporaneously, I probably would not be chairman of this committee now but be able to be chairman of the Foreign Relations Committee because I would have been able to talk Senator PELL into taking the Education Committee forcing Senator KENNEDY back to the Judiciary Committee.

I yield the floor.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from California.

AMENDMENT NO. 1203

(Purpose: To add a title to the bill relating to driver's privacy)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. WARNER, Mr. DECONCINI, Mrs. FEINSTEIN, Mr. WOFFORD, Ms. MOSELEY-BRAUN, Mr. METZENBAUM, Mr. DODD, Mr. CONRAD, Mrs. MURRAY, Mr. SIMON, Mr. REID, Mr. BUMPERS, Mr. ROBB, Mr. HARKIN, Ms. MIKULSKI, Mr. FEINGOLD, Mr. DASCHLE, Mr. INOUYE, Mr. AKAKA, Mr. CAMPBELL, Mr. PELL, Mr. KENNEDY, Mr. KERREY, Mr. BRYAN, Mr. RIEGLE, Mr. BINGAMAN, and Mr. EXON, proposes an amendment numbered 1203.

Mrs. BOXER. 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:

At the appropriate place, insert the following title:

TITLE —DRIVER'S PRIVACY PROTECTION ACT

SEC. . SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Driver's Privacy Protection Act of 1993".

(b) PURPOSE.—The purpose of this title is to protect the personal privacy and safety of licensed drivers consistent with the legitimate needs of business and government.

SEC. . AMENDMENT TO TITLE 18, UNITED STATES CODE.

Title 18 of the United States Code is amended by inserting immediately after chapter 121, the following new chapter:

"CHAPTER 122—PROHIBITION ON RELEASE OF CERTAIN PERSONAL INFORMATION

"Sec. 2720. Prohibition on release and use of certain personal information by States, organizations and persons.
"Sec. 2721. Definitions.
"Sec. 2722. Penalties.
"Sec. 2723. Effect on State and local laws.

"§ 2720. Prohibition on release and use of certain personal information by States, organizations and persons

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), no department of motor vehicles of any State, or any officer or employee thereof, shall disclose or otherwise make available to any person or organization personal information about any individual obtained by the department in connection with a motor vehicle operator's permit, motor vehicle title, identification care, or motor vehicle registration (issued by the department to that individual) unless such disclosure is authorized by the individual.

"(2) A department of motor vehicles of a State, or officer or employee thereof, may disclose or otherwise make available personal information referred to in paragraph (1) for any of the following routine uses:

"(A) For the use of any Federal, State or local court in carrying out its functions.

"(B) For the use of any Federal, State or local agency in carrying out its functions, including a law enforcement agency.

"(C) For the use in connection with matters of automobile safety, driver safety, and manufacturers of motor vehicles issuing notification for purposes of any recall or product alteration.

"(D) For the use in any civil criminal proceeding in any Federal, State, or local court, if the case involves a motor vehicle, or if the request is pursuant to an order of a court of competent jurisdiction.

"(E) For use in research activities, if such information will not be used to contact the individual and the individual is not identified or associated with the requested personal information.

"(F) For use in marketing activities if—

"(i) the motor vehicle department has provided the individual with regard to whom the information is requested with the opportunity, in a clear and conspicuous manner, to prohibit a disclosure of such information for marketing activities;

"(ii) the information will be used, rented, or sold solely for a permissible use under this chapter, including marketing activities; and

"(iii) any person obtaining such information from a motor vehicle department for marketing purposes keeps complete records identifying any person to whom, and the permissible purpose for which, they sell or rent the information and provides such records to the motor vehicle department upon request.

"(G) For use by any insurer or insurance support organization, or their employees, agents, and contractors, in connection with claims investigation activities and antifraud activities.

"(H) For use by any organization, or its agent, in connection with a business transaction, when the purpose is to verify the accuracy of personal information submitted to that business or agent by the person to whom such information pertains, or, if the information submitted is not accurate, to obtain correct information for the purpose of pursing remedies against a person who presented a check or similar item that was not honored.

"(I) For use by any organization, if such organization certifies, upon penalty of perjury, that it has obtained a statement from the person to whom the information pertains authorizing the disclosure of such information under this chapter.

"(J) For use by an employer or the agent of an employer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2701 et seq.).

"(b) UNLAWFUL CONDUCT BY ANY PERSON OR ORGANIZATION.—No person or organization shall—

"(1) use any personal information, about an individual referred to in subsection (a), obtained from a motor vehicle department of any State, or any officer or employee thereof, or other person for any purpose other than the purpose for which such personal information was initially disclosed or otherwise made available by the department of motor vehicles of the affected State, or any officer or employee thereof, or other person, unless authorized by that individual; or

"(2) make any false representation to obtain personal information, about an individual referred to in subsection (a), from a department of motor vehicles of any State, or officer or employee thereof, or from any other person.

"§ 2721. Definitions

"As used in this chapter:

"(1) The term 'personal information' is information that identifies an individual, including an individual's photograph, driver's identification number, name, address, telephone number, social security number, and medical and disability information. Such term does not include information on vehicular accidents, driving violations, and driver's status.

"(2) The term 'person' means any individual.

"(3) The term 'State' means each of the several States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(4) The term 'organization' means any person other than an individual, including but not limited to, a corporation, association, institution, a car rental agency, employer, and insurers, insurance support organization, and their employees, agents, or contractors. Such term does not include a Federal, State or local agency or entity thereof.

"§ 2722. Penalties

"(a) WILLFUL VIOLATIONS.—

"(1) Any person who willfully violates this chapter shall be fined under this title, or imprisoned for a period not exceeding 12 months, or both.

"(2) Any organization who willfully violates this chapter shall be fined under this title.

"(b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles which willfully violates this chapter shall be subject to a civil penalty imposed by the Attorney General in the amount of $5,000. Each day of continued noncompliance shall constitute a separate violation.

"§ 2723. Effect on State and local laws

"The provisions of this chapter shall supersede only those provisions of law of any State or local government which would require or permit the disclosure or use of personal information which is otherwise prohibited by this chapter.".

SEC. . EFFECTIVE DATE.

The amendments made by this title shall take effect upon the expiration of the 270-day period following the date of its enactment.

Mrs. BOXER. Mr. President, today I join the Senator from Virginia [Mr. WARNER] and 26 other cosponsors, to offer an amendment to protect the privacy of all Americans.

In California, actress Rebecca Schaeffer was brutally murdered in the doorway of her Los Angeles apartment by a man who had obtained her home address from my State's DMV.

In Iowa, a gang of teenagers copied down the license plate numbers of expensive cars, obtained the home addresses of the owners from the Department of Transportation, and then robbed them at night.

In Tempe, AZ, a woman was murdered by a man who had obtained her home address from that State's DMV.

And, in California, a 31-year-old man copied down the license plate numbers of five women in their early twenties, obtained their home address from the DMV and then sent them threatening letters at home. I want to briefly read from two of those letters.

I'm lonely and so I thought of you. I'll give you one week to respond or I will come looking for you.

Another one read:

I looked for you though all I knew about you was your license plate. Now I know more and yet nothing. I know you're a Libra, but I don't know what it's like to smell your hair while I'm kissing your neck and holding you in my arms.

When they apprehended him, they found in his possession a book entitled "You Can Find Anyone" which spelled out how to do just that using someone's license plate.

In 34 States, someone can walk into a State Motor Vehicle Department with your license plate number and a few dollars and walk out with your name and home address. Think about this. You might have an unlisted phone number and address. But, someone can find your name or see your car, go to the DMV and obtain the very personal information that you may have taken painful steps to restrict.

Mr. President, the American people think that this is wrong. In a recent Lou Harris survey, 80 percent of the people were uncomfortable with one person obtaining this type of information about another.

Can we afford to wait until every State has their own tragedy? That is not the way to legislate. Our Representatives are elected to lead, to think ahead and—at every turn—to find ways to protect the people they represent. In many States, police officers, public figures and other victims of these privacy abuses have been allowed to request that the DMV keep their home addresses confidential. Of course, these people deserve privacy and protection. But, so do all of our people.

Mr. HATCH. Will the Senator yield?

Mrs. BOXER. I will be delighted to yield.

Mr. HATCH. Mr. President, I appreciate my colleague from California's effort to control the disclosure of State department of motor vehicle [DMV] information. We need to comprehensively review the means by which government agencies disclose personal information to the public.

Stalking is a problem which is beginning to receive the attention of legislators at both the State and Federal level. I too share the concerns of my colleagues. Last Congress, I supported legislation authored by Senator COHEN which directed the Department of Justice to develop model anti-stalking legislation for the States. As well, I coauthored the Violence Against Women Act which provides $1.89 billion to fight violence perpetrated against women. The Senate passed this measure as an amendment to the crime bill. As well, I coauthored the Chafee-Hatch amendment to the crime bill which adds another category of offenders—stalkers—to the list of persons banned from purchasing firearms.

I believe the crime bill already does much to combat stalking. I commend my colleague for wanting to do more. However, concerns have been raised by the National Governors Association, the American Association of Motor Vehicle Administrators, the American Society of Newspaper Editors, and the Newspaper Association of America. These organizations raise legitimate points:

The bill from which this amendment is taken was introduced less than 1 month ago and there has not been an adequate amount of time to assess its impact and cost;

It places unfunded mandates on the States which may result in the States prohibiting all uses of DMV information for any purpose, including legitimate business and press purposes;

It subjects the DMV's to civil penalties for wrongful disclosure of drivers license information; and

While I support the goals of the Boxer amendment, I believe it warrants careful and studious review.

We are prepared to take the Senator's amendment but I do have to add this caveat. We are prepared to take the amendment on both sides but I have had a number of people very, very concerned about it. I would like to take it under the condition that we work on it together and see if we can perfect it somewhat between now and conference. Because I have received letters, for instance, this one from the Society of Professional Journalists, Utah Headliners Chapter, which I ask unanimous consent be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SOCIETY OF PROFESSIONAL JOURNALISTS, UTAH HEADLINERS CHAPTER,
Salt Lake City, UT, November 16, 1993.

Hon. ORRIN G. HATCH,
Committee on the Judiciary, U.S. Senate Washington, DC.

DEAR SENATOR HATCH; the Utah Headliners Chapter of the Society of Professional Journalists has learned that there may be a vote on proposed amendments to the Crime Bill this afternoon. Among those amendments to be considered is the Boxer/Moran Driver's Privacy Protection Act of 1993. Our organization is concerned and strongly opposed to the incorporation of the measure into the Crime Bill without appropriate public hearings.

Our organization represents journalists throughout Utah and has been active in protecting the public's access to government proceedings and records. Nationally, the Society is the nation's oldest and largest journalism organization.

While we are sympathetic to the concerns about privacy connected with the proposed legislation, we believe there may be other approaches to the problem that would ensure the public's right to know while protecting against abuse of these records. For example, government could enact tough stalking laws rather than closing off records because of isolated violence associated with information gained from public records.

Consider the valuable ways journalists use driver and motor vehicle records to further the public interest. News organizations have discovered pilots, bus drivers and police officers who have DUI convictions but were still operating vehicles. In New Mexico, a series of articles based on these records, helped change the state's DUI laws and the court system's leniency with DUI convictions. Other stories have shown how dealers illegally rebuilt and resold automobile wrecks. Any Utah journalist could provide you with a list of ways reporters use these records in the public's behalf.

We also believe that this issue is better addressed on a state-by-state basis. For example, government officials, journalists and citizens recently spent five years debating Utah's new Government Records Access and Management Act. The act provides for balancing tests between the public interest and the interests of privacy. This is a much more reasonable approach than the wholesale closure of public documents. We are concerned that the Boxer/Moran legislation could be only the beginning of an unbalanced closure of records that creates double standards.

We ask for a full debate on these issues. There is a great deal of experience in Utah's government, legal and media community regarding these issues. We would be happy to use our resources to give you and your staff further information regarding this bill.

Best regards,

JOEL CAMPBELL,
for the Utah Headliners Chapter Board of Directors.

Mr. HATCH. They are expressing a great deal of concern about the amendment of the distinguished Senator. I understand what the distinguished Senator from California is trying to do. I will personally work with her to try to make sure we can accomplish what she wants while still giving consideration to these professional journalists and others who feel her amendment might be damaging to the information-gathering process.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. HATCH. I will be delighted to.

Mr. WARNER. This is a joint effort on behalf of the Senators from California and Virginia, and so I hope my colleague will address us jointly in terms of this somewhat unusual procedure. I urge the distinguished Senator from California be permitted to complete her opening remarks and the Senator from Virginia can provide his remarks and then we should discuss with the managers such procedures as they think appropriate to work on this amendment. Because it is my clear understanding the amendment was accepted and this is the first knowledge I had there was some contingency to that acceptance.

Mr. HATCH. If I can just remark, I apologize to the distinguished Senator from Virginia. In my zeal to accept the amendment, I failed to mention that this is the Boxer and Warner amendment and we feel very deeply about that.

Frankly, what we are trying to do is finish the bill tonight. I think the distinguished Senator from California has made an eloquent statement on this matter thus far. I will be happy to listen to the rest of it, but I think if we are willing to accept the amendment, if the Senators can summarize their statements, it would help.

Mr. WARNER. Mr. President, if the Senator will yield, we will be happy to do that. But I must tell you, I express great admiration for the Senator from California, for her diligence and months of hard work, together with her staff member, Laura Schiller, working with my staff member, George Cartagena. A lot of hard work has been put into this. I was absolutely astonished that this situation existed across the United States.

I urge the managers of the bill to provide the distinguished Senator from California a few more minutes and I will be happy to curtail my remarks to just a bare few minutes response.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from California.

Mrs. BOXER. If I may ask, is the time currently my time?

The PRESIDING OFFICER. The Senator from California controls 10 minutes 57 seconds.

Mrs. BOXER. I would say to my friends it would be my intention to finish my remarks in less than 5 minutes and yield the remainder of the time to my distinguished coauthor, the Senator from Virginia, Senator WARNER, and I would like to proceed.

I am very pleased that this amendment will be accepted. It has been 7 months of work. In 5 minutes I think I can complete my remarks. I thank the Senator from Virginia for his tremendous courtesy and assistance in this effort.

With this amendment we have an opportunity to protect the privacy and

safety of all Americans—not just the VIP's with special clout.

This area is clearly within Congress' authority to regulate. First, this is a fundamental issue of privacy. The Supreme Court has found that people have a right to be safe in their homes, that they have a right not to have the Government make public their personal data and that Congress can use it's powers—section 5 of the 14th amendment—provide remedies for violations to constitutional rights.

What's more, with mail, cars, and harassment involved, this issue clearly has an impact on interstate commerce. As such—under article 1, section 8—this area is well within Congress' authority to regulate. We all understand that interstate commerce is severely threatened when mail is used, when people are scared to drive in their cars, when their civil rights are violated, and when they live in fear of being harassed and stalked.

The amendment that I am offering today strikes a critical balance between the legitimate governmental and business needs for this information, and the fundamental right of our people to privacy and safety. Under this amendment, personal information is defined as including a driver's name, address, phone number, and social security number. It does not include information on a driver's accidents, violations or status. Let me repeat that. Nothing in this bill will stop the press, insurance companies, employers, or anyone else from obtaining information about an individual's driving record.

This amendment allows access for all governmental agencies, courts, and law enforcement personnel. It allows full access for all automobile and driver safety purposes, including manufacturers of motor vehicles conducting a recall for any purpose. It sets up fair standards for insurance companies, employers, banks, researchers, and other organizations who routinely use this information. And, that is why we have the support from so many organizations, including the American Insurance Association, a trade organization representing more than 250 major insurance companies.

Currently, most States sell personal information to direct marketers. Our bill does not stop this. It simply says that if a State chooses to sell this information to marketers, they need to give people the opportunity to opt out and say no. This policy is fair. It is consistent with the Direct Marketing Association's own ethical guidelines and with the recommendations of the landmark 1977 Privacy Commission Report.

This amendment sets up clear guidelines and fair penalties. Under this amendment, only those people and individuals who willfully violate this chapter are subject to penalties. Under this amendment, aggrieved individuals and groups do not have a cause of action and cannot file suit. And, under this amendment, States are not liable for criminal penalties.

If you want to own or operate a car, you must register with the DMV. This amendment simply gives people more control over the disclosure of their personal information, especially for those reasons that are totally incompatible with the purpose for which the information was collected. States are free to be more restrictive with this information. This bill simply takes a national problem and gives the States broad latitude and 9 months to enact a national solution.

Mr. President, we have more than 20 business, consumer, police, physician and victims groups who have given their support to this amendment, from the Fraternal Order of Police, to the Consumer Federation of America, to the American Medical Association.

Finally, I want to again thank Senator WARNER for his strong support on this legislation, and Congressman MORAN, of Virginia, for his leadership on this issue; and my constituent from Los Angeles, Joyce Shorr, who brought this critical problem to my attention; again, the many groups that have endorsed the legislation, our 27 cosponsors.

Finally, I would like to address a couple remarks to the chairman of the Judiciary Committee, who I do not see on the floor right now but I want to pay tribute to him because he knows that I am new in the U.S. Senate. He knows how much this particular piece of legislation meant to me. Even when it looked like it was going to be controversial, he encouraged me to continue, to line up the votes and the support. We did it, and I am extremely pleased that the Senator from Virginia and I tonight will have our amendment agreed to. Of course, we will work to see that it survives the conference in a way that meets the very clear objectives: We want to protect the privacy and the safety of the people of America, and I think we will achieve that.

At this time, I yield the remainder of my time to the good Senator from Virginia, Senator WARNER.

The PRESIDING OFFICER. The Senator from Virginia has 6 minutes 56 seconds.

Mr. WARNER. Mr. President, I thank my distinguished colleague and friend, the Senator from California. I have to confess that the Senator from California and I came to the body with a somewhat different approach and philosophy. I thought to myself when I discovered this piece of legislation, largely through her efforts and the efforts of my distinguished colleague from Virginia, Congressman MORAN, who pioneered this legislation in the Congress for some several years, I thought the likelihood of a Boxer-Warner bill was impossible. But here we are. Impossible things do happen.

I thank my colleague for her kind remarks and for the opportunity for me and my staff to work as diligently as we could to perfect this piece of legislation.

Mr. President, I was absolutely astonished to learn that in some 30-plus States and, indeed, my own State, which has a provision that gives some restriction but people who demonstrate good reason can acquire this information. It applies to auto titles, to car registrations, to driver's licenses, auto tags—all this is open. There is a war in this country to fight for privacy. People are now fighting, and this is coming to their assistance to provide the privacy, which I and many others thought existed.

I had no idea when I went into my State to get licensed that all this information that I provided was going to be made public. Those in public life expect much of our factual data to be public but, indeed, others who are not in public life have a need to protect their privacy, and particularly women.

I shall not go into the specifics. My distinguished colleague from California cited some actual cases, but this legislation is to protect a wide range of individuals, protect them from the State agencies often for a price, a profit to the State, to release lists. Not only will the agency give out individual names and sponsors will call with an inquiry, but they give out the whole list, everybody in the State, if you want to buy it. It is somewhat expensive but you can get it. This legislation provides that, henceforth—the State is given 270 days within which to implement it—henceforth, individuals who go in to register cars, acquire permits, so forth, can clearly indicate their lack of willingness, their desire not to have that information released to marketers primarily. There are specific exceptions of course for law enforcement individuals and other areas where proven experience shows that this information should flow. But in those instances we have to presume it is somewhat protected.

The Boxer-Warner bill incorporates both the intent of the 1974 Privacy Act, which deals with the collection of personal information by Federal agencies as well as the recommendations of the landmark 1977 Privacy Protection Study Commission report. Registering with the DMV is mandatory. The Boxer bill will provide individuals with knowledge of and control over the disclosure of their personal information for uses unrelated to the purpose(s) for which it was collected.

Mr. President, the legislation will also:

Provide unlimited access for courts, law enforcement, governmental agencies, insurance companies involved in

claims investigation and antifraud activities, and for other driver and automobile safety purposes;

Allow businesses to verify information provided by the licensee and to access personal information as long as the individual has waived his or her right to confidentiality. These businesses can enter into contracts with the DMV's to facilitate this process;

Not prohibit the disclosure of information on vehicular accidents or driving violations;

Provide access to this information for marketing purposes if the licensees have been given the opportunity to prohibit such disclosure. This policy is consistent with the Privacy Commission report and with the ethical guidelines of the Direct Marketing Association;

Allow States to enact tougher restrictions and gives them room to craft their own specific responses to the regulations;

Allow the DMV's to price their sale of services to fully recover any initial costs associated with implementing this legislation—most DMV's already sell this information, and costs for implementing the additional security provisions are estimated to be negligible; and

Only penalize the States when the Attorney General has found that a State's failure to comply with these regulations was willful.

This is a superb piece of legislation badly needed to protect individuals in their fight to retain privacy.

I thank the Chair and I thank my colleague.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we are prepared to accept the amendment.

Mrs. BOXER. I am very pleased. I have no further remarks.

I understand the Senator from Virginia, Senator ROBB, has come over to lend support. I would appreciate a moment or two. How much time remains?

The PRESIDING OFFICER. The Senator from California controls 3 minutes 7 seconds.

The PRESIDING OFFICER. The Senator from Virginia is recognized with 2 minutes 45 seconds remaining.

Mr. ROBB. Mr. President, I am very pleased to join my senior colleague and the Senator from California in cosponsoring this amendment.

The right to privacy, without which the Americans are not secure in their own homes, is seriously threatened. It is easy for anyone anywhere to access information as personal as your address and phone number, even if they are not listed in the telephone directory. Even your Social Security number is available, and the chief agent giving out this kind of information is the very government that is supposed to protect its citizens.

Many Americans are infuriated and, more importantly, they are vulnerable to these violations of privacy which happen in 34 States in this country every day, my own included.

Recently, a woman in Virginia was shocked to discover black balloons and antiabortion literature on her doorstep days after she had visited a health clinic that performs abortions. Apparently, someone used her license plate number to track down personal information which was used to stalk her.

In another case in Georgia, an obsessive fan obtained the home address of a fashion model from the State Department of Motor Vehicles and assaulted her in front of her apartment.

These are but two examples of how simple it is to submit a driver's license number, pay a nominal fee to the DMV and receive a person's name and address. This is no mere loophole in a system, it is a visible gap that needs to be plugged.

Luckily, we have the opportunity to close that hole by the amendment offered by the Senator from California and my distinguished senior colleague, Senator WARNER. This amendment would place safeguards on the privacy of the driver and vehicle owners by prohibiting release of personal information to anyone without a specific business-related or government-related reason for obtaining the information.

While this bill alone will not stop people from stalking, it will inhibit States from unknowingly aiding and abetting this type of crime. Easy access to personal information makes every driver in this Nation vulnerable and infringes on their right to privacy. Government's duty is to keep citizens safe and it should not, therefore, be contributing to insecurity.

I hope that our colleagues will help to restrict easy, unlimited access to personal information by supporting this amendment.

I commend the Senator from California, my senior colleague and our colleague in the House for offering it.

I yield the floor.

Mr. WARNER. Mr. President, I ask unanimous consent I may proceed for another minute-and-a-half.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Virginia is recognized for 90 seconds.

Mr. WARNER. Mr. President, I pose a question to my distinguished colleague. In his former capacity as a very distinguished Governor of the Commonwealth of Virginia, it is very interesting, listening to his remarks, that this was a situation that apparently was not recognized by the Governors as being so compelling as it is today during the period when he was Governor.

I wonder if the Senator might have a recollection of how the history of the need of this legislation has evolved in the intervening years since he was Governor of the Commonwealth of Virginia.

Mr. ROBB. Mr. President, I can respond to my senior colleague by telling him, indeed, this is a problem, like many others, that has simply evolved. In recent years, it has become increasingly evident that this information was accessible and it was being used for purposes that were certainly not intended by the framers of the actual legislation that permitted its release.

This legislation is simply designed to close an important loophole that at this point restricts the privacy that I think most of our citizens believe they have but in some cases subjects them to stalking, abuse or other improper utilization of information which simply should not be in their hands.

Mr. WARNER. Mr. President, I thank my distinguished colleague. I think this is a very important part of the legislative history that we are making tonight. It has been a relatively short period of time that the urgency for such legislation as this be adopted by the Congress. It is my fervent hope and wish that it will be.

The PRESIDING OFFICER. Who yields time?

The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise to not only support but compliment my friend from California. She came early on with this amendment when it did not look like anybody was likely to support it at all. And because she always cooperates, she indicated she did not want to get in the way of the passage of the bill she supports, but she felt strongly about it.

One of the things I am learning is that she is a freshman Senator, but she is no freshman like I have ever seen. She has walked into this place with significant experience in the House and is frighteningly effective. I compliment her on her pushing this amendment along. It is a very important amendment. I for one would like to compliment her and the Senator from Virginia for their calling this concern and need to the attention of the Senate and the people of the country. I think it is a good amendment.

I support the amendment of the Senator from California. This amendment would make it unlawful for States to disseminate personal information about any person or organization simply because the person seeking the information can recite a driver's or motor vehicle license number.

Too often we read, or hear on television, stories about women who suffer serious injury or death after being stalked by estranged and violent husbands and boyfriends. Stalking is a crime of terror and fear, plaguing thousands of Americans every year.

By protecting the privacy of addresses and telephone numbers—which would otherwise be available at the mere mention of a license plate or driver's license number—the amendment is another weapon against this violence.

This amendment closes a loophole in the law that permits stalkers to obtain—on demand—private, personal information about their potential victims.

Under the law in over 30 States, it is permissible to give out to any person the name, telephone number, and address of any other person if a drivers' license or vehicle plate number is provided to a State agency.

Thus, potential criminals are able to obtain private, personal information about their victims simply by making a request. These open-record policies in many States are open invitations to would-be stalkers.

In my view, this amendment makes common sense. Americans do not believe they should relinquish their legitimate expectations of privacy simply by obtaining drivers' licenses or registering their cars. Yet the laws of some States do just that by routinely providing this identifying information to all who request it.

The States should not provide the mechanism for the terror that can be unleashed through the indiscriminate release of this kind of information. Some restrictions on the dissemination of private information such as an address or telephone number are reasonable and appropriate.

This amendment is narrowly tailored in that it carefully preserves the right of States to disseminate this private information for legitimate purposes such as law enforcement, automobile safety activities, and insurance investigations.

I applaud the Senator from California for her work in this regard. She provides a reasoned and measured approach to the protection of private information and the placement of yet another roadblock in the way of would-be criminals.

When time is yielded back, I am prepared to accept the amendment and again congratulate the sponsors for their persistence and insight into this problem

The PRESIDING OFFICER. Is there further debate?

Mr. HARKIN. Mr. President, I rise in strong support of this amendment, which will ensure that the private information that drivers provide to their State licensing authorities will not be improperly disclosed to violate those drivers right to privacy. The Drivers Privacy Protection Act, of which I am an original cosponsor, strikes a fair balance between reasonable interests of the State and the public in this information, and the rights of private citizens to be left alone.

I became aware of this issue through the plight of one of my constituents, Karen Stewart. Karen was a patient of Dr. Herbert Remer, a physician who specializes in obstetrics and gynecological care in the Des Moines area. Because Dr. Remer performs abortions, his clinic has been the site of repeated protests by those who oppose women's right to choose.

But Karen was going to Dr. Remer to save her pregnancy, not to terminate it. She was experiencing complications, and went to Dr. Remer for treatment. Unfortunately, a few days after the visit, Karen suffered a miscarriage.

And then she received the letter. Extremists from Operation Rescue sent a venomous letter apparently intended to traumatize Dr. Remer's patients. The letter spoke of "God's curses for the shedding of innocent blood," and "the guilt of having killed one's own child." They got her name and address from department of transportation records, after they spotted her car parked near Dr. Remer's clinic.

This is one example of the potential for abuse of these public records, but it is far from the only one. According to the Des Moines Register of October 10, 1992, a gang of teens used State records to help them carry out their crimes. They would find cars with expensive stereos in parking lots and on the streets, take down their license numbers, and find the owners' home address through DOT records.

Most tragically, these records are used by stalkers to track down their victims. Rebecca Shaeffer, a promising young actress from California, was brutally murdered by an obsessed fan. That fan obtained her address from department of motor vehicles records through a private investigator.

I strongly believe that this legislation will provide important protection to every American's privacy. I want to congratulate Senator BOXER on her amendment, which is a well-balanced proposal that strongly protects privacy, yet accommodates a variety of important interests. I urge its adoption.

Mr. WARNER. Mr. President, I wish to join with my distinguished colleague from California in thanking the managers of this bill. It has been a somewhat difficult task to work it through, and that has been successfully done tonight with the cooperation of the managers and their excellent staffs.

So at this point in time I believe the Senator from California would urge adoption of the amendment.

Mrs. BOXER. I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from California has urged adoption of the amendment. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1203) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan under the unanimous-consent agreement is authorized to offer an amendment upon which there will be 1 hour of debate.

AMENDMENT NO. 1204

(Purpose: To provide for imposition of the penalty of life imprisonment without the possibility of release rather than imposition of the death penalty)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. SIMON, Mr. HATFIELD, Mr. DURENBERGER, and Mr. PELL, proposes an amendment numbered 1204:

At the end of the bill add the following:

SEC. . MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE.

In lieu of any amendment made by this Act or any other provision of this Act that authorizes the imposition of a sentence of death, such amendment or provision shall authorize the imposition of a sentence of mandatory life imprisonment without the possibility of release.

Mr. LEVIN. Mr. President, this amendment is introduced on behalf of Senators SIMON, HATFIELD, DURENBERGER, PELL, and myself. It would replace the death penalty in this legislation with a sentence of mandatory life imprisonment without the possibility of release.

I doubt that my position comes as a surprise to anybody who has watched the Senate year after year consider legislation to impose the death penalty.

For me, the bottom line is that the history of the death penalty is filled with examples in which innocent people have been executed or almost executed.

I cannot support a means of punishment with the finality of the death penalty when our judicial system cannot avoid making errors and mistakes. We are human. Our system of justice reflects our own fallibility as human beings.

My colleagues have seen me in the past hold up case after case after case in which people have been sentenced to death only later to be found innocent and released. Since this last debate in the Senate, the staff of the House Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee has issued a report entitled "Innocence in the Death Penalty: Assessing the Danger of Mistaken Executions."

This report briefly and concisely describes 48 cases in the past 20 years where a convicted person has been released from death row either because their innocence was proven or because there was a reasonable doubt that was raised as to their guilt. This report also examines some of the reasons why innocent people were convicted and sentenced to death. Those factors included prejudice, inadequate counsel, initial misconduct, and pressure to prosecute.

Mr. President, I ask unanimous consent at this time that the 48 cases that were identified by the Judiciary Subcommittee of the House be inserted in the RECORD in full.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

RECENT CASES INVOLVING INNOCENT PERSONS SENTENCED TO DEATH

The most conclusive evidence that innocent people are condemned to death under modern death sentencing procedures comes from the surprisingly large number of people whose convictions have been overturned and who have been freed from death row. Four former death row inmates have been released from prison just this year after their innocence became apparent: Kirk Bloodsworth, Federico Macias, Walter McMillian, and Gregory Wilhoit.

At least 48 people have been released from prison after serving time on death row since 1973 with significant evidence of their innocence.[1] In 43 of these cases, the defendant was subsequently acquitted, pardoned, or charges were dropped. In three of the cases, a compromise was reached and the defendants were immediately released upon pleading to a lesser offense. In the remaining two cases, one defendant was released when the parole board became convinced of his innocence, and the other was acquitted at a retrial of the capital charge but convicted of lesser related charges. These five cases are indicated with an asterisk (*).

1973: David Keaton, Florida; conviction 1971. Sentenced to death for murdering an off-duty deputy sheriff during a robbery. Charges were dropped and Keaton was released after the actual killer was convicted.

1975: Wilber Lee, Florida; conviction 1963; Freddie Pitts, Florida; conviction: 1963. Lee and Pitts were convicted of a double murder and sentenced to death. They were released when they received a full pardon from Governor Askew because of their innocence. Another man had confessed to the killings.

1976: Thomas Gladish, New Mexico; conviction: 1974; Richard Greer, New Mexico; conviction: 1974; Ronald Keine, New Mexico; conviction: 1974; Clarence Smith, New Mexico; conviction: 1974. The four were convicted of murder, kidnaping, sodomy, and rape and were sentenced to death. They were released after a drifter admitted to the killings and a newspaper investigation uncovered lies by the prosecution's star witness.

1977: Delbert Tibbs, Florida; conviction: 1974. Sentenced to death for the rape of a sixteen-year-old and the murder of her companion. The conviction was overturned by the Florida Supreme Court because the verdict was not supported by the weight of the evidence. Tibbs' former prosecutor said that the original investigation had been tainted from the beginning.

1978: Earl Charles, Georgia; conviction: 1975. Convicted on two counts of murder and sentenced to death. Charles was released when evidence was found that substantiated his alibi. After an investigation, the district attorney announced that he would not retry the case. Charles won a substantial settlement from city officials for misconduct in the original investigation.

Jonathan Treadway, Arizona; conviction: 1975. Convicted of sodomy and first degree murder of a six-year-old and sentenced to death. He was acquitted of all charges at retrial by the jury after 5 pathologists testified that the victim probably died of natural causes and that there was no evidence of sodomy.

1979: Gary Beeman, Ohio; conviction: 1976. Convicted of aggravated murder and sentenced to death. Acquitted at the retrial when evidence showed that the true killer was the main prosecution witness at the first trial.

1980: Jerry Banks, Georgia; conviction: 1975. Sentenced to death for two counts of murder. The conviction was overturned because the prosecution knowingly withheld exculpatory evidence. Banks committed suicide after his wife divorced him. His estate won a settlement from the county for the benefit of his children.

Larry Hicks, Indiana; conviction: 1978. Convicted on two counts of murder and sentenced to death, Hicks was acquitted at the retrial when witnesses confirmed his alibi and when the eyewitness testimony at the first trial was proved to have been perjured. The Playboy Foundation supplied funds for the reinvestigation.

1981: Charles Ray Giddens, Oklahoma; conviction: 1978. Conviction and death sentence reversed by the Oklahoma Court of Criminal Appeals on the grounds of insufficient evidence. Thereafter, the charges were dropped.

Michael Linder, South Carolina; conviction: 1979. Linder was acquitted at retrial on the grounds of self-defense.

Johnny Ross, Louisiana; conviction: 1975. Sentenced to death for rape, Ross was released when his blood type was found to be inconsistent with that of the rapist's.

1982: Anibal Jarramillo, Florida; conviction: 1981. Sentenced to death for two counts of first degree murder; released when the Florida Supreme Court ruled the evidence did not sustain the conviction.

Lawyer Johnson, Massachusetts; conviction: 1971. Sentenced to death for first degree murder. The charges were dropped when a previously silent eyewitness came forward and implicated the state's chief witness as the actual killer.

1986: Anthony Brown, Florida; conviction: 1983. Convicted of first degree murder and sentenced to death. At the retrial, the state's chief witness admitted that his testimony at the first trial had been perjured and Brown was acquitted.

Neil Ferber, Pennsylvania; conviction: 1982. Convicted of first degree murder and sentenced to death. He was released at the request of the state's attorney when new evidence showed that the conviction was based on the perjured testimony of a jail-house informant.

1987: Joseph Green Brown (Shabaka Waglini), Florida; conviction: 1974. Charges were dropped after the 11th Circuit Court of Appeals ruled that the prosecution had knowingly allowed false testimony to be introduced at trial. At one point, Brown came within 13 hours of execution.

Perry Cobb, Illinois; conviction: 1979; Darby Williams, Illinois; conviction: 1979. Cobb and Williams were convicted and sentenced to death for a double murder. They were acquitted at retrial when an assistant state attorney came forward and destroyed the credibility of the state's chief witness.

Henry Drake,* Georgia; conviction: 1977. Drake was resentenced to a life sentence at his second trial. Six months later, the parole board freed him, convinced he was exonerated by his alleged accomplice and by testimony from the medical examiner.

John Henry Knapp,* Arizona; conviction: 1974. Knapp was originally sentenced to death for the arson murder of his two children. He was released in 1987 after new evidence about the cause of the fire prompted a judge to order a new trial. In 1991, his third trial resulted in a hung jury. Knapp was again released in 1992 after an agreement with the prosecutors in which he pleaded no contest to second degree murder. He has steadfastly maintained his innocence.

Vernon McManus, Texas; conviction: 1977. After a new trial was ordered, the prosecution dropped the charges when a key prosecution witness refused to testify.

Anthony Ray Peek, Florida; conviction: 1978. Convicted of murder and sentenced to death. His conviction was overturned when expert testimony was shown to be false. He was acquitted at his second retrial.

Juan Ramos, Florida; conviction: 1983. Sentenced to death for rape and murder. The decision was vacated by the Florida Supreme Court because of improper use of evidence. At his retrial, he was acquitted.

Robert Wallace, Georgia; conviction: 1980. Sentenced to death for the slaying of a police officer. The 11th Circuit ordered a retrial because Wallace had not been competent to stand trial. He was acquitted at the retrial because it was found that the shooting was accidental.

1988: Jerry Bigelow, California; conviction: 1980. Convicted of murder and sentenced to death after acting as his own attorney. His conviction was overturned by the California Supreme Court and he was acquitted at the retrial.

Willie Brown, Florida; conviction: 1983; Larry Troy, Florida; conviction: 1983. Originally sentenced to death after being accused of stabbing a fellow prisoner, Brown and Troy were released when the evidence showed that the main witness at the trial had perjured himself.

William Jent,* Florida; conviction: 1980; Earnest Miller,* Florida; conviction: 1980. A federal district court ordered a new trial because of suppression of exculpatory evidence. Jent and Miller were released immediately after agreeing to plead guilty to second degree murder. They repudiated their plea upon leaving the courtroom and were later awarded compensation by the Pasco County Sheriff's Dept. because of official errors.

1989: Randall Dale Adams, Texas; conviction: 1977. Adams was ordered to be released pending a new trial by the Texas Court of Appeals. The prosecutors did not seek a new trial due to substantial evidence of Adam's innocence. Subject of the movie, *The Thin Blue Line.*

Jesse Keith Brown,* South Carolina; conviction: 1983. The conviction was reversed twice by the state Supreme Court. At the third trial, Brown was acquitted of the capital charge but convicted of related robbery charges.

Robert Cox, Florida; conviction: 1988. Released by a unanimous decision of the Florida Supreme Court on the basis of insufficient evidence.

Timothy Hennis, North Carolina; conviction: 1986. Convicted of three counts of murder and sentenced to death. The State Supreme Court granted a retrial because of the use of inflammatory evidence. At the retrial, Hennis was acquitted.

James Richardson, Florida; conviction: 1968. Released after reexamination of the case by prosecutor Janet Reno, who concluded Richardson was innocent.

[1]The principal sources for this information are news articles, M. Radelet, H. Bedau, & C. Putnam, In Spite of Innocence (1992), H. Bedau & M. Radelet, Miscarriages of Justice in Potentially Capital Cases, 40 Stanford L. Rev. 21 (1987), and the files of the National Coalition to Abolish the Death Penalty.

1990: Clarence Brandley, Texas; conviction: 1980. Awarded a new trial when evidence showed prosecutorial suppression of exculpatory evidence and perjury by prosecution witnesses. All charges were dropped. Brandley is the subject of the book *White Lies* by Nick Davies.

Patrick Croy, California; conviction: 1979. Conviction overturned by state Supreme Court because of improper jury instructions. Acquitted at retrial after arguing self-defense.

John C. Skelton, Texas; conviction: 1982. Convicted of killing a man by exploding dynamite in his pickup truck. The conviction was overturned by the Texas Court of Criminal Appeals due to insufficient evidence.

1991: Gary Nelson, Georgia; conviction: 1980. Nelson was released after a review of the prosecutor's files revealed that material information had been improperly withheld from the defense. The district attorney acknowledged: "There is no material element of the state's case in the original trial which has not subsequently been determined to be impeached or contradicted."

Bradley P. Scott, Florida; conviction: 1988. Convicted of murder ten years after the crime. On appeal, he was released by the Florida Supreme Court because of insufficiency of the evidence.

1993: Kirk Bloodsworth, Maryland; conviction: 1984. Convicted and sentenced to death for the rape and murder of a young girl. Bloodsworth was granted a new trial and given a life sentence. He was released after subsequent DNA testing confirmed his innocence.

Federico M. Macias, Texas; conviction: 1984. Convicted of murder, Macias was granted a federal writ of habeas corpus because of ineffective assistance of counsel and possible innocence. A grand jury refused to reindict because of lack of evidence.

Walter McMillian, Alabama; conviction: 1988. McMillian's conviction was overturned by the Alabama Court of Criminal Appeals and he was freed after three witnesses recanted their testimony and prosecutors agreed case had been mishandled.

Gregory R. Wilhoit, Oklahoma; conviction: 1987. Wilhoit was convicted of killing his estranged wife while she slept. He was acquitted at a retrial after 11 forensic experts testified that a bite mark found on his dead wife did not belong to him.

Mr. LEVIN. Mr. President, that last point, pressure to prosecute, is well reflected in the case of Kirk Bloodsworth. This is a very recent example of a mistaken conviction of a capital offense. Kirk Bloodsworth was convicted of first-degree murder twice. The first time he was sentenced to death. The second time he was sentenced to life in prison. He was convicted of the rape and the murder of a young girl. It was a horrendous crime.

He was innocent. This was later proven, and I am going to get into that in a moment. Had he been executed instead of being given a life term for the murder of which he was convicted, the mistake that I will read about in a moment could not have been corrected.

That mistake was set forth in a CBS TV program called "Eye to Eye with Connie Chung." The name of the program was "A Free Man." It was aired on October 28, just a few weeks ago. These are some of the excerpts from this TV program.

The reporter said that:

It was the summer of 1984 in Baltimore County, Maryland. A 9-year-old girl, Dawn Hamilton, was tortured, sodomized and murdered in the woods near her home. It was one of the most horrifying crimes ever committed in the area. There was tremendous pressure to solve the case. Sixteen days and hundreds of possible suspects later, the police closed in on one 23-year-old Kirk Bloodsworth.

And the reporter then said that Robert Lazzaro was the lead prosecutor of the case, and Mr. Lazzaro is interviewed here a number of times in this transcript.

LAZZARO. We didn't have a confession. We didn't have any physical evidence.

MAGNUS. What the State did was to have two witnesses putting Bloodsworth near the murder scene, two boys ages 10 and 7. They were fishing when they saw a man walk with Dawn——

That is the little girl.

into the woods shortly before she was murdered.

LAZZARO. The crux of the case really was putting him at the scene with the girl, the two young boys.

MAGNUS. And they pegged him at 6 foot 5 and Kirk was only about 6 feet.

LAZZARO. Well, that's not unusual.

MAGNUS. They said he had blond hair. Kirk had red hair. I mean they weren't necessarily describing Kirk Bloodsworth.

LAZZARO. I understand that. But the bottom line is that they selected him independently of each other, as absolutely being the one, the person that they saw.

Lazzaro said:

Yes, I was absolutely convinced that he did it.

MAGNUS. It fit for the jury. They took only 2 hours to find Bloodsworth guilty of Dawn Hamilton's murder.

And then Bloodsworth speaking:

I was standing there. And the judge sentenced me to death for something I didn't do. And here I am and the people are applauding. I was alone. I was labeled something that's not even close to me as a person and a human being.

MAGNUS. Bloodsworth was sent to the Maryland State Penitentiary for 2 years and spent 23 hours a day in a cell just above the gas chamber.

Magnus: What Bloodsworth didn't know was that three days after his conviction, the police and prosecutors learned about a compelling possible suspect. Someone who, just after Dawn's murder, had shown up at a nearby mental health clinic * * * with, according to one witness, fresh scratches on his face. Someone who told a therapist he was in trouble with a little girl. Someone who looked like the composite. But with Bloodsworth behind bars * * * the police seemed in no rush to check out the tip.

The Baltimore County Police refused to talk to me eye to eye about the case. But we obtained the detectives' report on their only meeting with the potential suspect—David Rehill. They wrote that although he resembled the composite, Rehill was smaller than the man the little boys described. They never checked his alibi; never put him in a line-up.

What do you say to the criticism that the system closed in on one guy, with some evidence, and that everybody just stopped looking at other things that didn't fit.

Lazzaro: I would say that unfortunately that is not all that rare of an occurrence in our criminal justice system.

Since those are the words of the detective in charge of the case, I am going to repeat them.

They ought to give us a little pause.

Lazzaro: I would say that unfortunately that is not all that rare of an occurrence in our criminal justice system.

Magnus: After two years under a death sentence, Bloodsworth finally seemed to catch a break. He got a new trial on a legal technicality * * * not because of the possible suspect. In fact, although the state had known about Rehill for two years, the information was withheld from the defense until just days before the second trial. Bloodsworth's lawyers didn't have time to investigate and didn't ask for a postponement, so the second jury never heard about this potential suspect. Bloodsworth was convicted again. When evidence about Rehill finally did get to the court, it was too late. Bloodsworth was sentenced to life.

Magnus: Kirk Bloodsworth would be in prison today were it not for his persistence and the help of a lawyer of last resort. In 1989, his fifth year in prison, Bloodsworth met Bob Morin.

Morin: I walked out of the prison. And I said—this is a little scary. This kid is innocent.

Magnus: But how to prove it? Morin reinvestigated and rechecked everything. Three more years went by. It looked hopeless. And then Bloodsworth heard about sophisticated new DNA tests that weren't available when he was on trial.

Magnus: A private lab analyzed the tiny semen sample. In April of this year the result came back. Bloodsworth was completely eliminated as the source of the semen. Morin called him with the news.

Magnus: On June 28, almost 9 years after he was locked up, Kirk Bloodsworth's conviction was set aside. He was free at last.

What this story seems to indicate is that it is eerily easy with a weak case to convict an innocent man.

Lazzaro: Yes. In retrospect, it is.

Let me repeat that.

Magnus: What this story seems to indicate is that it is eerily easy with a weak case to convict an innocent man.

Lazzaro: Yes. In retrospect, it is.

Not only is it possible in retrospect, it is possible prospectively too because our system of justice is fallible, because we, as human beings, are fallible.

Some proponents of the death penalty might have just heard what I read and said, well, that is terrible and tragic, but mistakes are made. Mistakes, they might say, are a cost of doing business. When trying to operate a criminal justice system in which some very bad people must be punished very harshly, I can respect that response as a response in the abstract. But I do question whether those who offer that response would make it confidently at all if Kirk Bloodsworth were not a figure in a TV program, but also their father or their brother or their uncle.

I have to believe that if they thought a member of their family was innocent, but was nevertheless sentenced to death, they would question how a justice system worthy of that name could

presume the infallibility to impose a penalty with the finality of death. I find it hard to believe that rhetoric would be as demanding or as loudly uncompromising if they thought that a member of their own family risked being executed, even though innocent, by the Government. Would a mistake then just be a cost of doing business?

Some people say, well, what about a case that absolutely—I mean how about somebody who pleads guilty to murder? I mean, you cannot make a mistake if somebody pleads guilty to murder, can you? Oh, yes, you can. You can make a mistake even then. Recently, too.

The Commonwealth of Virginia versus David Vasquez. Vasquez pled guilty to murder. Vasquez was innocent, acknowledged later by the Commonwealth to be innocent and released after serving many years in prison.

The transcript of his plea of guilty is a fascinating document. I am going to read just a portion of it.

He entered a plea of guilty with a fixed term because he was afraid that he would be found guilty and sentenced to death and did not want to take that risk. In this case, the death penalty promoted the false plea. That is one interesting part of it. That is one impact of the death penalty which is not often discussed.

But what is even more intriguing about this plea of guilty is what the officers in charge of this case testified to at the time of the taking of the plea.

Mind you, they are talking about somebody who, by the acknowledgment of the Commonwealth of Virginia recently, is totally innocent of this crime. Somebody else committed the crime. But here is what the detective in charge said at the plea of guilty, if we want to talk about fallibility and worse. Listen to this one.

The detective: Eventually he told us about a dream that he had where he described this horrible dream. Based on the information that he gave us about those dreams it lined up exactly with the murder based on the information that we had.

Question: Now, Detective Shelton, in the course of your investigation of this case, have you had occasion to consult with any physicians about the medical significance of these dreams and their contents?

Answer: Yes.

Question: What did you learn from these physicians?

Answer: That the dreams are a way to repress a crime, explain away a criminal intent, and that is a very common way of repressing this memory.

Question: OK. During the course of your discussions with him about his dreams, did he reveal to you a number of facts concerning their content?

Answer: Yes. There were facts that came up in his dream that no one on the outside knew.

Question: Would you outline very briefly, Detective Shelton, what he stated?

Answer: Yes. One of the things he talked about was the victim's hands, and he described how he put her down and in his dreams he put her down. In fact her body was found in that position. He indicated at one point prior to her hands being tied that she was assaulted in the middle of the living room. He indicated to us that after the break in he went to the living room. That was confirmed by the position of the rope and the pubic hairs found on the rope.

Question: The position of the rope was discussed. Is that correct?

Answer: Exactly. The rope was discussed in terms of the rope lying in the middle of the living room floor. He indicated that when he came in through the window, he stepped on a hose that extended to the dryer. There are also many things discussed that were not known to anyone but us. For instance he made reference to jewelry and where it was left and that information was known only to us. He also indicated that in his dream that there were also two or three Venetian blind cords cut. That information was also known only to us.

Question: Were there three Venetian blind cords cut?

Answer: Yes.

Question: What else did he tell you with respect to rope?

Answer: He also told us in his dreams that he took the cord and wrapped the victim's hands 10 times, and that was exactly how many times her hands had been wrapped. He told us that in his dream he stood there in front of the house for several minutes prior to banging on the window. This turned out to be a fact from the information given to us.

Question: What did he indicate with respect to the purse?

Answer: He indicated that he discovered the purse at the top of the steps and he indicated to us that in his dream he emptied it out, and it was already known to us that the purse had in fact been emptied out at the top of the steps. Finally, he indicated to us that he saw something in his dream on the kitchen table. He stated what he saw was a camera. Again, this information was only available to the authorities.

That is the testimony of the detectives introduced at the time of the plea of guilty of a man who was innocent at the time he pled guilty. That was the testimony which helped persuade a court to accept a plea of guilty. That is the testimony which could not have been accurate, and was not accurate.

Yes, even people who are entering a plea of guilty can be innocent of the offense. That was a plea to murder.

This amendment which I offer on behalf of a number of our colleagues and myself recognizes our own fallibility. It imposes a harsh penalty, yet allows the criminal justice system to correct for its mistakes.

Finally, a few words on deterrence and the death penalty. Some of the people who would be subject to the death penalty under this bill face a much greater chance of death from involvement in a drug deal or a terrorist act than an imposition of the death penalty. If a greater certainty of death does not deter, how will a lesser certainty have that effect?

Second, what statistical evidence there is indicates that the death penalty does not deter on a statewide basis. As this chart indicates, the States that have a death penalty have a higher murder rate than the States where life imprison is the most severe penalty that can be imposed.

In 1990, the murder rates in the States with a death penalty was 9.5. In the States without a death penalty it was 8.4. In 1992, the murder rate in the States with a death penalty had remained at 9.5. The murder rate in States without the death penalty actually declined somewhat to 7.9. But this pattern is the same as it has been for decades. The murder rate in States that have a death penalty is higher than the murder rate in the States that have life in prison as the harshest penalty that can be imposed.

Within the last couple of weeks, the district attorney in Texas, named Patrick Batchelor, raised some questions on a network news program about the deterrent value of the death penalty, as compared to life imprisonment without the possibility of release. And then we asked him if he would put his thoughts in a letter.

He wrote me the following:

Senator LEVIN, * * * I want you to understand that I firmly want the harshest punishment available to be handed out to the worst of criminals who commit these terrible murders. Having this belief and having prosecuted many capital murder cases where the death penalty was handed down, I inevitably have come to some conclusions concerning the death penalty as a punishment and as a deterrent to crime.

Then, skipping down, he said:

I feel that locking a person in a cage for the rest of his natural life with no hope of parole or ever getting out of that cage, would be a far more harsh punishment than simply putting him to sleep.

I ask unanimous consent that this letter from the district attorney of Navarro County, Patrick Batchelor, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 3, 1993.

Senator CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: I am writing in response to my conversation with Ms. Jackie Parker concerning my appearance in a report on capital punishment televised on the CBS Evening News a week or so ago. To clarify my position on capital punishment and the death penalty, I want you to understand that I firmly want the harshest punishment available to be handed out to the worst of criminals who commit these terrible murders. Having this belief and having prosecuted many capital murder cases where the death penalty was handed down, I inevitably have come to some conclusions concerning the death penalty as a punishment and as a deterrent to crime.

I personally feel that considering the procedure and method used presently to inflict the death penalty, it has become no different than checking into the hospital to have your appendix taken out and just not waking up from the anesthesia. I feel that locking a person in a cage for the rest of his natural life with no hope for parole or ever getting out of that cage, would be a far more harsh punishment than simply putting him to sleep.

69-059 O—97 Vol. 139 (Pt. 20) 37

As far as a deterrent to crime, I think most anyone looking at the crime statistics simply has to concede that the death penalty has not deterred capital murders. I say this full well knowing that there is no absolute way we can gage whether potential criminals consciously decide not to commit murder when they engage in criminal activities because of fear of the death penalty. I also can not say that a sentence of life without parole would deter capital murderers either, but I think it may be time to consider it.

If I can be of further assistance to you, please let me know.

Sincerely,

PATRICK C. BATCHELOR.

Mr. LEVIN. Mr. President, the amendment we offer imposes a very harsh penalty: Life imprisonment without the possibility of release. It imposes it for the very awful crimes that are described in the bill before us, but it does not run the risk of adding to those human tragedies where we have executed by mistake innocent persons. Until our system of justice is infallible—and it is far from that—our system will make mistakes. A death penalty mistakenly inflicted cannot be cured, unlike other mistakes in our justice system.

Life without the possibility of release, in the words of District Attorney Batchelor, is a "far more harsh punishment than simply putting a defendant to sleep." It also has the advantage of allowing our mistakes to be corrected.

I yield the floor.

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. The Senator from Utah controls 30 minutes. The Senator from Michigan controls 9 minutes 27 seconds.

Mr. BIDEN. Mr. President, last week I introduced an amendment to reauthorize the Court Appointed Special Advocate Programs, the Child Abuse Training Programs for Judicial Personnel and Practitioners, and the grants for televised testimony under the Victims of Child Abuse Act, a measure on which I worked with Senator REID to pass as part of the Crime Control Act of 1990. I commend both Senator REID and Senator HATCH for cosponsoring this measure.

In the past, children who were victims of abuse were often victimized a second time by our criminal justice system. The Victims of Child Abuse Act supported programs to reduce the trauma of child victims.

Through the Court-Appointed Special Advocate Program, children are assured that their interests will be adequately represented. Advocates provide for the immediate reporting of abuse, facilitate the prompt review of cases, and make recommendations for the child's best interests.

Through the Child Abuse Training Program, judicial personnel and practitioners are trained to improve the system's handling of child abuse cases. One of the main objectives is to avoid the unnecessary placement of children in foster care or institutional care.

Finally, through televised testimony, children are given a voice. Closed circuit televising and the video taping of testimony alleviate the terror that has, in the past, silenced too many of our children when forced to face their assailants in court.

These programs have gone a long way in making the system of justice more sensitive to children's needs. I am honored to have played a role in their development.

Mr. HATCH. Mr. President, I oppose the amendment offered by my colleague from Michigan. This amendment would require that capital defendants be given a sentence of mandatory life rather than a possible death sentence. It is intended to abolish capital punishment in the Federal system.

Mr. President, the proponents of this provision imply that this bill creates a Federal death penalty where none had existed before. This is not the case. There has always been a Federal death penalty. What we have lacked since the 1972 Supreme Court decision in Furman versus Georgia, is the constitutional procedures to allow the death penalties already on the books to be constitutionally imposed and carried out.

This bill puts in place the necessary procedures for 47 separate statutory offenses. These offenses all require murder to occur with the exception of cases involving treason, espionage, and attempted assassination.

I respect those of my colleagues who oppose the death penalty. But the people of America have spoken on the question of the death penalty. Although the death penalty statutes of 37 States were invalidated in 1972 as a result of the Supreme Court's decision in Furman versus Georgia, in the years that have followed 40 State legislatures have voted to adopt the death penalty. Today, 36 States have the death penalty on the books. The overwhelming margins by which the death penalties have been adopted by referendum in States like California and Illinois are also testament to the Nation's sense that this ultimate form of punishment is needed in appropriate cases.

The death penalty can be justified on several basis. First, there is retribution. Retribution embodies society's view that the most serious of crimes warrant the most severe punishment. That is also my personal view. Although I would personally use the death penalty in limited cases—and our bill prevents unfettered imposition of the death penalty—there are some crimes so brutal, so depraved, and unconscionable that justice dictates imposition of the death penalty. Some will assert that retribution should play no role in our system of justice. In response, I would note that the role of retribution in justifying the death penalty has been recognized by the Supreme Court in *Gregg* v. *Georgia*, 428 U.S. 153, 183 (1976).

Another justification for the death penalty is its deterrent value, both as a general deterrent and specific deterrent. No one can question its effectiveness as a specific deterrent. Murderers who are executed will clearly never kill again. Yet, there are convicted murderers who were not sentenced to death who have, either in prison or out on the streets, killed again. Had these murderers been given the death penalty, it is an undeniable fact that their second victims would still be alive.

The death penalty is also a general deterrent to crime. For some offenses this is undeniable. Consider treason, espionage, murder for hire—it is clear that the likelihood of such a crime being committed will be significantly diminished if the potential punishment includes the death penalty. This is a price some criminals will not want to risk. Finally, I believe the mere existence of the death penalty deters the commission of capital crimes generally. By associating the penalty with the crimes for which it is inflicted, society is made more aware of the horror of those crimes, and there is instilled in the citizens a need to avoid such conduct and appropriately punish those who do not.

Mr. President, more attention is given to the establishment of truth in death penalty cases than ever before. Most death penalty cases involve no claim of innocence on the part of the criminal—many confess their criminal actions and never withdraw or dispute their confession. Take, for example, the just completed trail in Virginia of Lonnie Weeks, who fatally shot Virginia State Trooper Jose Cavazos. He does not deny his guilt. In fact, he confessed to the murder and took the stand at his own sentencing and admitted guilt. His defense strategy, as in so many other cases, was to avoid imposition of the death penalty. Would those who say they oppose the death penalty because of the possibility of error, not oppose the death penalty in those cases where the defendant admits to the crimes? I doubt it.

Further, no one should be misled by the claims that the death penalty is carried out on innocent persons. I want to be abundantly clear that I do not condone the execution of an innocent person. Nor would I defend a system that does not provide appropriate safeguards against such an execution—safeguards aimed at freeing the innocent, not ending the death penalty for the guilty. It is claimed by death penalty opponents that 23 innocent people were executed in the United States. This is not true. Utah law professor and former Assistant U.S. Attorney Paul Cassell conclusively demonstrated at a recent Judiciary Committee hearing that no alleged instance of an alleged innocent person being executed has ever been proved. Mr. Cassell and former U.S. Attorney Stephen Markman authored the leading

study in this area which refutes each alleged instance of mistaken execution.

For example, take the often cited example of Joe Hill, the celebrated union organizer who, it is alleged, was wrongly executed by the State of Utah. Whatever his accomplishments as a union organizer, he was eventually convicted of a sordid murder that was not motivated by any high purpose whatsoever. He robbed a grocery store on West Temple Street in Salt Lake City, leaving the store owner and his son dead. For that reason, and no other, he was tried, convicted of murder, sentenced to death and executed.

Death penalty opponents have asserted that Joe Hill was innocent and wrongfully executed. What is the authority for this assertion? The principal source they cite to establish Hill's innocence is a book by Wallace Stegner entitled "Joe Hill: A Biographical Novel." Mr. Stegner is an author who I respect, but he is a novelist, not a historian. Even Mr. Stegner admits this in the forward of his book. He writes that the book "is fiction, with fiction's prerogatives and none of history's limiting obligations. Joe Hill, as he appears here—is an act of the imagination." This is what social scientists opposed to the death penalty cite as research? A novel.

Others will argue that the risk of executing an innocent person have been increased as a result of the Supreme Court's 1993 decision in the case of *Herrera* v. *Collins*, 113 S. Ct. 853 (1993). I want to remind my colleagues that the evidence in the Herrera case was overwhelming. Mr. Herrera is not an innocent man under the law. He was found guilty beyond a reasonable doubt and convicted of murdering a Texas police officer. As Justice O'Connor noted in her concurrence, "not even the dissent expresses a belief that [Herrera] might possibly be innocent." [113 S.Ct. at 871]. The case against Herrera included a deathbed declaration by his victim identifying him as the killer; a lengthy handwritten letter found on Herrera's person at the time of his arrest in which he stated that he was "terribly sorry" for crimes "that brought grief to the lives" of his victims. He even pled guilty to the murder of a second police officer.

The underlying issue before the Court in Herrera was whether the current capital sentencing schemes of the States have a sufficient array of safeguards to prevent the execution of an innocent person. The Court correctly recognized that they do. Furthermore, the Court in Herrera did leave the door open for consideration of future cases where the evidence of innocence is great and the State fails to provide a process for considering such claims after a person has been convicted.

Before I yield the floor, I want to discuss a few specific cases where the death penalty is clearly warranted. For every misleading case cited by death penalty opponents, like the Hill or Herrera cases, there are numerous undisputed cases of depraved, heartless murders which warrant imposition of the death penalty. I believe a discussion of a few examples will demonstrate to those of my colleagues who oppose the death penalty why I, and a majority of Americans, support capital punishment.

In Ogden, UT, Pierre Selby and William Andrews robbed a hi-fi shop and in the course of their armed robbery, forced five bound victims—three of whom were teenagers—to drink cups of poisonous liquid drain cleaner. Selby also tried to force Orrin Walker, the father of one of the teenagers, to pour the drain cleaner down his own son's throat. When Walker refused, Selby attempted to strangle him to death with an electrical cord and then repeatedly kicked a ballpoint pen deep into his ear. Selby then proceeded to shoot each one of his victims in the head. Both Selby and Andrews were convicted for their crimes and received the death penalty.

In Illinois, there is the case of Henry Brisbon, the I-57 murderer. He was let off death row on a technicality. Then he turned around and murdered a prison guard. That was after having kidnapped, tortured and murdered numerous women on I-57 in Illinois.

The case of Hernando Williams who kidnapped a woman teacher off the streets of Chicago. He drove around with her in the trunk of his car for 3 days. He drove to his bail hearing for an unrelated rape charge with the still live body of his victim pounding on the inside of his car trunk. Then after forcing her to call home to say goodbye forever to her husband and children, he murdered her in cold blood.

Finally, the case of Robert Alton Harris should be mentioned. We must not forget the heinous crime Harris committed. On July 5, 1978, just 6 months after he completed a 2½ year prison term for beating a man to death, Harris decided to rob a bank in San Diego. Looking first for a getaway car, he spotted two teenage boys parked at a fast-food restaurant. Harris forced the youths at gunpoint to drive to a nearby reservoir, where he shot and killed them as they begged God to save them. Later, he ate their unfinished hamburgers.

I ask all of my colleagues, what kind of punishment is fitting for these crimes? I respect the beliefs of those who oppose capital punishment but I must admit that it is difficult for me to understand how anybody could oppose capital punishment in these cases.

These cases truly provide examples of individuals who should face imposition of the death penalty. Under current Federal law, were the Federal Government to have jurisdiction over the underlying offense, the death penalty could not even be considered.

In closing, this amendment would prohibit juries from even considering the death penalty for the types of crimes I outlined above. Instead, it would provide for a mandatory life sentence. The law abiding citizens of this Nation demand action on Federal death penalty legislation, not life imprisonment legislation. They deserve to have a death penalty which will deter violent action against them and will provide swift, appropriate punishment for individuals who choose to commit heinous crimes.

For these reasons, I oppose this amendment.

Mr. HATCH. We are prepared to yield the remainder of our time.

The PRESIDING OFFICER. The Senator from Utah has indicated a willingness to yield back the remaining time of the 29 minutes 40 seconds.

Mr. LEVIN. Mr. President, I know of no one coming to the floor at this time that wants to speak on the issue. In the absence of such folks, I will yield the remainder of my time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back.

The vote on the Levin amendment will occur immediately after the vote on the Smith amendment tomorrow, November 17.

Mr. HATCH. I ask the chair how many votes are lined up now starting at 9:30?

The *PRESIDING OFFICER*. Including the amendment that was just ordered, there will be total of 7 votes tomorrow morning.

Mr. HATCH. If my understanding is correct, this completes the work on the crime bill, subject to those statements in the morning and those particular amendments.

Mr. BIDEN. Mr. President, I think there is one potential outstanding amendment that remains.

Mr. HATCH. Other than Senator DOLE's amendment. Is that correct?

The PRESIDING OFFICER. Under the unanimous-consent agreement, the only amendment which is available to be offered is an amendment by Senator DOLE.

Mr. HATCH. And as I understand it, the manager's package.

Mr. BIDEN. Yes. Is that correct, Mr. President?

The *PRESIDING OFFICER*. Yes; that is correct.

RAPID DEVELOPMENT FORCE AMENDMENT

Mr. LIEBERMAN. Mr. President, it is time for us to recognize that the Federal Government must send more than money to our State and local officials to help them fight crime. Our State

and local police are simply overwhelmed. Criminals have the upper hand in too many cities, neighborhoods and communities across the country. The recent appeal by the Mayor of our Nation's Capital to send the National Guard, as well as the actual deployment of the Guard in Puerto Rico, are evidence enough of the extent to which local officials are desperate for Federal action.

Last week, the Senate adopted my amendment to provide the President with the authority to respond to such calls for help from local officials by declaring areas that have been particularly hard-hit by crime as violent crime and drug emergency areas. The President, with the assistance of the Attorney General, will be able to direct agencies to respond with personnel, equipment, technical, financial, managerial and other assistance, much as he is able to respond to natural disasters. I am very appreciative of the support I received from the chairman and ranking member of the committee on the amendment. I had hoped to offer a supplemental amendment that would have provided the President with a powerful additional tool with which to lead that response. Given the large number of proposed amendments to the bill and the justifiably set time agreement, my amendment has been withheld. However I am encouraged by my colleagues' interest in this issue and would like to especially thank my colleague from Massachusetts, Senator JOHN KERRY, who planned to cosponsor the amendment. Because I hope to offer the amendment at a later date, I wanted to take this opportunity to review it with my colleagues.

The amendment would have authorized the creation of a Federal rapid deployment force of 2,500 highly trained, equipped, and motivated crime fighters that would be specially designed to restore order and assist local police on a temporary basis to combat crime and violence. The rapid deployment force is a cavalry of sorts that could be dispatched, under the direction of the Attorney General, into any community in the country at the request of local authorities to provide for short-term backup for the local police force when it is confronted with a crime emergency. The unit is intended not only to assist in investigations, arrests, and prosecutions, but to participate in the patrolling of particularly hard-hit areas. The members of the unit could be drawn from existing Federal law enforcement agencies such as FBI, DEA, BATF, and the Marshals Service.

In order to ensure that this assistance is not misdirected or misused, State and local law enforcement officials would have to demonstrate that their existing resources are being organized and coordinated as effectively as possible. Local communities would be required to submit plans demonstrating the localities will take the necessary steps to prevent a rebound in the crime levels following departure of the rapid deployment force. Through these provisions, the force can be used to leverage improvements in local law enforcement.

The deployment force is designed to help a locality restore order and buy it time to organize and beef up its own anticrime and antivolence efforts. The deployments of the force will be for limited duration to allow regrouping of local efforts. Deployment force members will be experience and highly trained, ready not only to back up local police but also to train them in the latest techniques of combating drug crime, gangs, and juvenile violence. This training role would be particularly helpful to the small and midsized cities that do not yet have sophisticated forces and are now being hit for the first time by a tidal wave of violence and crime they are not fully equipped to handle.

The case for this special unit is reinforced by recent events in my own State. Facing a particularly violent rash of gang activity in Hartford, city government and law enforcement officials launched Operation Liberty—an aggressive State and local effort to reduce violence in a number of targeted neighborhoods throughout the city. In an attempt to supplement and bolster local law enforcement efforts in dealing with this emergency, the State has provided additional police officers and other forms of tactical support sorely needed in certain areas of the city.

As a result of these coordinated efforts, citizens in affected areas are regaining a sense of security that was stripped from them by these gangs. Hartford Police Department's statistics reveal that during the first 35 days of Operation Liberty crimes against persons went down 51 percent and 38 percent in the two communities that were the focus of the patrols, as compared to the 5 weeks prior to the operation. Reported incidents involving firearms went down 64.8 percent and 61.8 percent in those two communities and 40 percent across the city.

While there will be critics of this admittedly strong medicine I am prescribing, the history of the Federal Government's role in law enforcement has been one of responding to constantly changing local needs, not—as some suggested in explaining their concerns about my amendment—a static division of authority between Federal authorities and State or local authorities. A review of the history of American law enforcement reveals what I mean.

The American law enforcement system, much like so much else in the new republic, was modeled on the system of local law enforcement in England at the time of our independence. England's system was entirely local, with a constabulary drawn from local communities and controlled by local communities. America adopted that approach at the time it was founded. With the passage of the U.S. Constitution, a system of Federal courts and U.S. attorneys evolved for the enforcement of Federal laws. But this was a modest initial step.

Meanwhile, the pressures of industrialization and the Foreclosure Acts, which blocked access to agricultural lands, created a large, poor underclass in England with an exploding level of violence and crime. Sir Robert Peel, twice England's Prime Minister in the first half of the 19th century, saw, while serving as Home Secretary in 1829, the need for a national effort to combat what was increasingly a national problem, and so he invented Scotland Yard and the first modern police force, nicknamed the "Bobbies" from Peel's name. These new institutions evolved into a central, national force to combat crime.

America missed this step in England's movement toward national law enforcement, and the experience here with industrialization was far less painful. With a vast area to farm and occupy, and a corresponding expanding economy, America avoided England's problems of crime and violence for most of the 19th century. However, violence and crime in the Nation's huge frontier areas called for national law enforcement, with the cavalry and U.S. marshals playing a central role.

The first major step in national law enforcement in the United States came with the end of the Civil War and the early civil rights laws. To enforce these laws, the Federal Government found it necessary to establish a centralized law enforcement system dealing with what had previously been considered local issues, including voting rights, civil rights, and related violence over enforcement of these laws. The Federal Government at the time asserted the authority to establish national law enforcement and there was major growth in the Justice Department, shifting it toward a national law enforcement body. This effort was in direct response to a local problem.

With the Hayes-Tilden election and the withdrawal of Federal troops from the South, national law enforcement efforts were put on hold. However, with the post-World War I prohibition laws and the corresponding growth in organized crime, the Federal Government again asserted, in response to local needs, a national law enforcement role. The FBI was organized and expanded to combat these problems. It also took on a role fighting interstate crimes, such as bank robbery and kidnapping, that locally organized law enforcement officials could not handle.

Since this post-World War I period, the growth of national law enforcement has been steady. The Federal

Government is now deeply involved in combating drug traffic, organized crime, and the myriad of Federal crimes that come out of these areas. The FBI, DEA, AFT, and U.S. attorneys' offices are now elements in a long-established national crime effort, run centrally by the Federal Government but in cooperation with local officials.

The issue before us is not whether there is going to be a national law enforcement effort; there are many precedents for it and major elements have long been in place. The Federal Government has played an increasing role in supporting local efforts and has long been available in criminal areas for back-up and support. The Federal response to crime has always been pragmatic and flexible; one of the Nation's law enforcement strengths has been that we have avoided becoming locked into rhetoric over local or Federal control but instead have cooperated to meet local needs as they came up. The very effective Federal-State-local crime task forces continue that tradition today in numerous American cities. The amendment I would have proposed simply would have continued this ongoing historical process by making a Federal backup force available to help with local law enforcement.

More and more crime today involves drugs and weapons that are transported over State lines. Gangs are increasingly national in scope. There is substantial historical precedent for Federal action when local law enforcement needs to call on its broad Federal authority over law enforcement to help meet local needs and local crises where local officials are overwhelmed.

I note that there is very substantial protection under this proposed amendment for local law enforcement jurisdiction. First, the rapid deployment force can be used only if the chief executives of both State and local governments requested it. Second, the force would be deputized into the local enforcement agency. Third, the force would serve under overall local control, subject to a detailed command and operational deployment agreement acceptable to both State and Federal authorities. So the amendment carefully protects local law enforcement prerogatives and authority.

Mr. President, I believe that the provisions of this amendment must be enacted into law in the future if we are to send an effective signal to lawbreakers that we take their crimes seriously and are willing to fight back. The infusion of added manpower and other logistical assistance into a crime-plagued region, quickly bolsters the limited scope of local police, giving the law enforcers the force they need to use against lawbreakers. We need to adopt what we have learned from our military forces—that nothing short of overwhelming force should be brought to bear in a battle against an enemy. That concept worked in the gulf war, and it can work in our streets if we commit ourselves to devoting the resources necessary to get the job done right.

I recognize that this amendment would have called for a significant investment of Federal resources. However, such funds as are necessary to implement this amendment could be drawn from the crime bill trust fund established by this act. We are creating in this bill some 100,000 new police positions for local communities. It seems to me that we could appropriately reserve a small percentage of these slots for a backup force which would be available as reinforcement to local law enforcement.

I believe this amendment would have been an important crime-fighting initiative. It's adoption would have gone a long way in helping to restore the public's trust and faith in government's ability to provide the security and protection to which they are entitled and deserve. I look forward to continuing the discussion concerning this amendment with my colleagues and to its inclusion in future crime control and prevention legislation.

I ask unanimous consent that the draft amendment be printed in the RECORD following my remarks.

There being no objection, the draft amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place insert the following:

Subtitle —Rapid Deployment Strike Force

SEC. _. ESTABLISHMENT.

(a) IN GENERAL.—The Attorney General shall establish in the Federal Bureau of Investigation a unit, to be known as the Rapid Deployment Force, which shall be made available to assist units of local government in combatting crime in accordance with this subtitle.

(b) ASSISTANT DIRECTOR.—The Rapid Deployment Force shall be headed by a Deputy Assistant Director of the Federal Bureau of Investigation (referred to as "Deputy Assistant Director").

(c) PERSONNEL.—

(1) IN GENERAL.—The Rapid Deployment Force shall be comprised of approximately 2,500 Federal law enforcement officers with training and experience in—

(A) investigation of violent crime, drug-related crime, criminal gangs, and juvenile delinquency; and

(B) community action to prevent crime.

(2) REPLACEMENT.—To the extent that the Rapid Deployment Force is staffed through the transfer of personnel from other entities in the Department of Justice or any other Federal agency, such personnel of that entity or agency shall be replaced through the hiring of additional law enforcement officers.

SEC. _. DEPLOYMENT.

(a) IN GENERAL.—On application of the Governor of a State and the chief executive officer of the affected local government or governments (or, in the case of the District of Columbia, the mayor) and upon finding that the occurrence of criminal activity in a particular jurisdiction is being exacerbated by the interstate flow of drugs, guns, and criminals, the Deputy Assistant Director may deploy on a temporary basis a unit of the Rapid Deployment Force of an appropriate number of law enforcement officers to the jurisdiction to assist State and local law enforcement agencies in the investigation of criminal activity. For the purposes of this subtitle, the term "State" shall be deemed to include the District of Columbia and any United States territory or possession.

(b) APPLICATION.—An application for assistance under this section shall—

(1) describe the nature of the crime problem that a local jurisdiction is experiencing;

(2) describe, in quantitative and qualitative terms, the State and local law enforcement forces that are available and will be made available to combat the crime problem;

(3) demonstrate that such State and local law enforcement forces have been organized and coordinated so as to make the most effective use of the resources that are available to them, and of the assistance of the Rapid Deployment Force, to combat crime;

(4) demonstrate a willingness to assist in providing temporary housing facilities for members of the Rapid Deployment Force;

(5) delineate opportunities for training and education of local law enforcement and community representatives in anticrime strategies by the Rapid Deployment Force;

(6) include a plan by which the local jurisdiction will prevent a rebound in the crime level following departure of the Rapid Deployment Force from the jurisdiction; and

(7) such other information as the Deputy Assistant Director may reasonably require.

(c) CONDITIONS OF DEPLOYMENT.—The Deputy Assistant Director, upon consultation with the Attorney General, may agree to deploy a unit of the Rapid Deployment Force to a State or local jurisdiction on such conditions as the Deputy Assistant Director considers to be appropriate, including a condition that more State or local law enforcement officers or other resources be committed to dealing with the crime problem. The unit shall serve under the overall control of the senior state or local law enforcement authority in the deployment area, pursuant to a clearly delineated command and operational deployment agreement reached prior to the deployment of the Deputy Assistant Director and such senior state or local authority.

(d) DEPUTIZATION.—Members of the Rapid Deployment Force who are deployed to a jurisdiction shall be deputized in accordance with State law so as to empower such officers to make arrests and participate in the prosecution of criminal offenses under State law.

SEC. —. LEAVE SYSTEM.

Notwithstanding the provisions of subchapter I of chapter 63 of title 5, United States Code, the Attorney General of the United States shall, after consultation with the Director of the Office of Personnel Management, establish, and administer an annual leave system applicable to the Federal law enforcement officers serving in the Rapid Deployment Force.

SEC. —. LOCATION OF UNITS AND FUNCTIONS WHEN NOT DEPLOYED.

(a) LOCATION.—Units of the Rapid Deployment Force shall be based in the nation's major regions at locations and in facilities determined by the Attorney General. Members of the Rapid Deployment Force shall receive training and education in the regional crime problems of the region where they are based. The Deputy Assistant Director whenever possible shall deploy units in the region where they are based.

(b) NON-DEPLOYMENT FUNCTIONS.—When not deployed pursuant to a deployment agreement to a locality, the Deputy Assistant Director shall use members of a unit to provide special training and education to local law enforcement agencies. To the extent Rapid Deployment Force units are not needed for deployment or training, members of such units shall be available to support ongoing regional Federal Bureau of Investigation efforts and programs, and, as appropriate, other federal law enforcement efforts, until required for deployment and training.

SEC. —. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Mr. DASCHLE. Mr. President, I am pleased to be a cosponsor of Senator DECONCINI's amendment to facilitate tribal government participation in the Cops on the Beat Program. This amendment will go a long way toward ensuring that tribal law enforcement agencies have the resources needed to address the serious crime problems facing our reservations today. As such, it is a significant addition to the crime bill.

This amendment enhances an already strong crime fighting tool. The Cops on the Beat Program is an innovative means to restore safety and a sense of security to our streets, and I commend the administration for its commitment to community-oriented policing. This concept holds special potential for Indian communities. Community policing is an idea that, given the chance, should flourish and would have a notable effect on the crime rate on Indian reservations. This amendment will help ensure that tribes have an opportunity to participate fully in this program.

The amendment will do four things. First, it will ensure that funding received by tribes under the Cops on the Beat Program does not in any way supplant or jeopardize funding received from the Bureau of Indian Affairs. Second, it will allow tribes to use federally appropriated money to satisfy the 25 percent non-federal funds requirement. This is important because tribes, like the District of Columbia—which is already covered under this provision—receive most of their law enforcement funding from Federal appropriations. Third, it will allow a tribe to submit grant proposals directly to the Attorney General, instead of submitting them first to the State. This will allow tribes to bypass the ranking process that most grant applications must undergo at the State level. Finally, this amendment expresses the sense of the Senate that tribes should receive an appropriate amount of funds under the Cops on the Beat Program.

Mr. President, it is clear that crime is reaching into the farthest corners and pockets of our society like never before. One need only listen to the statements and the stories—and even the personal testimony—given on the Senate floor in the past 2 weeks to realize that crime is touching not only those in metropolitan areas, but residents of small towns and rural communities as well. We would be hard-pressed to find a person in America who is not touched in some way by the violence pervading our communities. This includes communities on our Nation's Indian reservations.

As a Senator who represents a number of Indian tribes, I am particularly sensitive to the need for additional law enforcement funding on reservations. I would like to briefly tell you about the law enforcement situation on one of South Dakota's reservations. The Pine Ridge Indian Reservation is located in the southwest corner of South Dakota. Pine Ridge is our Nation's second largest Indian reservation, covering an area of about 100 square miles. It has a population of over 20,000. It is also home to some of our Nation's poorest communities—it encompasses all of Shannon County, which has been listed as the poorest county in the United States in the last two national censuses. I am told that the unemployment rate on Pine Ridge is 60 to 70 percent or higher.

And yet, Pine Ridge's police force is only 100 persons strong. And this is not just police who are out on the street—it includes dispatchers, investigators, and others whose tasks are an integral part of the overall effort to combat crime. Pine Ridge is divided into nine districts, each of which has at least one community. As in so many other communities, the number of cops on the beat on Pine Ridge is not high enough. Our reservations, and Pine Ridge is only one example, are in direct need of more police on the street. The Cops on the Beat Program is an innovative attempt at addressing this need, and the community policing idea in general is one that promises to work well on reservations.

We are devoting serious effort and a significant amount of time to addressing the issue of crime. And that is as it should be. It is one of the most pressing issues facing our Nation today. The crime bill we are considering is a comprehensive and far-reaching effort to address this problem. As we debate its provision, we must ensure that no one is left out of our solution. Funding for tribal law enforcement is severely deficient, and adoption of this amendment constitutes a long-overdue step toward ensuring that the needs of tribal law enforcement agencies are not overlooked any longer. Indian communities should be given every appropriate chance to participate in this program. This amendment contributes to that objective.

Mrs. FEINSTEIN. Mr. President, I rise today as a member of the Senate Judiciary Committee to address the issue of habeas corpus reform and my strong conviction that no such reform should be effected by this Congress without complete public hearings on the matter. There is, I believe, strong bipartisan agreement on that point.

Abuse of the writ of habeas corpus—most egregiously by death-row inmates who file petition after groundless petition—has imposed substantial burdens on already overtaxed courts and delayed properly ordered executions in case after case.

I want to see true reform achieved in this area. There are legitimate questions, however, about whether title III of S. 1607 and Senator SPECTER's legislation, neither of which have been subject to public hearings, are the best vehicles to achieve such reform. I, and many other Senators, have concluded that they are not.

I did not come to that decision lightly. This is a highly complicated issue; one that puzzles many lawyers. And habeas reform is even more difficult for a non-lawyer, like me.

Legal experts from throughout the country, and particularly from my own State of California, object strenuously to the habeas corpus reform provision in this crime bill and in S. 1657. Rather than repair a system that is now abused, they tell me that the so-called reform efforts now before the Senate will only result in more baseless appeals and more delays.

The input of these experts, Democrat and Republican alike, has been very persuasive. Before detailing what they have had to say, let me take a minute to describe one case that figures prominently in this debate and which has impacted my views on the issue.

ROBERT ALTON HARRIS CASE

On July 5, 1978, Robert Alton Harris murdered two teenage boys near San Diego, CA. Following a jury trial, he received a death sentence on March 6, 1979. His conviction became final in October 1981. Yet, Harris was able to delay the enforcement of California's capital sentence until April 21, 1992—almost 14 years later.

Over that time, Harris filed no fewer than six Federal habeas petitions, and another 10 such petitions in State court. Five execution dates were set during the pendency of his case. In all, Harris and his attorneys engineered almost 14 years of unresolved grief for the survivors of his young victims.

Against this backdrop, one of the most persuasive arguments that I have heard for striking title III of this crime bill was made in a letter to me dated October 12 from Dan Lungren, attorney general of the State of California. He wrote:

[If] Title III were in effect at the time of the Harris case, my department would likely still be litigating this case in federal court!

As Mr. Lungren underscores, the Senate must approach this issue very carefully and, indeed, guarantee that true reform is achieved.

Let me now outline what senior law enforcement officials in my State and in every corner of the country have had

to say about the proposed habeas corpus reforms in the crime bill and in Senator SPECTER's independent legislation, S. 1657.

ATTORNEYS GENERAL OPPOSED

A majority of attorneys general in the ninth circuit—the court system with 25 percent more habeas corpus reforms than the next most burdened circuit—oppose title III of the omnibus crime bill.

The attorneys general of seven jurisdictions in the ninth circuit—of 11 total—support striking title III from this crime bill. Those seven regions are: Arizona, Alaska, my home State of California, Idaho, Montana, Nevada, and the Northern Mariana Islands.

They are joined in opposition to title III by 11 other attorneys general throughout the country in: Alabama, Colorado, Florida, Georgia, Nebraska, North Carolina, South Dakota, Texas, Utah, Virginia, and Wyoming.

In total, 18 State attorneys general agree that this Congress should strike the habeas corpus provisions of the crime bill now before the Senate.

In a joint and bipartisan letter of October 29, 1993, 14 of these attorneys general wrote:

Significantly, many of the provisions contained in * * * Title III have never been debated in the Congress * * *. The legislation would also overturn or modify key U.S. Supreme Court precedent which promotes finality in our criminal justice process, including the Teague doctrine, which is essential for capital and non-capital cases. In addition, concerns have been noted over the impact of the legislation on the deterrent objective of the death penalty. All of these consequences should be carefully studied before Congress embarks down this legislative path.

I ask unanimous consent that the joint letter from which I've quoted, and similar correspondence from individual attorneys general that I have received, be printed in the RECORD at the conclusion of my remarks.

Obviously, these chief law enforcement officials want reform, but they want real reform.

DISTRICT ATTORNEYS OPPOSED

In addition to the opinions of State attorneys general, I also sought and received the advice of district attorneys, chiefs of police, and sheriffs throughout California.

Virtually every one of California's 58 district attorneys—and a unanimous board of directors of the California District Attorneys Association—oppose the habeas provisions of S. 1607.

Let me quote from the Association's Resolution of October 26, 1993:

The California District Attorneys Association Board of Directors strongly supports any motions to strike the habeas corpus provisions from the omnibus crime bill. * * * The merits of any habeas reform bill should be considered independently of other crime reform issues. The habeas provisions contained in Title III of the omnibus crime bill should not delay consideration of other anti-crime measures.]

CHIEFS OF POLICE/SHERIFFS OPPOSED

California's district attorneys are in good company. The chiefs of police or sheriffs of 24 California cities and counties spread across the State also have written to me directly to share their conviction that title III should be deleted from the bill now before the Senate. They wrote on behalf of: Baldwin Park, Costa Mesa, El Monte, Foster City, Fullerton, Glendale, Glendora, Hawthorne, Huntington Beach, Irvine, Laguna Beach, Lassen County, Long Beach, Manhattan Beach, Marysville, Montebello, Monterey Park, Pomona, Sacramento, San Carlos, San Luis Obispo, Santa Ana, Santa Barbara, and Walnut Creek.

The reason for this deep and broad concern is clear: this so-called reform will actually create exceptions and loopholes that permit endless, protracted litigation.

Although drafted with the best of intentions and care by Chairman BIDEN and Senator SPECTER, there is serious and educated doubt that title III of S. 1607 will advance the current state of the law with regard to habeas corpus.

Let me highlight three specific problems with the reforms proposed in S. 1607.

First, there is currently a one bite of the apple rule for habeas corpus petitions, according to California's attorney general.

In order for a defendant to file a second petition based on a new evidence, for example, he or she must show cause as to why the claim was not previously raised and that prejudice resulted. Alternatively, the petitioner may demonstrate that there has been a miscarriage of justice—for instance, that he or she is factually innocent or factually ineligible for the death penalty.

Under title III, however, petitioners would for the first time, have been able to present evidence related to mitigating factors in sentencing that would not have been deemed relevant or admissible when they were first sentenced, such as whether they were exposed to fetal alcohol syndrome, or parental abuse.

Thus, while the claim is made that title III would preserve the one bite rule, it actually expands the exceptions to the rule in a manner that would have allowed prisoners to file habeas petition after successive habeas petition had it become law. The exceptions would, in effect, have swallowed the one bite rule.

Second, the proposed reforms will undermine an important doctrine in habeas cases articulated by the U.S. Supreme Court in Teague v. Lane and refined in subsequent cases.

Today, once a judgment becomes final, the Teague doctrine prevents Federal courts from applying new rules of law not in effect when the defendant was convicted except in very narrow and well-understood circumstances.

Title III, as written, would expand the opportunities to apply newly announced rules to reverse State death penalty convictions. This provision also could result in prolonged habeas appeals.

Although S. 1607 is said to incorporate the Teague ruling, I am advised that it actually opens wide the door for newly-announced decisions to be applied retroactively.

Third, title III sets specific standards for court-appointed attorneys who must be provided to convicted felons. These standards are so strict, in fact, that fewer than 1 in 400 of California's 125,000 lawyers would meet them. As a result, this reform sets States up for inevitable lawsuits based on their failure to comply with mandated counsel qualifications standards.

Moreover, at present, there is no constitutional right or entitlement to any minimum level of counsel performance in habeas proceedings. Can Congress simply create such standards out of whole cloth? This very question will invite complicated and protracted litigation over constitutional issues and standards.

Finally in this regard, in order to meet title III's counsel requirements, California—and many other States—will be forced to spend huge sums of money to train, monitor, and provide attorneys in capital cases. Although title III provides for grants to partially defray the significant increase in the cost of capital litigation that it mandates, States must come up with at least 25 percent of the funds needed in 1994, 1995, and 1996. What's worse, the States' share of such costs will at least double to 50 percent in 1997 and remain at that minimum level every year thereafter.

Although different in several respects from title III of S. 1607, Senator SPECTER'S legislation also is unlikely to reduce abuse of the Federal habeas process, according to the legal advisers that I have consulted. Let me make four key points.

First, eliminating the requirement that State prisoners must exhaust all State rights of appeal before filing a Federal habeas petition could shorten the habeas process incrementally. In so doing, however, Senator SPECTER'S proposal would radically reconfigure the traditional balance of State and Federal courts' respective responsibilities.

Second, by allowing successive habeas petitions in cases in which the Supreme Court establishes new fundamental constitutional rights, S. 1657 would invite protracted litigation over the meaning of those terms and undermine the all-important Teague doctrine. It would be necessary to litigate, for example, what rights are fundamental, and when the Supreme Court has established such a right—rather than merely discussed, proposed, clarified, or refined an existing one.

Third, S. 1657 would require Federal courts of appeals to review second and subsequent habeas petitions before such petitions may be filed in appropriate Federal district courts. Appellate courts could permit district courts to accept such a petition only if probable cause existed that the petition satisfied the limit on successive petitions detailed in title III of S. 1607 as now written.

Interposing this additional layer of review, it has been suggested, will unnecessarily burden already overtaxed courts of appeal. Moreover, it will require courts of appeals to engage in fact-finding—an activity ordinarily reserved for trial courts at the district level.

Fourth, and finally, S. 1657 imposes time limits on district courts for ruling on habeas petitions. While that time is short on its face, the loopholes left in the provision for delay could swallow the rule. The provision thus, I fear, will not accomplish its objective.

Clearly, I have strong technical objections to the habeas corpus provisions of S. 1607 and S. 1657, based on extensive consultation with law enforcement officials throughout California and the Nation.

Before concluding, however, I also want to stress that we also must not ignore the human cost of abuse of the habeas corpus process, particularly by death row inmates. Each time there is a new petition filed in such cases, the families of the victims of brutal crimes must relive the tragedy that put the petitioner behind bars often years before. Many organizations, formed to support the victims of violent crimes, have spoken out strongly against the habeas corpus reform contained in S. 1607. Let me name a number of them:

Citizens for Law and Order, Oakland.

California Correctional Peace Office Association, Sacramento.

Justice for Murder Victims, San Francisco.

Memory of Victims Everywhere, San Juan Capistrano.

Crime Victims United, Sacramento.

Victims and Friends United, Sacramento.

Leagues of Victims and Empathizes (LOVE), Tarpon Springs, FL.

VIGIL, Round Rock, TX.

Organized Victims of Violent Crime, Madison, TN.

The Joey Fournier Anti-Crime Committee, Boston.

Citizens for a Responsible Judiciary, Apopka, FL.

Survivors of Crime, Essex, VT.

Victims of Crime and Leniency, Montgomery, AL.

Survival, Inc., Saltillo, MS.

Citizens Against Violent Crime (CAVE), Charleston, SC.

Speak Cut for Stephanie Overland, KS.

Citizens for Truth in Punishment, Willis, TX.

Justice for Surviving Victims, Denver, CO.

Advocates for Survivor of Victims of Homicide, Walls, MS.

Clearly, then, there is a strong body of thought—among attorneys general, district attorneys, chiefs of police, sheriffs, and victims rights organizations—that the habeas corpus reforms contained in the crime bill and in S. 1657 present substantial and real impediments to the States, would not truncate successive habeas appeals, and would create substantial confusion and litigation.

By moving precipitously, and without benefit of further public hearings, the Senate risks unsettling hundreds of final judgments reached in criminal cases across the country. With 376 prisoners on death row in California, and 99 of the 105 pending ninth circuit habeas petitions in my State, that is simply not a risk that I am willing to take.

In conclusion, that is why I am grateful for my colleagues' unanimous consent to strike title III of the crime bill and urge them to oppose the pending legislation.

Mr. BIDEN. Mr. President, I thank everyone for their cooperation. I realize the hour is late. As the Senator from Utah has indicated, there is only one potential remaining amendment, the amendment of the Senator from Kansas, the Republican leader. Other than that, there is only final passage.

I thank everybody for their cooperation.

Mr. HATCH. Mr. President, I thank everybody for their cooperation. It has been an ordeal for everybody. But it also is turning out to be the finest anticrime bill in history. We hope we can complete it tomorrow.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

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

RECENT VIOLENCE IN KASHMIR

Mr. LEAHY. Mr. President, I want to speak today about recent events in the Indian State of Kashmir along the India-Pakistan border. Since 1989, Moslem separatists there have fought a bloody war for independence from the Hindu-dominated Indian Government. Since the Indian Government first sent troops to the area in an attempt to defeat the rebels and restore order, there have been persistent reports of widespread human rights violations by both sides.

In recent weeks, a serious conflict with possible international ramifications has developed in the city of Srinagar in Kashmir. Reports indicate that separatist leaders were demonstrating outside of the Hazratbal Mosque, the holiest mosque in Kashmir, when Government troops fired on them. More than 200 men, women, and children are trapped in the mosque with little food and few medical supplies.

The Indian Government says its troops originally surrounded the mosque to capture armed militants who were inside. The Government also says that it is attempting to negotiate a settlement and that the separatists in the mosque have threatened to blow it up if the Government forces do not leave. The Kashmiris say that the mosque is occupied by civilians who sought shelter on the way back from their pilgrimages. Some journalists in the area report that there are few, if any, militants inside.

Demonstrations against the Government siege have also turned bloody. When people in the nearby town of Bijbehara organized a march to the mosque to protest the Government's actions, Indian troops reportedly attacked them, firing indiscriminately on the crowd. The massacre left nearly 40 dead and 200 wounded.

The events in Kashmir have elevated tensions between India and Pakistan. The Indian Government holds the Pakistani Government accountable for supporting Kashmiri terrorists, while the Pakistanis accuse their neighbors of anti-Moslem actions.

Mr. President, while neither India nor Pakistan has threatened the other directly, the potential for this recent violence to escalate cannot be ignored. I urge the State Department to do everything possible to help bring about a peaceful end to this latest dispute.

NOTABLE QUOTABLES

Mr. HELMS. Mr. President, from time to time I offer for the RECORD a biweekly compilation of the latest outrageous, sometimes humorous, quotes from the liberal media. That description is not original with me, it is how the Media Research Center in Alexander describes its biweekly publication, Notable Quotables.

I ask unanimous consent that the November 8, 1993, issue of Notable Quotables (Vol. Six, No. 23) be printed in the RECORD at the conclusion of my remarks.

Mr. President, this publication serves the much-needed and very important purpose of puncturing the two-legged hot-air balloons who dominate much of the major media in Washington. These are journalists, broadcasters, and others who quote each other's impeccable wisdom, as they see themselves, and all of them busily and viciously attack every public figure with whom they disagree. They falsely blame all of America's problems on Ronald Reagan and George Bush; they ridicule every conservative in sight—and they never

worry about falsely accusing any of their philosophical adversaries.

A couple of examples: Bryant Gumbel of NBC's "Today" show, has a reputation for being unable to keep his roving hands off women with whom he comes in contact. Yet he presents himself as a defender of women and made slurring remarks about Senate votes in the Packwood matter.

Then there is a young woman on one of the Saturday night talk shows who has locked jaws—open. She outshouts anybody else on the show's panel—especially anyone who takes a position contrary to her various leftwing fixations.

Anyway, Mr. President, I believe a great many Senators and others may enjoy the November 8 issue of Notable Quotables.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NOTABLE QUOTABLES, Nov. 8, 1993

NEWSWEEK PUNDITS ON THE ELECTION: WHOOPS

"Florio will win substantially. Whitman's offer of a 30 percent tax cut, she lost all credibility. Last year's hustle doesn't work. Supply-side economics is dead."—Newsweek reporter Eleanor Clift, October 16 McLaughlin Group.

"Whitman tried a Ronald Reagan rerun and proposed a 30 percent tax cut. The lost revenue could be made up by cost-saving devices, such as no longer giving free Adidas sneakers to prison inmates. A decade after Reagan, New Jersey's voters aren't buying government by apocryphal anecdote."—Clift in Newsweek, October 25.

"I think actually there's a big national consensus developing on a lot of things. People are for some limited gun control* * * to the point where in Jim Brady, the former White House press secretary, went up to New Jersey, he's a Republican, he went to New Jersey this week to campaign for the Democrat, Jim Florio, because he's for gun control. Florio's gotten on the right side of the issue."—Newsweek Washington reporter Howard Fineman on CNN's Late Edition, October 24.

L.A. FIRES REFLECT SOCIETY'S NEGLECT

"One of the fires was started by a homeless man trying to keep warm. It represents the strains in our society, from neglect to the nihilism, the 'burn, baby' nihilism of people who actually go and start fires like this."—Eleanor Clift, October 30 McLaughlin Group.

ECONOMIC GLORY YEARS OF THE '70S?

"Adjusted for inflation, average hourly earnings show a startling picture. Income growth has been trending down for more than a decade* * * it wasn't always like this. There were glory years for the American paycheck, from 1947–1979, with the peak hitting in 1973* * * The U.S. economy shows some signs it may be perking up. Experts say, though, that it would have to continue for at least 2 or 3 years before the American paycheck could start returning to the glory years of the 1970s."—Ray Brady, October 29 CBS Evening News.

DUMB KIDS: REAGAN'S FAULT

"Ronald Reagan began the push for a constitutional amendment limiting taxes; Proposition 13 succeeded in 1978, slashing property taxes 57 percent. The state's schools have never recovered."—U.S. News 7 World Report Senior Editor Miriam Horn in the 60th anniversary section, October 25.

CONNIE: FOR MORE THAN ONE HILLARY

"If each person is unique, do we really want to make copies? And whom would we make copies of? It's horrifying to think of anyone having that kind of power. But since we're on the subject, here goes. Howard Stern? We think one is more than enough. Paul Newman? He's clone-able. Ross Perot? He seems to be everywhere as it is. Hillary Rodham Clinton? Mmm, year."—Connie Chung discussing cloning on Eye to Eye, October 28.

CLINTON'S FREE MARKET HEALTH PLAN

"Woven through the 1,300-page health plan is a liberal's passion to help the needy, a conservative's faith in free markets and a politician's focus on the middle class."—Washington Post Reporters Steven Pearlstein and Dana Priest, October 28.

VALIANTLY DEFENDING HER MISCONCEPTION

Julie Johnson, Time Washington reporter: "I live in the Maryland suburbs, but I've been working in the city for eight years. I've never heard that gun ownership is illegal in the District of Columbia."

Cragg Hines, Houston Chronicle: "It is."

Bil Eaton, Los Angeles Times: "Except by permit."

Johnson: "By permit—but that's owning. I mean you can own a gun that's permitted."

Hines: "But I believe D.C. has one of the toughest gun control laws . . ."

Johnson: "Well, but that is not the same. I think we should be clear as saying it is illegal to own a gun in the District of Columbia—that is not a true statement."—C-SPAN's Journalists' Roundtable, October 22. (Since 1977 it has been illegal for anyone but a law enforcement officer to obtain a handgun in D.C.)

WHY NO COVERAGE OF CLINTON'S VIEWS ON GAYS IN '92?

"We're liberal. When Clinton says he'll fight for gay rights or rescind the ban (on gays in the military), we're hearing something that doesn't sound outlandish to us at all. In fact, it sounded reasonable. It sounded fair."—Knight-Ridder Washington bureau editor Vicki Gowler, quoted by former Knight-Ridder reporter Carl Cannon in the premiere issue of Forbes Media Critic.

TIME: STILL PLUGGING GAS TAX HIKES

"When Clinton's 'Climate Change Action Plan' finally debuted last week, environmentalists could muster only faint praise . . . there were two major omissions: the plan does nothing to raise auto fuel-economy standards, and it contains no energy-tax hikes to boost conservation."—Time Associate Editor Michael D. Lemonick, November 1.

SPEAKING OF "USUAL SUSPECTS" . . .

"The usual suspects lined up with Packwood—Alan Simpson, Jesse Helms, Arlen Specter, et cetera. Will they be hurt by a vote Patty Murray tried to characterize as a with-us-or-agin-us women's rights vote?"—Today co-host Bryant Gumbel on the Packwood diaries vote, Nov 3. (In her book inside today, former Today producer Judy Kessler charged Gumbel with feeling for women's bras and making cruel remarks.)

NEVER MIND CHINA, NORTH KOREA, VIETNAM . . .

"No. 3-rated CBS This Morning said Monday that its sending rising star Giselle Fernandez to Cuba to broadcast live Nov. 3 through Nov. 5. Fernandez . . . will report on conditions from the world's only communist state."—USA Today's Inside TV" section by writer Peter Johnson, October 26.

A JONESTOWN IN EACH OF US?

"But on Law and Order they do have inner cerebral lives of the richest complexity. Their scars glow in the dark. Watch Chris Noth at the shocking end of Wednesday's episode. Look at Moriarty's face. It's not just that all the craziness in the world can't be blamed on fundamentalist Muslims or Shining Path or Khmer Rouge. But Jonestown and My Lai are everywhere. It's also that there's a Jonestown in each of us."—CBS Sunday Morning TV critic John Leonard, October 31.

RATHER'S WEATHER

"Unlike the Santa Ana winds fueling the flames in California, look what the wind blew in here today in Texas. It may not be much, but the first snow of the season, and record cold dropping into Texas panhandle. Down here we call it a blue northern, nothing between Houston and a barbed white fence—the North Pole."—Dan Rather on the October 29, CBS Evening News.

JOHN MEDLIN: BANKING'S PROBLEMS CAUSED LARGELY BY SOCIALIZED PUBLIC POLICIES

Mr. HELMS. Mr. President, it is scarcely necessary for anyone to emphasize the obvious fact that bankers of North Carolina have proved to be national and international leaders. I have heretofore discussed some of them in terms of their achievements. Today I invite Senators who will take note of a significant address by John G. Medlin, Jr., at the U.S. Bankers Forum 1993 meeting in Chicago on October 20.

John Medlin is chief executive officer of the Wachovia Corp. in Winston-Salem. I have watched his splendid career beginning years ago when he first became an officer of Wachovia Bank & Trust Co.

Mr. President, John Medlin has always espoused sound, conservative economic policies. His speech in Chicago was another instance of his preaching the sound economic doctrine. For example, note this comment:

The fortunes of banks are determined over time largely by a combination of public policies, economic conditions, and management capabilities. The convergence of shortcomings in all of those areas during the past decade caused extraordinary strains and failures in the financial system of the nation.

The genesis of these problems can be found to a great extent in socialized public policies which weakened private enterprise disciplines.

Mr. President, John Medlin's Chicago speech was filled with sound advice and legitimate warnings. As always, the text of his remarks is well worth reading and I therefore ask unanimous consent that the entire text be printed in the RECORD at the conclusion of my remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY JOHN G. MEDLIN, JR.

It is an honor to address this conference at the initiation of my good friend, Bob Bennett. He asked me to speak about the secrets

behind the steady profitability and growth of Wachovia. I have some discomfort with that assignment.

Success in banking is very perishable. The experiences of the past two decades suggest that in our profession it is best to avoid bragging when things have gone well. Disquietingly often, yesterday's heroes become today's has-beens.

Also, I must confess there are no particular secrets to Wachovia's success. If so, we probably would reveal them to our competitors. We simply try to excel in the practice of sound fundamentals. Frankly, it's pretty dull stuff which does not make an exciting presentation at banking conferences.

Therefore, I would like to broaden my comments to include some observations about the underlying nature and the environmental challenges of banking. Then, I will review the basic philosophies and strategies of Wachovia.

The fortunes of banks are determined over time largely by a combination of public policies, economic conditions, and management capabilities. The conference of shortcomings in all of those areas during the past decade caused extraordinary strains and failures in the financial system of the nation.

The genesis of these problems can be found to a great extent in socialized public policies which weakened private enterprise disciplines. Federal deposit insurance was both a blessing and a curse. It prevented financial panic, but also permitted unsound and uneconomic institutions to develop and grow rapidly without adequate management, capital, or regulatory supervision.

Economic conditions also caused problems for banking. Two decades of runaway federal spending and deficits destabilized the financial system and debilitated the economy. Much prosperity was borrowed from the future as an explosion of debt enabled American to spend much more than they earned and consume much more than they produced. Repayment began as higher risk loan portfolios encountered a stagnating economy, and credit problems accelerated.

The managements of banks and thrifts can't blame all their problems on bad public policy or poor economic conditions. They failed to exercise sufficient private sector restraints and disciplines to protect against the excesses of government. Sound principles were ignored in the pursuit of growth. Competition in laxity permeated the marketplace. We often let our weakest and most reckless competitors set the prevailing standards for credit and pricing practices.

Nevertheless, most banks were able to survive even while the thrift system failed. Those which maintained sound credit standards and strong capital ratios did well even while meeting liberal terms to keep good customers. However, the reemergence in recent months of unsound credit practices and uneconomic pricing suggests that some bankers still have not learned their lesson.

It is important to remind ourselves occasionally that banking serves a vital, public-utility-like function in our economic system. A banking charter gives special privileges and imposes sacred responsibilities. We must not forget that it is granted by the people who expect us to safeguard their deposits and to lend them money for worthy purposes. This places both limits and demands on the risks which can or should be taken with the public's savings.

By nature, banking operates on thin margins and modest capital which afford little cushion for asset risks. For most institutions, credit losses of two to three percent will eliminate profits and shake confidence, and problem loans of six to seven percent can wipe out equity capital and cause insolvency. This illustrates the critical importance of careful and skilled risk management.

Banks are supposed to be a source of strength and comfort and not a cause of anxiety and weakness in times of adversity. Their function is to buffer credit, funding, and settlement risks in financial transactions rather than to increase such exposures. In order to serve as a profitable intermediary, a bank must be able to obtain funds at lower rates than its borrowers. Today, some borrowers can get money at cheaper rates than their banks.

Banking is more a qualitative art than a quantitative science. Despite many technological advances and financial innovations, it still is a highly personal process of people serving and trusting people. Rapid growth in banking often leads to trouble. Long-term success is more likely to be achieved by expanding at a manageable pace and maintaining high quality standards.

Banks should be managed as if there were no discount window for liquidity, no regulators for examination, and no deposit insurance for bailout. These are not intended to be substitutes for proper management and adequate capital. It is amusing that some of the most passionate advocates of free enterprise are so dependent on the financial safety net of government.

Financial institutions can't expect much help from the economy in the foreseeable future. Our nation still is in the throes of adjustment from the excesses of times past. The favorable effects of lower inflation and interest rates are being moderated by the enlarged debt burden, layoffs from restructuring, a decline in young adult population, and stifling regulation. These factors are restraining growth in employment, income, spending, and credit.

Despite these obstacles, the economy appears likely to continue growing moderately for the near term. However, the outlook is clouded by the enactment of large tax increases, the relentless growth in federal spending, the persistence of large budget deficits, and the prospect of even more government.

Meaningful and sustained improvement cannot be expected in the fragile American economy as long as the role of government grows and taxes rise as a percent of GDP. Federal spending is on a collision course with financial reality. Our nation needs to turn back toward an economic system motivated and disciplined more by market forces and less by government. Otherwise, our living standard and social order are likely to deteriorate further in the years ahead.

In this decade, the success of banks will depend as much on control of operating expenses, reduction of credit losses, and improvement of risk compensation as on business growth. There will not be a strong economy or a willing Congress to bail out careless management, liberal lending, or excessive costs.

While the credit losses of the financial system have declined, the level of problem assets and weakened institutions remains high by historical standards. The worst should be over until the next episode of economic and financial distress which probably will come within the next three to four years. Meanwhile, lingering credit problems will continue to haunt some banks and thrifts.

The sharply sloped yield curve of recent times is a mixed blessing for banking. It has widened interest spreads but also is causing an outflow of consumer savings seeking better returns. This could lead eventually to increased money costs and funding problems for lesser quality institutions without strong credit ratings and ready access to wholesale financial markets. The inevitable rise in short-term rates will narrow margins for the week and the strong.

Other banking challenges include more stringent laws and regulations which make it more difficult and expensive to serve customers. This is a cost of protection by the federal safety net which also protects weak competitors, breeds excess capacity, and encourages uneconomic credit and pricing practices.

Also, there is a growing need for banks to offer a wider variety of more sophisticated services for customers such as corporate finance and consumer investment alternatives like mutual funds. In addition, more complex and expensive technology is essential to be competitive and efficient. Getting behind in these areas can make survival as difficult as having a bad loan portfolio.

Thus, the climate for financial institutions in the nineties is dramatically different from the seventies and eighties when exceptional business growth spawned extensive branch networks to provide convenient customer service. Consumer savings flooded into banks and thrifts because of rate deregulation, a relatively flat yield curve, and a big jump in deposit insurance coverage. Rapid expansion of debt created abundant loan and investment opportunities.

The expensive branch-oriented service infrastructure of most banks may not be affordable or appropriate to meeting many needs and preferences of customers in the nineties. In a sluggish economy with anemic loan and deposit growth, different business strategies are required for banks to compete successfully with other intermediaries which have much lower costs and broader services.

An example of those other financial intermediaries is Merrill Lynch, which has over $500 billion of customer "deposits" in various forms. It offers banking services like checking accounts and loans as well as a wide variety of investment alternatives. But, it has relatively few convenient offices, does business mainly by telephone, fax, and mail, and doesn't have to worry about FDICIA, FIRREA, CRA, bank examiners, or the cost of deposit insurance.

Bank branches are not needed now for many services which traditionally have been provided there. For example, automobile, credit card, or home mortgage loans, which comprise the vast majority of consumer debt, can be originated and processed more efficiently and effectively in large volume at central locations. Also, branches are not essential to make deposits or get cash, which can be handled by automated clearing houses or teller machines, nor for most commercial banking, corporate finance, or investment services.

Strategically located branch offices will remain a vital element of the banking service delivery system, but they must do more than take deposits, cash checks, and make an occasional loan to justify their costs. I suspect the years ahead will bring a steady decline in the number of banks and retail branches as excess and unprofitable capacity is rationalized and eliminated.

To summarize the tough challenges faced by bankers: They must clean up the problems from the past and cope with increasing competition in a slow economy and a business with overcapacity; they must become

more efficient and reduce costs while providing broader services and investing in technology; and they must maintain credit quality and interest margins in a marketplace where lending practices and risk compensation already are deteriorating again.

How does the management of banking overcome those challenges? That question must be answered based on individual circumstances, but I will share with you some thoughts on the approach of our organization.

Wachovia strives to be a banking company which is prepared for all seasons. Its guiding principles and basic strategies remain the same in difficult or easier times. Our steadfast approach is to pursue progressive business strategies but within the disciplines of sound financial principles. The emphasis always, in order of priority, is on soundness, profitability, and growth.

Equal importance is placed on business development, risk management, and cost control. This requires maintaining careful balance among the marketing, credit administration, funding management, and operations functions. Our goal is to have above-average loan growth and fee income, at least average net interest margins, and below-average credit losses and operating costs. Mixed with capable and caring people, that is the basic recipe for excellence in banking.

Our top priority emphasis on soundness causes some to characterize us as conservative. In reality, we are creative but disciplined entrepreneurs who have good loan growth as well as excellent credit quality. It is possible for us to sell more aggressively and lend more safely because our bankers are better trained and more skilled in evaluating and managing risk. That is especially important in a slower growing economy which requires more determined business development efforts but is less forgiving of marginal credit judgments.

Other key strategies are to provide superior customer service, to develop broad and enduring relationships, and to avoid excessive concentrations of business and risk. Technological and operational excellence and financial strength and flexibility also are top priorities. Our ultimate goal is to maximize shareholder value by building steadily an annuity-like stream of higher quality and more dependable profits which deserve a premium price-earnings ratio.

Wachovia has long experience in operating banks across a wide geographic area. Our first offices outside Winston-Salem were established in 1902. By the 1970's our branch network had been expanded gradually to cover most of North Carolina from the mountains to the seashore. Statewide branching has been good for the state and has bred a strong and highly competitive banking system.

Since the advent of interstate banking in the Southeast during the mid-eighties, Wachovia has acquired leading banks with branches across neighboring Georgia and South Carolina. That has enabled us to stay big enough to afford modern technology and to compete effectively with larger institutions while being small enough to maintain Wachovia's special character and qualities.

Modern and uniform systems are absolutely essential today to realize the economies and provide the services needed to have a competitive and profitable interstate banking network. The South Carolina branch automation system was converted recently, and when the integration is completed there early next year, Wachovia will have common systems across its entire interstate banking network.

Wachovia will consider additional acquisitions of banks in other southeastern states whenever they can enhance per-share earnings and market value. This must take into account the cost to bring an acquiree up to our high standards of personnel professionalism, operational excellence, and credit quality as well as possible synergies and expense savings. Also, are must be taken not to pay too much for branch banking networks supported heavily in the past by lower cost consumer deposits which today are migrating to higher yield media.

Wachovia started twenty years ago adjusting its retail banking strategies to evolving changes in technology, demographics, and financial services. In 1973, we launched our Personal Banker program to build broader and closer relationships with customers as automated systems and nonbank competition began emerging. Personal Bankers are well trained in handling general banking and credit needs and sufficiently knowledgeable of other services to make prospect solicitations and referrals to specialized businesses of the company.

Simultaneously, a comprehensive retail accounts information system was developed to provide Personal Bankers with the full relationship data and profile needed to serve customers and solicit new business. Shortly afterward, automated banking machines were installed to handle routine transactions. Later, a computerized telephone capability was added for customers to obtain account information and effect routine transactions like account transfers and stop payments. Also, there has been heavy emphasis over the years on getting large employers to use automatic deposit of payroll to reduce branch traffic and costs.

Our objective has been to achieve the best possible combination of high-tech and high-touch to enable customers to use more cost-effective and convenient self-service electronic banking for routine needs but to have someone for them to contact when they require or desire personal assistance. That has necessitated a substantial investment in personnel training and systems development.

Most of our Personal Bankers still are located in full services branches, but increasingly they operate out of other less expensive offices convenient to customers without the traditional teller line and cash vault. The branch office remains important, but it is less critical to our retail banking strategy as more business is done by telephone, banking machine, or computer terminal.

Major specialized business lines such as automobile finance, credit card, discount brokerage, home mortgages, and investment services are marketed and provided centrally. Substantial referrals also are generated for these areas through the relationship management and development efforts of Personal Bankers.

Recent initiatives have materially enhanced the competitiveness and efficiency of key consumer credit services. A reassessment three years ago of credit card pricing suggested that the days of high fixed rates were numbered. A lower prime plus 2.9 percent variable rate option was introduced in 1991 and since then has been an effective generator of new accounts and loan outstandings from more creditworthy cardholders while competitors lost market share.

Consolidation last May of the sales contract-buying branches of our automobile finance group into one center quadrupled from twelve to fifty the number of loans a dealer credit officer could decision each day. Since then, the volume of loans generated has grown nicely with considerably fewer people. Concentration of home mortgage origination into one center also has produced better efficiency, service, and volume. Most of our nine percent growth in loans compared to last year has come from the credit card, auto, and home mortgage areas.

For individuals wanting a better return on their savings, Wachovia offers a full array of direct investments in federal, state, and local government securities through its Bond and Money Market Group which is the largest underwriter and distributor of North Carolina tax-exempt issues. We also advise and market a variety of debt and equity mutual funds. More personalized investment management is provided through Trust Services. The Personal Bankers who quarter-back customer relationships hand off many referrals to those areas.

Wachovia is well advanced in making the transition from a retail banking network dominated by branches to a more efficient and effective marketing and delivery system which offers customers multiple options. The combination of our Personal Bankers, specialized businesses, modern systems, and branch offices gives us a powerful capability for selling and providing competitive and quality service.

These are a few examples of Wachovia's efforts to maintain profitability and growth in consumer financial services. Similar illustrations can be provided for corporate banking and other areas of the company. Complacency is not one of our vulnerabilities. The winds of change blow freely across our company, but we also have a good record of resisting risky fads and passing fancies.

The years ahead will even more severely test the skills of bank managements. The marketplace will be unkind to those who forsake sound principles or fail to adjust to the profound changes under way in their business. I appreciate the chance to share these thoughts and welcome any questions you may have.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,459,587,095,853.55 as of the close of business yesterday, November 15. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is exactly $17,362.

WESTERN RESOURCES WRAP-UP

Mr. CAMPBELL. Mr. President, I ask unanimous consent that an important story by a dedicated reporter from my state be included in the RECORD immediately following my statement.

Western Resources Wrap-Up provides many Colorado citizens, decision makers and opinion-leaders with the information they need to do their jobs well and contribute knowledgeably to their communities. The article, by veteran reporter Helene C. Monberg, details the problems a small community high in the Colorado Rockies has encountered in trying to get action on long-standing environmental dangers resulting from sloppy mining practices and abuses of the past 100 years and more.

It is not only the environmental problems that worry Leadville citizens,

however, but bureaucratic headaches they're experiencing getting them cleaned up.

Recently, I worked with Chairman JOHNSTON of the Energy and Natural Resources Committee to make sure appropriations legislation expressly includes language ensuring that funds are available to move forward on clean-up efforts in Leadville.

The Superfund site in Leadville deserves the full attention of the Environmental Protection Agency and other agencies of the Federal Government to finally move this thing along. Like my friend, Helene Monberg, I want assurances that real, concrete action is being taken and that we can soon expect noticeable progress and cooperation with the community on cleaning up this site. Both of us will be following the case closely to ensure that finally, the people of this mountain community see a resolution to this problem.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WESTERN RESOURCES WRAP-UP

(By Helene C. Monberg)

WASHINGTON.—Mayor Robert J. Zaitz of Leadville, Colo., (pop. 3200; elevation 10,152 feet above sea level) is fed to the teeth with the way the Environmental Protection Agency (EPA) is handling the Superfund site in Leadville. "It's a scandal," he charged.

After 11 years, he told Western Resources Wrap-up (WRW) in telephone interviews on Sept. 16 and Sept. 21, "EPA is still studying the health problems here. EPA hasn't even been able to determine whether the mine dumps in the area pose a health risk," said the exasperated Leadville native, whose family name is synonymous with Leadville.

Currently EPA is completing research under the direction of a University of Michigan researcher to determine whether lead in cookie dough is "biodegradable," which means whether it poses a health hazard to children, Zaitz said. According to EPA studies, about one out of every five children in Leadville has lead levels above normal in his/her blood. By law that is a concern to EPA.

So EPA and its research team conceived of the idea of feeding cookie dough with various levels of lead in it to baby pigs to determine whether lead entered their bloodstream. "Just because kids are exposed to lead doesn't mean it's a problem. It must enter their bloodstream to be harmful. That's what this swine study is all about. By feeding small doses of lead to these animals EPA hopes to learn how much is being absorbed by the young children in Leadville," Paul Day, an environmental specialist, told Channel 4 in Denver on Sept. 6. Too much lead in one's bloodstream puts kids at risk of developing learning disabilities and may cause reduced hand-to-eye coordination and diminished IQ, according to the Centers for Disease Control. Why use pigs, as uncommon Leadville product? "We felt they would be a good animal model for young children," according to Professor Bob Peppenga, who is working on the study. This study has now moved into the brain-dissecting stage to find whether the piglets were damaged by the lead fed to them in their food, Zaitz told WRW.

Kids in Leadville, like kids everywhere, eat dirt from time to time. Zaitz and other Leadville residents claim they know no kids who ever developed disabilities due to being exposed to lead in Leadville. Tammy Everett told Channel 4, "My grandparents used to live in California Gulch," in the heart of the Leadville Superfund site. As children, "they played in the tailings and stuff . . . and there's been . . . no problem. They haven't had any poisoning," she observed. Zaitz said that blood levels in kids in Leadville have gone down recently because many Leadville mothers have made eating dirt a no-no for their kids, have insisted on them washing their hands after playing outside, and no longer feed their kids locally grown root vegetables. "I still eat locally grown vegetables, and I'm 63, but that probably doesn't prove anything," Zaitz told WRW.

Along with EPA's piglet-lead study, Zaitz questions a lot of the other actions that EPA has taken (or has not taken) in the name of clean-up. He told WRW:

All 23 miles of Leadville have been put in the Superfund site, but it excluded the Leadville drainage tunnel on federal land.

The U.S. Government doesn't want to be stuck with any clean-up costs itself, although it directly generated much of the mine waste. He recalled that the feds cracked the whip during World War II. Uncle Sam insisted that the mines and mills in the Leadville mining district work overtime to produce vitally needed ore for the war effort. Miners were exempt from the draft. But the feds now have a lapse of memory on that count, he said.

EPA tries to push clean-up costs on "anyone with deep pockets." It does so regardless of their degree of liability, he charged. So the mining companies and others have gone to court or are trying to negotiate settlements with the feds to limit their liability.

Very little on-the-ground clean-up has taken place, but lawyers have cleaned up personally in handling the legal disputes that have arisen over the Leadville Superfund site. "Superfund is a lawyer's paradise. It's a Garden of Eden for lawyers," Zaitz charged. "They (both EPA and industry) use lawyers to try to intimidate us up here in Leadville, but they don't," he claimed.

EPA is considering a proposal to have all landowners in town remove 18 inches of top soil from their yards because of its potential lead and other metal content. Such an operation would not only be costly but "where would you put the dug-up soil?" Zaitz asked.

EPA officials, lawyers and other professionals dealing with Superfund speak in gobbdygook, and Leadville officials and residents don't know what they are talking about. Their reports are written in technical terms and go unread because they are so difficult to read. "Then EPA complains because their reports go unread," he said.

EPA uses only soil samples to establish the health hazards at Leadville. "They don't consider lead paint or lead pipes," he said. "They expect the soil to be clean enough to eat," Zaitz noted.

Because of Leadville's designation as a Superfund site, real property values in the town have dropped sharply. For example, his house in the prime residential area in town is only valued at $50,000 in the current market, even though its true value sans Superfund site designation would be well over $100,000, Zaitz said.

EPA expects the town and county to maintain any work done in the area under Superfund even though Leadville is just holding its own financially, and Lake County is "nearly broke," as mining is minimal in the area now. EPA has insisted on fencing part of the area. This has prompted the local residents to call EPA "Eco-Nazis." They have put up a sign on the fence reading "East Berlin Wall-EPA." About that time Zaitz asked this WRW writer, a Leadville native, to check why it has taken so long for EPA to move ahead on this Superfund site.

Denise Link in EPA's Denver office told WRW on Sept. 16 she agreed with Zaitz that progress has been painfully slow in Leadville. "It is frustrating," she said. But she did note, and Zaitz agreed, that EPA had successfully gotten ASARCO Mining Company to build a filter plant at a cost of $13 million and the Bureau of Reclamation has built a filter plant at the Leadville drainage tunnel at a cost of about $6 million. The Bu/Rec plant would be more effective if it also received water from Stray Horse Gulch, a heavily mined area, but EPA hasn't suggested that because of its cost to the feds, Zaitz said. EPA's Eleanor Dwight told WRW on Sept. 21 she was writing a letter to Zaitz detailing that an "agreement in principle" had been reached.

She said it was arrived at on July 16 between EPA, and ASARCO, Newmont, Resurrection, and Hecla mining companies and D&RGW Railroad regarding their liability under Superfund, under the supervision of the U.S. District Court in Denver. She said EPA hoped the details could be worked out in a couple of months.

OPPORTUNITIES FOR PARENTS

Mr. HATFIELD. Mr. President, on June 16th of this year I introduced Senate bill 1118, legislation calling for increased participation of families in the education of their children as one of the national goals for education. I know my colleagues share my view that not only are parents critical to improving our national education system, they are the key to ensuring their children's success in school. I was impressed recently to read in the Washington Post of specific programs in place in Fairfax County where moms and dads are back in class voluntarily learning how to improve their children's education skills. These kinds of programs represent the vision embodied my legislation and thus, I ask unanimous consent that the article of November 10 entitled, "For Parents, an 'Itsy-Bitsy' Problem" be placed in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOR PARENTS, AN "ITSY-BITSY" PROBLEM

(By Jane Seaberry)

The dozen or so students listened intently as Fairfax County librarian Yvette Kolstrom read a story about an elephant that liked smashing cars. Then, as some of them giggled, they learned how to make paper train conductor hats and yellow and black school buses.

When the class on songs, rhymes and stories about cars, trains and planes ended, student Jerry Marterella was ready to rush out and buy the book, "The Little Engine That Could." Marterella, of Centreville, is a computer company executive and 44 years old.

In fact, everyone in Kolstrom's recent Fairfax County class was an adult, most of

them parents over 30 eager to have someone tell them the right songs, games and books to use to teach their young children.

Marterella's wife, Katherine, said she needed ideas to help her organize time with their daughter, Kristen, 23 months, so that during the day "at least I'm focusing on something and not ignoring her."

"I'm just trying to get her ready for school," added Katherine Marterella. "I think it's a lot more competitive world today."

Parents in the Washington area increasingly are signing up for classes on songs, books and crafts for young children being offered by public agencies and private day-care centers, a reflection of what specialists say is an intense search for parenting skills.

At a time when many adults have delayed starting families—older parents increased by nearly 70 percent nationally in the last decade, according to cenus figures—the classes help parents remember long-forgotten tales and jingles.

Many parents are too busy with careers to think creatively about how to play, so the classes provide an easy and organized way to be imaginative, child-care providers say.

"It's a quest for knowledge, this thing of the '80s and '90s. Parents want to be better prepared than they are," said Sandy Booth, a program specialist with the Parenting Education Center in Fairfax. "I doubt my parents ever read a book on parenting. I've read them. I want to be a better parent."

In Fairfax, classes at the public library teach parents to help children do art projects and sing songs and rhymes about trains, trucks, dinosaurs, clothes and other subjects. Many parents are as serious about correctly reciting "Itsy-Bitsy Spider" as they are about their careers.

At some sessions, parents with clip-boards and expensive leather briefcases stuffed with craft ideas studied finger-painting. Others in business suits sat cross-legged in a circle on the floor learning to sing, "If you're happy and you know it clap your hands."

Some private day-care centers, such as Cheska's Creative Children's Centers Inc., in Reston, have their own parents programs.

Sessions in which parents were taught songs and rhymes were second in popularity only to classes at the center on "How to Discipline Your Child," said Cheska Gosnell, the center's owner.

In Bethesda, the Bethesda Country Day School doesn't offer classes, but songs that children learn sometimes are sent home to parents along with a monthly newsletter describing other rhymes and stories.

Last month, the "Five Little Pumpkins" song was sent home "so the parent will know the words the child is singing," teacher Cindi Dixon said. "The parents really enjoy having the words to the songs."

Nursery rhymes and games are important, child specialists said, because they help children develop language, math skills and motor skills.

"You want children to be able to be good thinkers, high thinkers," said Azalee Harrison, owner of the Child Care Institute in Silver Spring, which trains teachers for day care centers.

"It's being playful and singing and being connected," said Sandra Stith, director of the Marriage and Family Therapy program at Virginia Tech, Falls Church campus. "Nursery rhymes are a way throughout history parents have connected with kids."

Springfield mother Alexandra Masterson, 37, said she attends classes regularly because she has forgotten some crafts and songs her mother taught her. In addition, she said, she doesn't think she is as imaginative as her mother.

"A lot of this is handed down" generation to generation, Masterson said. "But I have no family here. I don't know how to do these things."

Gosnell said that many parents at her day-care center told her "they don't remember how to really get down and play anymore. They get down in the corporate world and they don't know what's appropriate to play."

So four years ago, she started father's night.

"They do the activities the preschoolers do," Gosnell said. "I had dads jumping on the trampolines, doing kids aerobics, making chocolate pudding look like it was dirt . . . but it was edible."

At other sessions, Gosnell said, parents "sit around like [at] a campfire and sing songs."

She said old-fashioned ditties are still popular, but some songs from yesteryear, such as "Row, row, row your boat" are considered boring by children today. Older parents particularly go to Gosnell for help because they feel they are out of step and don't know the newer songs that children prefer, she said.

In the Fairfax library program, parents recently learned to make collages and block prints, and to do fingerprinting and sponge printing.

Kolstrom demonstrated how to make a construction paper frame to highlight children's art. The group of about 50 women "oohed" and "aahed" in approval.

Then she began painting red, blue and yellow splotches with a roller on paper. "It was really a lot of fun to do and it wasn't hard," Kolstrom told the mothers. "It will make [children] feel they were really painting."

A popular exercise was making an elephant using patchwork squares to complement a book titled "Elmer," about a multi-pigmented pachyderm.

"Yesterday I wanted to do something and I was in slump. I couldn't think of anything," said Gale Minnich, a medical technologist from Annandale in her thirties who has a 4-year-old daughter. "Tomorrow I'm joint to cut out lots of squares and get 'Elmer.'"

IMPLEMENTATION OF THE CLEAN AIR ACT AMENDMENTS OF 1990

Mr. LIEBERMAN. Mr. President, I have had the privilege of serving during this Congress as Chairman of the Environment Committee's Subcommittee on Clean Air and Nuclear Regulation. We held four hearings on specific issues relating to implementation of the Clean Air Act, including the nonattainment provisions, small business assistance, clean cars and the acid rain trading program. The full committee also held a broad oversight hearing. The report released yesterday by Senators BAUCUS, CHAFEE, and myself, "Three Years Later: Report Card on the 1990 Clean Air Act Amendments," summarizes the conclusions and recommendations from those hearings.

When fully implemented, the Clean Air Act Amendments of 1990 will bring about a reduction of approximately 57 billion pounds annually of air pollution. But whether this number will be achieved hinges on faithful implementation of the law.

The report raises serious questions about whether the law's promise to provide healthy air as expeditiously as practicable to all Americans will be fulfilled. It gives EPA some low grades for its implementation of the act and offers some constructive criticism of the States. The principal problem areas are in the timely adoption, review and approval of State implementation plans, the advancement of the low emission vehicle, and the abatement of air toxics. Despite some of the strong warning signals raised by this report, I am optimistic that EPA Administrator Browner will review our recommendations in the report and, together with the States, will act on them.

In order to achieve the promise of the act, EPA must effectively manage the SIP review and approval process. Yesterday, November 15, 1993, our Nation's most polluted areas—including the State of Connecticut—were required to submit plans to EPA demonstrating that they will achieve a 15-percent reduction in emissions of volatile organic compounds, one of the major contributors to ozone, by 1996 from 1990 levels. These plans are the single most important requirement in title I of the act dealing with nonattainment and one of the most important requirements in the entire law. In the past, without firm interim requirements, deadlines for meeting health-based standards were simply not met.

The report calls on EPA to assign the highest priority to reviewing today's submittals and to working with the States to correct any deficiencies in these SIP submittals. Unfortunately, EPA does not have management systems in place to assure that this will occur. Our report calls on EPA to adopt and implement such systems immediately.

The automobile is the most significant contributor to smog and carbon monoxide pollution. The emission reductions that can be achieved from cleaner cars are critical to the efforts of States to reduce pollution. Instead of developing and promoting these cars, U.S. automakers have been spending their time in court fighting the efforts of States to adopt cleaner cars. Until recently, as addressed in this report, EPA had failed to provide adequate assistance to States—particularly those in the Northeast—seeking to adopt California's clean car programs.

The report recommends that EPA play a leadership role in supporting State efforts to adopt the California car and gives EPA very low marks for its failure to do so over the last three years. Last week, EPA took an important step forward by filing a brief in support of New York State's efforts to adopt the California program. I was encouraged by this positive action.

The air toxics program is stalled. The administrator should make fundamental decisions on the approach to setting

the technology-based standards and the staff should carry out the broad directions expeditiously.

As the report indicates, in the areas of acid rain and stratospheric ozone depletion, EPA has done an excellent job. At a hearing the Subcommittee held last month on acid rain, I was particularly pleased to learn that the market-based program is achieving reductions in an earlier timeframe and at a lower cost than anticipated. We need to harness the forces of the market to improve environmental protection wherever appropriate.

EPA has the talent and leadership—and the support of the President—which should enable it to perform well in ALL areas of the Act.

The cause of many of the problems with implementation of the act does not rest with Administrator Browner. The last Administration's Council on Competitiveness and OMB delayed issuing many regulations or pressured EPA to issue inadequate regulations. Congressman HENRY WAXMAN, chairman of the Subcommittee on Health and Environment of the House Energy and Commerce Committee and one of the principal authors of the amendments, filed a lawsuit in June 1992 (amended in November 1992) against EPA for missed statutory deadlines under the last administration. He cited 86 areas missed statutory deadlines. In the Subcommittee's hearing on implementation of Title I, State and local officials sharply criticized both the timeliness and adequacy of a number of key Bush administration regulations or proposed regulations.

The work recommended in the report is important and urgent. When I came to the Senate 5 years ago, one of my top priorities was to be involved in enacting a strong new Clean Air Act. Connecticut has the unfortunate distinction of being the only state where the air quality in the entire State is designated as being in noncompliance with the health-based standard for ozone. The State is a victim of emissions from nearby states and acid rain transported from other parts of the country. Tests taken several years ago show that the rainfall in the State is among the most acidic in the Nation.

Air pollution is an insidious threat to human health. It invades our lungs, and it does so from the day we're born until we die. And more and more evidence points out that a lot of people are dying a lot sooner than they should because of the air they breathe. I have visited St. Francis Hospital in Hartford and heard about the pain, suffering and heartache caused by air pollution directly from Dr. Thomas Godar, former president of the American Lung Association, who threats the victims of air pollution.

Since enactment of the law in 1990, the scientific evidence on health effects from air pollution has shown it to be even worse than originally thought. At one hearing the Subcommittee held, we learned that recent studies show that 50,000 to 60,000 premature deaths a year are caused by pollution from small, respirable airborne particles known as particulate matter which are emitted without violating the current standard. We also heard strong evidence that the current ozone standard is not adequate to protect the public health.

The Committee also has heard disturbing testimony about the adverse health effects from toxic chemicals released into the environment, particularly effects in the offspring of the generation exposed to the chemicals.

Pollution controls will cost American businesses and consumers some money, to be sure. But the States are working hard to develop the most cost-effective strategies, and they need greater assistance from EPA in this effort. The law requires EPA and States to implement a special program to assist smaller businesses in carrying out the requirements in the most cost-effective manner possible and in adopting pollution prevention approaches so they can avoid regulation altogether. The Report contains recommendations on how EPA can do a better job in this program. The Clean Air Act and the 1991 transportation legislation also provide sources of funding for the States to implement many of these programs. The report finds that the States are not using some of this funding in the manner intended by Congress—to implement Clean Air Act programs. EPA and the Department of Transportation need to provide greater direction to the States.

But those who cite the economic costs associated with implementing the Clean Air amendments need to be reminded that failure to implement the act effectively also costs money—some estimates are as high as hundreds of billions of dollars in health care costs each year. The report recommends that EPA actively work with the States in educating the public about the consequences of failure to implement various control measures. Everyone needs to be reminded about the suffering behind the doors of St. Francis Hospital.

It is not exaggeration to say that in the next year the Nation will have a good sense of whether the law's promise of healthy air will be fulfilled. Twenty-three years ago, the law first required that States and EPA meet national ambient air quality standards and regulate emissions of air toxics. The American public deserves to have the law's requirements finally fulfilled.

As chairman of the Clean Air Act and Nuclear Regulation Subcommittee, I will be continuing the in-depth oversight of the implementation process we started this year.

LAW DAY SALUTE TO AMERICA'S LAW ENFORCEMENT PROFESSIONALS

Mr. HOLLINGS. Mr. President, late on the evening of November 10, the Senate by unanimous consent adopted my amendment to S. 1607, the anticrime bill, to officially designate May 1, 1994 as Law Day, U.S.A., with an express emphasis on saluting the work of America's law enforcement personnel. This amendment stands on its inherent merit. However, it is all the more pertinent given the extraordinary reliance the anticrime bill places on the cop on the beat. The bill will contribute to fielding some 100,000 new police officers in communities across this nation, and it will build 10 new regional Federal prisons to keep criminals off the street. It is only appropriate, therefore, that we designate May 1, 1994 as a special day to salute the front-line service of these professionals in America's war on crime.

Heretofore, Mr. President, the purpose of Law Day has been defined somewhat vaguely as a day to celebrate justice under the law, to advance equality, and to encourage respect for law. My amendment preserves this tradition, but seeks to sharpen the focus of Law Day as a day of salute to our Nation's law enforcement personnel—the men and women who protect our lives and property, patrol our roadways, and staff our correctional facilities.

Bear in mind, Mr. President, the law's presence is perhaps most immediate and profound on the police officer's beat and in the jailhouse. This amendment gives special recognition to America's constables, sheriff's deputies, police officers, detectives, wardens and correctional officers. Truly, these men and women stand as the first-line defense of our laws and of our civil order. They are devoted to their jobs, tireless in their efforts, and often underpaid for their efforts. Moreover, their jobs are inherently dangerous. Even on seemingly routine assignments, these public servants put at risk their own safety in order to guarantee the safety of others.

Of course, we all honor those who have fallen in the line of duty as law enforcement officers. But let me be clear: First and foremost, my amendment seeks to salute the living. America owes these men and women an incalculable debt—a debt not of dollars, but of gratitude and deep respect. It was an honor to sponsor this amendment. I appreciate my colleagues' strong, bipartisan support in writing it into law.

THE ASYLUM PROBLEM

Mrs. KASSEBAUM. Mr. President, I offered with Senator SIMPSON an amendment to the crime bill (S. 1607) to stem the flow of aliens seeking political asylum and to return to the

original intent of the asylum law. I appreciate my colleagues' adoption of this amendment and their future support of these reforms. The flood of asylum claims has swamped the system. The backlog of asylum cases is increasing at the average rate of 10,000 to 12,000 per month. Last March, the total backlog of cases was close to 200,000. Today, only 7 months later, the total is an astounding 340,000.

Who are the people that are seeking asylum? In about 14,000 cases last year, asylum was sought immediately upon arrival at airports and other ports of entry. However, this compares to over 100,000 applications last year from persons who had lived and worked in the United States for some time. Often, they were here illegally and sought asylum only to avoid deportation.

In fact, political asylum is the magic phrase for hundreds of thousands of aliens whose claims are simply not meritorious. Yet, these aliens are given a work permit and, due to the backlog of cases and the many layers of appeal, they can plan on years of residency in the United States. This practice distorts the original intent of the asylum law and is unfair to American workers and taxpayers. It is difficult to explain to constituents why this abuse is allowed to continue.

My amendment, which was the result of discussions with the Department of Justice, the Department of State, Senator SIMPSON, and other members of the Judiciary Committee, declared that our asylum policy today should be what the law originally intended. When the Refugee Act of 1980 was written, the intent was to protect aliens who, because of events occurring after their arrival here, could not safely return home. The amendment declared further that persons outside their country of nationality who have a well-founded fear of persecution if they return should apply for refugee status at one of our refugee processing offices abroad. Finally, the amendment called for reform of our immigration, refugee, and asylum laws to correct the current problems.

We are faced with an enormous backlog of cases and a whole process that is in disarray. The current abuse mocks and perverts the intent of the Refugee Act of 1980. Returning to the original intent of the law is the logical way to address this problem.

THE NAFTA DEBATE

Mr. DASCHLE. Mr. President, the debate on the North American Free-Trade Agreement, or NAFTA, has been a hot one, to say the least. It has been characterized by deeply-held feelings and strong rhetoric—on both sides of the argument. And throughout this process it has often been difficult to separate fact from emotion.

I noted a headline in this morning's newspaper that proclaimed, "Americans Are Split on Trade Accord, Poll Finds." What struck me about the ensuing story was not so much that this nationwide poll found Americans in a statistical dead heat over the merits of NAFTA, but rather what it says about the depth of public understanding of the nature and implications of the agreement.

The article relates that:

If the measure is described as one that would create jobs in the United States, most of those who say they are opposed switch sides. Similarly, when NAFTA is described as a pact that would result in a loss of jobs, most supporters become opponents. Such a change in information can shift the responses to 85 percent either in favor of, or opposed to, the agreement.

This poll reinforces my sense that this is largely an interest group debate. And that is not, by definition, bad.

What it does mean, however, is that it is particularly important for individual Members of Congress to independently evaluate the arguments and information presented by interest groups, including the administration, and reach an independent judgment as to what is best for their constituents and the country.

That is what I have tried to do.

I have asked questions of those who are experts and are deemed impartial. On most issues, I have obtained satisfactory answers—not iron-clad assurances, but satisfactory and thoughtful responses.

I have also learned that we will never know all the facts about NAFTA until it takes effect. That is not a reason to vote against the agreement. It is just a fact.

I understand the concerns of those who fear the agreement could hurt U.S. workers, and I do not discount those concerns. However, most economic studies conclude the nation will gain more jobs than it loses from trade with Mexico under NAFTA.

I have also heard eloquent arguments and reviewed statistical data that indicate that NAFTA makes economic sense for our country and presents a strategic opportunity to strengthen America's economic and political base in our own hemisphere.

In the final analysis, NAFTA will provide a definite and comprehensive schedule for eliminating Mexico's barriers to trade. When NAFTA is fully implemented, U.S. producers of commodities and other products and services will be able to sell freely in the Mexican market—and will be able to do so without having to locate there. With some 90 million consumers in Mexico, NAFTA will provide a boost that our economy needs. That can only have a positive effect on employment and wages in our country.

There are also several aspects of NAFTA that I would like to change. None is so fundamental that it would cause me to alter my general sense of what is the right thing to do. There are probably as many desired changes to the agreement as there are members of Congress—maybe more.

Again, that is not a reason to vote against the agreement. It is just a function of negotiating and finalizing a trade pact among nations.

I hope that, when all is said and done, the American people will realize that NAFTA is an issue over which reasonable and thoughtful men and women—those who truly wish to do what's right for their country—can differ.

Many of my concerns about NAFTA have been shared by others, including the impact of the agreement on U.S. workers and on the environment. The Administration has not only made a good faith effort to provide assurances on these issues, it has taken concrete action on them.

I have concluded that NAFTA will increase employment in our country, not decrease it. This is a real opportunity for job growth that we should not miss.

To be sure, there will be some job losses, and the Administration's proposal for worker retraining will help alleviate the pain that some U.S. workers undoubtedly will experience due to NAFTA. While that pain is no small consideration, the job losses from NAFTA are expected to be only a small fraction of the dislocation currently experienced annually through corporate down-sizing and other factors.

I have also looked more deeply into the question of whether a significant number of companies will decide to move to Mexico as a result of NAFTA. In light of the lack of infrastructure, delivery systems, supplies, educated workers and the like in Mexico, I simply cannot agree with those who envision a mass exodus of United States corporations.

In fact, there is evidence that the lowering of Mexican tariffs and other import restrictions will enhance the ability of U.S. businesses—especially small businesses, which do not have the capital to move south—to remain in the United States while selling their products in the Mexican market.

On the environment, I am convinced that NAFTA not only will enable the United States to maintain its strict standards, but also will provide leverage for encouraging Mexico to enforce its environmental laws more forcefully.

In the course of the debate on NAFTA, I have also raised specific concerns about the agreement. Specifically, I have been concerned that approval of NAFTA might lock in unfair Canadian practices with respect to wheat. These practices have enabled Canada to gain 75 percent of the Mexican market in wheat and have increased concerns about Canadian wheat entering United States export programs.

I have also sought assurances that NAFTA's rules of origin will be strictly

enforced. These rules are designed to clearly identify the origin of goods and ensure that countries that are not parties to NAFTA are not able to illegally avail themselves of its benefits.

Finally, I have raised questions about our ability to maintain and enforce sanitary and phytosanitary standards for animals, plants, and other food products crossing our borders.

I and a number of my colleagues have negotiated with the White House on these matters. Those negotiations are complete and, I am pleased to say, have been successful.

In a letter released today, the President has committed to requesting the International Trade Commission to initiate in 60 days an investigation under section 22 of the Agricultural Adjustment Act as to whether Canadian imports are threatening our wheat program. This investigation is required before sanctions can be imposed. Unless the Canadians agree to make concessions before that time, the section 22 investigation will begin.

The legislation that will implement NAFTA under U.S. law, which Congress will begin voting on tomorrow, already contains a provision that will require end-use certificates on wheat entering the United States. The President has further committed to instructing the Secretary of Agriculture to act quickly on this requirement and to make certain that it is effectively administered This should ensure that foreign agricultural commodities do not benefit from U.S. export programs.

With respect to enforcement of NAFTA's rules of origin, U.S. Trade Representative Mickey Kantor has committed in writing to working closely with members of Congress to ensure vigorous enforcement of those rules, so that illegal transshipments do not occur. The incidence of illegal transshipments, as well as the adequacy of food inspection under NAFTA, will be monitored as a result of an amendment I sponsored to the NAFTA implementing legislation.

That amendment requires the Secretary of Agriculture to report to Congress annually on these matters, so that Congress can respond quickly and appropriately if problems arise over the 10-year period during which most NAFTA benefits are phased in.

We are at a critical turning point in the post-cold war period. The United States like many other countries, is facing serious economic problems. We can turn inward, or we can seek to take the next, albeit risky, step of swimming with the tide of global trade.

We cannot ignore the fact that Mexico is our third-largest trading partner. We must continue to break down the sea walls of trade restrictions, as other have done and as we have been a leader in doing in the past.

NAFTA is also the right thing to do. This is not a case of United States opening its markets in hopes that others will follow suit. The United States barriers to trade are already low, while Mexico's average tariff is several times higher than ours. We are saying that we are willing to eliminate what little barriers we have for a wide-ranging commitment on the part of our neighbor to the south to completely open its markets.

It is with all of these points in mind that I will vote for the North American Free-Trade Agreement.

HON. DAMON J. KEITH

Mr. RIEGLE. Mr. President, today I rise to pay tribute to the Honorable Damon J. Keith, an extraordinary individual and one of the great jurists in our Nation's history.

A native Detroiter, Judge Keith was appointed to the United States Court of Appeals for the Sixth Circuit in 1977 with my enthusiastic support. He had earlier served on the U.S. District Court for the Eastern district of Michigan—as a U.S. District Judge for 40 years, and later as Chief Justice of that court.

Throughout his career, Judge Keith has distinguished himself by single-minded devotion to public service, outstanding civic leadership, a passionate commitment to the principles of equality and civil rights, and a rock-solid, unwavering defense of the Constitution of the United States.

In recognition of Judge Keith's dedication to upholding the United States Constitution, Chief Justice Warren Burger appointed him Sixth Circuit Chairman of the Committee of the Bicentennial of the Constitution in 1985. Two years later, Chief Justice William Rehnquist named him national chairman of the Judicial Conference Committee on the Bicentennial. In 1990, President George Bush appointed him to the Committee on the Bicentennial of the United States Constitution. Judge Keith's leadership in planning the celebration of this milestone in U.S. history earned him richly deserved national recognition and acclaim.

In 1992, the National Bar Association honored Judge Keith with its highest distinction, the C. Francis Stratford Award. the State Bar of Michigan has also recognized his accomplishments. In 1991, the Association honored him with its Champion of Justice Award. The Michigan State Bar also declared his decision in United States versus Sinclair,[1] which involved wiretapping, as Michigan's Fifteenth legal milestone. Judge Keith has also been awarded the Martin Luther King, Jr. Freedom Award from The Progressive National Baptist convention, and the Thurgood Marshall Award from the Wolverine Bar Association among many other awards.

Earlier this month, Wayne State University announced the establishment of the Damon J. Keith Law Collection. The first of its kind, the Keith Collection will house historical documents, personal papers, photographs, and memorabilia of African-American lawyers and judges, as well as important legal records. It will be a priceless archive for students and scholars now and in the future.

Judge Keith is a graduate of the Wayne State University School of Law and Howard University Law School. He holds more than 20 honorary doctorate degrees from prestigious colleges and universities throughout this Nation.

Judge Keith is a courageous, compassionate champion of justice who has earned the respect and admiration of all who know him.

On November 20, 1993, the Detroit Chapter of the National Lawyers' Guild will hold a tribute dinner to honor Judge Damon Keith.

I am very proud to add my voice to those honoring this distinguished jurist, tireless public servant, and true fighter for justice, the Honorable Damon J. Keith.

A TRIBUTE TO LT. GEN. JEAN E. ENGLER

Mr. WARNER. Mr. President, I rise today to pay tribute to an outstanding Army officer, Lt. Gen. Jean E. Engler, who passed away on November 10, 1993, at the age of 84.

General Engler began his military career as an enlisted soldier in 1928. Ten years later he was appointed to the U.S. Military Academy and began his career as a bright, young military officer.

During the 41 years General Engler served his country, he proved to be a valiant and able soldier. He rose to the position of Commanding General of the U.S. Army in Japan and served in that position from 1961–63. From 1966–67, he was the Deputy Army Commanding General of Logistics in Vietnam. His decorations included four Distinguished Service Medals, two Legions of Merit, a Bronze Star, and an Air Medal.

After retiring from the Army, General Engler continued to serve the military community by becoming involved with several military organizations. He was the executive vice president of the American Ordnance Association and the Defense Preparedness Association. He also was the Chief of Staff of the Military Order of the World Wars.

General Engler was a dedicated officer who was committed to the mission of our military. He will be sorely missed by those who were privileged to serve with him.

[1] *United States* v. *Sinclair*, 321 F. Supp. 1074 (E.D. Mich 1971).

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Zaroff, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of January 5, 1993, the Secretary of the Senate on November 15, 1993, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 142. Joint resolution designating the week beginning November 7, 1993, and the week beginning November 6, 1994, each as "National Women Veterans Recognition Week."

MESSAGES FROM THE HOUSE

At 3:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 881. An act to prohibit smoking in Federal buildings.

H.R. 1137. An act to amend the Geothermal Steam Act of 1970, and for other purposes.

H.R. 2559. An act to designate the Federal building located at 601 East 12th Street in Kansas City, MO, as the "Richard Bolling Federal Building."

H.R. 2620. An act to authorize the Secretary of the Interior to acquire certain lands in California through an exchange pursuant to the Federal Land Policy and Management Act of 1976.

H.R. 2868. An act to designate the Federal building located at 600 Camp Street, in New Orleans, LA, as the "John Minor Wisdom United States Courthouse."

H.R. 3186. An act to designate the United States courthouse located at Houma, LA as the "George Arceneaux, Jr., United States Courthouse."

H.R. 3286. An act to amend the act establishing Golden Gate National Recreation Area to provide for the management of the Presidio by the Secretary of the Interior, and for other purposes.

H.R. 3318. An act to amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single occupancy motor vehicles.

H.R. 3321. An act to provide increased flexibility to States in carrying out the Low-Income Home Energy Assistance Program.

H.R. 3356. An act to designate the United States courthouse under construction at 611 Broad Street in Lake Charles, LA, as the "Edwin Ford Hunter, Jr., United States Courthouse."

H.R. 3445. An act to improve hazard mitigation and relocation assistance in connection with flooding, to provide comprehensive review and assessment of the adequacy of current flood control policies and measures, and for other purposes.

H.R. 3485. An act to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1994, 1995 and 1996.

S.J. Res. 129. Joint resolution to authorize the placement of a memorial cairn in Arlington National Cemetery, Arlington, VA, to honor the 270 victims of the terrorists bombing of Pan Am Flight 103.

The message also announced that the House has passed the bill (S. 433) to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 654. An act to amend the Indian Environmental General Assistance Program Act of 1992 to extend the authorization of appropriations.

S. 1490. An act to amend the United States Grain Standards Act to extend authority of the Federal Grain Inspection Service to collect fees to cover administrative and supervisory costs, to extend the authorization of appropriations for such act, and to improve administration of such act, and for other purposes.

S.J. Res. 19. Joint resolution to acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.

H.J. Res. 79. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 21, 1993, and November 20, 1994, as "National Family Week."

The enrolled bills and joint resolutions were subsequently signed by the President Pro Tempore (Mr. BYRD).

MEASURES REFERRED

The following bills were read and referred, as follows:

H.R. 2559. An act to designate the Federal building located at 601 East 12th Street in Kansas City, MO, as the "Richard Bolling Federal Building"; to the Committee on Environment and Public Works

H.R. 2868. An act to designate the Federal building located at 600 Camp Street, in New Orleans, LA, as the "John Minor Wisdom United States Courthouse"; to the Committee on Environment and Public Works;

H.R. 3186. An act to designate the United States courthouse located at Houma, LA, as the "George Arceneaux, Jr., United States Courthouse"; to the Committee on Environment and Public Works;

H.R. 3356. An act to designate the United States courthouse under construction at 611 Broad Street in Lake Charles, LA, as the "Edwin Ford Hunter, Jr., United States Courthouse"; to the Committee on Environment and Public Works;

H.R. 3445. An act to improve hazard mitigation and relocation assistance in connection with flooding, to provide comprehensive review and assessment of the adequacy of current flood control policies and measures, and for other purposes; to the Committee on Environment and Public Works; and

H.R. 3485. An act to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1994, 1995, and 1996; to the Committee on Commerce, Science, and Transportation.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 16, 1993, he had presented to the President of the United States the following enrolled bill:

S.J. Res. 142. Joint resolution designating the week beginning November 7, 1993, and the week beginning November 6, 1994, each as "National Women Veterans Recognition Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1753. A communication from the Secretary of the Senate transmitting, pursuant to law, a full and complete statement of the receipts and expenditures of the Senate showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in his posession from April 1, 1993 through September 30, 1993; ordered to lie on the table.

EC–1754. A communication from the President of the United States, transmitting, pursuant to law, a notice of extension of the national emergency with respect to the proliferation of chemical and biological weapons; to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 286. A bill to reauthorize funding for the Office of Educational Research and Improvement, to provide for miscellaneous education improvement programs, and for other purposes (Rept. No. 103–183).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

H.R. 856. A bill to improve education in the United States by promoting excellence in research, development, and the dissemination of information.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN:

S. 1659. A bill to amend the Law Enforcement Officers Protection Act of 1985; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1660. A bill to establish the Great Falls Historic District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself and Mr. PELL):

S. 1661. A bill to amend the Occupational Safety and Health Act of 1970 to provide for uniform warnings on personal protective equipment for occupational use, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WOFFORD:

S. 1662. A bill to amend the Housing and Community Development Act of 1974 to increase the maximum amount of community development assistance that may be used for public service activities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LIEBERMAN (for himself, Mr. BRADLEY, Mr. D'AMATO, Mr. DODD, Mr. COHEN, Mr. CHAFEE, Mr. COATS, Mr. GLENN, Mr. GRASSLEY, Mr. HEFLIN, Mr. INOUYE, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. REID, Mr. SASSER, Mr. SHELBY, Mr. WARNER, Mr. WELLSTONE, Mr. METZENBAUM, Mr. JOHNSTON, Mr. WOFFORD, Mr. SIMON, Mr. DURENBERGER, and Mr. HATCH):

S.J. Res. 151. A joint resolution designating the week of April 10 through 16, 1994, as "Primary Immune Deficiency Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY (for himself, Mr. D'AMATO, Mr. MOYNIHAN, Mr. HELMS, Mr. LAUTENBERG, Mr. DODD, Mr. WOFFORD, Mr. BRADLEY, Mr. MITCHELL, Mr. SASSER, Mr. FORD, Mr. LIEBERMAN, Mr. LEVIN, Mr. PELL, and Mr. KERRY):

S. Res. 165. A resolution to state the sense of the Senate with respect to the compliance of Libya with United Nations Security Council Resolutions; to the Committee on Foreign Relations.

By Mr. BROWN:

S. Res. 166. A resolution to express the sense of the Senate that all able-bodied Federal prison inmates should work and that the Attorney General shall submit to Congress a report describing a strategy for employing more Federal prison inmates; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 1659. A bill to amend the Law Enforcement Officers Protection Act of 1985; to the Committee on the Judiciary.

LAW ENFORCEMENT OFFICERS PROTECTION ACT

• Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that would amend the Law Enforcement Officers Protection Act of 1985. In 1986, the Senate passed that legislation by a vote of 97–1. The act made it unlawful to manufacture or import armor-piercing ammunition. President Reagan signed the bill into law on August 8, 1986.

As I said in 1986, cop-killer bullets have no place in the arsenal of any sportsman or law-abiding citizen. They have only one purpose—to injure or kill police officers, Federal law enforcement officers, or even Presidents when they are wearing bullet-proof vests. The Senate has the responsibility to protect the Nation's law enforcement officers.

We did this in 1986, and must do so again now. It has recently come to our attention that a Swedish-made bullet, the M39B, does not fall under the 1986 prohibition because of its composition. The M39B is a 9mm round capable of piercing the soft body armor worn by police because it has a thick steel jacket surrounding a lead core—rather than the hard projectile core in other armor-piercing rounds.

The Bureau of Alcohol, Tobacco, and Firearms [BATF] supports a ban on the M39B, which would be limited to this kind of ammunition only. The Fraternal Order of Police and the Federal Law Enforcement Officers Association have also endorsed this legislation.

We need this bill to protect our police officers. We cannot stand idly by, waiting for the day when M39B bullets fall into the hands of criminals. That day has not arrived yet, but it will if we fail to act. We must ban the M39B now.

Mr. President, I ask unanimous consent that the text of the bill and letters from BATF, the Fraternal Order of Police, and the Federal Law Enforcement Officers Association be printed in the RECORD at the conclusion of my remarks.

I urge my colleagues to support this vitally important legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Law Enforcement Officers Protection Act of 1985, Amendment."

SEC. 101. ARMOR-PIERCING AMMUNITION DEFINITION.

Section 921 (a)(17) of Title 18, United States Code, is amended by revising subparagraph (B) and adding a new subparagraph (C) to read as follows:

"(B) The term 'armor piercing ammunition' means—

"(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

"(ii) a jacketed projectile which may be used in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

"(C) The term 'armor piercing ammunition' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device."

DEPARTMENT OF THE TREASURY, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,
Washington, DC, November 4, 1993.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: As the Senate takes up the issue of controlling handgun ammunition, I would like to take this opportunity to make you aware of a particularly dangerous type of ammunition now coming into circulation.

The M39B is a 9mm Parabellum caliber cartridge which defeats police soft body armor, but which is not subject to current law governing armor piercing handgun ammunition. As you know, current law controls handgun ammunition when the projectile or projectile core is made entirely of one or more defined metals.

The M39B escapes being covered because it utilizes an overly thick steel bullet jacket. The core of the bullet is lead.

Clearly as 9mm handguns continue to expand their market share, we in law enforcement are faced with the threat of offenders armed with high capacity, rapid firing handguns filled with ammunition, each round of which will punch through a policeman's body armor.

I know you appreciate the seriousness of this issue, and I hope you find the information about this ammunition informative. Please be assured of our interest in working with you on this issue and of our willingness to answer any questions you may have.

Sincerely yours,

JOHN W. MAGAW,
Director.

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Columbus, OH, November 4, 1993.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the Fraternal Order of Police, I applaud your efforts to address the increasing violence in this country by introducing legislation aimed at controlling the distribution of ammunition. I now request that you take your proposed legislation an extra step by banning the sale of the M39B bullet.

The M39B bullet is a 9mm Parabellum caliber cartridge that is able to penetrate soft body armor used by police departments. As you know, armor piercing ammunition is tightly regulated by the Gun Control Act. This particular bullet is not currently controlled by those regulations.

It is imperative that M39B ammunition be banned from use, for the protection of the men and women in law enforcement who are charged with protecting the citizens of the United States.

Your continued support of the law enforcement community is appreciated by the members of the Fraternal Order of Police.

Sincerely,

DEWEY R. STOKES,
National President.

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION,
Amityville, NY, November 4, 1993.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the Federal Law Enforcement Officers Association, I am writing to thank you for attention to the terrible threat gun violence has become to our Nation's health.

I also want to take this opportunity to ask you to examine what can be done to stop the sale of the M39B 9mm Parabellum round of ammunition.

The M39B effectively penetrates soft body armor; but because its steel jacket, rather than the bullet or core of the projectile, gives it this ability it is untouched by existing law.

This is a round of ammunition that has found its way through a loophole in the law and is aimed at the heart of police officers everywhere.

We thank you as always for your interest in the public safety and urge you to act to stop the spread of this new "cop killer" ammunition.

Sincerely,

VICTOR OBOYSKI, Jr.,
Executive Vice President.•

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1660. A bill to establish the Great Falls Historic District, and for other purposes; to the Committee on Energy and Natural Resources.

GREAT FALLS PRESERVATION AND REDEVELOPMENT ACT OF 1993

• Mr. LAUTENBERG. Mr. President, I'm pleased to have Senator BILL BRADLEY join me in introducing the Great Falls Preservation and Redevelopment Act of 1993, legislation that recognizes the historic significance of the Great Falls area of Paterson, NJ.

I'm proud to say that I was born in Paterson. My father worked in the mills, and I experienced first-hand the historic importance of industry in the city.

Paterson is known as America's first industrialized city. Alexander Hamilton played a role here when, in 1791 he chose the area around the Great Falls for his laboratory and to establish the Society for the Establishment of Useful Manufactures. Textiles held special significance; Paterson was once called "Silk City" as the center of the textile industry.

While rich in history, the area is also blessed by great natural beauty and splendor. It is an oasis of beauty in an urban environment. Its resources offer not just educational and cultural opportunities, but economic and recreational ones as well.

The Federal government acknowledged all this by designating the area a national historic landmark, a formal recognition by the National Park Service.

The roots and contributions of this area run deep. New industries were responsible for thriving businesses, tightknit families and for many of the residents, the first homes of immigrants, who arrived in the United States through nearby Ellis Island.

Many of the industries from Great Falls have moved elsewhere. But we are left with an area whose significance is great for people like me.

I find a source of inspiration in remembering my father in those thriving mills of Paterson, so I look at Paterson, and the Great Falls area, as a reminder of who I am. We must value our personal and collective histories, because they connect us to our families and to each other.

Paterson is not alone in this story. New Jersey is rich in industrial, urban history. New Jersey played a major role in the industrial revolution.

I sought to highlight this role when I secured funds in the fiscal year 1992 Interior appropriations bill to establish the Urban History Initiative in three cities in New Jersey. Paterson is one of those cities.

Paterson's urban history program is in its early stages. The cooperative agreement was recently signed and things are moving. This infusion of funds has succeeded in initiating Paterson's historic revitalization.

But this bill formalizes the current partnership among the city, its residents, and the Federal Government. It establishes the Great Falls Historic District and provides a long-term Federal presence in the area. The resources of Great Falls are just beginning to be tapped—we need this bill to give the resources the focus they deserve.

Such historical recognition provides important educational, economic, and cultural benefits. Its value is immeasurable.

The Secretary of the Interior will enter into cooperative agreements with nonprofits, property owners, State and local government to assist in interpreting and preserving the historical significance and contributions of the Great Falls to the city, to industry, and to our heritage.

This bill does not impose Federal Government's heavy hand on the residents and businesses. The city doesn't want that, and neither does the Park Service.

Instead, the bill initiates and facilitates cooperative agreements among interested parties. The Secretary will determine properties of historical or cultural significance, and provide technical assistance, interpret, restore or improve these properties. This historic and cultural recognition leads to economic revitalization in the area.

This bill, when enacted, will play an important part in advancing the historic revival of Paterson and of the Great Falls. In turn, it will boost the economic vitality of the region while restoring the importance of our industrial heritage for our children. I look forward to watching this bill become reality.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1660

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 "Great Falls Preservation and Redevelopment Act of 1993".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "District" means the Great Falls Historic District established under section 4; and

(2) the term "Secretary" means the Secretary of the Interior.

SEC. 3. PURPOSE.

The purpose of this Act is to preserve and interpret the educational and inspirational benefit of the unique and distinguished contribution to our national heritage of certain historic and cultural lands, waterways, and edifices of the Great Falls Historic District. Such purpose shall be carried out with an emphasis on harnessing this unique urban environment for its educational and recreational value, and enhancing economic and cultural redevelopment within the District.

SEC. 4. GREAT FALLS HISTORIC DISTRICT.

(a) ESTABLISHMENT.—There is established in the city of Paterson in the county of Passaic in the State of New Jersey the Great Falls Historic District.

(b) BOUNDARIES.—The boundaries of the District shall be the boundaries as specified for the Great Falls Historic District listed on the National Register of Historic Places.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the District through cooperative agreements in accordance with this Act.

(b) GRANTS; COOPERATIVE AGREEMENTS.—

(1) *IN GENERAL.—In expending sums made* available pursuant to this Act, the Secretary may make grants to, and enter into cooperative agreements with, nonprofit entities for—

(A) the purchase of property or easements;

(B) emergency stabilization; and

(C) the establishment of a coordinated fund.

(2) PURPOSE.—Grants and cooperative agreements entered into under this subsection shall be used to carry out this Act, including the following activities:

(A) An evaluation of—

(i) the condition of historic and architectural resources existing on the date of enactment of this Act; and

(ii) the environmental and flood hazard conditions within the District.

(B) Recommendations for—

(i) rehabilitating, reconstructing, and adaptively reusing such historic and architectural resources;

(ii) preserving viewsheds, focal points, and streetscapes;

(iii) establishing gateways to the District;

(iv) establishing and maintaining parks and public spaces;

(v) restoring, improving, and developing raceways and adjacent areas;

(vi) developing public parking areas;

(vii) improving pedestrian and vehicular circulation within the District;

(viii) improving security within the District, with an emphasis on preserving historically significant structures from arson; and

(ix) establishing a visitor's center.

(c) RESTORATION, MAINTENANCE, AND INTERPRETATION.—

(1) IN GENERAL.—The Secretary may enter into cooperative agreements with the owners of properties within the District of historical or cultural significance as determined by the Secretary, pursuant to which the Secretary may mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties.

(2) REQUIREMENTS.—Each agreement entered into pursuant to paragraph (1) shall contain provisions ensuring that—

(A) the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes; and

(B) no changes or alterations shall be made in the property except by mutual agreement.

(d) COOPERATIVE AGREEMENTS WITH STATE.—In administering the District, the Secretary may enter into cooperative agreements with the State of New Jersey, or any political subdivision thereof, for rendering, on a reimbursable basis, rescue, firefighting, and law enforcement services, cooperative assistance by nearby law enforcement and fire preventive agencies, and for other appropriate purposes.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as are necessary to carry out this Act.●

Mr. BRADLEY. Mr. President, I am pleased today to join Senator LAUTENBERG in introducing the Great Falls Preservation and Redevelopment Act. Senator LAUTENBERG has been for a number of years a true leader for the preservation of Paterson's historic Great Falls in New Jersey. I would note especially his efforts to create a New Jersey Urban History Initiative. This National Park Service program, which was initiated in the summer of 1992, is allowing the Park Service to work directly with the local citizens to preserve the Great Falls Historic District.

This is truly the broadest support for this legislation in my State. Congressman KLEIN is to be commended for his work in the House of Representatives. He has introduced this legislation in the House. Mayor Pascrell is strongly supportive of this effort and has today come down from New Jersey to testify before a House subcommittee to that effect. Former Congressman Roe also sought to protect and celebrate the Great Falls of Paterson. Many others in the community are enthusiastic and active in this effort.

The city of Paterson and the Great Falls have a long and rich history. In the early days of the Nation, when water power was the engine for industrial growth, Alexander Hamilton handpicked the Great Falls as a center for American industry. With $8,000 in seed money, Hamilton and his Society for Useful Manufacturers purchased 700 acres and hired Pierre L'Enfant to design the town. From this auspicious beginning in 1792, Paterson developed into a national industrial power. Its textile factories made cotton cloth and sails that were the best available. Along the river were invented the Colt revolver, the Rogers steam locomotive, and the Curtiss-Wright aircraft engines.

In 1976, the Secretary of the Interior designated the Great Falls National Historic Landmark District. As a result of this declaration and the Urban History Initiative, the Park Service has been directly involved in the ongoing preservation effort. With this new bill, we validate this assistance and pledge our own enthusiasm, commitment and personal involvement.

From my work with the New Jersey Coastal Heritage Trail and the shore communities, from the work on various wild and scenic rivers in New Jersey, and from a variety of other preservation projects, I've seen how crucial it is to have professional guidance and recognition. The very difficult job of preserving the Great Falls District falls ultimately on the local citizens. The Federal Government cannot do the job for them. But we owe them our support. Don't underestimate the power of a little help and a little recognition. This bill will not mandate the preservation of this important area. However, I believe it will achieve that end. I urge my colleagues to support this bill.

By Mr. DURENBERGER (for himself and Mr. PELL):

S. 1661. A bill to amend the Occupational Safety and Health Act of 1970 to provide for uniform warnings on personal protective equipment for occupational use, and for other purposes; to the Committee on Labor and Human Resources.

WORKER PROTECTION WARNINGS ACT OF 1993

● Mr. DURENBERGER. Mr. President, I rise today to introduce the Worker Protection Warning Act of 1993. I am proud to join Senator PELL in cosponsoring this important legislation.

The Worker Protection Warning Act directs the Occupational Safety and Health Administration [OSHA] to develop and mandate uniform warnings and instructions for equipment designed to protect workers from workplace hazards. OSHA will develop these warnings in cooperation with workers, employers, human factors experts, manufacturers of safety equipment, and other experts in the field.

Companies who manufacture protective equipment, as well as employers and employees who use these products will benefit from this legislation. Current manufacturers' warnings and instructions are not uniform, even those on similar personal protective equipment. Consequently, workers have to be retrained every time they use new brands of equipment or when they are hired by new employers.

To add to this confusion, warning and instruction methods are determined on a State by State basis. Therefore, the system tends to be inconsistent and confusing to all involved—workers, employers, safety directors, and equipment manufacturers.

Uniform Federal warnings will greatly reduce the difficulty many manufacturers face in attempting to comply with multiple State guidelines. In addition, uniform warnings will simplify instructions, limit training and retraining time, and—ultimately—help protect workers.

More effective warnings will mean fewer accidents caused by protective equipment misuse.

The warnings required by this bill must go beyond notifying employers and employees of the risks of bodily injury. In addition, the warnings must also detail a product's limitations, its proper uses, and common misuses.

OSHA will also define the means by which equipment manufacturers will convey the warnings, and will require employers to communicate the warnings to their workers, train them in the proper use of equipment, and warn them of the safety consequences if they do not follow these instructions.

Mr. President, under this legislation, manufacturers of personal protection equipment will remain liable for workers' injuries resulting from design and manufacturing defects, and for failing to supply necessary warnings. However, a national standard should result in fewer court proceedings.

I look forward to working with my colleagues on the Senate Labor and Human Resources Committee to ensure passage of this important legislation.●

By Mr. LIEBERMAN (for himself, Mr. BRADLEY, Mr. D'AMATO, Mr. DODD, Mr. COHEN, Mr. CHAFEE, Mr. COATS, Mr. GLENN, Mr. GRASSLEY, Mr. HEFLIN, Mr. INOUYE, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. REID, Mr. SASSER, Mr. SHELBY, Mr. WARNER, Mr. WELLSTONE, Mr. METZENBAUM, Mr. JOHNSTON, Mr. WOFFORD, Mr. SIMON, Mr. DURENBERGER, and Mr. HATCH):

S.J. Res. 151. A joint resolution designating the week of April 10 through 16, 1994, as "Primary Immune Deficiency Awareness Week"; to the Committee on the Judiciary.

PRIMARY IMMUNE DEFICIENCY AWARENESS WEEK

● Mr. LIEBERMAN. Mr. President, I rise today to introduce a joint resolution to declare the week beginning April 10, 1994, as Primary Immune Deficiency Awareness Week. Primary immune deficiency is a genetic defect to

the immune system that presently affects 1 in 500 persons, most of them children, in the United States. This condition often provokes a lifetime of serious illnesses and sometimes results in death, yet many doctors and families know little about the disease. Primary immune deficiency is frequently misdiagnosed and not properly treated. Therapy and medicines which can significantly improve the health of those suffering from primary immune deficiency, protect their vital organs, and save their lives, do exist, but many families and patients suffer alone with little medical or psychological support.

The Modell family of the State of Connecticut has suffered through the tragedy of losing a loved one to primary immune deficiency. Jeffrey Modell struggled bravely with this disease until it took his life at the age of 15. Fred and Vicky Modell experienced the enormous medical, emotional, and financial difficulties of dealing with the primary immune deficiency on their own. After the ordeal was over, they realized the need for an organization which would provide families who are struggling to overcome PID with a place to turn for help. They founded the Jeffrey Modell Foundation, a national, nonprofit research foundation which operates a 24-hour information and referral hotline and helps fund and coordinate the struggle against primary immune deficiency through work in three areas; research, physician and patient education, and patient support.

The Modell Foundation has done an extraordinary job toward realizing all three goals, but we must expand our efforts to increase public awareness. Some 500,000 Americans are known to be affected by this disease. We need to ensure that parents and health care professionals are aware of the symptoms of primary immune deficiency, that they know where to turn for assistance, and that we are supporting research efforts to increase the medical community's understanding of this condition.

I urge my colleagues to join me in declaring the week April 10 through April 16, 1994 as National Primary Immune Deficiency Awareness Week. I ask unanimous consent that the text of the resolution be printed in the RECORD following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 151

Whereas primary immune deficiency is a congenital defect in the immune system such that the body cannot adequately defend itself from infection;

Whereas primary immune deficiency is most often diagnosed in children and affects more children than leukemia and lymphoma combined;

Whereas primary immune deficiency is believed to effect 500,000 Americans and possibly more because the defect is often undiagnosed and misdiagnosed;

Whereas many forms of primary immune deficiency are inherited;

Whereas there are currently considered to be 70 forms of primary immune deficiency ranging from severe combined immune deficiency (which is fatal if untreated) to chronic recurring infections and allergies that cannot be managed with prophylactic antibiotics;

Whereas the earliest symptoms of primary immune deficiency are easily confused with a number of common illnesses or infections so that physicians often fail to diagnose and treat the underlying problem;

Whereas once suspected, primary immune deficiency can be diagnosed through a series of blood screenings that test immune function;

Whereas early intervention and treatment can save lives and prevent permanent damage to lungs and other organs;

Whereas many forms of treatment are available once a specific diagnosis is made;

Whereas procedures such as bone marrow transplants may result in complete cure, and other treatments like monthly infusions of gamma globulin dramatically reduce a patient's risk of infections and enable the patient to lead a normal life;

Whereas patients may have long periods of normal health then suddenly be stuck by severe fevers and infections;

Whereas lack of public awareness can lead to anxiety and leave families isolated and confused; and

Whereas education is essential to make the general public, health care professionals, employers, and insurers more knowledgeable about primary immune deficiency: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 10 through 16, 1994, is designated as "Primary Immune Deficiency Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.●

By Mr. WOFFORD:

S. 1662. A bill to amend the Housing and Community Development Act of 1974 to increase the maximum amount of community development assistance that may be used for public service activities; to the Committee on Banking, Housing, and Urban Affairs.

COMMUNITY DEVELOPMENT FLEXIBILITY ACT

● Mr. WOFFORD. Mr. President, today I am introducing the Community Development Flexibility Act to help communities deal with pressing social problems.

The Community Development Block Grant Program has enabled communities to improve upon their housing and infrastructure stock. It also permits communities to spend up to 15 percent of their CDBG funds on public service activities such as crime prevention. The time has come to enable communities to commit more of their CDBG resources to these public service activities. The Community Development Flexibility Act would increase the public service cap from 15 to 20 percent.

My hope is that communities would use these additional resources for crime prevention—especially for community policing efforts. The issue of crime touches every neighborhood in every city and town in every State of this Nation. No one is immune from the ravages of random violent acts that have increased in number beyond our ability to control them with traditional policing methods.

If success in fighting crime could be measured accurately by the number of people we put behind bars, then we would not have the problems we face today. The United States has the highest incarceration rate of any industrialized nation. Yet the United States has a rate of violent crime 5 times that of Canada and 10 times that of England.

In my own State of Pennsylvania violence is on the rise. In the city of Pittsburgh drug and gang violence have taken over the streets of many of the cities's poorest neighborhoods. In Philadelphia like other major cities across the country, the increased incident of crime has crippled local police resources and held captive law abiding citizens.

Our communities and our local law enforcement agencies are demanding that we provide them with the resources they need to take innovative steps to stem the growth in crime.

This legislation will help us get there. I have heard from the city of Pittsburgh, which has told me that the 15 percent cap is creating a serious burden on its ability to pursue a coherent local strategy for making its neighborhoods safe. I agree with Pittsburgh Mayor Sophie Masloff who wrote me to say that crime prevention goes hand in hand with housing and economic development activities, so ardently pursued by the CDBG program.

And while may hope would be that communities would use the resources to create safe neighborhoods—this legislation does not tie the hands of local officials to respond to their community's needs. Communities could use these resources for the variety of purposes permitted under the CDBG program. Washington should be cautious in dictating to local governments and this legislation will increase their flexibility to deal with the problems they face.

I ask unanimous consent that the full text of the Community Development Flexibility Act appear following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1662

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 known as the "Community Development Flexibility Act."

SEC. 2. CDBG ASSISTANCE FOR PUBLIC SERVICE ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by striking "15 per centum" each place it appears and inserting "20 percent"; and

(2) by striking "15 percent" and inserting "20 percent".●

ADDITIONAL COSPONSORS

S. 81

At the request of Mr. NICKLES, the names of the Senator from Wyoming [Mr. WALLOP] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 81, a bill to require analysis and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, and for other purposes.

S. 455

At the request of Mr. HATFIELD, the names of the Senator from California [Mrs. BOXER] and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 455, a bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 465

At the request of Mr. DASCHLE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 465, a bill to amend the Internal Revenue Code of 1986 to encourage the production of biodiesel and certain ethanol fuels, and for other purposes.

S. 549

At the request of Mr. DOMENICI, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 549, a bill to provide for the minting and circulation of one-dollar coins.

S. 1037

At the request of Mrs. MURRAY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1037, a bill to amend the Civil Rights Act of 1991 with respect to the application of such Act.

S. 1082

At the request of Mr. COCHRAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1082, a bill to amend the Public Health Service Act to revise and extend the program of making grants to the States for the operation of offices of rural health, and for other purposes.

S. 1329

At the request of Mr. D'AMATO, the names of the Senator from Georgia [Mr. NUNN], the Senator from New Jersey [Mr. BRADLEY], the Senator from New Hampshire [Mr. GREGG], the Senator from Massachusetts [Mr. KERRY], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1428

At the request of Mr. SIMON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1428, a bill to amend the Public Health Service Act to provide for programs regarding women and the human immunodeficiency virus, and for other purposes.

S. 1429

At the request of Mr. SIMON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1429, a bill to amend the Public Health Service Act to establish programs of research with respect to women and cases of information with the human immunodeficiency virus, and for other purposes.

S. 1432

At the request of Mr. HOLLINGS, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1432, a bill to amend the Merchant Marine Act, 1936, to establish a National Commission to Ensure a Strong and Competitive United States Maritime Industry.

S. 1437

At the request of Mr. DOLE, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1437, a bill to amend section 1562 of title 38, United States Code, to increase the rate of pension for persons on the Medal of Honor roll.

S. 1478

At the request of Mr. PRYOR, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1478, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that pesticide tolerances adequately safeguard the health of infants and children, and for other purposes.

S. 1503

At the request of Mr. WELLSTONE, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1503, a bill to expand services provided by the Department of Veterans' Affairs for veterans suffering from post-traumatic stress disorder (PTSD).

S. 1552

At the request of Mr. WARNER, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Illinois [Mr. SIMON], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 1552, a bill to extend for an additional two years the authorization of the Black Revolutionary War Patriots Foundation to establish a memorial.

S. 1575

At the request of Ms. MIKULSKI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1575, a bill to amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

S. 1605

At the request of Ms. MIKULSKI, the names of the Senator from California [Mrs. BOXER] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 1605, a bill to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations.

S. 1651

At the request of Mr. D'AMATO, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1651, a bill to authorize the minting of coins to commemorate the 200th anniversary of the founding of the United States Military Academy at West Point, New York.

S. 1657

At the request of Mr. SPECTER, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Virginia [Mr. WARNER], the Senator from New York [Mr. D'AMATO], the Senator from Washington [Mr. GORTON], the Senator from Colorado [Mr. BROWN], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 1657, a bill to reform habeas corpus procedures.

SENATE JOINT RESOLUTION 141

At the request of Mr. SARBANES, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 141, a joint resolution designating October 29, 1993, as "National Firefighters Day".

SENATE CONCURRENT RESOLUTION 31

At the request of Mr. DODD, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Concurrent Resolution 31, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE CONCURRENT RESOLUTION 36

At the request of Mr. RIEGLE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of Senate Concurrent Resolution 36, a concurrent resolution expressing the sense of the Congress that United States truck safety standards are of paramount importance to the implementation of the North American Free Trade Agreement.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution concerning the Arab boycott of Israel.

SENATE RESOLUTION 148

At the request of Mr. SIMON, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Texas [Mr. GRAMM], the Senator from Nevada [Mr. REID], the Senator from Colorado [Mr. BROWN], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Resolution 148, a

resolution expressing the sense of the Senate that the United Nations should be encouraged to permit representatives of Taiwan to participate fully in its activities, and for other purposes.

SENATE RESOLUTION 155

At the request of Mr. HATCH, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Resolution 155, a resolution commending the Government of Italy for its commitment to halting software piracy.

SENATE RESOLUTION 164

At the request of Mr. MOYNIHAN, the names of the Senator from Wisconsin [Mr. KOHL], the Senator from Illinois [Mr. SIMON], the Senator from Arizona [Mr. DECONCINI], the Senator from North Dakota [Mr. CONRAD], the Senator from North Dakota [Mr. DORGAN], the Senator from Indiana [Mr. LUGAR], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Maryland [Ms. MIKULSKI], the Senator from New Hampshire [Mr. GREGG], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Resolution 164, a resolution expressing the sense of the Senate commemorating the bombing of Pan Am Flight 103.

AMENDMENT NO. 1158

At the request of Mr. PRESSLER, his name was added as a cosponsor of amendment No. 1158 proposed to S. 1607, a bill to control and prevent crime.

AMENDMENT NO. 1159

At the request of Mr. HELMS, the names of the Senator from Florida [Mr. MACK], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Kansas [Mr. DOLE], the Senator from South Carolina [Mr. THURMOND], the Senator from Utah [Mr. HATCH], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Montana [Mr. BURNS], the Senator from Arizona [Mr. MCCAIN], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of amendment No. 1159 proposed to S. 1607, a bill to control and prevent crime.

AMENDMENT NO. 1175

At the request of Mr. LIEBERMAN his name was added as a cosponsor of amendment No. 1175 proposed to S. 1607, a bill to control and prevent crime.

AMENDMENT NO. 1181

At the request of Mr. DECONCINI the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Nevada [Mr. REID], the Senator from Hawaii [Mr. INOUYE], the Senator from Colorado [Mr. CAMPBELL], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of amendment No. 1181 proposed to S. 1607, a bill to control and prevent crime.

AMENDMENT NO. 1189

At the request of Mr. DODD, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of amendment No. 1189 proposed to S. 1607, a bill to control and prevent crime.

SENATE RESOLUTION 165—RELATING TO LIBYA'S COMPLIANCE WITH U.N. SECURITY COUNCIL RESOLUTION

Mr. KENNEDY (for himself, Mr. D'AMATO, Mr. MOYNIHAN, Mr. HELMS, Mr. LAUTENBERG, Mr. DODD, Mr. WOFFORD, Mr. BRADLEY, Mr. MITCHELL, Mr. SASSER, Mr. FORD, Mr. LIEBERMAN, Mr. LEVIN, Mr. PELL, and Mr. KERRY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 165

Whereas Pan American Airways Flight 103 was destroyed by a terrorist bomb over Lockerbie, Scotland, on December 21, 1988;

Whereas the bombing killed 270 people, and 189 of those killed were citizens of the United States, including the following citizens from 21 States, the District of Columbia, and United States citizens living abroad:

(1) ARKANSAS.—Frederick Sanford Phillips.

(2) CALIFORNIA.—Jerry Don Avritt, Surinder Mohan Bhatia, Stacie Denise Franklin, Matthew Kevin Gannon, Paul Isaac Garrett, Barry Joseph Valentino, Jonathan White.

(3) COLORADO.—Steven Lee Butler.

(4) CONNECTICUT.—Scott Marsh Cory, Patricia Mary Coyle, Shannon Davis, Turhan Ergin, Thomas Britton Schultz, Amy Elizabeth Shapiro.

(5) DISTRICT OF COLUMBIA.—Nicholas Andreas Vrenios.

(6) FLORIDA.—John Binning Cummock.

(7) ILLINOIS.—Janina Jozefa Waido.

(8) KANSAS.—Lloyd David Ludlow.

(9) MARYLAND.—Michael Stuart Bernstein, Jay Joseph Kingham, Karen Elizabeth Noonan, Anne Lindsey Otenasek, Anita Lynn Reeves, Louise Ann Rogers, George Watterson Williams, Miriam Luby Wolfe.

(10) MASSACHUSETTS.—Julian MacBain Benello, Nicole Elise Boulanger, Nicholas Bright, Gary Leonard Colasanti, Joseph Patrick Curry, Mary Lincoln Johnson, Julianne Frances Kelly, Wendy Anne Lincoln, Daniel Emmett O'Connor, Sarah Susannah Buchanan Philipps, James Andrew Campbell Pitt, Cynthia Joan Smith, Thomas Edwin Walker.

(11) MICHIGAN.—Lawrence Ray Bennett, Diane Boatman-Fuller, James Ralph Fuller, Kenneth James Gibson, Pamela Elaine Herbert, Khalid Nazir Jaafar, Gregory Kosmowski, Louis Anthony Marengo, Anmol Rattan, Garima Rattan, Suruchi Rattan, Mary Edna Smith, Arva Anthony Thomas, Jonathan Ryan Thomas, Lawanda Thomas.

(12) MINNESOTA.—Philip Vernon Bergstrom.

(13) NEW HAMPSHIRE.—Stephen John Boland, James Bruce MacQuarrie.

(14) NEW JERSEY.—Thomas Joseph Ammerman, Michael Warren Buser, Warren Max Buser, Frank Ciulla, Eric Michael Coker, Jason Michael Coker, William Allan Daniels, Gretchen Joyce Dater, Michael Joseph Doyle, John Patrick Flynn, Kenneth Raymond Garczynski, William David Giebler, Roger Elwood Hurst, Robert Van Houten Jeck, Timothy Baron Johnson, Patricia Ann Klein, Robert Milton Leckburg, Alexander Lowenstein, Richard Paul Monetti, Martha Owens, Sarah Rebecca Owens, Laura Abigail Owens, Robert Plack Owens, William Pugh, Diane Marie Rencevicz, Saul Mark Rosen, Irving Stanley Sigal, Elia Stratis, Alexia Kathryn Tsairis, Raymond Ronald Wagner, Dedera Lynn Woods, Chelsea Marie Woods, Joe Nathan Woods, Joe Nathan Woods, Jr.

(15) NEW YORK.—John Michael Gerard Ahern, Rachel Maria Asrelsky, Harry Michael Bainbridge, Kenneth John Bissett, Paula Marie Bouckley, Colleen Renee Brunner, Gregory Capasso, Richard Anthony Cawley, Theodora Eugenia Cohen, Joyce Christine Dimauro, Edgar Howard Eggleston III, Arthur Fondiler, Robert Gerard Fortune, Amy Beth Gallagher, Andre Nikolai Guevorgian, Lorraine Buser Halsch, Lynne Carol Hartunian, Katherine Augusta Hollister, Melina Kristina Hudson, Karen Lee Hunt, Kathleen Mary Jermyn, Christopher Andrew Jones, William Chase Leyrer, William Edward Mack, Elizabeth Lillian Marek, Daniel Emmet McCarthy, Suzanne Marie Miazga, Joseph Kenneth Miller, Jewell Courtney Mitchell, Eva Ingeborg Morson, John Mulroy, Mary Denice O'Neill, Robert Italo Pagnucco, Christos Michael Papadopoulos, David Platt, Walter Leonard Porter, Pamela Lynn Posen, Mark Alan Rein, Andrea Victoria Rosenthal, Daniel Peter Rosenthal, Joan Sheanshang, Martin Bernard Carruthers Simpson, James Alvin Smith, James Ralph Stow, Mark Lawrence Tobin, David William Trimmer-Smith, Asaad Eidi Vejdany, Kesha Weedon, Jerome Lee Weston, Bonnie Leigh Williams, Brittany Leigh Williams, Eric Jon Williams, Stephanie Leigh Williams, Mark James Zwynenburg.

(16) NORTH DAKOTA.—Steven Russell Berrell.

(17) OHIO.—John David Akerstrom, Shanti Dixit, Douglas Eugene Malicote, Wendy Gay Malicote, Peter Raymond Peirce, Michael Pescatore, Peter Vulcu.

(18) PENNSYLVANIA.—Martin Lewis Apfelbaum, Timothy Michael Cardwell, David Scott Dornstein, Anne Madelene Gorgacz, Linda Susan Gordon-Gorgacz, Loretta Anne Gorgacz, David J. Gould, Rodney Peter Hilbert, Beth Ann Johnson, Robert Eugene McCollum, Elyse Jeanne Saraceni, Scott Christopher Saunders.

(19) RHODE ISLAND.—Bernard Joseph McLaughlin, Robert Thomas Schlageter.

(20) TEXAS.—Willis Larry Coursey, Michael Gary Stinnett, Charlotte Ann Stinnett, Stacey Leanne Stinnett.

(21) VIRGINIA.—Ronald Albert Lariviere, Charles Dennis McKee.

(22) WEST VIRGINIA.—Valerie Canady.

(23) UNITED STATES CITIZENS LIVING ABROAD.—Sarah Margaret Aicher, Judith Bernstein Atkinson, William Garretson Atkinson III, Noelle Lydie Berti, Charles Thomas Fisher IV, Lilibeth Tobila Macalolooy, Diane Marie Maslowski, Jane Susan Melber, Jane Ann Morgan, Sean Kevin Mulroy, Jocelyn Reina, Myra Josephine Royal, Irja Syhnove Skabo, Milutin Velimirovich.

Whereas on November 14, 1991, the United States Government and the Government of the United Kingdom indicted two intelligence agents of the Government of Libya, Abdel Basset Ali Al-Megrahi and Lamen Khalifa Fhimah, in the bombing of Pan American Airways Flight 103;

Whereas on November 27, 1991, the Government of the United Kingdom and the United

States Government jointly declared that the Government of Libya must—

(1) surrender for trial all persons in Libya charged with criminal acts relating to the bombing, and accept responsibility for any such acts of officials of such government;

(2) disclose all information in the possession of such government with respect to the bombing, including the names of the persons responsible, and allow full access to any witnesses, documents, and other material evidence (including any bomb detonation timers similar to those used in the bombing) under the jurisdiction of such government; and

(3) pay appropriate compensation to the victims of the bombing;

Whereas on January 21, 1992, the United Nations Security Council adopted Resolution 731 which called on the Government of Libya to comply with the demands referred to in paragraph (4);

Whereas on March 31, 1992, in response to the noncompliance of the Government of Libya with Resolution 731, the United Nations Security Council adopted Resolution 748 which imposed limited economic sanctions on Libya;

Whereas on November 11, 1993, in response to the continued noncompliance of the Government of Libya with Resolution 731, the United Nations Security Council adopted Resolution 883 which imposed further economic sanctions on Libya; and

Whereas the Government of Libya continues to refuse to comply with United Nations Security Council Resolutions: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should take all appropriate actions necessary to secure the compliance of the Government of Libya with United Nations Security Council Resolution 731, including, if necessary, the imposition of an embargo on oil produced in Libya.

SENATE RESOLUTION 166—RELATING TO THE EMPLOYMENT OF FEDERAL PRISON INMATES

Mr. BROWN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 166

Resolved,

SECTION 1. **SENSE OF THE SENATE THAT ABLE-BODIED CONVICTED FELONS IN THE FEDERAL PRISON SYSTEM SHOULD WORK AND THAT THE ATTORNEY GENERAL SHALL SUBMIT TO CONGRESS A REPORT DESCRIBING A STRATEGY FOR EMPLOYING MORE FEDERAL PRISON INMATES.**

(a) FINDINGS.—The Senate finds that—

(1) Federal Prison Industries was created by Congress in 1934 as a wholly owned, nonprofit government corporation directed to train and employ Federal prisoners;

(2) traditionally, one-half of the Federal prison inmates had meaningful prison jobs; now, with the increasing prison population, less than one-quarter are employed in prison industry positions; and

(3) expansion of the product lines and services of Federal Prison Industries beyond its traditional lines of business will enable more Federal prison inmates to work, and such expansion must occur so as to minimize any adverse impact on the private sector and labor.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) all able-bodied Federal prison inmates should work;

(2) in an effort to achieve the goal of full Federal prison inmate employment, the Attorney General, in consultation with the Director of the Bureau of Prisons, the Secretary of Labor, the Secretary of Defense, the Administrator of the General Services Administration, and the private sector and labor, shall submit a report to Congress not later than March 31, 1994, that describes a strategy for employing more Federal prison inmates;

(3) the report shall—

(A) contain a review of existing lines of business of Federal Prison Industries;

(B) consider the findings and recommendations of the final report of the Summit on Federal Prison Industries (June 1992–July 1993); and

(C) make recommendations for legislation and changes in existing law that may be necessary for the Federal Prison Industries to employ more Federal prison inmates; and

(4) the report shall focus on—

(A) the creation of new job opportunities for Federal prison inmates;

(B) the degree to which any expansion of lines of business of Federal Prison Industries may adversely affect the private sector or displace domestic labor; and

(C) the degree to which opportunities for partnership between Federal Prison Industries and small business can be fostered.

AMENDMENTS SUBMITTED

FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT OF 1993

HATCH AMENDMENT NO. 1190

Mr. HATCH proposed an amendment to the bill (S. 636) to amend the Public Health Service Act to permit freedom of access to certain medical clinics and facilities, and for other purposes, as follows:

On page 6, between lines 2 and 3, insert the following as new section 2715(a)(2): "by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the first amendment right of religious freedom at a place of worship; or".

Renumber current section 2715(a)(2) as 2715(a)(3), and add the following at the end of line 7 on page 6: "or intentionally damages or destroys the property of a place of religious worship,".

On page 11, line 15, add "or to or from a place of religious worship" after "services" and before the comma, and add "or place of religious worship" after "facility" on line 16 of page 11.

SMITH AMENDMENT NO. 1191

Mr. SMITH. proposed an amendment to the bill S. 636, supra; as follows:

Strike page 6, line 14 through the end of page 9 and insert the following:

"(b) PENALTIES.—Whoever violates this section shall—

"(1) in the case of a first offense involving force or the threat of force, be fined in accordance with title 18, United States Code (which fines shall be paid into the general fund of the Treasury, miscellaneous receipts (pursuant to section 3302 of title 31, United States Code), notwithstanding any other law), or imprisoned not more than 1 year, or both; and

"(2) in the case of a second or subsequent offense involving force or the threat of force after a prior conviction for an offense involving force or the threat of force under this section, be fined in accordance with title 18, United States Code (which fines shall be paid into the general fund of the Treasury, miscellaneous receipts (pursuant to section 3302 of title 31, United States Code), notwithstanding any other law), or imprisoned not more than 3 years, or both;

except that, if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life. In the case of offenses not involving force or the threat of force, whoever violates this section shall be imprisoned not more than 30 days for the first offense and 60 days for the second and subsequent offenses.

"(c) CIVIL REMEDIES.—

"(1) RIGHT OF ACTION.—

"(A) IN GENERAL.—Any person aggrieved by reason of conduct prohibited by subsection (a) and involving force or the threat of force may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a medical facility that provides pregnancy or abortion-related services. Any person aggrieved by reason of conduct prohibited by subsection (a) and not involving force or the threat of force may commence a civil action for temporary, preliminary, or permanent injunctive relief not to exceed 60 days against the individual or individuals who engage in the prohibited conduct. Such injunctive relief shall apply only to the site where the prohibited conduct occurred.

"(B) RELIEF.—In any action under subparagraph (A) involving force or the threat of force, the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgement, to recover, in lieu of actual damages, an award of statutory damages in the amount of $5000 per violation.

"(2) ACTION BY ATTORNEY GENERAL OF THE UNITED STATES.—

"(A) IN GENERAL.—If the Attorney General of the United States has reasonable cause to belief that any person or group of persons in being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general public importance, the attorney General may commence a civil action in any appropriate United States District Court.

"(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against such respondent—

"(i) in an amount not exceeding $15,000, for a first violation involving force or the threat of force; and

"(ii) in an amount not exceeding $25,000, for any subsequent violation involving force or the threat of force.

"(3) ACTIONS BY STATE ATTORNEYS GENERAL.—

"(A) IN GENERAL.—If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general public importance, such Attorney General may commence a civil action in the name of such State as parens patriae on behalf of natural persons residing in such State, in any appropriate United States District Court.

"(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).".

KENNEDY AMENDMENT NO. 1192

Mr. KENNEDY proposed an amendment to amendment No. 1191 proposed by Mr. SMITH to the bill S. 636, supra; as follows:

On page 1 of the amendment, line 1, strike out "page 6" and all that follows through the end thereof and insert in lieu thereof the following: "page 7, line 6, insert after 'that,' the following: 'for an offense involving exclusively a nonviolent physical obstruction, the length of imprisonment shall be not more than 6 months for the first offense and not more than 18 months for a subsequent offense,'".

SMITH AMENDMENT NO. 1193

Mr. SMITH proposed an amendment to amendment No. 1191 to the bill S. 636, supra; as follows:

Strike all after "PENALTIES" and insert in lieu thereof the following:

".—Whoever violates this section shall—

"(1) in the case of a first offense involving force or the threat of force, be fined in accordance with title 18, United States Code (which fines shall be paid into the general fund of the Treasury, miscellaneous receipts (pursuant to section 3302 of title 31, United States Code), notwithstanding any other law), or imprisoned not more than 1 year, or both; and

"(2) in the case of a second or subsequent offense involving force or the threat of force after a prior conviction for an offense involving force or the threat of force under this section, be fined in accordance with title 18, United States Code (which fines shall be paid into the general fund of the Treasury, miscellaneous receipts (pursuant to section 3302 of title 31, United States Code), notwithstanding any other law), or imprisoned not more than 3 years, or both;

except that, if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life. In the case of offenses not involving force or the threat of force, whoever violates this section shall be imprisoned not more than 30 days.

"(c) CIVIL REMEDIES.—

"(1) RIGHT OF ACTION.—

"(A) IN GENERAL.—Any person aggrieved by reason of conduct prohibited by subsection (a) and involving force or the threat of force may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a medical facility that provides pregnancy or abortion-related services.

"(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of $5,000 per violation.

"(2) ACTION BY ATTORNEY GENERAL OF THE UNITED STATES.—

"(A) IN GENERAL.—If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States District Court.

"(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against such respondent—

"(i) in an amount not exceeding $15,000, for a first violation involving force or the threat of force; and

"(ii) in an amount not exceeding $25,000, for any subsequent violation involving force or the threat of force.

"(3) ACTIONS BY STATE ATTORNEYS GENERAL.—

"(A) IN GENERAL.—If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general, and such conduct raises an issue of general public importance, such Attorney General may commence a civil action in the name of such State as parens patriae on behalf of natural persons residing in such State, in appropriate United States District Court.

"(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).".

The provisions of this amendment shall take effect one day following the enactment of this Act.

COATS AMENDMENT NO. 1194

Mr. COATS proposed an amendment to the bill S. 636, supra; as follows:

At the appropriate place, insert the following:

"Notwithstanding any other provision in this Act add the following:

The language on page 6, between lines 7 and 8 is deemed to have inserted the following:

"(3) by force or threat of force intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with any person who is participating, or who has been seeking to participate, lawfully in speech or peaceful assembly regarding lawful reproductive health services at or near a medical facility (as defined in this section).".

KENNEDY (AND OTHERS) AMENDMENT NO. 1195

Mr. KENNEDY (for himself and Mrs. BOXER) proposed an amendment to the bill S. 636, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . RULE OF CONSTRUCTION.

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to interfere with the rights guaranteed to an individual under the First Amendment to the Constitution, or limit any existing legal remedies against forceful interference with any person's lawful participation in speech or peaceful assembly.

HATCH AMENDMENT NO. 1196

Mr. HATCH proposed an amendment to the bill, S. 636, supra; as follows:

On page 6, lines 1 and 6, amend proposed sections 2715(a) (1) and (2) to add the word "lawful" between "providing" and "pregnancy or abortion-related services".

On page 10, line 8, change "and" to "or".

On page 11, line 7, add the following new subsection 2715(e)(3):

"(3) LAWFUL.—The term 'lawful' means in compliance with applicable laws and regulations relating to pregnancy or abortion-related services."

Renumber the remaining provisions of subsection 2715(e).

KENNEDY (AND OTHERS) AMENDMENT NO. 1197

Mr. KENNEDY (for himself and Mrs. BOXER) proposed an amendment to the amendment No. 1196, proposed by Mr. HATCH, to the bill S. 636, supra; as follows:

In lieu of the matter to be inserted insert the following: "pregnancy or abortion-related services: *Provided, however,* That nothing in this section shall be construed as expanding or limiting the authority of States to regulate the performance of abortions or the availability of.

HATCH AMENDMENT NO. 1198

Mr. HATCH proposed an amendment to the bill, S. 636, supra; as follows:

On page 1 of the amendment, strike out line 1 and all that follows through the end thereof and insert the following:

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Freedom of Access to Clinic Entrances Act of 1993".

SEC. 2. PURPOSE.

It is the purpose of this Act to protect and promote the public health and safety and activities affecting interstate commerce by prohibiting the use of force, threat of force or physical obstruction to injure, intimidate or interfere with a person seeking to obtain or provide reproductive health services (including protecting the rights of those engaged in speech or peaceful assembly that is protected by the First Amendment to the Constitution), and the destruction of property of facilities providing reproductive health services, and to establish the right of private parties injured by such conduct, as well as the Attorney General of the United States, to bring actions for appropriate relief.

SEC. 3. FREEDOM OF ACCESS TO CLINIC ENTRANCES.

Title XXVII of the Public Health Service Act (42 U.S.C. 300aaa *et seq.*) is amended by

adding at the end thereof the following new section:

"SEC. 2715. FREEDOM OF ACCESS TO CLINIC ENTRANCES.

"(a) PROHIBITED ACTIVITIES.—Whoever—

"(1) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person who is or has been seeking to obtain or provide lawful reproductive health services;

"(2) intentionally damages or destroys the property of a medical facility or in which a medical facility is located, or attempts to do so, because such facility provides lawful reproductive health services; or

"(3) by force or threat of force intentionally injures, intimidates or interferes with any person who is participating, or who has been seeking to participate, lawfully in speech or peaceful assembly regarding reproductive health services,

shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c). Nothing in this subsection shall be construed to subject a parent or legal guardian of a minor to any penalties or civil remedies under this section for activities of the type described in this subsection that are directed at that minor.

"(b) PENALTIES.—Whoever violates this section shall—

"(1)(A) in the case of a first offense involving force or the threat of force, be fined in accordance with title 18 or imprisoned not more than 1 year, or both; and

"(B) in the case of a second or subsequent offense involving force or threat of force after a prior conviction for an offense involving force or threat of force under this section, be fined in accordance with title 18 or imprisoned not more than 3 years, or both;

except that, if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life; or

"(2) in the case of an offense not involving force or the threat of force, be imprisoned not more than 30 days.

"(c) CIVIL REMEDIES.—

"(1) RIGHT OF ACTION.—

"(A) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited by subsection (a) involving force or threat of force may commence a civil action for the relief set forth in subparagraph (B).

"(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of $5,000 per violation.

"(2) ACTION BY ATTORNEY GENERAL OF THE UNITED STATES.—

"(A) IN GENERAL.—If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States District Court.

"(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against each respondent—

"(i) in an amount not exceeding $15,000, for a first violation involving force or the threat of force; and

"(ii) in an amount not exceeding $25,000 for any subsequent violation involving force of the threat of force.

"(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed or interpreted to—

"(1) prevent any State from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section;

"(2) deprive State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section or that are violations of State or local law;

"(3) provides exclusive authority to prosecute, or exclusive penalties for, acts that may be violations of this section and that are violations of other Federal laws;

"(4) limit or otherwise affect the right of a person aggrieved by acts that may be violations of this section to seek other available civil remedies;

"(5) prohibit expression protected by the First Amendment to the Constitution; or

"(6) unreasonably interfere with the right to participate lawfully in speech or peaceful assembly.

"(e) DEFINITIONS.—As used in this section:

"(1) INTERFERE WITH.—The term 'interfere with' means to intentionally and physically prevent a person from accessing reproductive health service or exercising lawful speech or peaceful assembly.

"(2) INTIMIDATE.—The term 'intimidate' means intentionally placing a person in reasonable apprehension of immediate bodily harm to him- or herself or to a family member.

"(3) MEDICAL FACILITY.—The term 'medical facility' includes a hospital, clinic, physician's office, or other facility that provides health or surgical services.

"(4) PHYSICAL OBSTRUCTION.—The term 'physical obstruction' means rendering impassable ingress to or egress from a facility that provides reproductive health services, or rendering passage to or from such a facility unreasonably difficult or hazardous.

"(5) REPRODUCTIVE HEALTH SERVICES.—The term 'reproductive health services' includes medical, surgical, counselling or referral services relating to pregnancy.

"(6) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

SEC. 4. EFFECTIVE DATE.

This Act shall take effect with respect to conduct occurring on or after the date of enactment of this Act.

THE CRIME BILL

D'AMATO AMENDMENT NO. 1199

Mr. D'AMATO (for himself, Mr. HATCH, Mr. DOMENICI, and Mr. WARNER) proposed an amendment to the bill, S. 1607, to control and prevent crime; as follows:

On page 30, after line 6, insert the following sections, (b) and (c):

"(b) a defendant who has been found guilty of—

"(1) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(2) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(3) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set forth in section 3592, including the aggravating factors set forth at (c) below, in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"(C) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section (b) above, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist: 3

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or

knowingly directed, advised, authorized, or assisted another to use a firearm to threaten, intimidate, assault or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

GRAHAM (AND OTHERS) AMENDMENT NO. 1200

Mr. GRAHAM (for himself, Mr. D'AMATO and Mr. MACK) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place insert the following:

Subtitle —Criminal Aliens

SECTION . TRANSFER OF CERTAIN ALIEN CRIMINALS TO FEDERAL FACILITIES.

(a) DEFINITION.—In this section, "criminal alien who has been convicted of a felony and is incarcerated in a State or local correctional facility" means an alien who—

(1)(A) is in the United States in violation of the Immigration laws; or

(B) is deportable or excludable under the provisions of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and

(2) has been convicted of a felony under State or local law and incarcerated in a correctional facility of the State or a subdivision of the State.

(b) FEDERAL CUSTODY.—Subject to the availability of appropriations, at the request of a State or political subdivision of a State, the Attorney General may—

(1)(A) take custody of a criminal alien who has been convicted of a felony and is incarcerated in a State or local correctional facility; and

(B) provide for the imprisonment of the criminal alien in a Federal prison in accordance with the sentence of the State court; or

(2) enter into a contractual arrangement with the State or local government to compensate the State or local government for incarcerating alien criminals for the duration of their sentences.

HEFLIN AMENDMENT NO. 1201

Mr. HEFLIN proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place insert the following:

SEC. . FEDERAL ASSISTANCE TO EASE THE INCREASED BURDENS ON STATE COURT SYSTEMS RESULTING FROM ENACTMENT OF THIS ACT.

(a) IN GENERAL.—The Attorney General, acting through the Director of the Bureau of Justice Assistance (the Director), shall, subject to the availability of appropriation, make grants for States and units of local government to pay the costs of providing increased resources for courts, prosecutors, public defenders, and other criminal justice participants as necessary to meet the increased demands for judicial activities resulting from the provisions of this Act and amendments made by this Act.

(b) APPLICATIONS.—In carrying out this section, the Director is authorized to make grants to, or enter into contracts with public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in this section. The Director shall have final authority over all funds awarded under this section.

(c) RECORDS.—Each recipient that receives a grant under this section shall keep such records as the Director may require to facilitate an effective audit.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998, to remain available for obligation until expended.

(2) USE OF TRUST FUND.—Funds authorized to be appropriated under paragraph (1) may be appropriated from the trust fund established by section 1321C.

KERRY AMENDMENT NO. 1202

Mr. KERRY proposed an amendment to the bill S. 1607, supra; as follows:

At page 249, line 6 of the bill delete "each of fiscal years 1995 and 1996;" and insert the following: "fiscal year 1995 and $250,000,000 for fiscal year 1996;".

BOXER (AND OTHERS) AMENDMENT NO. 1203

Mrs. BOXER (for herself, Mr. WARNER, Mr. DECONCINI, Mrs. FEINSTEIN, Mr. WOFFORD, Ms. MOSELEY-BRAUN, Mr. METZENBAUM, Mr. DODD, Mr. CONRAD, Mrs. MURRAY, Mr. SIMON, Mr. REID, Mr. BUMPERS, Mr. ROBB, Mr. HARKIN, Ms. MIKULSKI, Mr. FEINGOLD, Mr. DASCHLE, Mr. INOUYE, Mr. AKAKA, Mr. CAMPBELL, Mr. PELL, Mr. KENNEDY, Mr. KERREY, Mr. BRYAN, Mr. RIEGLE, Mr. BINGAMAN, and Mr. EXON) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place, insert the following title:

TITLE —DRIVER'S PRIVACY PROTECTION ACT

SEC. . SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Driver's Privacy Protection Act of 1993".

(b) PURPOSE.—The purpose of this title is to protect the personal privacy and safety of licensed drivers consistent with the legitimate needs of business and government.

SEC. . AMENDMENT TO TITLE 18, UNITED STATES CODE.

Title 18 of the United States Code is amended by inserting immediately after chapter 121, the following new chapter:

"CHAPTER 122—PROHIBITION ON RELEASE OF CERTAIN PERSONAL INFORMATION

"§ 2720. Prohibition on release and use of certain personal information by States, organizations and persons3

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), no department of motor vehicles of any State, or any officer or employee thereof, shall disclose or otherwise make available to any person or organization personal information about any individual obtained by the department in connection with a motor vehicle operator's permit, motor vehicle title, identification card, or motor vehicle registration (issued by the department to that individual) unless such disclosure is authorized by that individual.

"(2) A department of motor vehicles of a State, or officer or employee thereof, may disclose or otherwise make available personal information referred to in paragraph (1) for any of the following routine uses:

"(A) For the use of any Federal, State or local court in carrying out its functions.

"(B) For the use of any Federal, State or local agency in carrying out its functions, including a law enforcement agency.

"(C) For the use in connection with matters of automobile safety, driver safety, and manufacturers of motor vehicles issuing notification for purposes of any recall or product alteration.

"(D) For the use in any civil criminal proceeding in any Federal, State, or local court, if the case involves a motor vehicle, or if the request is pursuant to an order of a court of competent jurisdiction.

"(E) For use in research activities, if such information will not be used to contact the individual and the individual is not identified or associated with the requested personal information.

"(F) For use in marketing activities if—

"(i) the motor vehicle department has provided the individual with regard to whom the information is requested with the opportunity, in a clear and conspicuous manner, to prohibit a disclosure of such information for marketing activities;

"(ii) the information will be used, rented, or sold solely for a permissible use under this chapter, including marketing activities; and

"(iii) any person obtaining such information from a motor vehicle department for marketing purposes keeps complete records identifying any person to whom, and the permissible purpose for which, they sell or rent the information and provides such records to the motor vehicle department upon request.

"(G) For use by any insurer or insurance support organization, or their employees, agents, and contractors, in connection with claims investigation activities and antifraud activities.

"(H) For use by any organization, or its agent, in connection with a business transaction, when the purpose is to verify the accuracy of personal information submitted to that business or agent by the person to whom such information pertains, or, if the information submitted is not accurate, to obtain correct information for the purpose of pursing remedies against a person who presented a check or similar item that was not honored.

"(I) For use by any organization, if such organization certifies, upon penalty of perjury, that it has obtained a statement from

the person to whom the information pertains authorizing the disclosure of such information under this chapter.

"(J) For use by an employer or the agent of an employer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2701 et seq.).

"(b) UNLAWFUL CONDUCT BY ANY PERSON OR ORGANIZATION.—No person or organization shall—

"(1) use any personal information, about an individual referred to in subsection (9), obtained from a motor vehicle department of any State, or any officer or employee thereof, or other person for any purpose other than the purpose for which such personal information was initially disclosed or otherwise made available by the department of motor vehicles of the affected State, or any officer or employee thereof, or other person, unless authorized by that individual; or

"(2) make any false representation to obtain personal information, about an individual referred to in subsection (a), from a department of motor vehicles of any State, or officer or employee thereof, or from any other person.

"§ 2721. Definitions

"As used in this chapter:

"(1) The term 'personal information' is information that identifies an individual, including an individual's photograph, driver's identification number, name, address, telephone number, social security number, and medical and disability information. Such term does not include information on vehicular accidents, driving violations, and driver's status.

"(2) The term 'person' means any individual.

"(3) The term 'State' means each of the several States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(4) The term 'organization' means any person other than an individual, including but not limited to, a corporation, association, institution, a car rental agency, employer, and insurers, insurance support organization, and their employees, agents, or contractors. Such term does not include a Federal, State or local agency or entity thereof.

"§ 2722. Penalties

"(a) WILLFUL VIOLATIONS.—

"(1) Any person who willfully violates this chapter shall be fined under this title, or imprisoned for a period not exceeding 12 months, or both.

"(2) Any organization who willfully violates this chapter shall be fined under this title.

"(b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles which willfully violates this chapter shall be subject to a civil penalty imposed by the Attorney General in the amount of $5,000. Each day of continued noncompliance shall constitute a separate violation.

"§ 2723. Effect on State and local laws

"The provisions of this chapter shall supersede only those provisions of law of any State or local government which would require or permit the disclosure or use of personal information which is otherwise prohibited by this chapter.".

SEC. . EFFECTIVE DATE.

The amendments made by this title shall take effect upon the expiration of the 270-day period following the date of its enactment.

LEVIN AMENDMENT NO. 1204

Mr. LEVIN (for himself, Mr. SIMON, Mr. HATFIELD, Mr. DURENBERGER, and Mr. PELL) proposed an amendment to the bill, S. 1607, supra; as follows:

At the end of the bill add the following:

SEC. . MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE.

In lieu of any amendment made by this Act or any other provision of this Act that authorizes the imposition of a sentence of death, such amendment or provision shall authorize the imposition of a sentence of mandatory life imprisonment without the possibility of release.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for my colleagues and the public that a field hearing has been scheduled before the Subcommittee on Renewable Energy, Energy Efficiency and Competitiveness of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on technology transfer to the oil and gas industry.

The hearing will take place on Tuesday, November 30, 1993, at 9 a.m., at the Oil Field Training Center at Eastern New Mexico State University in Roswell, NM.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Shirley Neff.

For further information, please contact Shirley Neff of the committee staff at (202) 224-4971.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will be holding a hearing on Friday, November 19, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 1526, Indian Fish and Wildlife Resources Management Act of 1993.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will be holding a markup on Thursday, November 18, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 1618, tribal self-governance; H.R. 1425, American Indian Agriculture Act of 1993; S. 1654, technical amendments; S. 1501, to repeal certain provisions of law relating to trading with Indians; and for other purposes, to be followed immediately by a hearing on S. 1345, the Equity in Educational Land-Grant Status Act of 1993.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, November 16, 1993, beginning at 9:30 a.m. in 485 Russell Senate Office Building on S. 1146, the Yavapai-Prescott Water Rights Settlement Act of 1993.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on "Meeting Maternal and Child Health Needs Under the Health Security Act," during the session of the Senate on November 16, 1993, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, November 16, 1993, to hold a hearing on the nominations of Henry Lee Adams to be U.S. district judge for the middle district of Florida, Donetta W. Ambrose to be U.S. district judge for the western district of Pennsylvania, Susan C. Bucklew to be U.S. district judge for the middle district of Florida, Wilkie D. Ferguson to be United States district judge for the southern district of Florida, Theodore Klein to be U.S. district judge for the southern district of Florida, and Gary L. Lancaster to be U.S. district judge for the western district of Pennsylvania.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. BIDEN. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on Persian Gulf war illnesses at 10 a.m. on Tuesday, November 16, 1993. The hearing will be held in room 418 of the Russell Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., November 16, 1993, to receive testimony on S. 1637, the Department of the Interior Reform and Savings Act of 1993, and S. 1638, the Department of Energy Reform and Savings Act of 1993.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, November 16, 1993, at 8:30 a.m. to hold a nomination hearing on Sidney Williams, to be Ambassador to the Commonwealth of the Bahamas.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday November 16, 1993, at 2:15 p.m. to hold a closed conference with the House Intelligence Committee on the Intelligence Authorization Bill for fiscal year 1994.

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

SPECIAL COMMITTEE ON AGING

Mr. BIDEN. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Tuesday, November 16, 1993, at 9:30 a.m. to hold a hearing entitled "Pharmaceutical Marketplace Reform: Is Competition the Right Prescription?"

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

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies and Business Rights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, November 16, 1993, at 10 a.m., to hold a hearing on "Will Telecommunication Mega-Mergers Chill Competition and Inflate Prices? Part II?"

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, November 16, 1993, to hold a hearing on the INS Criminal Alien Program.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on November 16, 1993, at 2:30 p.m. on effects of potential restructuring in NASA.

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

ADDITIONAL STATEMENTS

NUCLEAR ENERGY REFORMS

• Mr. JOHNSTON. Mr. President, the third annual update to the Nuclear Power Oversight Committee's "Strategic Plan for Building New Nuclear Power Plants," announced today by the nuclear industry, is a welcome initiative in the national interest and one which should receive thoughtful and serious consideration by Congress.

I applaud the oversight committee for its efforts toward creating the conditions under which electric power companies may order new advanced nuclear powerplants during the mid-1990's.

This is an ambitious objective, but an attainable one if the industry maintains its resolve and builds on the constructive foundation that has been reaffirmed today.

The 102d Congress, through passage of the National Energy Policy Act of 1992 and provisions of the fiscal year 1993 energy and water appropriations bill, made 1992 a watershed year for the nuclear industry. In the Energy Policy Act alone, Congress included provisions for nuclear plant licensing reform, high-level waste management, uranium enrichment, and research and development of advanced technologies.

Although much was accomplished during the last Congress, it is clear that other nuclear energy reforms are needed if we are going to pave the way for another generation of nuclear plants and realize the full potential of nuclear energy in environmental protection, economic growth, and energy self-sufficiency.

I hope the updated plan announced today will help provide a framework for meeting that important objective.•

TRIBUTE TO VILLA MADONNA ACADEMY, HEAVEN ON THE OHIO

• Mr. McCONNELL. Mr. President, at a time when many of our Nation's students are fearful of being shot at school, I rise to pay tribute to an institution that has served as a model for over 90 years. The Villa Madonna Academy, in Villa Hills, KY, is a shining example of quality education.

Established in 1904, Villa Madonna is operated by the Benedictine Sisters, many of whom live on the grounds. The school is located on land originally known as Bromley Heights in northern Kentucky on the banks of the Ohio River. The academy later moved further down the river to the Collins family estate.

This property boasts spectacular vistas from the hills and peaceful meadows. The Collins house still serves as the home to offices, classrooms, and the sisters' dormitory. The beauty of the locale is but one of the unique qualities that contribute to the superior learning experience Villa Madonna's young people enjoy.

Students have access to living institutions like Sister Callista Flanagan. Sister Callista has been associated with the school for 77 years. Since she was the academy's 100th boarder in 1916 she has dedicated her life to the land and people which make Villa Madonna so wonderful.

Mr. President, at a time when we are struggling to decide how to best educate our children, Villa Madonna leads by example. Over 95 percent of its graduates attend college; 65 percent of those with some form of scholarship money. One graduate describes the experience: "The education is fantastic, and the kids are exposed to the Christian spirit that gives them the attitude and temperament to be considerate of other people."

But, it is the beauty of the grounds that everyone remembers. I know full well how much splendor and charm Kentucky has to offer throughout the Commonwealth. However, you would be hard pressed to find a more tranquil setting. Just walk along one of the trelined trails, perhaps you will find one of the Sisters sitting, gazing at the river. If you do I hope you will sit and talk with her, listen to the history of the academy, and learn of the love that inspires it.

Mr. President, I ask my colleagues to join me in paying tribute to the Villa Madonna Academy and the people who help make it so special. In addition, I ask that an article from the Cincinnati Enquirer be included in the RECORD.

The article follows:

SCHOOLED IN TRADITION

(By Patrick Crowley)

Callista Flanagan was a 16-year-old Villa Madonna Academy sophomore when she planted a young pin oak on the school's northern rim, a sweeping vista on the Kentucky hills that overlooks the Ohio River as it snakes west into Indiana.

The tree was a gift from Bishop Ferdinand Brossart. He gave it to her because she was the young school's 100th boarder. Moved by the gesture, Flanagan knew of no better place to plant it than on the Villa grounds.

She wanted to leave something to the school in Villa Hills, Ky.

PLACE OF PEACE

In the 77 years since, all three—tree, student and school—have put in deep roots on that panoramic hillside.

The sapling has blossomed and grown into a majestic tree, shading the buildings it once seemed lost among.

Callista Flanagan, now 95, became Sr. Callista and dedicated her life to the Benedictine Sisters, the order that founded and continues to operate Villa Madonna. She will lives on the school's grounds and enjoys nothing more than sitting quietly and admiring the beauty of her tree.

And Villa Madonna has grown from a Catholic boarding school of four sisters and 17 students to a sprawling institution of education, religion, retirement, preschool, convalescent care and, possibly above all, one of those rare places where people go to bask in the natural beauty and reflect on the devine presence.

"So many people just come up here to get away, if only for a few hours," says Sister Teresa Wolking, '74, also a Villa Madonna graduate (class of '37) who spent her life as a teacher and school principal before retiring to one of the sisters' residences at Villa.

Visitors sitting on benches watch the Anderson Ferry glide across the river or barges meandering by. They pray. Some sit in silence. Others talk to the sisters.

"This is a place people come to find inner peace," Wolking says.

FIRST STUDENTS IN 1904

Ninety years ago, the Benedictine Sisters of St. Walburg Monastery in Covington purchased an 86-acre tract in hills above the Ohio River, a place then known as Bromley Heights.

After months of searching other Northern Kentucky locations, the sisters settled on the estate of the Collins family, wealthy from growing tobacco and anxious to pursue new dreams in a dynamic and emerging place called California.

The sisters had outgrown their 12th and Greenup streets convent. They longed for a country setting to establish a new convent and boarding school. The Collins property—with its stunning views, vast fields and tranquil setting—was heaven sent.

To honor the Blessed Mother, the estate was named "Villa Madonna."

In 1904, the first students arrived, an elementary-age class of 17 boarding students, most from affluent families. The Collins house served as classroom, chapel and living quarters until construction of the academy was completed and the first high school students were accepted three years later.

BREATH-TAKING BEAUTY

The sisters bought surrounding parcels to more than triple the size of the campus. Buildings were added.

But the Collins homestead—built around 1870—and the academy remain in service as offices, classroom and a sisters' dormitory.

Wolking, who grew up in Covington in a family of six daughters—all of whom entered the convent—lived in the Collins house while a boarder at the school.

Giving a tour of the three-story house, whose many windows provide a breath-taking view of the river valley, Wolking is torn between showing off the charm and character of the home and reminiscing about her days under its roof.

"This was my room," she says, her eyes locked in a memory as she slides her tiny, wrinkled hand across an antique desk. "I would sit right here at night and do my homework and read.

"Was it that long ago?" she asks rhetorically.

"WONDERFUL" EDUCATION

The hills rising from the river are awash in orange, yellow and crimson. A gentle breeze—making it just chilly enough for a sweater—carries cottonlike clouds across a light blue sky. Browned leaves dance across a green lawn as bright-faced children dash from a door after a day of learning.

These are days Patti Love remembers.

"The education was wonderful; the people were splendid, and I couldn't really imagine every going to school anywhere else. But, my God, the beauty of that place. It is such a peaceful setting," she says.

"So often I'm in the car and I just find myself back here, looking out over the river or walking along the grounds."

The Loves are typical of many Villa families. Love's mother was a 1945 graduate. Love graduated in 1975, and now her son, Matthew, attends first grade here.

"The education is fantastic, and the kids are exposed to the Christian spirit that gives them the attitude and temperament to be considerate of other people," says Love, a Lakeside Park resident and a supervisor in the chemistry department at St. Elizabeth Medical Center.

Harry and Nadine Hellings of Lakeside Park have had two daughters graduate from Villa Madonna; a third is a freshman.

"Nadine graduated from there, and we really never considered sending the girls anywhere else," says Harry Hellings, a defense attorney. "There's good discipline, a good cross-section of students and an excellent college-prep curriculum."

HALF-CAPACITY

Ninety-five percent of the graduates go on to college, with 65% of them receiving some type of scholarship, according to the school's development office.

Villa's curriculum features a nationally recognized computer program, opportunities for foreign travel and a language program featuring Spanish for first-graders and Latin in the sixth grade.

Enrollment is at 400, about half of what Villa could handle, says Sr. Victoria Eisenman, executive director of Villa Madonna Academy and elementary school principal.

"We've really started recruiting in the past few years, and it's something we want to increase," says Eisenman, a Villa graduate but one of few sisters on the staff.

Some fungus has grown on the east side of Sister Callista's tree, and she's not happy about it. A specialist is scheduled to look at it.

"My mother had just died when I came here as a teen-ager, and my little sister was already here," Flanagan says. Her father was a draftsman who traveled.

"He just couldn't leave us kids at home alone. I was wary at first, coming from my house to this boarding school. But, oh, I loved it so I didn't want to leave.

"So when I graduated, I decided to enter the convent and return * * * It was as if I came home."

VILLA FACTS

Located on 239 acres overlooking the Ohio River along Amsterdam Road in Villa Hills, Ky.

Operated by the Benedictine Sisters, a Catholic order of nuns, and an independent board of directors.

This year marks the 90th anniversary of the sisters buying the property. A grade school opened in 1904 and Villa Madonna Academy opened in 1906.

Since opening, there have been 2,492 graduates from the high school, mainly girls (boys weren't admitted to the elementary school until 1977 and not to the high school until 1985).

Current enrollment is about 400 students in grades 1-12. Tuition is about $3,000 for elementary school, slightly higher for high school.

About half the students are from Villa Hills—the community around the school—and Fort Mitchell. The remainder are from throughout Northern Kentucky and some from out of state.

The Villa Madonna campus includes St. Walburg Monastery, home for many of the 127 sisters on the grounds. Other sisters live in houses and cottages on the grounds. There also is a Montessori school and day-care center; a religious retreat center; and Madonna Manor Nursing Home.●

IF NAFTA LOSES

● Mr. SIMON. Mr. President, one of the more thoughtful journalists on the American scene today is Anthony Lewis, who writes a regular column for the New York Times from Boston.

He had a column the other day pointing out how tragic it would be for this country if NAFTA should not carry.

I concur in the sentiments expressed in his eloquent column.

I ask to insert his column into the RECORD at this point, and I urge my colleagues to read what he has to say.

IF NAFTA LOSES

BOSTON.—It is a symbol that the North American Free Trade Agreement really matters. The economic effects of the agreement on this country would be marginal. But if Congress turns Nafta down, the political consequences would be enormous.

No matter how the opponents tried to disguise it, the world would see defeat as a message that America has gone protectionist. That would encourage the protectionism already rising in France and elsewhere in Europe.

The effort to complete the Uruguay Round of GATT negotiations would collapse, I am convinced. Why should the French Government, whose fear of farm voters now blocks agreement, show political courage on trade when the United States has abandoned its most important trade venture in years?

From the collapse of the Uruguay Round there could follow a worldwide retreat from free trade. Political leaders might well continue to profess loyalty to the principle, but they would give way to local pressures for barriers here, there, everywhere.

Would such a surge of protectionism matter? It could—I think it would—mean the end of nearly 50 years of rising world prosperity. That's all.

Since World War II the world has experienced extraordinary economic growth. The engine for that growth has been international trade: vastly increased trade in an age of more and more rapid transportation and communication.

Successive rounds of tariff reduction have fueled the rise of international trade. The United States has been the leader in efforts to cut not only tariffs but quotas and other non-tariff barriers. And now the leader would be seen to have turned away: turned inward.

The arguments made against Nafta by such significant opponents as the United Auto Workers seem to me to come down to fear of change and fear of foreigners. Change can indeed be painful, certainly so in our accelerating technological world. But the alternative to change is stagnation.

One great American economic asset, historically, has been mobility. The secret of our prosperity has been mobility. The secret of our property has been the mobility of both capital and labor in a huge market, the readiness to seize new opportunities: to move.

The need for mobility is the greater in an age when new technological products can work economic revolutions—when computer software becomes a vital industry overnight. Yet the opponents of Nafta want us to put our faith in keeping things as they are, resisting change.

The irony is that the jobs they want to protect, many of them, are low-wage jobs. But the future prosperity of the United Stats depends on moving people and capital into new enterprises, high-paying ones, not in telling us that we need learn nothing new.

I have heard it said that Bill Clinton acted against his own political interest in pressing for approval of Nafta because he alienated the labor unions that are the core of Democratic Party support. I think that gets the politics exactly backward.

Unions in this country, sad to say, are looking more and more like the British unions that have become such a millstone around the neck of the Labor party: backward, unenlightened. Bill Clinton cannot build a new Democratic Party on that base. The crude threatening tactics used by unions to make Democratic members of the House vote against Nafta underline the point.

The consequences of Nafta's defeat would be particularly bad in Latin America. It would, as Bernard Aronson, former Assistant Secretary of State, said, "strengthen traditional economic cliques, which have grown rich by manipulating and sometimes corrupting their political systems to shut out competition at the expense of ordinary citizens."

Given the growing economic clout of Asia, a rational United States would be doing all it can to increase trade in its own hemisphere. Mexico is already our third-largest export customer—despite Mexican barriers to U.S. products that would be removed by Nafta. Defeat of the agreement would be a good way to tell Mexico we do not care about that market.

The opponents are really saying: Stop the world, I want to get off. But we cannot do that. All we can do is impoverish ourselves in the attempt.●

SUPPORT FOR NAFTA

● Mr. DURENBERGER. Mr. President, I rise today to go on record as a strong supporter of the North American Free-Trade Agreement.

The NAFTA is a significant opportunity for the United States as a whole, and for Minnesota in particular. Our State's economy has long been dependent upon exports, and we have continually expanded our economic benefits by expanding our access to new markets.

Mexico is a rapidly growing market for Minnesota exports including high-tech equipment, medical devices, food, and agricultural products. Minnesota is competitive in Mexico right now, and a reduction of the 20 percent and higher tariffs on many of our exports will open the door for even more exports. Since 1987 when Mexico was first persuaded to reduce its tariffs, Minnesota exports to Mexico have increased almost 200 percent.

NAFTA means more Minnesota exports, more Minnesota business, and more Minnesota jobs. We cannot afford to pass up this one-time opportunity to improve our State's economy, and to send a message to the world that the United States is committed to the principles of free trade.●

ALL LOVERS OF FREEDOM SHOULD HONOR LOVEJOY

● Mr. SIMON. Mr. President, Vernon Jarrett, the longtime columnist for the Chicago Sun-Times and a champion of civil rights and civil liberties, recently wrote a column about someone most people have never heard of, Elijah P. Lovejoy.

Lovejoy was an Abolitionist, who championed the cause of free speech and freedom for those who were then held in bondage in our country.

Vernon Jarrett concludes his column after reciting the history of Elijah Lovejoy in noting: "I'm still wondering why the media haven't made him one of our national icons."

More than anything until the publication of "Uncle Tom's Cabin", no single incident gave as much impetus to the antislavery cause as the mob-slaying of Lovejoy.

Vernon Jarrett is right to note the anniversary of the murder of Elijah Lovejoy, and I ask to insert his column in the RECORD at this point.

The column follows:

[From the Chicago Sun-Times, Nov. 4, 1993]

ALL LOVERS OF FREEDOM SHOULD HONOR LOVEJOY

(By Vernon Jarrett)

If there ever were an anniversary that deserves special reverence in the history of American journalism, it is that of an act of martyrdom that occurred on Nov. 7, 1837, in Downstate Alton.

Sunday will be the 156th anniversary of the murder of Elijah P. Lovejoy, the crusading young editor of the Alton Observer who refused to remain quiet about the horrors of slavery.

Lovejoy, 35, was not surprised when shortly after 10 p.m. a mob gathered outside his newspaper office and printing press. He had faced mob violence before.

When it became impossible for him to state his views in St. Louis, Mo., he in 1836 decided to move across the Mississippi River into Illinois, a presumed "free state."

At Alton, the young Presbyterisan minister-editor continued to expose the moral contradictions in slavery being practiced under the banner of Christianity and democracy. When a mob climate began to burgeon, some of his early supporters, who were powers in the community, advised him to ignore slavery.

Desertion by friends was not exactly a new experience for Lovejoy. In October of 1835, he published his support of the American Anti-slavery Society's rejection of the gag rule on slavery that pro-slavery forces had initiated in the U.S. Congress and in public discussions. He saw the gag as a denial of the sacred freedoms of the press, assembly and speech.

One group of Lovejoy's so-called supporters published an open letter urging him to "pass over in silence everything connected with the subject of slavery." Even though freedom of the press is guaranteed by the Constitution, they argued, to publicly discuss slavery would contribute to the disunity of "our prosperous Union."

Lovejoy was sorely disappointed by the cowardice of some of his supporters. After a month of reflection, a lonely Lovejoy issued this memorable response:

"I cannot surrender my principles, though the whole would besides should vote them down—I can make no compromise between truth and error, even though my life be the alternative."

Lovejoy held his ground even though the owners of the Observer had urged him to resign.

During three previous threats to his life, his press had been destroyed and in one instance dropped into the Mississippi River, while the citizens of goodwill did nothing.

So around 10 p.m. on Nov. 7, 1837, Lovejoy and a small band of abolitionists tried to defend their press against destruction. Five bullets were fired into the body of the remarkable young man, who would be memorialized by the Rev. Edward Beecher, brother of novelist Harriet Beecher Stowe, as "the first martyr in America to the great principles of freedom of speech and to the press."

Interesting question: How many journalists know anything about Elijah P. Lovejoy?

Sen. Paul Simon (D.-Ill.) wrote a book for children in 1964 titled *Lovejoy: Martyr to Freedom* and is completing a new book titled *Elijah Lovejoy, Champion of Freedom.*

For the past 15 days, I have paused at some time during Nov. 7 to remember one of the true heroes of my profession. And I'm still wondering why the media haven't made him one of our national icons.●

TRIBUTE TO DAVID A. WIBBELS

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a notable Kentuckian, whose company is taking the business world by storm in Louisville and expanding around the world. David Wibbels founded Electronic Systems USA, Inc., with Darrell Newton in 1979, and the company has not stopped growing.

This is a perfect example of a success story. Mr. Wibbels started quickly making his way up the ladder with Honeywell, Inc., straight out of college. After about 4 years, he realized that he had gone as high as he could without getting involved in sales, so he set out with a coworker to start his own business.

David Wibbels and Darrell Newton created Electronic Systems, Inc., to service Honeywell computers. Until that time, only manufacturers of the electronics system maintained them. Today, the company designs and manufactures computer consoles and software that control heating, air-conditioning, security, fire-safety, and other electronic systems in skyscrapers across the country.

Mr. President, that Louisville-based business reached $10 million in annual sales in the late 1980's, and sales have only increased since.

Mr. Newton left the company, and Mr. Wibbels, believing that employee-owned businesses are more productive, arranged for each employee to get a piece of Electronic Systems. He also believes in hiring the best people and encouraging them to be creative. It seems he is right.

Electronic Systems is serving such big names as Sears, Ashland Oil Co., and the Federal Aviation Administration. Ironically, even though it has remained fairly small, the company often finds itself in competition with Mr. Wibbels' former employer, Honeywell.

Kentucky's Electronic Systems has offices scattered throughout the country and are reaching across the world.